

# Romania

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## THE CORPORATE REAL ESTATE MARKET

### 1. What have been the main trends in the real estate market in your jurisdiction over the last 12 months? What have been the most significant deals?

The real estate market has continued growing, although at a slower pace than in the past. Until recently, Bucharest was the primary real estate market in Romania. However, foreign and local investors recognised the potential of county capitals, where real estate prices have yet to reach maturity. Consequently, all major shopping centre deals have involved shopping facilities outside of Bucharest, whereas the capital is the leader in office and industrial facilities transactions.

One of the key transactions took place in Constanta, where Immoeast acquired Polus Center Constanta (shopping centre) for EUR185 Million (about US\$261 million). Major deals were concluded by a new player on the Romanian market, Ixis Corporate & Investment Bank, acquiring an office building in Bucharest (America House) for EUR120 million (about US\$170 million) from GTC and a retail park in Targu Mures for EUR90 million (about US\$127 million) from BelRom. The Belgian company, BelRom, also acquired a land plot in Bucharest for EUR60 million (about US\$85 million). Charlemagne Capital has left the market by selling three office buildings to DEGI for EUR110.5 million (about US\$156 million). Rothschild made an investment of EUR104 million (about US\$147 million) by acquiring 60% of the ownership in three land plots in Bucharest, Ploiesti and Brasov.

The number two on the real estate agencies market, Eurisko, was taken over by CB Richard Ellis for EUR24 million (about US\$34 million). The past year has also laid the foundations for an estimated EUR220 million (about US\$311 million) deal, Europolis signing an MoU with Cefin Real Estate Asset for the Barbu Vacarescu Project. Other major players have also announced their entry into the market, such as the real estate development division of ING or Sonae Sierra.

However, the subprime financial crisis has also reached the Romanian financial markets. Loans have become more expensive and less accessible. This could seriously influence the residential market, as about 70% of customers are financed by banking institutions.

## REAL ESTATE INVESTMENT

### 2. Please briefly outline the opportunities for investing in real estate in your jurisdiction. In particular, consider:

- The structures commonly used (for example, property companies and partnerships).
- Are real estate investment trusts (REITs) available? If so, are they commonly used?
- The role of institutional investors.
- The role of private investors.

From an economic point of view, most investors believe that the Romanian real estate market is still far from maturity and saturation, therefore providing lots of potential investment opportunities. While foreign investors seem more inclined to develop office and retail projects, local investors are mostly involved in residential projects.

Most deals involve direct acquisition of real estate through special purpose vehicles, with a minor number of transactions being performed through the purchase of an interest in the company holding the real estate. Also, it has become more common for foreign investors to enter joint ventures partnerships with Romanian investors, with the latter providing a contribution in land or buildings, and the foreign investors' responsibility being to finance and develop the contemplated project.

Most of the market is made up of private investors, but since the establishment of private pension funds, institutional investors are expected to become the market leaders. REITs are not specifically regulated under law, and companies with a similar profile enjoy no preferential fiscal treatment.

## REAL ESTATE LEGISLATION

### 3. Please briefly set out the main real estate legislation that applies in your jurisdiction.

The real estate system is mainly regulated by the following legislation:

- Romanian Civil Code 1865, as amended and supplemented.
- Land Law No. 18/1991, as republished, amended and supplemented.

- Law No. 50/1991 on development of construction works, as republished, amended and supplemented.
- Law No. 7/1996 on cadastre and real estate publicity, as republished, amended and supplemented.
- Law No. 1/2000 on reconstitution of the ownership over agricultural and forestry lands claimed under Law no. 18/1991, as amended and supplemented.
- Law No. 10/2001 on the legal regime of the properties abusively taken-over by the state between 6th March 1945 and 22nd December 1989, as secondly republished, amended and supplemented.
- Law No. 350/2001 on territorial planning, as amended and supplemented.
- Law No. 422/2001 regarding the protection of historical sites, as republished, amended and supplemented.
- Romanian Constitution 2003.
- Law No. 571/2003 approving the Fiscal Code, as amended and supplemented.
- Government Emergency Ordinance No. 195/2005 on environmental protection, as amended and supplemented.
- Law No. 247/2005 on the reform on property and justice, as amended and supplemented.
- Law No. 312/2005 regarding land acquisition by foreign citizens and stateless individuals, as well as by legal entities of foreign nationality.

