

Romania

Chamber of commerce:

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Professional body:

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World Bank statistics 2011:

GDP
\$180 billion

Population total
21.4 million

Income level
Upper middle income

The banking and finance sector under the new Romanian Civil Code

Mona Musat
Musat & Asociații
Bucharest

On October 1 2011, a new Civil Code entered into force in Romania. Such enactment had been long waited for by the practitioners and scholars, as the provisions of the former civil code, dating back to 1864, were no longer compliant with the contemporary realities and new challenges of legal practice. The efforts of the team drafting the New Civil Code resulted in an advanced regulatory instrument containing fundamental principles of law and solutions already embraced by doctrine and jurisprudence and also incorporating legal concepts of modern legislations, in order to align to the global legal framework and business.

Upon the entry into force of the new Civil Code, the banking and finance field underwent major amendments, especially in terms of terminology, instruments and legal concepts.

For instance, 'mortgage' no longer designates only a security interest over real estate (which is now an '*immovable mortgage*'), but also refers to security interests over movable assets ('*movable mortgages*'). Moreover, when restructuring the terminology and concepts in the security interests' field, the new Civil Code makes another distinction, by re-introducing in the Romanian legislation the concept of *pledge*, with reference to the security interests with dispossession. Additionally, although accepted so far in practice and doctrine, the retention right is now expressly regulated. To summarise, the new Civil Code divides security interests into mortgages, pledges and retention rights.

Besides the terminological amendments, important changes were brought to the con-

cepts operated in the security interests' field. Thus, one of the major changes, applicable to the entire real estate registrations system, refers to the constitutive effect of registrations of immovable mortgages (and other real estate related rights) with the land books. Thus, according to the new Civil Code, an immovable mortgage interest will no longer be acquired through the mortgage agreement only, but its registration with the relevant land book will also be necessary. Notwithstanding this, the rule will enter into force at a later date, when the cadastral works for each territorial unit are finalised. In the meantime, registrations with the land book will continue to be performed for third party acknowledgement purposes.

Another important change brought to the mortgage regime is the possibility of creditors, either secured or non-secured, transferring the ranking of mortgages between them, on a conventional basis.

In terms of immovable mortgages, the new Civil Code regulates the possibility of creating interest over future constructions, which was previously allowed only in those cases where the construction was to be erected with funds made available under a real estate loan. The related recording with the land book will however be a temporary one, being consolidated upon finalisation of the construction and submission with the relevant land book of the documents attesting finalisation.

Furthermore, while maintaining the rule that movable mortgages become opposable toward third parties by means of registration with the Electronic Archive for Secured Transactions, the New Civil Code also regulates a specific method of ensuring the publicity of a movable mortgage on bank accounts, namely the control over the respective bank account. The control over a bank account may be achieved by the creditor if the creditor is the bank where the account is opened or if the mortgagor, the creditor and the account bank agree upon this. In the same line, the

pledge will be rendered ostensible toward third parties either by its registration with the Electronic Archive for Secured Transactions or by dispossessing the pledgor of the pledged asset.

Changes to the personal guarantees regime were also brought in by the new Civil Code. The most relevant amendment consists in the possibility of a personal guarantee to be made in exchange of a price. This amendment was saluted by the practice since it offers a solution to the largely disputed issue of commercial companies' creating free of charge personal guarantees in favour of third parties, although their scope of business involves obtaining profit.

Separately, the new Civil Code introduces the new concept of autonomous guarantees. Accordingly, the autonomous guarantees are the letter of guarantee and the letter of comfort, the regulation of which appeared as a consequence of the banking practice using these instruments on a large scale even before the new Civil Code.

In the banking sector, the new enactment created a general legal framework for concepts and agreements used in this field. Accordingly, the current bank account agreement is regulated by the new Civil Code, along with concepts like the bank deposit, the credit facility etc.

To conclude, the New Civil Code appears as a modern tool regulating fundamental aspects of civil and commercial relations, corresponding to the social, economical and cultural evolution and providing solutions to the challenges Romania faces in the globalisation era.

Banking and capital markets

Recommended firms
Tier 1
Badea Clifford Chance CMS Cameron McKenna Musat & Asociatii Nestor Nestor Diculescu Kingston Petersen
Tier 2
Schoenherr si Asociatii Tuca Zbârcea & Asociatii
Tier 3
Bulboaca & Asociatii Popovici Nitu & Asociatii Radu Taracila Padurari Retevoescu (RTPR) in association with Allen & Overy Salans
Tier 4
bpv Grigorescu Stefanica D&B David si Baias Gide Loyrette Nouel Kinstellar Reff & Associates Stoica & Asociatii Voicu & Filipescu White & Case Pachiu Zamfirescu Racoti Predoiu

Other notable firms
Buzescu Ca Drakopoulos Law Firm Eversheds Lina & Guia Hammond Bogaru & Associates Pachiu & Associates Peterka & Partners Sulica Protopopescu Vonica Vernon David Vilau & Mitel Wolf Theiss

Major lateral hires
Laura Toncescu From: D&B David si Baias
Cristina Reichmann Virtopeanu From: Nestor Nestor Diculescu Kingston Petersen To: CMS Cameron McKenna

Context and trends

On October 1 2011, the new Romanian Civil Code came into force. It will take some time to gauge its full impact but the legislation aims to update the country's legal framework by refining existing legal concepts and adapting them to the present context. However, the changes are wide ranging and will run from privacy, fiducia (trust like relationship) to strengthening bank financings and security provisions. "It reshuffles the old code. The old

code was dated and enacted at the end of the 19th century. Times have changed and concepts are dated," one practitioner says. "In the last couple of years, university professors imported concepts from Canada, Italy and France. We'll see the real impact when the thing comes in front of the court."

