

# Romania

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## BACKGROUND

### Frequency of use

- 1 | How common is commercial litigation as a method of resolving high-value, complex disputes?

Commercial litigation is the most common method for resolving high-value, complex disputes in Romania.

The second most popular means of settlement is arbitration. This procedure, if agreed upon by the parties, is seen as a viable alternative to commercial litigation because it tends to shorten the time frame in which a dispute is settled. International Federation of Consulting Engineers (FIDIC) contracts and other public acquisition contracts are often subject to arbitration.

Mediation may also be used, but since there is no guarantee that the procedure will be finalised, because the parties may renounce it at any point, it is usually seen as a loss of precious time before receivables can be recovered.

### Litigation market

- 2 | Please describe the culture and 'market' for litigation. Do international parties regularly participate in disputes in the court system in your jurisdiction, or do the disputes typically tend to be regional?

Commercial litigation is commonly used to recover debts and terminate or amend agreements. A prior attempt at amiable resolution is not mandatory, and most parties submit claims after failed negotiations, without seeking alternate dispute resolution beforehand.

The majority of disputes are regional. A tribunal in a major city (Bucharest aside) may register up to 10,000 new claims per year. The majority of these claims will be commercial in nature, and the vast majority will concern Romanian-based companies. It is, however, not uncommon for foreign companies, as well as Romanian companies owned by foreign entities, to be involved in litigation.

### Legal framework

- 3 | What is the legal framework governing commercial litigation? Is your jurisdiction subject to civil code or common law? What practical implications does this have?

Commercial litigation is conducted according to the provisions of the Civil Code (<http://legislatie.just.ro/Public/DetaliiDocument/210104>) and governed by the Civil Procedure Code (<http://legislatie.just.ro/Public/DetaliiDocument/140271>), as well as other special legal acts (such as those regarding banking and finance, insolvency, insurance and others), depending on the subject of the claim and the profile of the parties involved.

The Romanian jurisdiction is subject to civil code law, which leads to a thorough regulation of the conditions for submitting a claim, as well as regarding the object of a claim and the quality of the parties.

Judicial precedent can only serve as an additional argument to persuade judges to interpret the applicable legislation or the facts of a case in a certain manner, but the court rules in the letter and spirit of the law.

## BRINGING A CLAIM - INITIAL CONSIDERATIONS

### Key issues to consider

- 4 | What key issues should a party consider before bringing a claim?

The most important issues to be considered by the parties before filing a claim are as follows:

- whether the claim has met the statute of limitation;
- whether the object of the claim can be attained by means of litigation;
- whether the available evidence supports the claim and if there is a chance that the opposing party might disprove said evidence;
- whether, should the claim be admitted, the object of the claim is enforceable; and
- whether the claim is time- and cost-efficient.

### Establishing jurisdiction

- 5 | How is jurisdiction established?

Jurisdiction is established expressly by the Civil Procedure Code as well as applicable international legislation such as EU Regulation No. 1215/2012 of the European Parliament and the Council on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters, should the litigation involve foreign elements.

Territorial as well as hierarchical jurisdiction is determined in accordance with a few key elements, namely:

- the parties; as a rule, in commercial litigation territorial jurisdiction is determined according to the headquarters or domicile of the defendant; the parties can, however, agree on a distinct jurisdiction, in which case the competent court will be the one chosen by the parties;
- the value of the claim; claims with a value of over approximately €41,000 are judged by the tribunal (the relevant county court) as the first-instance court; and
- the object of the claim; claims involving immovable property, insolvency or corporate matters are subject to special jurisdictional norms; in some cases, there is an alternative jurisdiction (in the field of transportation, fulfilment of contractual obligations, illicit acts, etc) and the claimant may choose jurisdiction; once jurisdiction is chosen, it will be binding.

Parties may agree upon jurisdiction outside Romania, but they would have to prove before the Romanian judge that there is a sufficient link between the object of the case and the parties on one side, and the foreign country where the desired court is located, on the other.

Jurisdiction is verified by the court, *ex officio*, during the first hearing. Parties may also raise procedural incidents regarding jurisdiction via the memorials they submit or directly in the oral debates during the first hearing.