## TITLE

### 4. Please briefly state what constitutes real estate in your jurisdiction. Is land and any buildings on it (owned by the same entity) registered together in the same title, or do they have separate titles set out in different registers?

Under Romanian law, the term “real estate” refers to land, buildings erected on the land and fixtures attached to the buildings.

Real estate is registered for public acknowledgement purposes with individual real estate public registries, which are set up in each locality.

Recording of real estate is made by reference to its location. Each individual real estate registry contains information on:

- Components of the real estate reference.
- Any person who holds a real or personal interest in the real estate.
- Charges.
- Encumbrances.

- Certain annotations regarding litigation.
- Other facts affecting the real estate.

### 5. How is title to real estate evidenced, for example by registration in a public register of title? Which authorities manage the public title register?

Title to real estate must be evidenced in writing and must comply, where an interest in land is conveyed or established, with the formality of authentication. Authentication is conducted by public notaries and failure to comply with this formality renders title null and void.

In all cases, title to real estate becomes effective towards third parties only by registration in the real estate public registry. Usually, registration is made by the notary public commissioned with authenticating the title.

Real estate public registries (*carti funciare*) are kept by territorial offices for cadastre and real estate publicity, organised under the co-ordination and supervision of the National Agency for Cadastre and Real Estate Publicity.

### 6. Please briefly set out the information and documents registered in the public register of title, for example a description of the real estate, the owner, matters affecting the title and any relevant documents.

The real estate publicity system is designed to deal with the registration of individual real estate registries of all legal deeds and facts related to a real property. The public register contains titles, each indicating the number assigned to it for identification purposes and the locality where the real estate is located, as well as three main parts:

- **Part I.** This describes the real estate’s components (for example, land, buildings, surfaces and destinations) and provides an individual cadastral number for each component.
- **Part II.** This contains the registrations related to ownership title (for example, the name of the owner, the ownership title over the real estate and easements relating to it).
- **Part III.** This refers to interests granted temporarily to third parties (for example, usufruct, occupancy and easement), encumbrances, charges, information concerning litigation and personal prohibitions.

### 7. Can confidential information or documents be protected from disclosure in the public register of title?

The real estate publicity system is a public system. Consequently, the deeds registered with the land book are public and may be consulted by any interested person. Only records of national security are exempt from full public access.

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**8. Is there a state guarantee of title? Is title insurance available? If so, is it commonly used?**

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Under the Romanian Constitution, private property and equality of treatment of real estate interest holders is guaranteed by the state. This means that no alteration to the interest a person has in real estate can be made other than in strict cases provided by the law and in any case by prior and fair indemnification.

Legislation does not yet specifically regulate the possibility to enter into insurance of title over real estate. However, as a matter of practice, the use of such insurance has been increasingly extended under a form of indemnity insurance against financial loss from defects in title to real property.

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**9. How can real estate be held (that is, what types of tenure exist)?**

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The two main ways to hold real estate are on a sole and on a joint basis. Joint ownership can be in two forms:

- The most common form is characterised by the feature that the quota of each of the joint owners is known from the date when the ownership right was gained and is qualified as being a quota holder co-owner (*proprietate comuna pe cote parti*).
- The second form is specific to the status of the property acquired during marriage, each spouse holding a joint interest in the property, but with an uncertain quota, which is to be determined only at the end of the marriage or, in certain cases, on demand of creditors (*proprietate comuna in devalmasie*).

Another important classification provides for a public ownership right and a private ownership right. The state or local authorities can hold real estate in either of these forms. The difference between the two forms of ownership is the fact that if subject to a public ownership right, real estate cannot be conveyed or charged with any encumbrance.

## SALE AND PURCHASE OF REAL ESTATE

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**10. What are the main stages and documents in the sale and purchase of real estate? In particular:**

- **How is real estate marketed, when does commercial negotiation occur and what pre-contractual arrangements are used?**
  - **When is the sale contract negotiated and executed?**
  - **When are the parties legally bound?**
  - **When is the change of title registered?**
  - **When does title transfer and what are the formal legal requirements to transfer real estate (for example, in writing and signed by the parties)? Is notarisation required?**
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### Marketing

Major deals are marketed through real estate agencies.

### Commercial negotiation

Usually the commercial terms represent the starting point for negotiations and until these are finalised, no binding agreement is entered into.