In the last 12 months, banking and capital markets in Romania can be best described as sluggish. There is no doubt that a large part of this can be attributed to the political instability that besets the country. For example, in April 2012, Romania's government fell after the centre-right coalitions unpopular austerity measures. Consequently, in May, parliament approved a new centre-left government that promised to honour the €20 billion IMF, the EU and the World Bank rescue package and correct social imbalances.

The country was inspired by the Polish example in the equity capital markets when it decided to privatise and sell stakes of state owned companies through the Bucharest Stock Exchange (BSE). "Romania was inspired by Poland but there is a difference. The success of Poland was because of restrictive legislation that required some to list in Warsaw to give it its critical mass and some view this as anti-competitive," one partner says. However, in light of the turbulent market conditions, many of these IPOs and SPOs have been put on hold with only the completion, on March 28 2012, of Transelectrica's 15% stake and €8 million SPO on the narrow BSE. "We are now in the election year and everything has stopped on public matters," one commentator says. "There is the expectation that it will begin again [the privatisations]. It must happen; because of the gravity of the situation and the economy."

On the banking side, there has been little in terms of new money as banks continue to be tight and with non-performing loans dominating discourse, restructuring is the order of the day. However, the most interesting trend lies in the transfer of portfolio loans, which is expected to produce a significant amount of work. "Banks are ready to sell the bad loans they have in their portfolio at a discount," one partner says.

Badea Clifford Chance

Badea Clifford Chance is a top tier banking and capital markets firm. The firm is particularly proficient in the debt capital markets, where leading lawyer Daniel Badea has been involved in all the top mandates last year. "He's very good, extremely good," one client says. "There are very few local lawyers familiar with international standards and local standards."

The firm is a strong choice for clients such as Goldman Sachs, Citibank, Credit Suisse, JPMorgan and Raiffeisen Bank. Furthermore, the firm has strong relations with the National Securities Commission, the Bucharest Stock Exchange and the Central Depository. It has also been actively involved in the development of the market's rules and regulations. "Clifford Chance is such a good firm. They have a good CV in capital markets," one peer says. "You wouldn't expect them to get a capital markets deal wrong."

Deals

Badea Clifford Chance was involved in the establishment of the Romanian state's €7 billion MTN programme and its €1.5 billion opening transaction. Although the firm was instructed by the underwriters Société Générale and Erste Bank, it actually acted as transaction counsel and was in charge of transactional documentation and drafting the MTN prospectus. Moreover, under the same programme, the firm advised Deutsche Bank, HSBC and Citibank with regard to Romania's dollar sovereign bond debut issue at \$2.3 billion. On the banking side, the firm aided a prominent international financial institution on a framework project to finance energy efficiency and small-scale renewable energy investments. This involved providing senior loans of up to €60 million to three to five participating financial institutions in Romania for on-lending to suitable SMEs (small and medium enterprises).

Leading lawyers

Daniel Badea
Radu Ropota

CMS Cameron McKenna

Led by Simon Dayes, CMS Cameron McKenna has built itself a highly prominent finance practice in Romania. "I have absolutely no complaints with Simon," one client says. "He's very positive and one of the few lawyers here that's very good." Moreover, the firm has shored up its traditional strength, in July 2012, with the capital markets hire of Cristina Reichmann Virtopeanu. The former head of capital markets of Nestor Nestor Diculescu Kingston Petersen, Virtopeanu, now heads CMS's capital markets, FIS and structured finance practice. The firm has also strengthened its international capability in Bucharest and now has four English/New York lawyers in its team.

Deals

CMS Cameron McKenna has been involved in one of the year's most important transactions in the banking sector.

In an M&A linked transaction the firm advised MKB Bank (Hungary) in its agreed sale of Romexterra Bank, a bank with 47 branches in Romania, to a consortium of investors backed by PineBridge Investments. This was the first ever National Bank approved acquisition of a Romanian bank by a private equity group. Additionally, in real estate finance, the firm advised Erste Bank Vienna as lead arranger in the €100 million refinancing of the GTC Group's City Gate office development in Bucharest. This is Romania's largest real estate investment facility.

Leading lawyers

Simon Dayes
Cristina Reichmann Virtopeanu

Musat & Asociatii

In banking and capital markets, Musat & Asociatii is a tier one firm. The traditionally strong outfit works hard to reclaim market share and is involved in some of the market's leading mandates. The firm has a large banking and finance team that is made up of five partners and over 25 lawyers. "Musat has a good reputation from years ago when it comes to privatisations," one partner says. Additionally, it has been advising on four out of the five significant public offers on the Bucharest Stock Exchange. "It is a serious law firm known by the reputation it has built," one client says. "It started with the privatisations and then in came the big [international] law firms and it continuously developed in the market."