## Preclusion

### 6 | Res judicata: is preclusion applicable, and if so how?

Yes, preclusion is applicable. A claim concerning the same parties, object and cause as a previously judged claim will be rejected by the courts on the grounds of *res judicata*. *Res judicata* will apply to the solution as well as the essential elements retained by the court in order to reach the solution.

## Applicability of foreign laws

### 7 | In what circumstances will the courts apply foreign laws to determine issues being litigated before them?

It is uncommon for the Romanian courts to apply foreign laws mainly because the parties who can choose the applicable law (most often local persons or companies) do not wish to apply a law they are not familiar with.

Romanian courts can apply the foreign law chosen by the parties, but only if the object of the claim has, or the parties have, strong ties with another country. In cases where the judgment is to be rendered in accordance with foreign law, the party invoking said law must prove its content by presenting relevant documents (translated and apostilled) from the authorities of the respective country.

Foreign law may be invoked only when it is applicable according to the provisions of the Civil Code, so it can seldomly provide a tactical advantage.

In addition, according to the Romanian Constitution (<https://www.presidency.ro/en/the-constitution-of-romania>), EU regulations and the provisions of international treaties to which Romania is party (such as the European Convention on Human Rights) are considered national law and applied directly by the courts.

## Initial steps

### 8 | What initial steps should a claimant consider to ensure that any eventual judgment is satisfied? Can a defendant take steps to make themselves 'judgment proof'?

The first and most important step to ensure that any potential claim will be satisfied is a well-drafted agreement that clearly outlines the rights and obligations of the parties, as well as the guarantees and remedies set forth in cases of non-compliance. Unclear clauses may lead to faulty judgments.

Another important step is to retain relevant evidence (such as documents and correspondence circulated between the parties) to ensure that, in case of litigation, evidence will be readily available. It is also possible to request a preservation of evidence from a court in case the object of the claim is subject to change.

To ensure that the goods are not sold during the litigation and can later be liquidated, the claimant can also require the freezing of the defendant's assets. The freezing order is issued by the court and may also be applied to the object of the litigation, should it be immovable property or wares.

To reduce the potential grounds for litigation, parties are also free to limit their accountability, but such clauses cannot alleviate their liability in the case of fraud or malicious intent.

## Freezing assets

### 9 | When is it appropriate for a claimant to consider obtaining an order freezing a defendant's assets? What are the preconditions and other considerations?

The claimant can request the freezing of the defendant's assets whenever there is a reasonable risk for the same to be sold before the judgment is finalised.

For the court to freeze the defendant's assets, a claim regarding the merits must already be registered and, in general, a security deposit is necessary. In some cases, this deposit may reach half of the amount sought via the claim on the merits.

## Pre-action conduct requirements

### 10 | Are there requirements for pre-action conduct and what are the consequences of non-compliance?

No pre-action conduct is necessary in the case of complex commercial litigation.

In case the parties try debt recovery through special procedures (such as a fast-track claim), a prior notification is mandatory. Should the notification not be sent out, the claim will be rejected as inadmissible. However, the fast-track procedure is used only for debt recovery, and when the commercial litigation lacks complexity and does not require the administration of evidence other than documentary evidence.

## Other interim relief

### 11 | What other forms of interim relief can be sought?

The parties can try to reach a settlement prior to filing claims before the courts. There is also the possibility to try mediation to reach a consensus.

Depending on the object of the case, the claimant might also obtain various interim measures from the court via an injunction. For instance, the judge may issue an injunction stating that the defendant will refrain from actions allegedly hurting the claimant's business until the litigation is finalised.

## Alternative dispute resolution

### 12 | Does the court require or expect parties to engage in ADR at the pre-action stage or later in the case? What are the consequences of failing to engage in ADR at these stages?

The current legal framework does not provide an obligation to engage in ADR before or during litigation.

## Claims against natural persons versus corporations

### 13 | Are there different considerations for claims against natural persons as opposed to corporations?

There are no procedural regulations tailored specifically for natural persons or corporations. In commercial litigation, the natural persons have the same rights and protection as corporations.

There are, of course, small differences deriving from the nature of the parties. For instance, in the case of cross examination, the natural person will be present before the judge to answer questions, while a corporation will reply in writing (considering it has various executives that together make corporate decisions).