### Pre-contractual arrangements

Binding pre-contractual arrangements are often used within the structure of transactions when not all details are set or clarified, or if the sale is not currently possible or desirable. Therefore, most promissory agreements deal with various types of conditions precedent (that is the transaction is subject to favourable due diligence, obtaining corporate or other types of approvals). Pre-contracts regarding the conveyance of real estate do not need to be concluded in notarised form.

### Sale contract

If there is no need for pre-contractual arrangements, the parties conclude a written sale and purchase agreement, negotiated freely between them. When an interest over land is transferred or established, the contract must be signed before a notary public in authentic form. However, the agreement must include information on the identity of the parties, the identification of the real estate and the value of, or determination criteria for, the purchase price. The representatives of the parties must have notarised powers of attorney in this respect, except for directors who act in their capacity as the statutory representatives of companies.

### When legally binding

A sale and purchase agreement becomes legally binding once signed by both parties. The commitment to buy or sell real estate (at an agreed price, either fixed or capable of being determined at a later stage), comprised in a promissory-sale agreement, becomes binding as of signing (the notarised form not being required, even in the case of land). If any of the promising parties refuse to sign the sale and purchase agreement, the competent court of law is entitled to issue a binding decision replacing the sale and purchase agreement, therefore transferring the ownership right over the real estate.

### Registration

Ownership transfer is generally recordable at the time it becomes effective. According to Law 7/1996, the registration formalities with the land book can be provisionally accomplished even before the ownership transfer takes place in certain cases (for example, when the ownership transfer is affected by a condition precedent or if ownership is gained based on a court decision that is not final).

### When title transfers

Unless otherwise agreed in the sale and purchase agreement, the ownership right is vested in the buyer on the date that the wishes of both parties are met, which usually is assumed to occur on signing.

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**11. Does a seller have any statutory or other liability to the buyer in a disposal of real estate, for example to disclose real estate information, or in relation to title?**

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Under the Romanian Civil Code 1865, the person acquiring the ownership interest in a real property by means of a sale and purchase agreement has a specific warranty against the seller, which is the eviction warranty (*garantia pentru evictiune*). Eviction covers the partial or total loss of ownership over the acquired asset, as well as any disturbance in exercising the related prerogatives of the ownership right. These warranties refer to both acts of:

- The seller.
- Third parties against the buyer.

The warranties can be subject to limitation by agreement of the parties.

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**12. Please briefly outline the real estate due diligence that is typically carried out before an acquisition (including title investigation and searches of public authorities).**

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A due diligence report on title consists of the legal analysis of the ownership titles and the ownership chain over the real estate. Such analysis mainly covers the compliance of ownership titles and related documents with the regulations in force at the moment of the execution.

However, the legal analysis is generally focused on the information and documents provided and law firms do not perform any supplementary investigations, unless expressly required by and agreed with the client.

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**13. What real estate warranties are typically given by a seller to a buyer in the sale of corporate real estate and what areas do they cover?**

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The standard warranties are expressed in relation to the ownership right over the real estate (sole or joint ownership, title validity and transferability) and other issues relating to the legal or actual status of the relevant real estate, such as:

- Peaceful possession.
- Lack of encumbrances, liens, burdens or third party rights of any kind.
- That there are no proceedings, claims or disputes in relation to the real estate.
- Compliance with cadastral or other applicable regulations.

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**14. Can an owner or occupier inherit liability for matters relating to the real estate even if they occurred before it bought or occupied it? For example, environmental liability, or liability under a lease.**

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An owner or occupier can inherit liability for matters relating to the real estate even if they occurred before it bought or occupied it. For example, with environmental liability, a new owner has to observe environmental obligations, if any, especially in cases of historical pollution. In this case, a compliance plan should be observed.

A lease agreement is transferred to the new owner under specific conditions. These are that it is concluded in authentic form or bears a certified date and, where it was concluded more than three years ago, it was previously registered with the relevant land book.

Mortgages on real estate and easements are also transferred to the owner or occupier.

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**15. Does a seller or occupier retain any liabilities relating to the real estate after it has disposed of it? For example, environmental liability, defects in the real estate, and contractual liability to the buyer.**

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For sellers, the general liability is triggered by the legal warranty for eviction and by the legal warranty for defects, both of which may be strengthened or lessened to a certain extent by the parties' agreement (see *Question 11*). Also, apart from eviction and defects, parties usually include in the sale and purchase agreement a seller's liability for false or misleading statements with respect to the real estate.