Deals

Musat & Asociatii advised the Ministry of Economy, Trade and Business Environment (MECMA) and The Office for State Ownership and Privatisation in Industry (OPSPI) in regard to Transelectrica's 15% stake and €38 million secondary public offering (SPO) on the Bucharest Stock Exchange. The deal closed on March 28 2012 and was oversubscribed. Additionally, the firm is advising the same clients, MECMA and OPSI with regard to the Hidroelectrica IPO and Transgaz SPO and is advising the Ministry of Transportation and Infrastructure in the €20 million Tarom IPO. On the banking side, Musat & Asociatii is advising Astra Rail Industries in relation to a €6 million roll-over syndicated facility agreement from RBS, ING, Citibank and Piraeus Bank under LMA (Loan Market Association) standard documentation.

Leading lawyers

Mona Musat

Miruna Suci

Nestor Nestor Diculescu Kingston Petersen

Nestor Nestor Diculescu Kingston Petersen (NNDKP) was hit by the departure of its capital markets head, Cristina Reichmann Virtopeanu in July 2012. Nevertheless, it is a firm fixture in the legal landscape. The firm's finance and capital markets capabilities are headed by Manuela Marina Nestor and co-headed by Alina Radu. "Nestor have strength in government related work," says one peer. Furthermore, clients are satisfied by the quality of service received from the firm. "Nestor is one of the law firms that provided certain advice to the mother company and they were satisfied so we utilised it," one client says.

Deals

Nestor Nestor Diculescu Kingston Petersen (NNDKP) advised BCR, Intercapital Invest and Swiss Capital in all stages of the €38 million secondary public offering (SPO) by the Romanian State of a 15% stake in the power grid company, Transelectrica. The deal, which closed in March 2012, was the first successful SPO of the Romanian State and one of the most important capital markets transactions in recent times. Furthermore, the firm advised the lender in regard to a €9 million credit facility granted to a major shipbuilder. The deal, which closed in October 2011, was one of the larger financings of the year. The firm has also been busy advising clients such as ING, Volksbank and RBS in respect to the implementation of Romania's new Civil Code and the resultant revision of the clients' banking documentation.

Leading lawyers

Manuela Nestor
Gabriela Ontica
Alina Radu

Schoenherr si Asociatii

Schoenherr si Asociatii is a tier two banking and capital markets firm. The firm is very visible in the capital markets and with the help of Narcisa Oprea, it is routinely involved in some of the market's leading mandates. "Schoenherr has one of the persons involved in capital markets transactions for many years," one partner says. "It has good knowledge." Matei Florea has also been drawn out for praise. "Matei Florea is one of the most talented finance lawyers we have in Romania," one partner says.

Deals

Schoenherr si Asociatii acted as legal counsel to OMV Petrom on the failed €480 million secondary public offering by the Romanian State of 9.8% in the Romanian oil company. Additionally, the firm advised Raiffeisen Capital & Investment, Wood & Company Financial Services and BT Securities with regard to the secondary public offering by the Romanian State of 15% in Transgaz. Furthermore, the firm advised JPMorgan, Commerzbank, Deutsche Bank and RBS on the issuance of 7.75% senior notes due 2017 in an aggregate principal amount of \$600 million, 8.5% senior notes due 2019 in an aggregate principal amount of \$500 million, 7.75% senior notes due 2017 in an aggregate principal amount of €300 million and 8.75% senior notes due 2019 in an aggregate principal amount of €400 million.

Leading lawyers

Matei Florea
Adela Ioana Florescu
Narcisa Oprea

Tuca Zbârcea & Asociatii

Reasonably new on the market, Tuca Zbârcea & Asociatii is carving itself out a strong position in banking and capital markets. The firm is prominent in local financing, asset finance, banking transactions and cross-border finance. Furthermore, the firm is proficient in the capital markets and acts as the sole legal advisors to the Bucharest Stock Exchange (BSE), on all key matters in the local capital markets. "Tuca are big local players," one peer says. The firm has a large banking and finance practice that is made up of 11 finance lawyers and 15 lawyers working in the capital markets, debt recovery, insolvency, bankruptcy and enforcement procedures. It is also a strong favourite for international firms such as Shearman & Sterling, SNR Denton, Ashurst and Freshfields Bruckhaus Deringer.

Deals

Mihai Dudoiu, along with senior associates Dragos Stratone and Patricia Enache, is advising Carrefour Romania in connection with the €47 million financing for the development of the largest shopping centre outside Bucharest. Additionally, the firm advised Banca Comerciala Romana on two financing agreements, at an aggregate of €50 million, entered into between Banca Comerciala Romana (BCR) and a Romanian and Italian energy investment group. The firm also helped the Bucharest Stock Exchange (BSE) on the restructuring of the Rasdaq market operated by it and advised the Black Sea Trade and Development Bank (BSTDB) on a €0

million financing made available to a Greek company also active in Romania.

