

# The International Comparative Legal Guide to: **Real Estate 2009**

A practical insight to cross-border Real Estate work



Published by Global Legal Group, with contributions from:

Arias & Muñoz  
Ashurst LLP  
Babalakin & Co.  
Barbosa, Müssnich & Aragão Advogados  
Blake, Cassels & Graydon LLP  
Clayton Utz  
Dittmar & Indrenius  
Drakopoulos Law Firm  
Gómez-Pinzón Zuleta Abogados S.A.  
King & Spalding LLP  
Law Chambers Nicos Papacleovoulou

Law Firm Eversheds Saladžius  
LOGOS legal services  
M. T. Miskita & Company  
Makarim & Taira S.  
Marval, O'Farrell & Mairal  
McCann FitzGerald  
Meredith Connell  
Mijares, Angoitia, Cortés y Fuentes, S.C.  
Molitor, Fisch & Associés  
Muscat Azzopardi & Associates Advocates

Nishimura & Asahi  
Pachiu & Associates  
Pepeliaev, Goltsblat & Partners  
Pestalozzi Attorneys at Law  
Philippi Yrarrázaval Pulido & Brunner Ltda.  
Porobija & Porobija Law Firm  
Raidla Lejins & Norcous  
Schoenherr  
Strauss Scher Inc.  
Trowers & Hamllins  
Wikborg, Rein & Co.

# Romania

Cristina Voevodtschi



Magda Munteanu



## Pachiu & Associates

### 1 Real Estate Law

1.1 Please briefly describe the main laws that govern real estate in Romania. Laws relating to leases of business premises should be listed in response to question 10.1. Those relating to zoning and environmental should be listed in response to question 11.1

The Romanian Constitution provides the main principles that govern the real estate regime in Romania.

Other main laws governing real estate in Romania are:

- a) **The Romanian Civil Code.**
- b) **Law No. 18/1991** on lands.
- c) **Law No. 7/1996** regarding cadastre and real estate publicity.
- d) **Law No. 247/2005** regarding the reform in justice and property domains.
- e) **Law No. 312/2005** regarding the obtaining of ownership right over land by foreigners, stateless individuals and foreign companies.
- f) **Special laws** regarding the restitution of real estate abusively taken over during the communist regime.

1.2 What is the impact (if any) on real estate of local common law in Romania?

The Romanian legal system is civil law based, and, consequently, there is no impact of local common law on real estate in our country.

1.3 Are international laws relevant to real estate in Romania? Please ignore EU legislation enacted locally in EU countries.

As a general rule, international laws are not relevant to real estate in Romania.

As an exception, the provisions of the international treaties concerning the protection of fundamental human rights (e.g. ownership rights) signed by Romania may have preference over domestic law.

### 2 Ownership

2.1 Are there legal restrictions on ownership of real estate by particular classes of persons (e.g. non-resident persons)?

Romanian law does not provide for any restrictions regarding the ownership right of foreigners and stateless persons **over buildings**.

#### As regards land:

- a) the citizens of EU countries, stateless persons domiciled in an EU country or in Romania and companies established under the laws of an EU country, which are resident in Romania, may acquire land in Romania, other than agricultural land, forests and forester land, immediately after Romania's accession to the EU, under the same conditions as Romanian citizens and companies.  
By exception, farmers who exercise independent activities and who are citizens of an EU country and resident in Romania, or stateless persons domiciled in an EU country and resident in Romania or domiciled in Romania, are entitled to acquire the above mentioned lands (i.e. agricultural land, forests and forester land) as of the date of Romania's accession to EU;
- b) the citizens of EU countries, stateless persons domiciled in an EU country or in Romania and companies established under the laws of an EU country, which are not resident in Romania:
  - may acquire land in Romania for the purpose of establishing subsidiary residences/subsidiary headquarters only five years as of the date of Romania's accession to EU; and/or
  - may acquire the ownership right over agricultural land, forests and forester land within seven years as of the date of Romania's accession to EU; and
- c) foreign citizens, stateless persons and companies from a state that is not an EU member may acquire land in Romania under the terms of international treaties and subject to reciprocity, or by means of legal inheritance.