With lease agreements, the former occupier may retain certain liabilities after leaving the premises, for example, for damage to the real estate other than that triggered by normal wear and tear from use.

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**16. What costs are usually paid by the buyer? What costs are usually paid by the seller?**

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**Buyer's costs**

Unless otherwise agreed by the parties, the costs incurred with a sale and purchase agreement are borne by the buyer. Such costs include the notary public's fee, stamp duty, registration tax and VAT (if applicable). In addition to these compulsory taxes, the buyer is also responsible for its consultant's fees.

**Seller's costs**

As a general rule, the seller does not incur any cost with selling real estate, except for its own consultant's fees.

**Real estate tax**

The Romanian Civil Code provides that all costs incurred with a sale and purchase agreement are payable by the buyer, including tax for registration of the ownership right with the relevant real estate registry.

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**17. Is value added tax (VAT) (or equivalent) payable on the sale or purchase of real estate? Who pays? What are the rates? Are there any exemptions?**

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Generally, a real estate sale and purchase is VAT free. As an exception, VAT is applicable where the real estate is:

- Land on which construction can take place.
- A new building. The building is deemed new if the transfer is performed no later than 31 December of the year following either the year during which the building was:
  - first occupied (the signing year of the final reception minutes for the construction of the building or the year of signing the document based on which the building is registered into the accounting records as a fixed corporeal asset); or
  - first used (referring to buildings subject to structural improvements or changes, and means the year when the final reception minutes for completion of improvement works were signed, or when the document based on which the value of the fixed corporeal asset is increased is signed).

VAT is payable by the seller who charges it to the buyer and pays it to the state budget. The rate is 19%.

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**18. Is stamp duty/transfer tax (or equivalent) payable on the sale or purchase? Who pays? What are the rates? Are there any exemptions?**

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Transfer tax is applicable on the sale of real estate and payable by the seller, as follows:

- If the seller is an individual, the rate depends on the date the real estate was acquired by the seller, meaning if the real estate was acquired:
  - within the three years immediately preceding the sale, the tax is 3% of the value up to RON200,000 (about US\$77,175). Where the real estate price is at least RON200,000, a supplementary tax (aside from the 3%) is added amounting to RON6,000 (about US\$2,315) plus 2% of the value exceeding the RON200,000 threshold;
  - more than three years before the sale, the tax is 2% of the value up to RON200,000. Where the real estate price is at least RON200,000, the supplementary tax is RON4,000 (about US\$1,544) plus 1% of the value exceeding the RON200,000 threshold.
- Where the seller is a foreign legal entity, the rate is 16%.

As a general rule, tax is payable by the seller. In certain cases, withholding by the buyer may be mandatory. If the relevant sale purchase agreement is subject to authentication by a notary public (in the case of land), the tax is retained and paid by the notary to the state.

There are no exemptions.

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**19. Are any methods commonly used to mitigate real estate tax liability on acquisitions of large real estate portfolios?**

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The most common way is structuring the transaction as a share deal, not as an asset deal, mostly in cases where the real estate is owned by a company (used as a special purpose vehicle).

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**HOLDING BUSINESS PREMISES**

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**20. Is it common for companies to manage their real estate portfolios and their accommodation needs by using third parties, for example through outsourcing transactions?**

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Outsourcing is becoming more frequent, especially for accommodation needs. For example, most banks prefer to lease the premises necessary to carry out their activities, therefore ensuring more cash flow. The management of portfolios does not usually involve conveyance of the ownership titles over the real estate to third parties (except for off-shoring scenarios). The owner usually prefers to ensure the management of the portfolio. However, recently consultants are being requested to provide assistance before transactions.

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**21. Are there restrictions on foreign ownership or occupation of real estate, or on foreign guarantees or security for ownership or occupation?**

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According to the Romanian Constitution, the acquisition of land by foreign citizens and legal persons is subject to the terms of Romania's adherence to the EU as well as to reciprocity in the state of origin of any foreign citizens or legal persons. Relevant laws specify that EU citizens and legal persons can only purchase land after five years of Romania's adherence to the EU, and for agricultural land only after seven years. This issue has been broadly disputed in practice, opinions being divided (part of the practice acknowledging the right of EU citizens who are resident in Romania to purchase land as of 1 January 2007). However, notaries public are currently reluctant to allow such transactions.