Leading lawyers

Stefan Damian
Mihai Dudoiu
Silvana Ivan

Mergers and acquisitions

Recommended firms

Tier 1

Musat & Asociatii
Nestor Nestor Diculescu Kingston Petersen
Tuca Zbârcea & Asociatii

Tier 2

Badea Clifford Chance
CMS Cameron McKenna
Popovici Nitu & Asociatii
Salans
Schoenherr si Asociatii

Tier 3

Bulboaca & Asociatii
Gide Loyrette Nouel
Marian Dinu Law Office in cooperation with
DLA Piper
PeliFilip
Radu Taracila Padurari Retevoescu (RTPR)
in association with Allen & Overy

Tier 4

bpv Grigorescu Stefanica
D&B David si Baias
Kinstellar
Stoica & Asociatii
Voicu & Filipescu
White & Case Pachiu
Zamfirescu Racoti Predoiu

Other notable firms

Andra Musatescu Law & Industrial Property
Offices
Buzescu Ca
D&B David si Baias
Drakopoulos Law Firm
Eversheds Lina & Guia
Hammond Bogaru & Associates
Pachiu & Associates
Peterka & Partners
Reff & Associates
Sulica Protopopescu Vonica
Vernon David
Vilau & Mitel
Wolf Theiss

Major lateral hires

Lucian Danilescu

From: Zamfirescu Racoti Predoiu

To: Mares Danilescu & Asociatii

Andrei Dumitrache

From: Pachiu & Associates

Context and trends

Of all the practice areas covered in Romania, M&A was the most lucrative. However, this is not to say that the sector boomed or bounced back from the crisis, but rather, it was the most constant in 2011. "Most acquisitions are trade buyer style acquisitions. A big company with money pays a decent price for a good company. It's probably how it should be," one partner says. "And because the banks are skittish, they do acquisition finance with cash and there's no bank required." Despite this, political instability, the Eurozone crisis and the ensuing gap between the expectations of buyers and sellers conspired against the market as Romania was further affected by declining investment. "There hasn't been too much M&A in the last two years," one partner says. "In contrast, three or four years ago, when we were approached by buyers and sellers, we rejected them." Furthermore, the overall value of transactions decreased, and purchasers try to manage risk by drawing investments out over longer periods of time, including complex arrangements in the transactions until investors acquire full control over the target. "It's the usual suspects. Everyone focuses on energy projects and to some extent pharmaceuticals," one partner says. Additionally, smaller players tend to be more active in the market and most transactions do not go beyond the €10 million threshold.

Looking ahead, there is hope among practitioners of privatisations in the natural resources sector. "Overall, we're optimistic of the development of the M&A market this year," one partner says. "We have some resources in copper and coal, and so the mining sector becomes important." However, in April 2012, amid social unrest, the privatisation plan agreed with the IMF received a blow when the government shied away from selling the Cupru Min Abrud mine, the country's biggest mine to Canada's Roman Copper Corp. Furthermore, the Toronto Stock Exchange listed Gabriel Resources continues to struggle in its desired aim to make hay with Europe's largest gold deposit in the tiny village of Rosia Montana. It has received stiff opposition for 14 years and still struggles to get hold of an environmental permit. "We're in the election cycle and the Rosia Montana project is highly unpopular. Politicians are trying to get elected and if I were them, why would I support it?" one practitioner says. "Once they're elected, they may well change course

because there's a substantial case for privatisation."

Musat & Asociatii

Musat & Asociatii is a historical firm that enjoys a high reputation and maintains its ranking in tier one of the M&A table. M&A is where the firm really come into its own. It has extensive M&A expertise and acts on cross-border transactions, advising on a full range of deal structures from take-over tactics and flexible bid repositioning to corporate restructuring and divestitures, post-transaction support and integration planning.

The firm built its expertise on privatisations where it remains a force. It has the largest team in the country with six partners and 35 free earners.

Deals

Musat & Asociatii's predilection for privatisations came to the fore this year and the firm attracted some interesting mandates. It advised Oz Mineral, a leading Australian based mining company, in relation to its €200 million bid for the acquisition of Cuprumin, a company which holds the rights to mine the largest copper deposit in Romania, accounting for around 60% of the national copper reserves. Moreover, the firm is advising MECMA and OPSPI in connection with the privatisation of one of the largest state owned companies in the chemical industry, Olchim. It is also advising The Ministry of Transport and Infrastructure in regard to the privatisation of The National Freight Railway Company, CFR Marfa. In private equity, the firm advised Hkd Global Industry Ventures and its Romanian subsidiary Harry Vision in relation to the €500 million purchase of Integra, a Romanian meat processing company.

Leading lawyers

Catalin Baiculescu
Gheorghe Musat
Miruna Suci

Nestor Nestor Diculescu Kingston Petersen

Nestor Nestor Diculescu Kingston Petersen is a very strong firm on the transactional front. The firm's M&A team has depth in knowledge, M&A expertise and industry insight. The firm is very proficient in structuring transactions involving distressed assets subject to insolvency procedures. The firm provides on the ground M&A services its offices in Timisoara, Craiova, Cluj and Brasov.

Deals

Nestor Nestor Diculescu Kingston Petersen (NNDKP) has been busy this year and advised Lafarge Ciment (Romania) in relation to the €1 billion disposal of its Romanian gypsum board companies. Additionally, the firm was involved in one of the year's most important internet transactions. It advised Ringier Romania, one of the largest publishing companies in Romania, on its acquisition of a majority stake in eJobs Group. Furthermore, the firm assisted a major international mining group in connection to the acquisition of one of the largest and richest copper mines in Romania.