### 3 Real Estate Rights

3.1 What are the types of rights over land recognised in Romania. Are any of them purely contractual between the parties?

Romanian regulation provides for two main categories of property, each having a special legal regime:

- a) private property; and
- b) public property.

The main **types of rights** over land are:

- (i) ownership right;
- (ii) right to use (e.g. lease, use, usufruct, commodatum);
- (iii) easements (e.g. right of way); and
- (iv) security rights (e.g. mortgages).

The rights over privately owned land are generally

transferred/established on a contractual basis, but the Romanian law provides for specific imperative rules concerning such transfer/establishment. Consequently, we may not state that such rights are “purely contractual”.

The public property right over land has a special and restrictive regime.

## 4 System of Registration

### 4.1 Is all land in Romania required to be registered? What land (or rights) are unregistered?

All plots of land in Romania should be registered with cadastre authorities, fiscal authorities and the Real Estate Register.

Registration with the **Real Estate Register** is performed in order to enable third parties to verify the description, location, the owners of the land, and the existence of mortgages, encumbrances or rights of third parties regarding such land.

Registration with the **cadastre authorities** is performed only based on specific measurements executed by authorised topographic experts in order to establish the accurate surface of the land, the neighbours and the legal regime (agricultural/constructible, located outside/within the city boundaries) of such and in order to attribute a sole identification cadastral number to the land.

The main purpose of the land registration with the **fiscal authorities** is to enable the Romanian State to collect the local tax on land.

### 4.2 Is there a state guarantee of title? What does it guarantee?

The Romanian State guarantees a title only in case that such title was issued or signed by the Romanian State as a party.

In the case of issuance of a title, the Romanian State guarantees the validity of such title and the observance of all the legal provisions that govern the issuance of said title.

### 4.3 What rights in land are compulsory registrable? What (if any) is the consequence of non-registration?

The ownership right, the right to use, encumbrances, mortgages and any rights or claims of third parties over real estate are registrable with the Real Estate Register. The consequence of non-registration is the **non-enforceability** towards third parties of the unregistered rights.

Public notaries are obliged to request *ex officio* the registration with the Real Estate Register of the rights over land established under deeds authenticated by them, right after the authentication of said deeds. If the right over land is acquired based on a court decision, the court has the obligation to communicate such decision to the competent Real Estate Register, three days after the decision became final and irrevocable.

The Law on Historical Monuments No. 422/2001 obliges the owner to register with the Real Estate Register the fact that its real estate is an historical monument.

### 4.4 What rights in land are not required to be registered?

The registration of the ownership right is not required in case the ownership right was:

- a) inherited;
- b) acquired through forced sale;

- c) acquired as a result of a long possession exercised by the acquirer, subject to the fulfilment of certain conditions;
- d) acquired based on a legal provision, following an expropriation procedure or based on a court order; or
- e) acquired as a result of the adhesion of a real estate property to another real estate property (for example, this is the case with a plot of land located by the side of a river which is disjoined by the water and added to another plot of land).

### 4.5 Where there are both unregistered and registered land or rights is there a probationary period following first registration or are there perhaps different classes or qualities of title on first registration? Please give details. First registration means the occasion upon which unregistered land or rights are first registered in the registries.

A right in real estate may be registered with the Real Estate Register immediately as of the date of its establishment, irrespective of the nature of the right.

The decision of the Register’s clerks approving or refusing the registration of a right over real estate may be challenged by any interested party within 15 days from the date of communication of such decision to the respective party.

Only in the case of mortgages does the registration date provide for the rank of each mortgage.

### 4.6 On a land sale, when is title (or ownership) transferred to the buyer?

As a rule, the ownership right over land is transferred from the seller to the buyer at the authentication date of the sale-purchase agreement.

As an exception, the transfer of the ownership right may occur at a subsequent moment or subject to fulfilment of certain conditions (e.g. payment of the price).

