How its West Coast style made Osborne Clarke Law Firm of the Year
Against the odds

Anti-corruption measures are beginning to bite but for now lawyers are pinning their hopes on work in areas such as banking, pharma and agriculture.

Q Have you seen any sign that foreign clients are being discouraged from investing in Romania as a result of the investigations into corruption and the related political crisis?
Stefan Damian, deputy managing partner, Tuca Zbarcea & Asociatii: Foreign investment still has a lot of ground to recover to get back to 2006-08 levels. The slowdown in FDI has a number of causes and it is no overstatement to say that the current investigations into corruption are among these, though it is probably not the most important one.

Any significant investment, and I refer here mainly to FDI, needs a certain level of public authority support to be implemented smoothly and in a timely manner. So far in Romania, it is the other way round: investors are discouraged by the fact that public authorities are a lot more cautious and passive in attracting or promoting such investments. Foreign investors do not find the right level of understanding from such authorities.

There is a saying in Romanian that describes the way most authorities are thinking - “Doing nothing is the best way to avoid being held accountable”.

The lack of political support and coherence in developing and implementing long-term strategies is accompanied by a never-ending political crisis - yet another discouraging factor for FDI.

Alina Popescu, co-managing partner, Maravela Asociatii: Romanian corruption has for a long time been a well-known fact and a risk that any foreign business had to assume by default when deciding to invest. Accordingly, the fact that Romanian authorities are taking drastic measures is seen positively.

Last year there was an increase in investment and the European Commission expects that trend to continue in 2015 and 2016. The statistics of the National Bank of Romania for the beginning of 2015 support these forecasts.

Mona Musat, managing partner, Musat & Asociatii: Although Romania still struggles with issues such as underdeveloped infrastructure, poor EU funds absorption and bureaucracy, the country has reported progress in the past couple of years. Recent developments in the fight against corruption have echoed abroad. Newspapers and important press agencies have reported on the local efforts of prosecutors and the way justice is working.

Most relevant for the economy is the fact that the fight against corruption will continue and we saw this in the last report issued by the European Commission at the end of January, which remarks on seeing positive signs on a repeated basis.

There’s no need to mention discouragement of investors regarding Romania: rather, society and the business world welcome progress in the field of justice. It is, however, desirable to avoid political crises, political instability and the lack of decisions that may lead to a reduction in investors’ appetite for local projects.

Q What extra measures, if any, does Romania need to take to reassure investors that the country takes such issues seriously?
Stefan Damian: Romania has put out a strong message that it is keen to take corruption seriously; just look at how many investigations related to corruption have been finalised or are ongoing, covering the political spectrum, various public officers and a range of economic activities.

As a side measure, the state should find a way to better educate public servants and, equally importantly, set a motivating level of remuneration for the job they are doing. Without a decent pay level the state will not be able to attract good professionals and without well-educated and professional civil servants no long-term development can be achieved. It is hypocritical to think a minister will happily accept such a high-level role that involves lots of responsibility for €1,000 a month.

As regards the political crisis, the one thing that should be done is to

In brief

Despite political problems Romania remains a jurisdiction with immense potential. In the legal market, competition and price pressure remain significant issues but nevertheless the outlook is buoyant.

On the panel

Maravela Asociatii co-managing partner Alina Popescu
Musat & Asociatii managing partner Mona Musat
Tuca Zbarcea & Asociatii deputy managing partner Stefan Damian

“CE Oltenia cancelled a public tender for legal services because the prices offered were too low – even ridiculous”
Mona Musat
**Romania**

establish a consensus on important matters – mainly economic – such as government projects, that should continue regardless of which political party is in power. They did this in the past, when all parties agreed on the national defence budget increase; they should do it on other important matters too.

**Popescu:** The multitude of corruption investigations and convictions at a high level and of all political colours is an assertive way to show that Romania has started to take things seriously. This process has been going on for some time, which makes it difficult to argue that it is just conjuncture.

Increasing the salaries of public officers may be an idea, but this would obviously help only with small corruption cases. All in all, prompt punishment of crimes as well as strict surveillance is what keeps corruption at bay.

**Musat:** The economy is slowly but steadily recovering, notably with the agricultural and automotive sectors picking up, and the real estate market was also more active in 2014. There is positivity in the market, with banks increasingly willing to finance projects and foreign investors returning.

Due to the reduction of renewable energy subsidies, new project investment has stalled and the dynamism of the energy sector has been sharply reduced, providing a challenge for law firms with strong renewable practices.

Romania needs new legislative packages in various fields; the main problem is the lack of coherent measures and constantly changing legislation.

**Q** What are the trends you seeing in the legal market and in the work you’re doing?

**Damian:** There are a lot of things going on in the banking sector, not necessarily on the finance side but with regard to bank restructuring, consolidation and balance sheet clean-up. We see lots of non- or sub-performing loans portfolio transfers to financial investors.

Consolidation in the banking field will continue either by way of transfer of business or takeover. The health and pharmaceutical sectors also captured investors’ attention. The real estate sector shows signs of recovery too. Agriculture is also improving, with big names entering or consolidating their position in the market. Energy and infrastructure have a lot of potential, but as most of the large-scale investments in these fields are public projects they will require a lot more effort and determination from the government to be swiftly implemented.

Litigation and restructuring/insolvency will still account for quite an important part of big law firms’ turnover. Pure M&A work and non-transactional work related to FDI are improving, but are still far from the market’s potential.

**Popescu:** Facing ever-decreasing budgets for legal services, firms have been forced to innovate at all levels: services, fees, costs. With genuine hourly rates becoming much rarer and fierce competition for clients, it is clearer than ever that law practices need to be run as businesses to be effective.

That, unfortunately, is contrary to professional regulations in Romania (and most of Continental Europe), which are based on a very different concept of law practices and which severely restrict management options, with advertising restrictions being just one example.

**Musat:** The legal market depends on the economic background, investors’ appetite, their business plans and, generally, on the intensity of the commercial circuit.

The structure of the legal market has not essentially changed in recent years, being dominated by local traditional firms and several internationally renowned ones active in Romania in association with some local offices.

The market still faces unfair competition, with dumping of prices for legal services. In the crisis many firms severely cut fees, giving substantial discounts to win clients. This jeopardises quality of service. For example, CE Oltenia cancelled a public tender for contracting legal services because the prices offered were too low – even ridiculous.

The economic climate affects law firms in as much as long-term development projects are stalled by the government. The challenge for lawyers is to adapt to these changes and find the best business solutions for the companies they represent.

In terms of market outlook we anticipate a recovery in 2015, depending on the pace of the economy, as clients’ legal budgets depend largely on economic factors.

**Q** What is the outlook for the rest of the year?

**Damian:** It is looking quite positive compared with 2014. M&A will reach a high in terms of deal value: a significant rise in high-value deals is forecast, with only a handful of transactions being completed.

**Popescu:** The investment increase is being felt quite strongly, with several large M&A projects on the pipeline in various industries.

In addition, with Romania becoming a base for investment in neighbouring regions, and with more and more Romanian companies investing abroad, we have started to work in other jurisdictions as lead counsel for cross-border projects and transactions.

In jurisdictions where clients are of a certain size and long-term projects are consistently developing, we may even consider establishing an office, although this is more of a discussion for the next couple of years.

**Musat:** We expect the political crisis in the region (Ukraine, Greece) to affect to a moderate extent the evolution of the business environment in Romania. Regarding M&A, we are expecting a reasonable recovery.

Notable too are entrepreneurial businesses that could attract the interest of foreign groups in fields such as technology, agriculture and retail.

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