

Chapter 1

Introduction

1. Romania – geography, population, culture

Romania is a mid-sized country covering an area of 238,391 km² situated in the South-Eastern region of Europe, at the crossroads of major trading routes connecting Western Europe to Russia, the Near East and the Caucasian region.

Geographical overview – Romania has a mixed geographical natural environment, consisting of hills, plateaux and plains and the country is cut in two by the Carpathian Mountains. Romania also possesses significant water resources. Romania is located on the middle and lower Danube, with a 244 km shoreline to the Black Sea. Romania's main natural resources include coal, oil, natural gas, forests, iron and other metal ores.

Romania has a stable **population** of approximately 20 million inhabitants. Romania's **culture** is part of the Latin world, with the native language originating in ancient Latin. Neighboured by peoples of Slavic and Magyar origin, Romanians are considered the closest to Latin civilization in the area.

86.5% of the Romanians are strongly connected to Eastern European culture by their orthodox religion. Minority religions are primarily Protestant and Roman Catholic, while the number of Muslim inhabitants (Turks, Tartars) is less significant.

2. History

Until 1947 when the communist regime took over power, Romania was a constitutional monarchy based on the model of western monarchies, with a typical liberal political and economic system. Democratic political institutions based on European-inspired legislation were at the very roots of Romanian society.

The Soviet occupation during World War II led to the establishment of the communist regime. The regime dissolved democratic political institutions and led to an almost complete elimination of individual freedom and of private property. Legislation was also brutally revised.

Soon after the communist regime was overthrown in 1989, Romania underwent deep social, political and economic changes. Romania returned to its traditional democratic values and sought to reintroduce itself into Western European social and political trends and goals.

The first important step towards democracy was made in passing the Constitution of 1991, inspired by the most modern European current constitutional sources and also by the last democratic Constitution before World War II, the Constitution of 1923. Freedom of expression, freedom of association, free access to justice, guarantees of ownership, and a free market economy are among the essential values acknowledged in the current Constitution.

3. Economy

Prior to 1989, the Romanian economy was very much structured under a totalitarian system focused on a highly centralized and nationalized economy. The forced industrialization of the country had serious social repercussions, with most of the population migrating to industrial areas. After 1989, the lack of competitiveness of domestic products on western markets and the collapse of the communist economic system (CAER) called for the total reorganization of industry, involving high human and material costs.

The agricultural sector also underwent major structural changes during communism. Forced collective farming coupled to State ownership of most of the land led to a highly centralized and inefficient agriculture.

After 1989, the main aims declared by the Romanian Government were to bring land property back into private ownership and to introduce a free-market economy.

To date, the process of withdrawal of the State from the main industries and the construction of a free-market economy based on competition and private entrepreneurship is mostly complete.

The latest challenge in the economic restructuring process lies in privatizing companies with a majority State capital, created by the transformation of the former *regies autonomes* – entities owned by the State or by local administration, that supply public utilities, active in highly important fields for the national economy, such as oil, natural gases or electrical energy.

One of the most important economic achievements was the resuscitation of the financial sector by reorganizing the banking system. The creation of the National Bank of Romania, the central bank supervising the activities of commercial banks, and the banking privatization stand as two of the most important achievements for the development of a modern Romanian banking sector.

Romania has a growing middle and upper class, with relatively high per capita incomes. In March 2016, the net average monthly wage was 2,051 lei (€ 456). However, despite constant growth registered until 2009 and again starting with 2011, Romania still has the second lowest net average monthly wage in the European Union.

4. Foreign investment and cooperation with international economic organizations

The relaunching of the Romanian economy required a heavy injection of foreign capital. In order to attract such capital, the Romanian Government entered negotiations with major world financial institutions who granted their support: the IMF, World Bank, International Bank for Reconstruction and Development (IBRD), European Bank for Reconstruction and Development (EBRD), etc.

The Romanian Government also gave a boost to foreign investment in Romania by granting legislative guarantees at the level of international ones, and by concluding numerous treaties for investment protection. Although lately the availability of fiscal incentives has decreased, this is compensated for by a certain degree of legislative stability and predictability.

Finally, since January 1st 2007, in recognition of its efforts and the results of economic and political reforms, Romania is a member of the European Union.

5. Legislation

Following 1989, the entire Romanian legal system has been subject to continuous modernization. To ensure stability however, some key regulations dating prior to the communist regime, *e.g.* the Civil Code of 1884 or the Commercial Code of 1887, or even enacted during communism, were maintained pending preparation of equivalent modern enactments.

Turning points in the history of the Romanian legal system follow below.

In 1991 the Romanian Parliament passed a new Constitution, inspired by European contemporary constitutions. The Constitution was subsequently amended in 2003 in light of the envisaged accession of Romania to the European Union. The Romanian Constitution remains a modern enactment setting forth principles like the separation of powers, free access to justice, and the right to a fair trial.

