LAW AND
JUDICIAL SYSTEMS
OF NATIONS

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I. PRACTICING LAWYERS AND ORGANIZATION OF THE BAR

A. Classification of Lawyers and Requirements for the Practice of Law

Act number 51, enacted on June 7, 1995, regulates the organization and practice of the profession of law in Romania. Lawyers have the right to assist and to represent physical and legal persons before all courts, authorities, and institutions.

The legal profession is practiced in private cabinets, associated cabinets or civil professional associations. In a private cabinet, a lawyer practices his profession alone or together with co-partners. The private cabinets may associate with one another in order to practice the profession jointly. Two or more associated lawyers constitute the professional civil society, who can hire co-partner lawyers. According to the Civil Code, partners must agree to the terms of association and co-operation.

In order to practice law in Romania, individuals must have Romanian citizenship, have received a Bachelor’s Degree of a Faculty of Law or a Ph.D. in Law, and not be included in with one of the categories of indignity stipulated by law, for example, person is considered to be undignified if he/she was convicted and sent to prison for a voluntary offense, or harms their professional prestige. The admission to the profession of law is decided by the Council of the Lawyers’ Union of Romania, on the recommendations of the local bar where the applicant applied.

Members of the bar of another country can practice law in Romania, in the terms specified either by the mutual convention concluded between the Lawyers’ Union of Romania and the organization of the lawyers in the country concerned or, occasionally, by working with a Romanian lawyer.

B. Bar Associations

Lawyers are professionally organized into 42 local bars, made up of all lawyers in each county or in the capital city, Bucharest, corresponding to the administrative-territorial organization of the country. The leadership of the bar is the following: the General Assembly; the Board of the Bar, constituted of 5-15 members, elected for terms of four years; and the Standing Commission, made up of 15 members and the President of the Union.

Within the Lawyers’ Union of Romania is the Lawyers’ House of Insurance. All practicing lawyers, retired lawyers and members of their families having a right to a pension and to social assistance, as provided by the Lawyer’s House of Insurance.

* All information provided by Prof. Dr. Nicolae Popa, President of the Constitutional Court of Romania, and Mr. Nicolae Cochinescu, Justice of the Constitutional Court of Romania.
II. LEGAL EDUCATION

In Romania legal higher education is organized in the faculties of law in both public and private universities. At present, there are 12 faculties of law in the public education system and over 20 faculties in the private education system.

Regardless of the system (public or private) in which it operates, the juridical university system lasts for four years and the syllabus poses the same basic subjects, including general theory of law, constitutional law, administrative law, civil law, criminal law, procedural law, commercial law, family law, labor law, public international law, human rights protection, private international law, the philosophy of law, and community law.

The content of juridical education in Romania changed radically after December 22, 1989 when a totalitarian political system was abolished and a democratic multi-party system was established. Changes included the de-politicizing of the education system, an increase in the number of law departments, previously there were only three faculties - in Bucharest, Yassy, and Cluj-Napoca, the appearance of private university law departments, and an increase in Romanian students taking courses at universities in other countries, especially countries that are members of the European Union.

Access to juridical higher education is acquired through entrance examinations in both public and private faculties. Candidates must have received a high school diploma before enrolling for these entrance examinations. Subsequent to graduation, students of the faculties of law obtain the title of Bachelor of Law, and may pursue a Ph.D. in law by completing a short course in a special field of law, under the guidance of a law professor. The Bachelor's and the Ph.D. holders may practice any juridical profession, magistrates, lawyers, notaries public, or legal advisors, as well as offices of juridical specialty in the police and in the local and public administration in trading companies.

III. COURTS OF JUSTICE

The principles of juridical organization are established by the 1991 Constitution of Romania, Act No. 92/1992 on the judicial organization, Act No. 94/1993 on the courts and the military prosecutor offices. The Constitution of Romania established the independence of the judicial authority. This judicial authority is applied by the courts, the Public Ministry, and the Superior Council of Magistrature.

A. Constitutional Court

The Constitutional Court is the only court with power of judicial review of legislation. It is made up of nine members: three appointed by the Senate, three appointed by the Chamber of Deputies, and three appointed by the President of Romania. Members are appointed for a single nine-year term, and a President is elected from within.