### 4.7 Please briefly describe how some rights obtain priority over other rights. Do earlier rights defeat later rights?

The priority of some rights over others is established based on their registration date (the first registered rights obtain priority over rights registered later). For example, if an owner illegally sells the same real estate to two different buyers, the new owner of the asset shall be the buyer who registered first his right with the Real Estate Register (even if he is the second buyer), except for the case where he acted in bad faith or obtained his right for free.

In the case of mortgages established over a real estate property, the registration date provides for the rank of each mortgage. The creditor with a first rank mortgage (i.e. the mortgage first registered) shall have priority in obtaining restitution of its receivables.

The rank of the mortgages may be amended subject to the agreement of the relevant parties.

## 5 The Registry / Registries

### 5.1 How many real estate registries operate in Romania? If more than one please specify their differing rules and requirements.

Before the issuance of **Law No. 7/1996**, two real estate publicity

systems operated in Romania:

- a) a transcription and inscription system applicable in South-East Romanian provinces (record kept on each owner of the real estate); and
- b) a real estate register system applicable in North-West Romanian provinces (record kept on each real estate).

**Law No. 7/1996** aims to establish the **Real Estate Register** as the sole publicity system in Romania.

Presently, in Romania, all new registrations are operated in the new Real Estate Register, but older real estate rights are still registered under the former publicity system.

### 5.2 Can information on real estate ownership be accessed from the registry on line (electronically)?

Presently, no online system to access the Real Estate Register operates in Romania.

### 5.3 Can compensation be claimed from the registry/registries if it/they makes a mistake?

The relevant laws on real estate publicity do not expressly provide for the right of third parties to receive compensation in the event of a mistake being made by the Register's personnel.

However, according to the general principles of Romanian civil law, a person who suffered damages as a result of the misconduct of another person is entitled to claim compensation. If the person in default is an employee of a legal entity (e.g. the Real Estate Register), the employer may be held liable for the damages produced by its employee.

### 5.4 Are there restrictions on public access to the register? Can a buyer obtain all the information he might reasonably need regarding encumbrances and other rights affecting real estate?

The legal provisions in force do not provide for restrictions on public access to the register. The main scope of the real estate publicity system is to provide information regarding real estate to any interested party.

## 6 Real Estate Market

### 6.1 Which parties (in addition to the buyer and seller and the buyer's finance provider) would normally be involved in a real estate transaction in Romania? Please briefly describe their roles and/or duties.

#### a) Selling and purchasing agents (or realtors)

- they monitor the real estate market and establish a connection between the seller and the buyer.

#### b) Lawyers

- they draft the transaction documents;
- they assist or represent the parties during the negotiation process; and
- the buyer's lawyer may perform a due diligence on the real estate.

#### c) Notaries

- they authenticate the transaction documents (pre-sale-purchase agreement, sale-purchase agreement, mortgage agreement etc.);

- they verify the identity of the parties, their capacity to sign the agreement, and the validity of the seller's ownership right over the real estate;
- they ensure that the notarised transaction documents are in accordance with the party's free will;
- they obtain an authentication excerpt from the Real Estate Register regarding the real estate to be sold and block the performance of any registration in the register, for a period of five business days following the registration date of the request for the issuance of the above-mentioned excerpt. Only the public notary who obtained the authentication excerpt shall be authorised to perform registrations with the Real Estate Register within the above-mentioned period of five business days; and
- they collect from the parties the taxes due for the transaction, and later transfer such amounts to the State budget and to the budget of the National Cadastre and Real Estate Publicity Agency.

#### d) Others

No other parties are normally involved.

### 6.2 How and on what basis are these persons remunerated?

- a) The realtors receive a fee mutually agreed with their clients.
- b) The lawyers receive a fee jointly agreed with their client.
- c) The public notaries receive a fee (usually paid by the buyer), in observance of the minimal fees established by law.

## 7 Liabilities of Buyers and Sellers in Real Estate Transactions

### 7.1 What (if any) are the minimum formalities for the sale and purchase of real estate?

Transactions regarding land have to be concluded in a written form and **authenticated by a public notary**.

