GIR Global Investigations Review

The Practitioner's Guide to Global Investigations - Eleventh Edition

Romania: EU reforms drive corporate accountability

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Part II opens with an overview of emerging trends in corporate investigations across the Asia-Pacific region. Local experts from major jurisdictions across the globe then respond to a common and comprehensive set of questions designed to identify the local nuances of law and practice that practitioners may encounter in responding to a cross-border investigation.

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Explore on **GIR**

Romania: EU reforms drive corporate accountability

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Summary

GENERAL CONTEXT, KEY PRINCIPLES AND HOT TOPICS
CYBER-RELATED ISSUES
CROSS-BORDER ISSUES AND FOREIGN AUTHORITIES
ECONOMIC SANCTIONS ENFORCEMENT
BEFORE AN INTERNAL INVESTIGATION
INFORMATION GATHERING
DAWN RAIDS AND SEARCH WARRANTS
WHISTLEBLOWING AND EMPLOYEE RIGHTS
COMMENCING AN INTERNAL INVESTIGATION
ATTORNEY–CLIENT PRIVILEGE
WITNESS INTERVIEWS
REPORTING TO THE AUTHORITIES
RESPONDING TO THE AUTHORITIES
PROSECUTION AND PENALTIES
RESOLUTION AND SETTLEMENTS SHORT OF TRIAL
PUBLICITY AND REPUTATIONAL ISSUES
DUTY TO THE MARKET
ENVIRONMENTAL, SOCIAL AND CORPORATE GOVERNANCE
ANTICIPATED DEVELOPMENTS

GENERAL CONTEXT, KEY PRINCIPLES AND HOT TOPICS

1 IDENTIFY THE HIGHEST-PROFILE CORPORATE INVESTIGATION UNDER WAY IN YOUR COUNTRY, DESCRIBING AND COMMENTING ON ITS MOST NOTEWORTHY ASPECTS.

There is no single dominant corporate prosecution under way in Romania. Although corporate criminal liability exists, it is rarely the primary focus of a case. Prosecutors typically structure investigations around individuals, with the legal entity usually added as a co-defendant rather than pursued as the principal target.

The *Nordis* investigation is the most prominent current example. The Directorate for Investigating Organised Crime and Terrorism (DIICOT) alleges that an organised group used companies within the Nordis real estate group to operate a scheme involving advance payments for hundreds of apartments, repeated or encumbered sales, fictitious accounting, embezzlement, tax evasion, fraud and money laundering.

The more important development, however, is the emergence of the European Public Prosecutor's Office (EPPO) as the dominant forum for large-scale economic crime investigations in Romania. As at 31 December 2025, the EPPO had 535 active investigations in Romania involving estimated losses of €6.05 billion, second only to Italy. Of that figure, €5.03 billion concerned alleged fraud involving EU funds.

2 OUTLINE THE LEGAL FRAMEWORK FOR CORPORATE LIABILITY IN YOUR COUNTRY.

Romania has maintained a general regime of corporate criminal liability since 2006, now codified in article 135 of the Criminal Code. The regime applies to all legal persons, with the exception of the state and public authorities.

A legal person may be held criminally liable for offences committed in the conduct of its business activities, in its interest or in its name.

Romania adopted a general liability model rather than a list-based approach. As a result, in principle, any offence may be committed by a legal person.

Liability is direct and autonomous rather than derivative. It does not depend on the conviction, or even identification, of the individual responsible for the conduct, and there is no identification doctrine.

There is no statutory defence based on adequate procedures or compliance. Nevertheless, the existence of a compliance programme may be relevant from an evidential perspective, as it can support an argument that the conduct in question was a personal act of the individual rather than one carried out in the entity's interest. It may also be taken into account at sentencing.

3 WHICH LAW ENFORCEMENT AUTHORITIES PROSECUTE (OR REGULATE) CORPORATIONS? HOW IS JURISDICTION BETWEEN THE AUTHORITIES ALLOCATED? DO THE AUTHORITIES HAVE POLICIES OR PROTOCOLS RELATING TO THE PROSECUTION OF CORPORATIONS?