As an exception, a foreign person can gain ownership over land in Romania through legal inheritance (which means that only natural persons can gain ownership this way). Non-EU citizens can purchase land in Romania, however they cannot benefit from more favourable conditions than EU members. The right to use land (for example, through a lease or similar agreements) as well as constructions can be freely purchased by foreigners.

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**22. Does change of control of a company affect its holdings of real estate?**

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A new shareholding structure has no legal effect on the ownership right over the real estate held by a company.

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**23. In what circumstances can local or state authorities purchase business premises compulsorily? Is the purchase price market value?**

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State or local authorities have the means to perform compulsorily purchase through the expropriation procedure. As a prerequisite to expropriation, the state or local authorities have to undergo the public interest establishment procedure. This first step being accomplished, the relevant authority continues by direct negotiation with the owner of the real estate. According to law, the owner of the real estate is entitled to fair and prior compensation, which can be interpreted as being the market value. If the parties disagree on the amount of the purchase price, the owner of the real estate is entitled to file a claim to this extent, and consequently the price will be set by a competent court of law.

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**24. Are municipal taxes paid on the occupation of business premises, for example business rates? Are there any exemptions?**

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Municipal taxes are not paid on the occupation of business premises.

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## REAL ESTATE FINANCE

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**25. How are acquisitions of large real estate portfolios or companies holding real estate generally financed?**

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Current practice has shown that the acquisition of large real estate portfolios is financed mainly by banking institutions, through various forms of financing products, ranging from term loan facilities to syndicated loan agreements. Funds are usually obtained for the entire envisaged project, whereas the acquisition of land represents, in general, a minor part of the development costs.

However, investment funds tend to finance their special investment vehicles directly from their own resources, either by share capital contributions or by shareholder loans, depending on the purpose of the project.

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**26. How is real estate commonly used to raise finance? In particular through:**

- Secured lending.
  - Sale and leasebacks.
  - Other financing such as real estate securitisation.
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Real estate is one of the most common forms of security for financing. More specifically, the costs of the contemplated project are in general secured by the land subject to the development. To this extent, the parties conclude a mortgage agreement in notarised form. Charging real estate with a mortgage does not hinder the conveyance of the real estate, but the beneficiary of the mortgage is paid first from the amounts resulting from foreclosure of the charged real estate.

Sale and leasebacks are uncommon in the real estate business. Such mechanisms are used mainly in relation to industrial equipment. The securitisation of real estate does not yet apply in Romania.

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## REAL ESTATE LEASES

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**27. Are contractual lease terms regulated or freely negotiable?**

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The parties are free to negotiate the terms of a lease. Where no provisions to the contrary are present, the terms and conditions of the lease are supplemented by the general regime of leases, set out in the Civil Code.

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**28. How are rent levels usually reviewed and are there any restrictions on this? Is VAT (or equivalent) payable on rent?**

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Generally, contractual rents are subject to yearly indexation varying from a specific percentage to the enforcement of a specific rent index, such as the Harmonised Index of Consumer Prices, the Consumer Price Index or any other index at the parties' convenience. VAT is usually applicable on rent.

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**29. What is the usual length of lease term and are there any restrictions on it? Do tenants of business premises have security of occupation or rights to renew the lease at the end of the contractual lease term? If yes, please give details.**

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The lease contract remains valid and binding even if the length of the term is not indicated. The non-determination of the term does not give the agreement perpetuity, which is prohibited. However, not committing to a specific duration of the term, regardless of the time period, has consequences in relation to break rights. Practice has revealed leases are concluded for a period between ten to 15 years for regular tenants, and 20 to 25 years in case of anchor tenants.

The sole statutory right of renewal provides that, if after the term expires, the tenant continues to use the premises and the landlord does not oppose or hinder such use, the lease will be tacitly renewed. However, in these cases the duration of the new lease must be considered as not determined, which means that the contract can be terminated at any time. Anchor tenants are generally granted the right to extend the lease by five-year terms, up to three times consecutively.