## Class actions

### 14 | Are any of the considerations different for class actions, multiparty or group litigations?

No. The same norms apply regardless of the number of parties or their shared interest. If the number of parties is considered high enough to negatively influence the proceedings, the court can ask all parties who share the same interest to agree upon common representatives.

Multi-party and group litigations also extend the jurisdiction of the courts, given that the domicile or headquarters of any of the parties may draw jurisdiction. However, once the claim is lodged, the jurisdiction will be binding for all parties.

## Third-party funding

### 15 | What restrictions are there on third parties funding the costs of the litigation or agreeing to pay adverse costs?

In accordance with Romanian law, payment of the cost of litigation made by a third party in the interest of one of the parties in a trial is accepted as long as the destination of the amounts and the intent are clear. However, the third party may not intervene in the litigation claiming expenses.

## Contingency fee arrangements

### 16 | Can lawyers act on a contingency fee basis? What options are available? What issues should be considered before entering into an arrangement of this nature?

Contingency fees are not allowed if the entire payment of the legal services is based on a favourable outcome of the litigation (quota litis pact).

Success fees are, however, allowed as long as they are agreed upon between the parties as a supplement to hourly fees or cap fees.

## THE CLAIM

### Launching claims

### 17 | How are claims launched? How are the written pleadings structured, and how long do they tend to be? What documents need to be appended to the pleading?

Claims are launched by submitting the written document together with the supporting documents before the court either before the registrar or by post, email or fax.

There is no mandatory structure or length for the initial claim, but it must include the following elements:

- the parties (names and all available data, especially the addresses and identification numbers for both companies as well as natural persons);
- the object of the claim (what the claimant aims to obtain by means of litigation);
- the grounds (in fact and in law) on which the claim should be admitted;
- evidence that is to be administered to prove the affirmations of the claimant; and
- the signature of the claimant.

There is no limit for pleadings, but in general, depending on the complexity of the claim, the most common length is around six to eight pages.

### Serving claims on foreign parties

### 18 | How are claims served on foreign parties?

As a rule, the courts use the postal service to serve claims on the parties. The same method is used for foreign parties. Depending on the country the foreign party is headquartered in, the claim may be sent to

the foreign court from the domicile or headquarters of the party and served in accordance with local procedure.

In recent practice, courts have begun to serve documents via email, using a specific linking and tracking mechanism that lets the court know if and when the documents have been received. This procedure, however, is not yet widely used by the courts.

## Key causes of action

### 19 | What are the key causes of action that typically arise in commercial litigation?

The most common cause of action is failure to fulfil the main obligation under the agreement (usually payment). Similarly, other breaches of the agreement between the parties (such as unlawful termination, improper execution of obligations and misinterpretation of clauses) are also commonly subject to commercial litigation, as is the annulment of the agreement (in whole or certain clauses).

## Claim amendments

### 20 | Under what circumstances can amendments to claims be made?

The claimant may amend the claim any time before the first hearing when all parties are legally summoned. In such a case, the court will serve the amended claim to the defendant so that they may defend themselves against the new arguments.

After the first hearing, the claimant may only amend their claim with the consent of the defendant, or if the amendment does not modify the core of the claim. In any case, the amendment will be discussed by the parties. Amendments regarding the value of the amount in dispute can be made at any time during the trial as long as they stem from the same documents or circumstances.

## Remedies

### 21 | What remedies are available to a claimant in your jurisdiction?

A ruling issued by a court in a complex commercial litigation is subject to appeal and second appeal. The appeal can raise any arguments that were invoked in the first stage of litigation before a higher court, as it triggers a retrial under all aspects (provided that the appellants request it).

The second appeal focuses on matters of breach of procedural provisions concerning the way in which the trial was conducted, or wrongful interpretation of the law.

Under certain conditions, a ruling issued in the second appeal may be subject to further revision (but only for limited reasons).

## Recoverable damages

### 22 | What damages are recoverable? Are there any particular rules on damages that might make this jurisdiction more favourable than others?

The courts may award any damages requested by the claimant, such as direct damages resulting from non-compliance (for instance unpaid invoices), delay penalties, damages for loss of reasonably expected profit or damages for lack of use.

If requested expressly, the court will also award judicial expenses. These expenses, however, can be reduced by the court as it deems fit. Judicial stamp fees cannot be reduced and will be awarded in full.