Criminal investigations are directed by prosecutors, and four bodies are particularly relevant to corporate crime.

The National Anticorruption Directorate (DNA) has jurisdiction over corruption offences where the damage exceeds €200,000 or the bribe exceeds €10,000, and irrespective of value

where the suspect holds one of a long list of offices, ranging from ministers and magistrates to lawyers and customs officers. It also covers abuse of office, the rigging of public auctions and related offences where the damage exceeds €1 million and, since 2024, tax evasion exceeding 10 million lei.

DIICOT has jurisdiction over economic offences committed by organised criminal groups, customs offences, embezzlement exceeding 200,000 lei, cybercrime, capital markets offences, large-scale tax evasion and the new sanctions offences.

Since 2021, the EPPO has become the principal prosecution body in cases relating to the EU budget, operating through a European Prosecutor and 20 European Delegated Prosecutors. Its competence extends to offences affecting the financial interests of the European Union, including cross-border VAT fraud causing damage of at least €10 million.

Ordinary prosecutors' offices retain jurisdiction over all other offences.

Jurisdiction is allocated by statute rather than negotiation, and the EPPO's right of evocation takes priority. Conflicts are resolved by declining competence in favour of the specialised authority, and there is no established practice of one authority refraining from action because another has been involved.

There are no published policies or protocols specific to the prosecution of corporations, and no equivalent of the US Justice Manual or the UK corporate prosecution guidance.

4 WHAT GROUNDS MUST THE AUTHORITIES HAVE TO INITIATE AN INVESTIGATION? IS A CERTAIN THRESHOLD OF SUSPICION NECESSARY TO TRIGGER AN INVESTIGATION?

Romanian criminal procedure is founded on the principle of legality: prosecution is, in principle, mandatory where the legal conditions are met, with considerations of opportunity entering only through the limited mechanism of waiver of prosecution.

In corporate matters, the principal triggers are referrals from administrative regulators, including the Tax Authority, the Financial Intelligence Unit, the Court of Accounts and the Competition Council. In 2025, the Antifraud Directorate alone made 820 criminal referrals, compared with 334 in 2024.

The applicable suspicion thresholds increase across three stages of the proceedings. A case is opened ***in rem*** where a referral satisfies the formal requirements and no statutory bar applies. The proceedings continue ***in personam***, with an individual acquiring suspect status, where there is evidence giving rise to a reasonable suspicion that an identified person committed the act. The proceedings are set in motion where the prosecutor finds evidence that a person has committed an offence. This constitutes the true charging decision.

The threshold for opening a case ***in rem*** is therefore very low. By contrast, reasonable suspicion is required before intrusive measures may be used. Dawn raids, technical surveillance and compelled production of documents all require that threshold to be met.

5 HOW CAN THE LAWFULNESS OR SCOPE OF A NOTICE OR SUBPOENA FROM AN AUTHORITY BE CHALLENGED IN YOUR COUNTRY?

Challenges proceed through two routes.

The first, and most common, route is the hierarchical complaint under articles 336 to 339 of the Criminal Procedure Code. Any person whose legitimate interests have been harmed may complain to the supervising prosecutor, or further up the hierarchy where the complaint

concerns the prosecutor's own acts. Filing a complaint does not suspend the act complained of. This is the only remedy available during the investigation stage, and it is determined by the prosecution rather than by a court.

The second route is the preliminary chamber procedure under articles 342 to 348 of the Code. Once an indictment has been filed, the judge verifies jurisdiction, the legality of the referral to the court, and the legality of both the evidence and the acts of the investigating authorities. Unlawfully obtained evidence is excluded. In practice, this is the stage at which challenges to the lawfulness and scope of investigative measures are litigated.

6 DOES YOUR COUNTRY MAKE USE OF COOPERATIVE AGREEMENTS GIVING IMMUNITY OR LENIENCY TO INDIVIDUALS WHO ASSIST OR COOPERATE WITH AUTHORITIES?