Leading lawyers

Ruxandra Maria Bologna
Gabriela Cacerea
Adriana Gaspar

Tuca Zbârcea & Asociatii

Tuca Zbârcea & Asociatii has one of the largest M&A and corporate practice groups in the country. This means that it has 30 lawyers in the Bucharest office alone that provide advice on the full spectrum of corporate transactional, mergers and acquisitions, public takeover bids, public and private acquisitions, share transfer agreements, spin-offs, joint ventures, restructurings and private equity investments. The firm is also proficient in the development of large-scale greenfield investments.

Deals

Tuca Zbârcea & Asociatii advised Erste Bank Group on a series of transactions, at approximately €600 million, for acquiring minority stakes (30.12%) held by five major investment companies (SIFs) in Banca Comerciala Romana (BCR). Legal advice concerned all capital markets, commercial, corporate, and taxation matters required by the transaction. Furthermore, in the largest completed deal on the online market thus far in 2012, the firm advised the owners of e-Jobs Group, the most significant Romanian player on the on-line recruitment market, and the American investment fund Tiger Holding, also one of the company's shareholders, in connection to the sale of a majority stake (70%) to Swiss media group, Ringier.

Leading lawyers

Stefan Damian
Florentin Tuca
Gabriel Zbarcea

Badea Clifford Chance

Badea Clifford Chance has had a solid M&A practice but it is not as well known as its

finance practice. In the last 12 months, the firm has assisted a number of global corporates, major private equity funds and real estate funds on acquisitions, corporate matters, re-structuring and exits from Romanian investments. It acts for a number of high profile clients, which include, to name a few, Innova Capital, Aviva, Pfizer and Europa Capital.

Deals

Badea Clifford Chance advised Immofinanz last year with respect to the €2 million buy-out of the remaining shareholders of Adama Holding, including Tiger Global, Morgan Stanley and Lehman Brothers. As one of the largest real estate portfolios in the region, with projects spanning five jurisdictions, the client acquired the remaining 69.22% share capital in Adama Holding on June 16 2011 and so became the sole shareholder. Furthermore, the firm acted for Aviva in the sale of its operations in Romania (Aviva Asigurari de Viata and Aviva Pensii Private) to MetLife. The firm was involved in the sale of both Aviva's Romanian insurance and pensions business and advised on Romanian law, regulatory aspects and in structuring the transaction.

Leading lawyers

Daniel Badea
Nadia Badea

CMS Cameron McKenna

With a number of notable hires this year, the strong CMS Cameron McKenna M&A practice strengthen its position in tier two. The firm has had a strong year and has been proficient in the energy sector and a top choice in this sector across the CEE (Central & Eastern Europe). The firm has also been active in TMT, manufacturing, financial services and real estate.

Deals

Despite tough market conditions, CMS Cameron McKenna has had a busy year and advised First Reserve Corporation on its acquisition of Amromco, the third largest gas producer in Romania. This was one of 2011's prominent deals in the oil and gas sector in Romania. Additionally, the firm advised Intel Corporation on the multi-jurisdictional acquisition of Telmap, an Israeli company focused on mobile navigation and location-based services. This was an important deal in the growing GPS software sector. The firm also advised majority shareholders, CLT UFA (part of the Bertelsmann Group) and its Hungarian subsidiary M-RTL, on the acquisition of the remaining 31% in RTL Klub, the largest commercial broadcasting channel in

Hungary and an additional seven cable channels from the IKO Group.

Leading lawyers

John Fitzpatrick
Horea Popescu

Popovici Nitu & Asociatii

Popovici Nitu & Asociatii has had a very strong year in M&A and as a result, consolidates its position in tier two. The firm has built a reputation for attracting high volumes of M&A instructions and this year has been no different. The firm's M&A expertise combines with its expertise in other acknowledged practice groups such as capital markets, tax, competition, antitrust, environment and litigation. The firm has impressive clientele, which includes the likes of Oresa Ventures, Innova Capital and Cargill.

Deals

Popovici Nitu & Asociatii has been involved in one of the market's largest M&A transactions of recent times. The firm advised Ameropa Holding, a leading Swiss fertilizers and grains trader, on the €150 million acquisition of the listed companies Azomures and Chimpex. Additionally, the firm advised Eolenvest on the acquisition of three wind farms, with a total projected capacity exceeding 400MW, located in Braila. Popovici Nitu & Asociatii also advised Cargill on Romanian matters related to the €1.5 billion acquisition of Provimi, the animal feed producer, from private equity fund Permira.

Leading lawyers

Florian Nitu
Ernest-Virgil Popovici
Bogdan Constantin Stoica

Salans

In difficult market conditions, Salans managed to consolidate its position in tier two. Led by Anda Todor, the 16 lawyer strong team borrows from its other practices, especially, from energy, competition, litigation and arbitration, restructuring and insolvency, tax and employment. The firm continued to advise clients from a variety of industries such as energy and retail. It acts for a number of key clients that include GDF Suez, Monsson Alma, SPAR Group, Coelco, Autoliv and VB Real Estate.

Deals

In view of developing GDF's first wind farm project in Romania, Salans advised GDF Suez on the approximately €5 million acquisition of shares in local company Braila Wind.

Moreover, as part of the same project, the firm advised the client with regard to supply and maintenance agreements for 21 wind turbine generators purchased at €48 million by GDF from Siemens. Furthermore, the firm advised in-store merchandising company, Spar Group, on its joint venture with local company, Business Ideas Provider Group, an active Romanian retail merchandising company. Also, financed by Investkredit Bank, the firm advised VB Real Estate Services on the acquisition of five distressed project companies in Romania.