## RESPONDING TO THE CLAIM

### Early steps available

#### 23 | What steps are open to a defendant in the early part of a case?

Once the court considers that the claim meets all legal provisions, the same will be served to the defendant, who then must draft and submit a statement of defence.

The statement of defence must include all arguments in favour of the defendant, such as:

- procedural incidents (such as lack of jurisdiction, lack of legal standing, inadmissibility);
- the legal and factual reasons for which the claim is ungrounded;
- possible third parties that should be part of the litigation; and
- evidence in support of the counterarguments.

The defendant may also file a counterclaim as part of the statement of defence or as a separate document joining the same. The counterclaim must meet the legal conditions for a main claim and must be linked to the claim submitted by the claimant.

The defendant also has the option to make their counterclaim a separate claim before the same court.

### Defence structure

#### 24 | How are defences structured, and must they be served within any time limits? What documents need to be appended to the defence?

There are no legal provisions regarding the structure of the statement of defence, but the document should:

- be submitted within the 25-day legal limit (the term may vary in cases where a special procedure is chosen);
- evoke all applicable procedural incidents;
- combat the assertions of the claimant; and
- be accompanied by all referred-to evidence or, in the event that the evidence must be produced during trial, then the defendant should present the arguments to support the admission of such evidence.

### Changing defence

#### 25 | Under what circumstances may a defendant change a defence at a later stage in the proceedings?

Should the claimant amend the claim, the defendant will have the possibility to change their defence accordingly. Technically, there is no legal text forbidding the defendant from changing their position. However, a radical change in arguments could lead to a lack of credibility before the court.

### Sharing liability

#### 26 | How can a defendant establish the passing on or sharing of liability?

The defendant must raise the issues of passing on or sharing of liability in the statement of defence, or if such issues arise during the trial, at the moment they are evoked by other parties.

### Avoiding trial

#### 27 | How can a defendant avoid trial?

All defences for avoiding trial on the merits, including motions to dismiss, counterclaims and procedural incidents, must be raised within the statement of defence. The court will firstly discuss procedural

incidents that may lead to the dismissal of the claim without ruling on the merits.

The parties are free to settle at any time during the litigation.

### Case of no defence

#### 28 | What happens in the case of a no-show or if no defence is offered?

Even in the absence of a statement of defence, the court will analyse the available evidence to render a solution. Except for certain special procedures, a lack of defence is not considered a recognition of the claim. In case of no defence, the court will judge based solely on the evidence provided by the claimant and the applicable legislation.

No defence does not guarantee a favourable solution for the claimant.

### Claiming security

#### 29 | Can a defendant claim security for costs? If so, what form of security can be provided?

Security is not common for commercial litigations. Such a measure may be granted in limited cases and usually in relation to the object of the claim (for instance, in the case of freezing assets, or if a party claims the insolvency of another).

Securities are usually returned to the party which paid the same after the litigation is over. Any other costs will be covered subsequently by the losing party. The winning party may request the security paid by the opposing party only by means of a separate request before the court.

## PROGRESSING THE CASE

### Typical procedural steps

#### 30 | What is the typical sequence of procedural steps in commercial litigation in this country?

The typical sequence of procedural steps in commercial litigation is as follows:

- the claim is submitted;
- the defendant files a statement of defence against the claim;
- the claimant may submit a response to the statement of defence, which is not mandatory;
- during the first hearing, procedural aspects such as jurisdiction are discussed, as well as procedural incidents;
- should all procedural incidents be rejected (or if no such incidents are applicable or the same were not raised by the parties), the evidence is discussed then administered;
- several hearings can be granted to administer and debate all evidence (documents, expert reports, witnesses or cross-examination);
- once all evidence has been administered, the parties will argue on the merits of the case;
- the court will rule after analysing all evidence and the arguments of the parties;
- once the solution is rendered, the parties may appeal the decision.

### Bringing in additional parties

#### 31 | Can additional parties be brought into a case after commencement?

Yes, additional parties may be introduced into a pending litigation at the request of the initial parties, third parties' joinder, or if the court deems it necessary.

## Consolidating proceedings

### 32 | Can proceedings be consolidated or split?

The Civil Procedure Code allows both the split and the consolidation of claims. Should two different cases have the same parties (or the same parties together with other parties) and hold important ties in terms of object and cause, then the files may be joined.