Romania has no deferred prosecution agreements, non-prosecution agreements, or corporate leniency or immunity regime. The cooperative mechanisms that do exist are statutory, largely automatic in their operation and almost entirely personal to individuals.

The most significant is the immunity available to bribers, who are not punished if they report an offence before the authorities have otherwise become aware of it.

Similar non-punishment and penalty-reduction regimes exist in certain tax evasion matters. In addition, an individual who reports and facilitates the prosecution of another person's serious offence benefits from a halving of the applicable statutory penalty limits.

7 WHAT ARE THE TOP PRIORITIES FOR YOUR COUNTRY'S LAW ENFORCEMENT AUTHORITIES?

Four priorities are apparent from the 2025 enforcement data:

- *EU funds*: 93% of the EPPO's active Romanian cases concern expenditure-side fraud, principally in the areas of regional development and agriculture;
- *tax evasion and VAT fraud*: these remain a key focus, driven by the recent extensive digitalisation of tax administration and increased statutory penalties;
- *corruption*: this remains the core area of activity of the DNA, although the emphasis has shifted towards negotiated resolutions, with plea agreements now outnumbering indictments by more than two-to-one; and
- *cybercrime and online investment fraud*: these are fast-growing categories, increasingly including cryptoasset cases, and fall within DIICOT's jurisdiction.

8 TO WHAT EXTENT DO LAW ENFORCEMENT AUTHORITIES IN YOUR JURISDICTION PLACE IMPORTANCE ON A CORPORATION HAVING AN EFFECTIVE COMPLIANCE PROGRAMME? WHAT GUIDANCE EXISTS (IN THE FORM OF OFFICIAL GUIDANCE, SPEECHES OR CASE LAW) ON WHAT CONSTITUTES AN EFFECTIVE COMPLIANCE PROGRAMME?

Compliance programmes are not regulated in Romania as a means of avoiding or reducing criminal liability. There is no compliance defence, no statutory cooperation credit, no declination policy and no published guidance on what constitutes an effective programme.

Nevertheless, a compliance programme remains relevant in three respects. As regards liability, an effective programme may be evidentially relevant to whether the act was committed in the interest of the entity or was instead a personal act of the individual. At sentencing, the court may take into account the entity's conduct following the offence

and any efforts made to diminish its consequences. The quality of remediation may also influence the complementary penalties imposed.

This is likely to change. Directive (EU) 2026/1021 (the EU Anti-Corruption Directive) provides for the liability of legal persons where an offence results from inadequate supervision and imposes turnover-linked fines. Once transposed, it is likely to create, in substance, the compliance incentive that Romanian law currently lacks.

9 WHAT IMPACT IS AI HAVING ON INVESTIGATIONS? DESCRIBE ANY RELEVANT GUIDANCE, REGULATORY EXPECTATIONS AND CASE LAW CONCERNING THE USE OF AI IN INVESTIGATIONS.

Although there is no formal guidance or case law on the use of AI as yet, AI is being used in investigations in practice, primarily by forensic accountants, law firms and larger corporates handling high volumes of data. Common uses include e-discovery, communications analysis, translation and transcription, transaction monitoring and forensic accounting.

CYBER-RELATED ISSUES

10 DOES YOUR COUNTRY REGULATE CYBERSECURITY? DESCRIBE THE APPROACH OF LOCAL LAW ENFORCEMENT AUTHORITIES TO CYBERSECURITY-RELATED FAILINGS.

Romania regulates cybersecurity through two principal instruments.

The national framework is established by Law No. 58/2023, which created the national cybersecurity system and confirmed the National Cyber Security Directorate (DNSC) as the competent civilian authority.

Directive (EU) 2022/2555 (the NIS2 Directive) was transposed by Government Emergency Ordinance No. 155/2024, which entered into force in January 2025. The regime brings a significantly wider range of entities within scope, including those in the energy, transport, finance, health, water, digital infrastructure, public administration and manufacturing sectors.

The available penalties are substantial on paper, reaching up to €10 million or 2% of worldwide turnover for essential entities, and €7 million or 1.4% of worldwide turnover for important entities.