A real estate excerpt for authentication purpose attesting and a fiscal certificate attesting to the fact that all the local taxes with regard to the land are paid must be presented by the seller at the authentication of the sale and purchase agreement.

The real estate which makes the object of the sale and purchase agreement has to be registered with the competent Real Estate Register, Cadastre Authorities and Fiscal Authorities; otherwise, the transfer of ownership over real estate may not be registered.

Other formalities have to be performed if the real estate has a special regime (e.g. historical monuments may not be sold without prior observance of the first refusal right of the Romanian State).

### 7.2 Is the seller under a duty of disclosure? What matters must be disclosed?

The Romanian laws regarding property do not expressly provide for the seller's duty of disclosure, in which case the principles of Romanian civil law shall apply. Consequently, the seller has to act in good faith and to provide the buyer with all the relevant information regarding ownership title, the legal regime of the real estate, the existence of any rights of third parties etc.

### 7.3 Can the seller be liable to the buyer for misrepresentation?

The seller may be held liable to the buyer for any misinterpretation, especially if the buyer proves that the seller has acted in bad faith.

7.4 Do sellers usually give contractual warranties to the buyer? What would be the scope of these? What is the function of warranties (e.g. to apportion risk, to give information)? Are warranties a substitute for the buyer carrying out his own diligence?

According to the Romanian Civil Code, the seller has the legal obligation to warrant before the buyer the quiet and undisturbed ownership of the real estate (warranty against eviction) and the proper use of the real estate (warranty against defaults). The seller usually gives other contractual warranties to the buyer.

The main scope of the seller's warranties is to guarantee the buyer's proper and undisturbed use and ownership of the real estate.

The major function of the warranties is to apportion risk. Even if the warranties may provide the buyer with important information, the buyer has the obligation to act diligently and to perform its own due diligence regarding the real estate.

7.5 Does the seller warrant its ownership in any way? Please give details.

The seller has to warrant that it is the sole and unencumbered owner of the real estate and that no third party holds any right over the real estate. The seller has the legal obligation to inform the buyer about any circumstances that may affect the validity of its ownership right. In such case, the parties shall jointly decide the apportionment of risks.

7.6 What (if any) are the liabilities of the buyer (in addition to paying the sale price)?

The buyer has the obligation to take over the real estate and to pay for all the costs implied by the transaction (notary fee, registration taxes etc.), except if the parties agree otherwise.

## 8 Finance and Banking

8.1 Please briefly describe any regulations concerning the lending of money to finance real estate. Are the rules different as between resident and non-resident persons and/or between individual persons and corporate entities?

The main regulation concerning the lending of money to finance real estate is **Law No. 190/1999** regarding mortgage credits. The credit is granted for the performance of real estate investments or for the reimbursement of a previously contracted mortgage credit.

Presently, under **Law No. 190/1999**, the rules do not differ between borrowers that are resident or non-resident, individuals or companies.

Another statute concerning the lending of money to finance real estate is **Government Ordinance No. 51/1997**, regarding the leasing operations and the leasing companies.

8.2 What are the main methods by which a real estate lender seeks to protect itself from default by the borrower?

The main method by which a real estate lender seeks to protect itself from default by the borrower is by the establishment of one or more securities, such as:

- first rank mortgages over the financed real estate or over other real estates;
- a pledge established over the borrower's assets (e.g. shares,

- bank accounts), including floating charges; or
- personal guarantees (in this case a person, other than the borrower, guarantees with its assets the borrower's performance of the obligations under the loan agreement).

8.3 What minimum formalities are required for real estate lending?

The following minimum formalities are required for real estate lending:

- the lender analyses the documents presented by the borrower and evaluates the risk of the loan;
- the lender establishes the provisions of the loan agreement and the securities required under the loan agreement, depending on its evaluation;
- the parties conclude the loan agreement and the security agreement that secures the loan; and
- the borrower insures the financed real estate and assigns in favour of the lender all his rights arising from the insurance.