If a claim between two or more parties has multiple requests and one or some of them are delaying the resolution of the entire case, the court can also split the claims.

## Court decision making

### 33 | How does a court decide if the claims or allegations are proven? What are the elements required to find in favour, and what is the burden of proof?

The court will decide regarding the claim based on the administered evidence and after hearing the parties in the debates. Should the evidence be concise and explanatory for the claimant, the court will rule in their favour. If not, the claim will be rejected.

The principle regarding the burden of proof is that the party who makes an allegation must offer proof of the same.

The judge will set a date for delivering the ruling, which is usually the date of the final hearing. If the solution cannot be rendered on the same day, the judge may postpone it for two weeks. In this case, the ruling becomes available on the court website.

In accordance with the Civil Procedure Code, the drafting of the reasoned decision should take 30 days. Due to the courts' workload, in practice, it generally takes three to four months. The decision is then sent to the parties via mail, and occasionally also via email.

### 34 | How does a court decide what judgments, remedies and orders it will issue?

The decision of the court will be based on the administered evidence and on the judge's understanding of the case. The remedies and orders will be issued in accordance with the applicable law and the principles of equity in cases where the legal provisions leave room for interpretation.

The judges will have to decide on all aspects, including the amount of the damages granted. In complex cases, they can also rely on any reports or opinions drafted by an expert during the trial.

## Evidence

### 35 | How is witness, documentary and expert evidence dealt with?

As a rule, documentary evidence will be submitted together with the claim and the statement of defence. Additional documentary evidence is allowed if it is conclusive for the case.

Witnesses are usually heard in a separate hearing, and their testimony (which is a separate document) is added to the file.

In cases where an expert report is necessary, the parties will either agree on an expert, or the same will be appointed randomly by the court. The expert's opinions on the objectives indicated by the court (and proposed by the parties) will be compiled in a written report that will be submitted to the file. Usually, the parties will be convened outside the court to take part in the expertise process.

Given that all evidence is ultimately recorded in writing, there are no advantages or disadvantages to oral evidence as opposed to documentary evidence.

Parties can, however, create a tactical advantage by requesting that evidence be administered in a certain order.

The Civil Procedure Code does not provide a hierarchy of evidence, so the judge is free to decide which piece of evidence is most convincing.

The decision must be well argued in the reasoning of the ruling. In practice, the court tends to put high stock on expert reports as opposed to witness testimony.

### 36 | How does the court deal with large volumes of commercial or technical evidence?

In cases where the claim raises difficult commercial or technical aspects, the courts may appoint an expert who will draft a report compiling large volumes of evidence. The court will then consider the results of the report when ruling on the merits of the case. All evidence will also be submitted for direct examination of the judge.

### 37 | Can a witness in your jurisdiction be compelled to give evidence in or to a foreign court? And can a court in your jurisdiction compel a foreign witness to give evidence?

Testimony before a foreign court will be given in accordance with the procedural rules of the foreign country in question. There are no specific regulations issued in Romania on this aspect.

There are no rules tailored specifically for foreign witnesses giving testimony in Romania (the general rules for witness testimony will apply). In practice, the Romanian courts will not compel a foreign witness to give testimony in a commercial litigation.

### 38 | How is witness and documentary evidence tested up to and during trial? Is cross-examination permitted?

All evidence will be analysed by the court directly. The judge is free to assess every piece of evidence and decide its relevance as they see fit. The evidence submitted by the claimant is analysed in conjunction with the evidence of the defendant.

Cross-examination is permitted as well as testimonies and expert reports. Witnesses may be confronted and heard again if their previous testimonies contradict. With respect to expert reports, in the event that an initial report is challenged by the parties or is found inconclusive, the court may order a new report to be provided by a different expert.

## Time frame

### 39 | How long do the proceedings typically last, and in what circumstances can they be expedited?

Depending on the complexity of the case and the evidence administered, proceedings can last between six months (in cases relying solely on documentary evidence) and several years (in litigation that involves complex expert reports). In cases where expertise reports are necessary, the duration of the trial is dependent on the timeline of the expertise.

The trial can be expedited when a special fast-track procedure is used or if the parties request a swift trial.

The hearings are usually set one month apart.