Enforcement, however, remains relatively undeveloped. To date, the DNSC's approach has been primarily advisory and technical, centred on alerts, guidance and incident response.

11 DOES YOUR COUNTRY PROSECUTE CYBERCRIME? WHAT IS THE APPROACH OF LAW ENFORCEMENT AUTHORITIES IN YOUR COUNTRY TO CYBERCRIME?

Cybercrime is actively prosecuted and is one of the areas in which Romanian enforcement authorities have established an international reputation.

The relevant offences are set out in the Criminal Code. Articles 360 to 366 cover offences against the security and integrity of computer systems and data, ranging from unlawful access and interception to data alteration and unlawful operations involving devices or software. Computer fraud is a separate offence punishable by two to seven years' imprisonment. Forgery of electronic payment instruments and identity-related offences are frequently charged in parallel.

Jurisdiction lies with DIICOT, supported by the specialised cybercrime units of the Romanian Police. The prosecution of cybercrime is therefore concentrated within a specialist enforcement structure.

Romania ratified the Council of Europe Convention on Cybercrime in 2004 and has been an active participant in its mechanisms. It has signed, but as at July 2026 had not ratified, the Second Additional Protocol on e-evidence cooperation. Romanian authorities also participate in joint international operations targeting fraud schemes and malware infrastructure.

CROSS-BORDER ISSUES AND FOREIGN AUTHORITIES

12 DOES LOCAL CRIMINAL LAW HAVE GENERAL EXTRATERRITORIAL EFFECT? TO THE EXTENT THAT EXTRATERRITORIAL EFFECT IS LIMITED TO SPECIFIC OFFENCES, GIVE DETAILS.

Yes, on several bases, although in practice most cases are brought within Romanian jurisdiction through the territoriality principle rather than through dedicated extraterritorial provisions.

- *Territoriality*: Romanian criminal law applies to offences committed on Romanian territory. Under a broad ubiquity rule, an offence is deemed to have been committed in Romania where an act of perpetration, instigation or complicity was carried out there, or where the result occurred there, even in part. This is the most significant jurisdictional basis in practice, capturing most conduct with a Romanian nexus.
- *Active personality*: Romanian criminal law applies to offences committed abroad by Romanian nationals or legal persons. Dual criminality is required unless the offence carries a minimum penalty exceeding 10 years under Romanian law.
- *Passive personality*: Offences committed abroad by foreign nationals against the Romanian state or a Romanian national or legal person fall within Romanian jurisdiction, subject to authorisation by the general prosecutor.
- *Universality*: Article 11 of the Criminal Code applies to treaty-based offences where the foreign offender is voluntarily present in Romania.
- *Sector-specific reach*: The offence of money laundering applies irrespective of where the predicate offence was committed, while corruption offences extend to officials of foreign states and of EU and international organisations.

13 DESCRIBE THE PRINCIPAL CHALLENGES THAT ARISE IN YOUR COUNTRY IN CROSS-BORDER INVESTIGATIONS, AND EXPLAIN WHETHER AND HOW SUCH CHALLENGES DEPEND ON THE OTHER COUNTRIES INVOLVED.

Two challenges recur in cross-border investigations, although their significance depends heavily on the jurisdictions involved.

The first is speed. Within the European Union, European Investigation Orders and the EPPO's internal mechanisms generally make evidence gathering relatively efficient. Outside the EU, requests for mutual legal assistance are typically slower and can result in significant delays.

The second is data protection. The transfer of material from Romania in response to a foreign request engages Regulation (EU) 2016/679 (the General Data Protection Regulation (GDPR)) and, in the case of requests from third countries, article 48 of the GDPR. A foreign judgment

does not, by itself, provide a lawful basis for transfer, meaning that the safer route is mutual legal assistance rather than direct production.