8.4 How is a real estate lender protected from claims against the borrower or the real estate asset by other creditors?

The real estate lender may protect itself from such claims by establishing a first rank mortgage over one or several real estate properties.

Such mortgages must cover the entire amount of the loan and must be registered with the Real Estate Register so as to become enforceable to third parties.

## 9 Tax

9.1 Are transfers of real estate subject to a transfer tax? How much? Who is liable?

Transfers of real estate are subject to notary fees and fees of registration with the Real Estate Register.

The notary fees and fees of registration with the Real Estate Register are established subject to the value of the transaction.

The transfer tax is in charge of the buyer, unless otherwise agreed by the parties to the transfer deed.

9.2 When is the transfer tax paid?

The transfer tax must be paid upon the conclusion of the transfer agreement.

9.3 Are transfers of real estate subject to VAT? How much? Who is liable? Are there any exemptions?

As a general rule, the transfer of real estate (including buildings and land) is VAT exempt without credit (deductible right). By exception, the transfer of a building deemed to be new, of a part of such building or of a constructible land are taxable operations for VAT purposes.

The delivery of a new building represents the delivery of a building performed until December 31 of the year following the year when the building was used for the first time. A building is deemed to be new also if the cost of the transformation works undertaken exceeds 50% of the market value of such building, exclusive of VAT, and of the value of the land below, after the transformation.

The transfer of a real estate is out of VAT scope if it is performed under a transfer of business (e.g. sale, merger, split-off) and the beneficiary of such transfer is a taxable person.

If no exemption applies on the transfer of real estate, the transaction shall bear the standard VAT rate of 19%. The liability for paying the VAT to the state budget liaises with the seller of the real estate.

#### 9.4 What tax or taxes (if any) are payable by the seller on the disposal of a property?

Transfers of real estate are subject to tax on the income resulting from real estate located in Romania.

The tax is the responsibility of the seller and is:

- for corporations: 16% profit tax;
- for micro-companies: 3% income tax starting as of January 1, 2009; and
- for individuals:
  - a) in case of any constructions with the afferent lands and in case of any land without constructions, acquired within a term of three years inclusively: (i) 3% until the amount of RON 200,000 inclusively; (ii) for the amount exceeding RON 200,000, the amount of RON 6,000+2% of the amount exceeding RON 200,000; and
  - b) in case of any constructions with the afferent lands and in case of any land without constructions, acquired within a term exceeding three years: (i) 2% until the amount of RON 200,000 inclusively; and (ii) for the amount exceeding RON 200,000, the amount of RON 4,000+1% of the amount exceeding RON 200,000.

As regards the transfer of land performed by companies, only the gains representing the difference between the purchase price and the selling price of such land are considered taxable income.

#### 9.5 Is taxation different if ownership of a company (or other entity) owning real estate is transferred?

Under this question, the following scenarios may arise:

- if the seller is a Romanian company, the gains by the sale of the shares in another company are deemed as capital gains and taxed with 16%;
- if the seller is an individual, 16% on the capital gain for shares held in Romanian limited liability company (S.R.L.) or in a closed end joint stock company (i.e. not listed with the stock exchange). In case the shares are held in a Romanian publicly traded company, the applicable tax is 1% on the capital gain for shares held by seller for more than 365 days and 16% on the capital gain for shares held by the seller for less than 365 days; and/or
- if revenues are obtained in Romania by a non-resident company, such transfer is taxed with 16% tax rate, unless a more favourable rate is established by the relevant Double Tax Treaty concluded between the two countries.

Certain transactions like mergers, spin-offs, transfers and swaps of assets performed between two companies of two or more distinct EU member states, should not trigger profit or income tax liabilities.

As mentioned at question 9.3 above, the transfer of real estate is out of VAT scope if it is performed under a transfer of business (e.g. sale, merger, spin-off) and the beneficiary of such transfer is a taxable person.