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**30. What provisions or restrictions typically apply to the disposal of the lease by the tenant (for example, can the tenant assign or sublet the lease with the landlord's consent)?**

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Unless expressly prohibited by the contract, the tenant is free to assign the lease. In this case, for the assignment to be acknowledged by third parties (including to the landlord) the tenant has to serve a notification on the landlord to this extent. In general, landlords try to resist assignment without prior consent. Also, assignment by the tenant is subject to the conduct of the assignee (no outstanding breaches of the tenant's obligations until the assignment). The right to assign is freely allowed in most cases in favour of group companies or subsidiaries of the tenant.

According to law, subletting is allowed unless expressly prohibited. In practice, landlords hardly ever agree to allow the tenant to sublet, except to group companies or subsidiaries of the tenant, or to credit or service providers closely related to the tenant's business activity, and provided that the payment of rent and service charge is not affected.

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### 31. Who is usually responsible for keeping the leased premises in good repair?

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The landlord must maintain the real estate in a proper condition to enable its use as agreed in the lease. However, any maintenance works must be carried out so that minimum disturbance is caused to the tenant.

Under the current legal regulations (unless otherwise agreed by contract), the landlord is responsible for the major repairs and the tenant for the minor repairs to the real estate. Practice, however, has begun to shift. The tenants are becoming more responsible for the internal repairs, and landlords have to perform the external repairs and all structural internal repairs. The costs incurred by landlords are recovered through the service charge.

Besides being responsible for the internal repairs, the tenant must also maintain the real estate in line with the agreed standards. Redecoration is usually demanded after expiry of a fixed period of years.

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### 32. Who is responsible for insuring the leased premises?

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In practice, real estate is insured by the landlord, a wide range of commercial risks being covered, including fire, explosion, water damage, earthquake, and, recently, terrorism. Insurance costs are recovered through the service charge. However, the tenant's property stored in the real estate is not covered by such insurance. It is optional for the tenant to insure its property, but often it is a requirement to obtain third party liability insurance for the tenant's covenants under the lease.

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### 33. Can tenants usually share their business premises with companies in the same corporate group? If yes, on what terms?

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Landlords tend to refuse the sharing of occupation without prior consent, but consent must not be unreasonably withheld or denied. However, in practice, such permission is granted for group companies or subsidiaries.

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### 34. On what grounds can the landlord usually terminate the lease? Please briefly outline any restrictions or procedure that applies. Can the tenant terminate the lease in certain circumstances?

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Where the parties have determined a specific duration for the term, unless otherwise provided in the lease, neither the landlord nor the tenant have the right to terminate the lease early. If the lease has an undetermined duration, then either party can terminate the lease at any time, subject, however, to prior notification.

Either party can also file a termination claim before a competent court of law where the other party is in consistent breach of its contractual obligations. However, the court can assess the existence and consistency of the alleged breach, and can also allow for a limited remedy period. To avoid such a time-consuming procedure with an uncertain outcome, the parties usually agree on termination clauses in predetermined cases, so avoiding court intervention.

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### 35. What is the effect of the tenant's insolvency (under general contract terms and insolvency legislation)?

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If the tenant becomes bankrupt or insolvent, the landlord can terminate the contract. Insolvency legislation does not specifically regulate the effects of the tenant's insolvency. As a general rule, the landlord attends the insolvency proceedings as an unsecured creditor, its eventual claims (rent and ancillary) being satisfied in accordance with the order of preference. It is usual that lease agreements provide for an early and automatic termination if the tenant becomes insolvent or is subject to insolvency proceedings.

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## PLANNING LAW/ZONING

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### 36. What authorities regulate planning control and which legislation applies?

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Zone planning is generally regulated by Law No. 350/2001 on territorial planning, as further amended. Under this law, the authorities with control and approval competencies in the urban field are the local administration bodies, namely the city and county council. As an exception, the zoning regulations related to the national area are established by the central administration.

The provisions of the zoning plans approved by the above authorities are mandatory for the respective areas in the urban field, so they have a regulatory power.

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### 37. What planning consents (for example, planning permission or building permits) are required and for which types of development?

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For the purpose of developing real estate projects, legislation expressly requires procurement of a building permit and compliance with the zoning plans in place for the respective area.

The building permit is a document where the applicant is permitted to perform construction works, while the zoning plans are the documents establishing urban regulations for a specific area.

The zoning plans include general town planning (*Planul de Urbanism General*) (PUG) and related local regulations, respectively regional town planning (*Planul de Urbanism Zonal*) (PUZ) and detailed town planning (*Planul de Urbanism de Detaliu*) (PUD).