14 DOES DOUBLE JEOPARDY, OR A SIMILAR CONCEPT, APPLY TO PREVENT A CORPORATION FROM FACING CRIMINAL EXPOSURE IN YOUR COUNTRY AFTER IT RESOLVES CHARGES ON THE SAME CORE SET OF FACTS IN ANOTHER? IS THERE ANYTHING ANALOGOUS IN YOUR JURISDICTION TO THE "ANTI-PILING ON" POLICY AS EXISTS IN THE UNITED STATES (THE POLICY ON COORDINATION OF CORPORATE RESOLUTION PENALTIES) TO PREVENT MULTIPLE AUTHORITIES SEEKING TO PENALISE COMPANIES FOR THE SAME CONDUCT?

The *Ne bis in idem* principle applies, although its effect in the cross-border corporate context is relatively limited.

Under article 6 of the Criminal Procedure Code, no person may be prosecuted or tried for an act in respect of which a final criminal judgment has already been given, even where a different legal classification is applied. Internationally, judicial cooperation is inadmissible where proceedings concerning the same act have concluded with a final acquittal or cessation, or where the penalty has already been executed or pardoned.

Whether a foreign non-conviction resolution engages the bar remains unsettled. The analysis is likely to be informed by the case law of the Court of Justice of the European Union (CJEU) on whether an out-of-court settlement constitutes a final disposal, which in turn depends on whether it definitively precludes further prosecution and involves the imposition of a penalty. On that basis, a US deferred prosecution agreement would be unlikely to bar Romanian proceedings, whereas a guilty plea followed by conviction abroad generally would.

There is nothing analogous to the US "anti-piling on" policy. Romanian law provides no mechanism for crediting a foreign penalty against a Romanian one, nor any discretion to decline prosecution on the basis that another jurisdiction has already resolved the matter.

15 ARE "GLOBAL" SETTLEMENTS COMMON IN YOUR COUNTRY? WHAT ARE THE PRACTICAL CONSIDERATIONS?

Global settlements are not available under Romanian law, as there is no procedural mechanism through which one could be reached.

Romanian proceedings cannot be synchronised with resolutions elsewhere. The practical approach is therefore sequencing and containment rather than coordination: managing the Romanian proceedings on their own terms, taking care over the content and timing of factual admissions made elsewhere, and accepting that the Romanian element of the matter will often be resolved last.

16 WHAT BEARING DO THE DECISIONS OF FOREIGN AUTHORITIES HAVE ON AN INVESTIGATION OF THE SAME MATTER IN YOUR COUNTRY?

They have evidential and practical weight, but no formal legal effect.

Romanian courts assess evidence freely: no item of evidence has a value pre-established by law, and the findings of a foreign authority are therefore not binding.

ECONOMIC SANCTIONS ENFORCEMENT

17 DESCRIBE YOUR COUNTRY'S SANCTIONS PROGRAMME AND ANY RECENT SANCTIONS IMPOSED BY YOUR JURISDICTION.

Romania does not operate an autonomous sanctions programme. Instead, it implements United Nations Security Council measures and EU restrictive measures.

The principal framework instrument is Government Emergency Ordinance No. 202/2008. The Ministry of Foreign Affairs coordinates the national system, while individual authorities are responsible for implementing sanctions within their respective areas of competence. In particular, the Financial Intelligence Unit and financial sector supervisors oversee compliance in the financial sector, while the tax and customs authorities are responsible for sanctions relating to goods.

The most significant recent development is the criminalisation of sanctions breaches. Law No. 224/2025 introduced a new article 271 into the Ordinance, transposing Directive (EU) 2024/1226 (the EU Sanctions Criminalisation Directive). Twelve categories of conduct are criminalised, including making funds available to designated persons, failing to freeze assets and circumventing restrictive measures. The basic offence is punishable by one to five years' imprisonment, increasing to five to 12 years where military-list products are involved. Legal persons are subject to corporate fines calculated under the day-fine system, with the value of a day-fine ranging from 3,000 to 835,000 lei.

18 WHAT IS YOUR COUNTRY'S APPROACH TO SANCTIONS ENFORCEMENT? HAS THERE BEEN AN INCREASE IN SANCTIONS ENFORCEMENT ACTIVITY IN RECENT YEARS, FOR EXAMPLE?