## 10 Leases of Business Premises

### 10.1 Please briefly describe the main laws that regulate leases of business premises.

The main laws that regulate lease agreements are:

- the **Civil Code**, which regulates aspects such as: (i) the rights and obligations of the parties to a lease agreement; (ii) the circumstances in which a lease may be terminated; and (iii) the enforceability of the lease to third parties, etc.; and
- the **Commercial Code**, which regulates the general principles of commercial relationships, which also apply to business lease agreements.

Some specific rules are regulated by the legislation regarding the companies (e.g. a location may serve as premises for two companies only if such companies have at least one shareholder in common, or if the structure of the real estate allows the functioning of several companies in different rooms or if at least one of the shareholders is the owner of the real estate).

### 10.2 What types of business lease exist?

The following types of business lease exist:

- leases concluded between private individuals/entities, based on a lease agreement;
- leases concluded between public authorities in their capacity as lessors and private individuals/entities in their capacity as lessees, with regard to public or private real estate property belonging to the Romanian State or to the local municipalities; and
- leases concluded between a leasing company and an individual/entity, based on a leasing agreement.

### 10.3 What are the typical provisions for leases of business premises in Romania regarding: a) length of term; b) rent increases; c) tenant's right to sell or sub-lease; d) insurance; e) (i) change of control of the tenant; and (ii) transfer of lease as a result of a corporate restructuring (e.g. merger); and f) repairs?

#### a) Length of term

Lease agreements for business premises of recently incorporated companies are generally concluded for a period of one or two years.

#### b) Rent increases

The law does not contain any provisions in this respect.

Under lease agreements concluded for more than one year, the rent is usually re-negotiated yearly subject to the inflation rate.

#### c) Tenant's right to sell or sub-lease

Under Romanian law the tenant may sell or sub-lease, if such a possibility is not prohibited under the lease and if the conditions of the sale/sub-lease do not contradict the provisions of the lease.

It is customary, however, under lease agreements, that the tenant may sell/sub-lease only with the prior approval of the landlord.

#### d) Insurance

Parties usually include clauses regarding their obligation to conclude insurance policies as regards the leased premises, the equipment located in the leased premises and third party liability insurances.

#### e) (i) Change of control of the tenant

Under lease agreements the landlord may usually terminate the lease if the change is considered to cause damage to the landlord.

No such provision is provided under Romanian law.

**(ii) Transfer of lease as a result of a corporate restructuring (e.g. merger)**

The landlord's right to terminate the lease in the case of the tenant's corporate restructuring is frequently provided for under lease agreements.

Under Romanian law, however, the lease is transferred to the company that takes over the patrimony of the restructured corporation.

**f) Repairs**

Under Romanian law, unless otherwise provided under the lease agreement, the tenant undertakes to perform all the repairs, except for the "capital repairs", which rest with the landlord.

The normal wear and tear of the leased premises is borne by the landlord.

**10.4 What taxes are payable on rent either by the landlord or tenant of a business lease?**

The tax payable on lease revenues by the landlord is:

- 16% profit tax, for corporations;
- 3% on income (starting as of January 1, 2009), for micro-companies; and
- 16% on net income for individuals.

In case the landlord is a company, it has the option right to be registered for VAT purposes and, therefore, the value of the lease agreement shall bear VAT.

**10.5 In what circumstances are business leases usually terminated (e.g. at expiry, on default, by either party etc.). Are there any special provisions allowing a tenant to extend or renew the lease or for either party to be compensated by the other for any reason on termination?**

The main circumstances in which business leases may be terminated are:

- a) **upon reaching the expiry date;**
- b) **upon unilateral termination**, with the observance of a notice period, mainly in the case of leases concluded for an undetermined period of time;
- c) **upon termination in case of default;** or
- d) **upon the written agreement of both parties.**

Lease agreements may be prolonged either by written or by unspoken agreement of the parties (the landowner allows the tenant to use the premises after the expiry date).

Either party may be compensated in case of faulty termination of the lease agreement.

**10.6 Does the landlord and/or the tenant of a business lease cease to be liable for their respective obligations under the lease once they have sold their interest? Can they be responsible after the sale in respect of pre-sale non compliance?**

The landlord and/or the tenant remain, in principle, liable for the obligations undertaken in the lease agreement which have matured and not been fulfilled prior to the alienation of their interest.