Leading lawyers

Claudiu Munteanu-Jipescu
Anda Todor

Schoenherr si Asociatii

In the circumstances, Schoenherr si Asociatii has had a solid year and consolidates its position in tier two. The experience of Markus Piuk is one that drives the practice and the firm continued to work on some interesting deals.

Deals

This year, Schoenherr si Asociatii continued to attract notable mandates. In a deal that closed in September 2011, Narcisa Oprea advised SIF Muntenia on the €6 million sale of a 6% share package in BCR to majority shareholder Erste. Additionally, the firm advised Austrian Post on the purchase of a 26% stake in the Romanian postmaster. The firm also advised Uniqa on the €25 million sale of its 27% stake in Romania's largest insurer, and BSE (Bucharest Stock Exchange) listed, Astra Asigurari, to the majority shareholder Nova Trade Group.

Leading lawyers

Markus Piuk
Mihai Radulescu

Project finance

Recommended firms

Tier 1

Badea Clifford Chance
CMS Cameron McKenna
Musat & Asociatii
Nestor Nestor Diculescu Kingston Petersen
Tuca Zbârcea & Asociatii

Tier 2

Bulboaca & Asociatii
Popovici Nitu & Asociatii

Tier 3

Bostina & Associates
PeliFilip
Radu Taracila Padurari Retevoescu (RTPR)
in association with Allen & Overy
Salans
Schoenherr si Asociatii

Other notable firms

Buzescu Ca
D&B David si Baias
Gide Loyrette Nouel
Peterka & Partners
Vilau & Mitel
Wolf Theiss

Context and trends

In the last 12 months, the market in project finance has been sedate with little in the way of new money. Banks continue to be very careful to extend credit and have a tendency to cherry pick projects. "New money is concentrated in limited sectors and the star for sure is the energy sector," one partner says. "Renewables is the new real estate." Wind is particularly high on the agenda and Spain's Iberdrola has been constructing a 600MW wind-farm development in Dobrogea, by far Romania's largest wind energy investment. "This is the sector [renewable energy] where banks express interest," one practitioner says. "This will become more active because energy legislation is in the process of being amended and the amendments will be good for renewables. This will trigger the appetite for banks to finance." Nevertheless, despite added willingness to finance renewable energy, some banks won't lend at all unless an IFI is involved. Interestingly, as the drive towards wind and solar continues, it has been suggested that such activity exists in a bubble that is ready to burst. "Wind is only ever a top up," one partner says. "The government never wanted a private sector because they want to control the energy sector. They're more interested in Nuclear and quasi-renewable hydropower."

On the other hand, real estate has been met with a marked decline. "There have been

very few transactions and only players with big names get money from banks," one partner says. It is a sector that has been affected for a few years now and looks certain to be in the foreseeable future. Nevertheless, we have witnessed the slightest of thaws among the many projects on ice.

The theme is much of the same when it comes to infrastructure. For quite some time now there has been talk of PPPs (public-private partnership) on the market and there have been a lot of problems in the past with pilot PPPs. In fact, rather than structure PPP transactions, the government seems to want to utilise EU funds. However, the government has declared the prospective €2 billion Bucharest Ring Road project as one of their top priorities. "We have been waiting for roads to be financed for a long time," one partner says. "Romania finances projects like roads via direct contracting. None of the risk is in the private sector. It's like having a contract with someone to paint your house."

Badea Clifford Chance

With mandates in renewable energy, infrastructure and real estate, Badea Clifford Chance is a strong choice for project finance work. It possesses the theoretical, practical, legal, regulatory and policy nous for project finance. "They're a huge name in finance and it's difficult to challenge that," one rival says.

Deals

Badea Clifford Chance advised EDP Renovavéis in respect to the financing by EBRD (European Bank for Reconstruction and Development) and the IFC (International Finance Corporation) of the development of two wind farm projects with an installed capacity of approximately 230MW; the Pester Wind Park and Cernavoda Wind Park I and II. Furthermore, the firm advised a prominent local financial institution in regard to financing the modernisation and rehabilitation of a regional Romanian airport to be built under a PPP (public-private partnership) scheme. The firm also acted for UniCredit Bank on the €45 million development and investment loan facility for the construction of a retail centre in Craiova, Romania. This is by the joint venture of Bel Rom and involved co-financing by Auchan.

Leading lawyers

Daniel Badea
Perry Zizzi

CMS Cameron McKenna

In these tough times, CMS Cameron McKenna offers clients international and local

expertise in project finance from within its Bucharest office. “We’re very pleased, they’re our main firm for the region,” one client says. “We benefit from the firm’s network which is coordinated from Bucharest.” This year, the firm has strengthened its international capability and now has four international lawyers within its international finance group. This includes Simon Dayes in English law, Lesley Lahm in New York law and Simona Marin in both English and New York law. Furthermore, all these lawyers have sound knowledge in project and development finance.