Normally, a complex case can take up to two years to be decided in a first-instance court and in the appeal phase (thus providing an enforceable ruling). A second appeal may be filed, but it usually takes a year or one and a half years to be solved, due to the workload of the Supreme Court, which usually settles second appeals in high-value commercial litigation.

## Gaining an advantage

### 40 | What other steps can a party take during proceedings to achieve tactical advantage in a case?

A tactical advantage in the proceedings can be achieved by selectively disclosing information and surprising the opponent. It is important,

especially in complex cases, to submit several written notes to outline key issues.

As the trial progresses, the details of the case can be fine-tuned with simple, comprehensive and powerful conclusions to be submitted in the end stages of the litigation.

Once the claim is submitted, parts of it cannot be subject to separate judgment before a different court unless the claim is split. However, parts of the claim may be dismissed in the early stages of the litigation through the admission of procedural incidents (such as inadmissibility or statute of limitation).

### Impact of third-party funding

41 | If third parties are able to fund the costs of the litigation and pay adverse costs, what impact can this have on the case?

Funding by third parties does not influence the trial.

### Impact of technology

42 | What impact is technology having on complex commercial litigation in your jurisdiction?

As a rule, all evidence is administered in court before the judge. Technology is used to record the debates and analyse evidence when necessary. Video testimonies or interviews are not permitted, and all relevant communications, including telephone calls, are recorded on paper. Video conferences might be used in cases of a rogatory commission.

Case materials are available electronically, but exclusively to the parties. Most courts have implemented an electronic file system that allows the parties to access all the relevant documents in their case remotely.

### Parallel proceedings

43 | How are parallel proceedings dealt with? What steps can a party take to gain a tactical advantage in these circumstances, and may a party bring private prosecutions?

All litigations that do not concern criminal matters are judged according to the Civil Procedure Code. In some areas such as insolvency, administrative litigation, felonies or consumer rights, special procedural rules apply.

The same matter cannot be settled in parallel procedures, since only one court is competent to rule.

Criminal proceedings follow the Criminal Procedure Code (<http://legislatie.just.ro/Public/DetaliiDocument/120611>). Should a criminal proceeding and a commercial one overlap, the commercial litigation will be stayed until the criminal litigation is finalised.

Private prosecution before the court is not permitted. The parties can, however, file criminal complaints before the prosecutor, who will investigate the case.

## TRIAL

### Trial conduct

44 | How is the trial conducted for common types of commercial litigation? How long does the trial typically last?

The trial is conducted before the court with the parties discussing every aspect of the case. Once all evidence has been administered, the parties debate on the merits. In major cities, there are about 20 to 30 cases per hearing in the same courtroom.

Generally, the hearings are public. However, during the pandemic, public access has been restricted and only the parties may participate. In

order to avoid crowding, cases are assigned time intervals depending on complexity and what is expected to take place during the hearing. As a result, the court will split the public hearing into timeslots of between 15 minutes and an hour in which only the relevant parties are allowed into the courtroom.

Phones must be on silent mode, no pictures or videos are permitted, and parties and lawyers are obliged to stand and approach a designated desk to argue.

The duration of a case is reliant upon the complexity of the evidence and can vary between six months and several years. Normally a complex case can take up to two years to be decided on the merits and another year or a year and a half for a final solution.

### Use of juries

45 | Are jury trials the norm, and can they be denied?

Juries are not involved in our jurisdiction, which follows the Romano-Germanic legal system. The judge rules exclusively on the applicable legal provisions and the administered evidence.

### Confidentiality

46 | How is confidentiality treated? Can all evidence be publicly accessed? How can sensitive commercial information be protected? Is public access granted to the courts?

The documents in the file are only available to the parties and their representatives. Even if a hearing is public and anyone can attend the debates, third parties are not allowed to view the file. Should issues of commercial secrecy be involved, the parties can request that the hearing be held in the council room, privately.

### Media interest

47 | How is media interest dealt with? Is the media ever ordered not to report on certain information?

The media are typically not allowed in courtrooms. All information is obtained outside the courtroom by means of statements from the involved parties. The media have no access to the files. The judge may on rare occasions authorise the press to record inside the courtroom.

### Proving claims

48 | How are monetary claims valued and proved?

Monetary claims are initially valued by the parties. Should there be an inconsistency, the court can appoint an expert to determine the value of the claim.