Furthermore, the landlord and/or the tenant remain liable for compliance with their obligations under the lease agreement until the alienation of their interest.

**11 Zoning and Environmental Issues**

**11.1 What are the main laws which govern zoning and related matters concerning the use and occupation of land? Please briefly describe them and include environmental laws. Can the state force land owners to sell land to it? If so please briefly describe including price mechanism.**

The main laws in the fields of zoning and related matters are:

- a) **Law No. 350/2001** regarding organisation of territory and urbanism, which regulates certificates of urbanism and urban plans;
- b) **Law No. 50/1991** regarding authorisation of construction works, which regulates the works for which a building permit is required, the documents and procedures required for the issuance of building permits, etc.;
- c) **Law No. 213/1998** regarding public property and its legal regime, which regulates the legal regime of public property; and
- d) **Emergency Government Ordinance No. 195/2005** regarding environmental protection, which regulates the obligations of individuals/corporations in the field of environmental protection and the authorities with involvement in this area.

The State is entitled to force land owners to sell their land, based on the expropriation procedure, provided under **Law No. 33/1994 on expropriation**. Expropriation may only be applied for a public utility cause, based on a compensation, which consists of the actual value of the land and the damages caused to the owner. The amount of the compensation may be agreed upon by the owner of the land and the State or, in case of disagreement, such amount shall be established based on a court order.

**11.2 Which bodies control land/building use and/or occupation and environmental regulation? How do buyers obtain reliable information on these matters?**

The following bodies control land/building use and/or occupation and environmental regulation:

- a) the **National Agency of Cadastre and Real Estate Publicity**, the central authority in the fields of cadastre and real estate publicity;
- b) **Local Councils**, local public authorities that authorise the Urban Plans;
- c) **City Halls**, local public authorities that issue the building permits for land located under their jurisdiction; and
- d) the **Ministry of Environment and Water Management**, the main authority in the field of environmental and water protection.

Buyers may obtain information on real estate by consulting the Real Estate Register.

Information on environmental issues may be obtained by consulting an environmental report generally performed with the seller's approval.

Information on the construction regime of a real estate may be obtained under a certificate of urbanism issued with regard to such real estate.

**11.3 What main permits or licences are required for building works and/or the use of real estate?**

The main permit required for building works is the building permit. Other permits such as environmental, sanitary, water management,

and fire protection permits are required for the use of already erected buildings.

No permit or licence is required for the use of a real estate.

However, the right to use real estate which forms part of the public domain may be obtained only with the prior approval of the competent public authorities.

---

#### 11.4 Are building/use permits and licences commonly obtained in Romania? Can implied permission be obtained in any way (e.g. by long use)?

---

Building permits are commonly obtained in Romania, especially for the erection of new constructions.

The erection of buildings without a building permit is considered a felony and is sanctioned under Romanian law.

Implied permission may be obtained when the competent authorities do not issue the building permit within the legal term, despite the investor having complied with all the legal requirements.

However, new constructions cannot be registered with the Real Estate Register without a building permit. Consequently, the Real Estate Register may not register the investor's ownership title over the building based only on an implied permission.

---

#### 11.5 What is the appropriate cost of building/use permits and the time involved in obtaining them?

---

The cost of a building permit is given by the sum of the following fees and other expenses:

- fee for the issuance of a building permit, representing 1% of the estimated value of the building. For buildings representing dwellings and household facilities, the tax is of 0.5% of the estimated value of the building;
- fee for the issuance of a certificate of urbanism, established subject to the area of land for which such certificate is requested;
- taxes on the issuance of the approvals required for the building permit, established by the competent bodies subject to their own criteria; and
- other costs, such as for specialists hired to draft the building project, the authentication of documents, etc.