Deals

CMS Cameron McKenna advised Erste Bank and BCR on a structured project facility to GSP Group. The facility was secured on various sea-going vessels and the income streams they generate. The purpose of the financing was to support GSP Group to tender for and win new contracts for oil and gas exploration projects in the North Sea and elsewhere. Furthermore, the firm continued to advise Iberdrola, one of Spain’s largest utilities, in the completion of the acquisition and financing of its 600MW wind-farm development in Dobrogea. By far Romania’s largest wind energy investment, this was the second phase of Iberdrola’s forward purchase for the construction of up to 1580MW of wind projects in Bucharest, the first of 80MW having been completed last year.

Leading lawyers

Simon Dayes

Musat & Asociatii

Musat & Asociatii’s project finance team is part of the larger banking and finance practice, and interacts regularly with experts from tax, PPP (public-private partnership), construction and infrastructure. It is made use of with the desired aim to create effective financing schemes tailored to the specifics of a project at hand. “Musat always has a good approach to solving problems,” one client says. “They have a good network in Romania and this gives us value as a foreign company and principal access to the sector.”

Deals

Musat & Asociatii continues to draw in leading instructions and advised the Ministry of Economy, Trade and Business Environment (MECMA) and Hidroelectrica, as part of an international consortium, in connection with the construction of a €1.3 billion Tarnita-Lapustesti Hydropower Plant (CHEAP). This project is one of national interest as it is the biggest PPP (public-private partnership) project to be developed in Romania.

Furthermore, at a total value of €120 million, the firm advised Dambovita Water Company, the public water operator for Dambovita, with respect to the rehabilitation and the extension of the local water supply infrastructure. The firm also advised Targoviste County Hospital in relation to the €20 million financing facility granted by the European Investment Bank (EIB) for modernisation and rehabilitation purposes.

Leading lawyers

Mona Musat
Miruna Suci

Nestor Nestor Diculescu Kingston Petersen

“If I was sitting in Norton Rose in London and I wanted to instruct a pure domestic firm for proper projects it would be them,” one peer says. No doubt, Nestor Nestor Diculescu Kingston Petersen is a towering presence in the market. For example, Manuela Nestor has over 35 years of experience in commercial, banking and financial law. While it has been a quiet year for the firm in project finance, it has been quite active in respect to the depleted real estate finance market.

Deals

Nestor Nestor Diculescu Kingston Petersen was involved in one of the few real estate refinancings of 2011. The firm advised Globe Trade Center (GTC) and Bluehouse Capital with respect to a €100 million refinancing facility extended by Erste Group Bank for the refinancing of the City Gate project, a major office buildings project located in the northern part of Bucharest. Furthermore, the firm acted for Bucuresti Turism, part of the Israeli Elbit Imaging Group, on a €72 million refinancing, granted by Raiffeisen International, for the renovation and refurbishment of its Radisson Blu hotel in Bucharest.

Leading lawyers

Manuela Nestor
Alina Radu

Tuca Zbârcea & Asociatii

Tuca Zbârcea & Asociatii is experienced in project finance in Romania and has dealt with high profile projects in infrastructure, energy and natural resources and it possesses sound understanding of PFI (private finance initiative), PPP (public-private partnership), BOT (build-operate-transfer) and BOOT (build-own-operate-transfer). Furthermore, depending on the context, the firm brings in other departments such as its energy, M&A, competition, real estate and infrastructure practice

groups. “Tuca’s finance team is good,” one peer says. “Mihai Dudoiu is a very good finance lawyer but only in Romanian law.”

Deals

Tuca Zbârcea & Asociatii provides continuing legal advice to the Romanian Ministry of Transport and the National Company of Motorways and National Roads in respect to the concession contract for the prospective €2 billion Bucharest Ring Road. Owing to the financial crisis, authorities had put the project on hold but it is now, in terms of PPP/PFI (public-private partnership/private finance initiative) projects, one of the government’s top priorities. Furthermore, the firm advised Expur in relation to €30 million additional financial facilities granted by the European Bank for Reconstruction and Development (EBRD). In addition to the existing €30 million financing, the additional EBRD facilities will help support Expur’s strategy of contributing to the development of the rapeseed meal market and the cultivation of “high oleic” sunflower seed in Romania.

Leading lawyers

Mihai Dudoiu
Serban Paslaru

Bulboaca & Asociatii

Tier two Bulboaca & Asociatii is highly respected in the Romanian legal landscape. The firm is extremely active in renewable energy and draws in a number of mandates. “Bulboaca gets on the end of international project finance,” one peer says.

Deals

Bulboaca & Asociatii has had a productive year in working on renewable energy mandates. For example, the firm advised Martifer Group in connection with the development and €23 million project financing of a 42MW wind farm in the South-East of Romania. Additionally, the firm advised Eurocape New Energy, an affiliated group of Stinag (Stuttgart Investment), in relation to the development and €17 million financing of a 9MW wind project in Oravita, the first operational wind park in Western Romania. The firm is also advising a consortium of energy companies, owned by local developers and Verbund, in respect to the structuring and negotiation of an operation agreement for a group of wind farms with aggregate power of 700MW. Valued at approximately €1 billion, this is one of the largest wind farm projects on the Romanian market.

Leading lawyers

Adrian-Catalin Bulboaca

Razvan Stoicescu

Popovici Nitu & Asociatii

Popovici Nitu & Asociatii is a tier two project finance firm. The firm is well known for its real estate practice but has been active this year in the renewable energy field. “Popovici is a real estate law firm,” one partner says. “It has real estate clients and doesn’t get into deals because of its bank expertise.”