The damages are also preliminary valued by the parties. If the valuation is not expressly mentioned or easily determined, an expert can be appointed by the court.

## POST-TRIAL

### Costs

49 | How does the court deal with costs? What is the typical structure and length of judgments in complex commercial cases, and are they publicly accessible?

If so requested, the court will order the losing party to pay the judicial expenses of the winning party.

The value of the judicial expenses will be determined taking into account the documents submitted by the parties, the complexity of the case and the percentage that each party has gained (or lost).

The court has the right to reduce costs they deem unreasonable, such as lawyers' fees, expert fees and travel expenses, which is also the trend. Judicial stamp fees are awarded in full.

Given that a judicial stamp fee is required for the submission of a claim, the courts have their costs covered.

Judgments have a predefined structure provided by law, as follows:

- an introductory part focusing on the facts and the allegations of the parties;
- the reasoning, which shows the arguments retained by the court; the reasoning is the basis for the solution; and
- the ruling, which contains the court's solution.

Judgments are available in their entirety, with certain aspects redacted, on specialised websites or legislation software.

A ruling in a complex commercial case generally runs to between 10 and 15 pages.

## Appeals

### 50 | When can judgments be appealed? How many stages of appeal are there and how long do appeals tend to last?

Judgments can be appealed within 30 days as of the date the decision is received by the relevant party. In commercial litigation, judgments are usually subject to appeal and second appeal. The duration of each stage depends on the granted evidence as well as the workload of the court.

Generally, the appeal and second appeal will last approximately one year each, depending on the court and the evidence.

## Enforceability

### 51 | How enforceable internationally are judgments from the courts in your jurisdiction?

Romania is a party to multiple international treaties and conventions, such as:

- the Lugano Convention on Jurisdiction and the Recognition of Enforcement of Judgments in Civil and Commercial Matters of 1 January 2010;
- the Hague Convention on Civil Procedure concluded on 1 March 1954;
- the Hague Convention on the Choice of Courts Agreements, concluded on 30 June 2005; and
- the Geneva Convention on the Contract of International Carriage of Goods by Road, concluded on 19 May 1956.

In addition, Romania has concluded approximately 17 bilateral treaties on the recognition and enforcement of judgments with other countries, including Albania, Algeria, Russia, China and Cuba.

As a result, the Romanian courts' decisions are easily enforceable internationally.

### 52 | How do the courts in your jurisdiction support the process of enforcing foreign judgments?

For a foreign judgment to be enforced in Romania, recognition of the same is necessary. Once recognition is attained, the foreign judgment becomes an enforceable title, and the court will allow the enforcement.

However, the recognition procedure for foreign judgments is rather complex if there is no treaty signed with the state where the ruling is issued. This happens because the parties must be summoned, and the ruling of the first-instance court is subject to appeal. Normally, even if there is no treaty, reciprocity in terms of mutual recognition



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of a ruling is presumed. Debtors, however, can argue that such reciprocity is not met.

Once the enforceable title is obtained, the forced execution will proceed in accordance with Romanian law. The courts will also rule on any challenges against the enforcement.

## OTHER CONSIDERATIONS

### Interesting features

#### 53 | Are there any particularly interesting features or tactical advantages of litigating in this country not addressed in any of the previous questions?

No, commercial litigation is subject to common procedure. Special procedures are not often used due to their limitation regarding the evidence that can be administered.

### Special considerations

#### 54 | Are there special considerations to be taken into account when defending a claim in your jurisdiction, that have not been addressed in the previous questions?

Defendants must make sure to include all their arguments and claims in their statement of defence to ensure their procedural rights are preserved.

### Jurisdictional disadvantages

#### 55 | Are there any particular disadvantages of litigating in your jurisdiction, whether procedural or pragmatic?

The general disadvantages of the procedure are as follows:

- it is lengthy due to the courts' workload;
- in-court procedure is often inconsistent as it depends on the judge handling the case, and some are more restrictive than others regarding procedural rights; and

- modern means of administering evidence are not used, the courts being reliant on the pre-existing technology already in use which is, in many cases, outdated.

## UPDATES AND TRENDS

### Key developments of the past year

56 | What were the key cases, decisions, judgments and policy and legislative developments of the past year?

There have been no key case decisions in the last year or any other developments of note.