In 2011, a New Civil Code was enacted. At the same time, the Civil Code of 1884 was repealed. The new enactment was meant to adjust civil law to the ever-growing needs of a modern business environment. The New Civil Code managed to unify complex areas of civil, commercial and family law which were previously subject to a separate code of norms, while also refreshing Romanian civil law in line with other contemporary civil codes (such as the Civil Code of Quebec) of other civil law jurisdictions.

The modernization of the Romanian legal system continued in 2013 with a new Code of Civil Procedure, and in 2014 with a new Criminal Code, and a new Code of Criminal Law Procedure.

The new enactments maintained many of the traditional procedural institutions regulated by the former codes, but in a modernized form. They also introduced various new institutions meant to ensure enhanced procedural guarantees, and increase the efficiency and speed of the judicial process, according to principles set forth by the European Court of Human Rights.

Laws were also passed that deal primarily with property restitution and remedies provided for the abuses perpetrated by the communist regime, as well as to deal generally with abuse by public institutions and authorities (*e.g.* Law No. 554/2004 on administrative disputes enabling any individual or entity to file legal action against public administrative officers and institutions whenever their rights are violated by an administrative act or by an unjustified refusal by an administrative authority).

Simultaneously, important steps have been taken in transferring State enterprises to the private sector, thus creating the economic basis for the development of a competition-based business environment.

In addition, steps have been taken to harmonize domestic legislation with Western European legislation, and especially with the European *acquis communautaire*. The business legal framework was reconsidered according to the most modern European legal mechanisms: corporate/commercial law, competition law, intellectual property law, securities legislation, as well as labor and social security law, banking law and tax law were carefully adapted by Romanian law makers to Western legislation, especially the French.

6. Dynamics

The economic and legal environment of Romania, as those of other emerging countries, is constantly adapting and changing to free market dynamics. Furthermore, economic liberalization represented a major change in

terms of economic structure, as there was a shift of interest from industry and agriculture to services, thus following the normal trend of a developing economy.

Significant progress took place both in the "*traditional*" fields of the economy, such as the banking system, the energy system, as well as in newly emerging fields, such as securities and capital markets, insurance and telecommunications. In addition, significant changes took place in the way the Government deals with such issues as privatization, European integration and property restitution.

Following accession to the European Union and numerous improvements made in terms of economic adjustments, legal amendments and political perspective, Romania experienced a real economic boom in 2008, considered one of the countries with the fastest economic growth in Europe.

At the same time, foreign investors became extremely interested in Romania, attracted by the rising productivity and various investment opportunities. The main sectors where major investments were made were real estate & construction and retail, closely followed by banking, light industry and telecoms. Moreover, local businessmen and entrepreneurs succeeded in developing innovative and very competitive businesses, involved in all major fields of the economy.

As a consequence of the global economic downturn, beginning in 2009 numerous sectors of the Romanian economy were strongly affected and a significant number of projects were put on hold as they failed to attract finance or due to investors' increasing caution when deciding in such matters.

In order to diminish the effects of the economic downturn and to stimulate the level of investment, Romania implemented a series of anti-crisis measures targeting the reduction of the fiscal burden, aimed at supporting the business environment, stabilising inflation and reorganizing the public sector.

Moreover, Romania has shown an increasing effort to ensure more transparency and coherence in political and economic programmes, and has conducted an extensive reform of the legal framework aimed at alleviating investment procedures and harmonizing local legislation with EU regulations.

Thus, new amendments were brought to the Labour Code by Law No. 40/2011 referring to issues such as individual performance, stricter and more precise job descriptions for employees, probation periods, prior notice, collective layoffs, work hours, extra work hours, professional training, determined period labour agreements and temporary labour agent work. Additionally, the Social Dialogue Law No. 62/2011 was issued, bringing major amendments with regard to trade unions, collective employment agreements and employment conflicts. The amendments brought to the Labour Code were highly appreciated by foreign investors, as they contribute to the labour market's flexibility, and are expected to lower the black market workforce and to attract major foreign investments in the long run.

Furthermore, in an attempt to simplify all fiscal operations and to provide a competitive fiscal environment, the Fiscal Code and the Code of Fiscal Procedure were replaced by rewritten and modernized new codes, which entered into force as of 1 January 2016.

The new measures include: a decrease of the VAT standard rate from 24 percent to 20 percent, various amendments to personal income taxation, decreasing the tax on dividends paid or distributed to a Romanian or foreign legal entity from 16% to 5%, while dividends received by a Romanian legal entity from another Romanian legal entity will be treated as non-taxable income for profit tax purposes etc.

In light of such changes, it may be said that substantial efforts have been made to ensure that Romania remains an attractive market for foreign investors and entrepreneurs, sectors such as private health care, renewable energy, utilities and infrastructure are an appealing target for high profile investors due to their major potential. Recently, it has been announced that Romania officially emerged from recession and is now getting ready for a new round of privatizations and reorganizations.

It is needless to remark that all the legal changes on the Romanian market - only briefly enumerated above - call for highly specialized and constant guidance.

Providing the basics for such guidance in the ever-changing Romanian business environment was our very intention when we decided to produce this booklet. We hope it is seen as an honest and confident invitation addressed to investors, to do business in Romania. Audaciously and confidently.