---

#### 11.6 In what circumstances (if any) is environmental clean up ever mandatory?

---

Environmental clean up is mandatory whenever the soil has been polluted. If the landowner does not take measures against pollution, he may be restricted in his right to dispose of his land. For example, the building permit may be issued only based on an environmental approval. In some cases, the competent environmental body does not issue the approval without a thorough analysis of the environmental conditions of the land.

---

#### 11.7 Please briefly outline any regulatory requirements for the assessment and management of the energy performance of buildings in Romania.

---

The regulatory requirements for the assessment and management of the energy performance of buildings are provided under Law No. 372/2005 and Methodological Norms of August 10, 2007. Such requirements apply to certain categories of buildings having a total useful area exceeding 1,000 sq. m., in case of new buildings and in case of existing buildings on which renovation works are performed.

## 12 General

---

#### 12.1 Are there any current proposals for significant reform of real estate law in Romania - please give details.

---

There have been incipient proposals to amend the Romanian Civil Code, but for the time being no further step has been taken.

There are proposals for issuing a Construction Code that shall contain all relevant legislation in the field.

---

#### 12.2 Date at which law is stated

---

This chapter is up to date as of November 2008.

**Cristina Voevodtschi**

Pachiu & Associates  
4-10 Muntii Tatra Street, 5th floor  
Bucharest 1, RO 011022  
Romania

Tel: +4021 312 1008  
Fax: +4021 312 1009  
Email: [cristina.voevodtschi@pachiu.com](mailto:cristina.voevodtschi@pachiu.com)  
URL: [www.pachiu.com](http://www.pachiu.com)

Cristina graduated the Faculty of Law of Bucharest University and is a graduate of the Master in Business Law programme with Bucharest Law School of "Titu Maiorescu" University. Cristina is a member of the firm's commercial and real estate department, providing legal assistance to national and foreign investors in commercial and real estate field. Cristina is a senior member of Bucharest Bar Association and a member of the National Romanian Bars Association. She is fluent in Romanian and English and conversant in French and Italian.

**Magda Munteanu**

Pachiu & Associates  
4-10 Muntii Tatra Street, 5th floor  
Bucharest 1, RO 011022  
Romania

Tel: +4021 312 1008  
Fax: +4021 312 1009  
Email: [magda.munteanu@pachiu.com](mailto:magda.munteanu@pachiu.com)  
URL: [www.pachiu.com](http://www.pachiu.com)

Magda graduated the Law School of Bucharest University in 2004 and the Faculty of Management of Academy of Economic Studies in 2003. She is a junior member of the Bucharest Bar Association and a member of the National Romanian Bars Association. Magda has experience and provides assistance in matters related to commercial contracts, corporate law, real estate law and banking law. She is also fluent in Romanian, English, and Spanish and conversant in French.



**PACHIU & ASSOCIATES**  
ATTORNEYS AT LAW | RECHTSANWALTE | ABOGADOS

Pachiu & Associates is a Bucharest based business law firm established by Romanian attorneys. The firm currently consists of 24 lawyers plus additional staff comprising paralegals, authorised translators and supportive staff. The lawyers of the firm are all graduates of leading universities in Romania or abroad. More than half of the lawyers are senior members of the Bucharest Bar Association. All lawyers are fluent in Romanian and English, and some are fluent in German, French, Spanish or Hungarian. The Firm provides for a full range of commercial and corporate legal advice from its main office in Bucharest and its secondary office in Cluj-Napoca (west of Romania).

The Firm has extensive expertise in matters related to corporate governance, corporate disputes, securities, mergers and acquisitions, insolvency, commercial contracts, offshore and tax structures, labour law, real estate, anti-trust law, intellectual property, banking and project financing, secured transactions, cross-border transactions, public acquisitions, procurement, and litigation. Apart from its consistent mergers & acquisitions and cross-border transactions practice, the firm has developed a strong practice in tax, securitisation and real estate, construction, labour and intellectual property. Any type of transaction is always duly considered from a tax point of view.

The firm maintains a close relationship with some leading multinational law firms and other small and medium-sized law firms from abroad, so as to ensure efficient liaison with important foreign business centers and jurisdictions.