The PUG has an operational guiding and regulatory character, including short-term or long-term regulations and is drawn up by each town and updated every five to ten years. This constitutes the legal basis for accomplishment of the development programmes and endeavours.

The PUZ sets out the objectives, actions, priorities, and urban regulations (permissions and restrictions) enforceable for a particular area.

The PUD is the documentation setting out the conditions about location and execution, on certain land, of one or several constructions with a specific destination.

For construction purposes, where the specific zoning requirements cannot be complied with, the approval of a new zoning plan modifying the existing one is necessary.

### 38. In relation to planning consents:

- Which body grants initial planning consents?
- Do third parties have the right to object?
- In what circumstances is there a public inquiry?
- How long does an initial decision take after receipt of the application?
- Is there a right of appeal against a planning decision?

#### Application

For the purpose of issuing a zoning plan, the interested party is initially bound to obtain from the mayor an urban certificate, attesting the zoning regulations for the respective area. This document establishes a series of permits and endorsements required for the approval of the relevant zoning plan. Competence to issue such permits and endorsement lies with:

- Utilities suppliers.
- Local bodies.
- Central bodies.

On obtaining all endorsements and permits from the relevant authorities, the interested party (the applicant for a zoning plan) must submit these documents, together with the technical documentation and the initially obtained urban certificate, to the local council in view of zoning plan approval.

#### Third party rights

Law No. 350/2001 on territorial planning expressly provides that, on their approval, the zoning plans are available to third parties, which are, consequently, entitled to object. Further, the procedure for approving the zoning plans involves, among other steps to be followed, a public consultation procedure. Such procedure mainly consists of ensuring the publicity of the proposed zoning plan and the possibility for any interested party to object or to suggest amendments.

#### Public inquiries

As a precondition of the issue of a zoning plan, the proposed plan must be public to ensure the notification of any interested person, as well as for granting the right to make amendment proposals to each individual who may be affected by its issue.

## REAL ESTATE ORGANISATIONS

### National Agency for Cadastre and Real Estate Publicity (Agenția Națională De Cadastru Și Publicitate Imobiliară)

**Main activities.** This is the public institution responsible for keeping the land register for real estate, as well as for coordinating the national cadastre activities.

W [www.ancpi.ro](http://www.ancpi.ro)

### National Union of Notaries Public from Romania (Uniunea Națională a Notarilor Publici din România)

**Main activities.** This is the professional organisation of the notaries public in Romania, and is also competent to set the general notaries' fees.

W [www.uniuneanotarilor.ro](http://www.uniuneanotarilor.ro)

### National Trade Register Office (Oficiul Național al Registrului Comerțului)

**Main activities.** This office is responsible for keeping the publicity system and evidence of Romanian companies.

W [www.onrc.ro](http://www.onrc.ro)

### Romanian State Domain Agency (Agenția Domeniilor Statului)

**Main responsibility.** This is an institution of public interest. It was created for the purpose of privatising state-owned companies involved in the agricultural domain and concession of the lands held by such companies.

#### Initial decision

On submission of the complete documentation for approval of a zoning plan, the local council makes a decision. To this extent, it should be noted that the local council usually convenes once a month. However, the law sets out the possibility for the local council to convene in extraordinary circumstances when necessary.

#### Appeals

Taking into account its nature as a regulatory administrative deed, a zoning plan can be appealed at any time in the administrative court (*Law No. 554/2004 on administrative disputes resolution, as further amended*).

## REFORM

### 39. Please summarise any proposals for reform and state whether they are likely to come into force and, if so, when.

A major and still disputed issue is the properties confiscated during the communist regime. Law No. 10/2001 provided the legal grounds for the former owners to claim restitution of their confiscated real estate properties, but the term for filing such claims



has expired. Former owners that failed to commence the necessary procedures in time have tried to regain ownership through the general restitution claims based on the Civil Code.

The alternative approach, tried by former owners, was accepted in some courts of law and denied in others. This situation created confusion in practice and insecurity regarding the potentially affected ownership titles. To this extent, the High Court of Cassation and Justice has issued a guiding decision, but ultimately created more confusion rather than clarifying the issue. A legislative initiative would be welcome to provide certainty on this matter, but is not expected to appear in the near future.

#### ABOUT THE CONTRIBUTOR

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