Deals

Popovici Nitu & Asociatii advised Filasa International, the largest investor in the renewable energy field in Romania, on its €780 million investment in 11 wind farms in Suceava, north-eastern Romania. Additionally, the firm advised Romenergo on the development of three hydropower plants in Romania and on the construction of a high efficiency cogeneration power plant in Bucharest. The firm also advised Hydroconstructia on the tender process, negotiation, implementation and performance of the public procurement contract regarding the EU funded €10 million construction of three Water Treatment Centres in Bacau.

Leading lawyers

Alexandru Ambrozie
Valentin Creata
Irena Anca Tudorie

For analysis of other leading law firms in the Romanian market please visit the website at www.iflr1000.com

CHSH

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Litigation & Arbitration; Mergers & Acquisitions
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Commercial & European Law; Public Procurement;
Real Estate & Construction; Renewable Energy;
Infrastructure Projects; Tax Law.

Languages spoken:

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Mona Musat - Managing Partner
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Firm profile:

For over 50 years, Musat & Asociatii's name stands for the highest level of expertise and commitment in assisting clients in business matters. The firm takes pride in its high-profile portfolio, that includes over 2,500 clients, among which: Enel SpA, GDF Suez, Rompetrol, Colas, European Investment Bank, RBS, ING Bank, Fortis Bank, KBC Bank, Raiffeisen Bank, Banca Transilvania, BNP Paribas, OTP Bank, Eli Lilly, GlaxoSmithKline, Novartis, Roche,

Abbott, General Electric, General Motors, Microsoft, Intel, Oracle, Google, AON, Amazon.com, AT&T, Nokia, Alcatel - Lucent, Telecom Italia, Thyssen Krupp, Generali, AFI Europe, Electrolux, Caterpillar, Monsanto, Deutsche Bahn, SAB Miller.

Musat & Asociatii has close contacts and alliances with prestigious law firms in the EU and US and is the exclusive representative in Romania of TerraLex.

Areas of practice:

Mergers & Acquisitions / Privatization, Banking & Finance, Corporate & Commercial Law, Energy & Natural Resources, Environment, Capital Markets & Securities, Real Estate & Construction, Telecom, IT & Media, Competition & Antitrust, Intellectual Property, Labour & Employee Benefits, Infrastructure & PPP / Public Procurement, Taxation, Healthcare & Pharma, Dispute Resolution, Restructuring & Insolvency, Insurance, Shipping, Aviation & Transport, Regulatory.



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Number of associates: 115

Managing Partners:

Ion Nestor
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Firm profile:

Nestor Nestor Diculescu Kingston Petersen (NNDKP) is among the pioneers of business law in Romania, offering full and integrated legal and tax advice in all business fields to both domestic and foreign companies. Instrumental in most of Romania's landmark transactions, during its 22-year existence, NNDKP became recognized world-wide for providing timely, flexible and efficient solutions through effective and innovative legal work. The firm offers the combination of legal insight, courtroom experience, industry knowledge and practical business sense needed to help clients prevail in their most complex cases. The firm's results reflect the unique diversity of experience, outstanding professional competence and a demonstrated history of first rate legal advice.

NNDKP is co-founder of SEE Legal, a regional alliance of leading independent law firms and the exclusive Romanian member firm of Lex Mundi and World Services Group. Over the past ten years, NNDKP obtained many recognitions and distinctions from the most reputed international specialized publications, which constantly ranked the firm first in virtually all practice areas researched in Romania.

Areas of practice:

Corporate Law; Mergers and Acquisitions; Banking and Finance; Dispute Resolution; Real Estate; Energy; Competition; Infrastructure and PPP; Public Procurement; Commercial Contracts; Capital Markets; Employment; Taxation; Intellectual Property; Environment; Data Protection; Pharmaceutical and Health Care; Consumer Protection; Gaming; Immigration.

Languages spoken:

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Firm profile:

Popovici Nitu & Asociatii is one of the first incorporated professional partnerships in Romania and one of the main players on the legal services market, acting primarily in private transactions where it generally represents the interests of investors.

By unparalleled focus and intensity in legal work, the Firm brings the best for each and every client, being entirely committed to contribute to the success of its projects. Awareness of the need to permanently understand the impact of the entire background of each matter is one of Popovici Nitu & Asociatii primary aims.

The Firm is renowned for superior legal work, dedication and loyalty towards its clients cause and for the ability to find innovative solutions to the most complex legal issues.

Focusing traditionally to the private sector and to foreign investment projects, the Firm is acknowledged by the vast majority of observers and peers as the transactional law firm among the market leaders.

Popovici Nitu & Asociatii has been ranked first for M&A in Romania by number of deals successfully concluded in 2011, 2010, 2009 and during the period 2005-2011, according to DealWatch's M&A League Tables.

Areas of practice:

Banking & Finance; Capital Markets; Competition & Antitrust; Corporate & Commercial; Electronic Communications, IT & Media; Employment & Pensions; Energy & Natural Resources; Environmental Law; Healthcare & Pharmaceuticals; Insurance; Intellectual Property; Litigation & Arbitration; Mergers & Acquisitions/Privatization; Project Finance/PPP, Concessions & Infrastructure; Public Procurement; Real Estate; Restructuring & Insolvency; Tax.

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