Criminal enforcement activity is low because the offences are relatively new. Until the introduction of Law No. 224/2025, breaches of sanctions were addressed almost entirely through administrative supervision and contravention fines, together with prosecution for related offences, where appropriate.

19 DO THE AUTHORITIES RESPONSIBLE FOR SANCTIONS COMPLIANCE AND ENFORCEMENT IN YOUR COUNTRY COOPERATE WITH THEIR COUNTERPARTS IN OTHER COUNTRIES FOR THE PURPOSES OF ENFORCEMENT?

Yes, principally through EU structures. The Ministry of Foreign Affairs is the national contact point for the European Commission and the European Council working parties on restrictive measures. On the criminal side, cooperation runs through Europol, Eurojust, European Investigation Orders and joint investigation teams.

The DNA's Annual Activity Report 2025 records cooperation with authorities from the United States, the United Kingdom and a number of EU member states on economic crime investigations.

20 HAS YOUR COUNTRY ENACTED ANY BLOCKING LEGISLATION IN RELATION TO THE SANCTIONS MEASURES OF THIRD COUNTRIES? DESCRIBE HOW SUCH LEGISLATION OPERATES.

Romania has not enacted any national blocking legislation.

Council Regulation (EC) No. 2271/96 (the EU Blocking Statute) is directly applicable. The Statute:

- prohibits EU operators from complying, whether actively or by deliberate omission, with listed third-country measures or with judgments giving effect to them;
- requires operators whose interests are affected by such measures to notify the European Commission within 30 days;

- denies recognition within the EU to such judgments; and
- confers a right to recover damages.

An operator may seek authorisation from the European Commission to comply where non-compliance would seriously damage its interests.

21 TO THE EXTENT THAT YOUR COUNTRY HAS ENACTED ANY SANCTIONS BLOCKING LEGISLATION, HOW IS COMPLIANCE ENFORCED BY LOCAL AUTHORITIES IN PRACTICE?

Not applicable.

BEFORE AN INTERNAL INVESTIGATION

22 HOW DO ALLEGATIONS OF MISCONDUCT MOST OFTEN COME TO LIGHT IN COMPANIES IN YOUR COUNTRY?

Six routes account for most corporate misconduct matters in Romania:

- *Internal reporting channels*: These are becoming an increasingly important source following the introduction of Law No. 361/2022, discussed below.
- *Regulatory and tax activity*: Tax inspections and antifraud controls generate criminal referrals directly, as do Court of Accounts reports, Competition Council referrals and, for EU-funded entities, audit findings passed to the EPPO or the European Anti-Fraud Office (OLAF). The first sign of criminal exposure is often a tax assessment rather than an allegation of misconduct.
- *Anti-money laundering and screening processes*: In 2025, the National Office for Prevention and Control of Money Laundering received 29,082 suspicious transaction reports, an increase of 30% on 2024. The Office referred 2,463 of these to law enforcement and tax authorities.
- *Internal and external audits*: These audits remain important, particularly in the detection of embezzlement, fictitious supplier arrangements and misuse of company assets, which are classic Romanian fact patterns.
- *Media reporting*: Investigative journalism has a strong tradition in Romania, and a number of major cases have originated in press reporting.
- *Commercial disputes and transactional activity*: This is of particular importance for foreign companies, as a criminal complaint filed by a commercial adversary is a common tactical feature of civil disputes in Romania.

INFORMATION GATHERING

23 DOES YOUR COUNTRY HAVE A DATA PROTECTION REGIME?

Romania applies the standard EU two-track data protection regime: processing by companies under the GDPR and Law No. 190/2018, and processing by competent authorities for criminal law purposes under Law No. 363/2018. The supervisory authority for both is the National Supervisory Authority for the Processing of Personal Data (ANSPDCP).

24 TO THE EXTENT NOT DEALT WITH ABOVE AT QUESTION 10, HOW IS THE DATA PROTECTION REGIME ENFORCED?

Enforcement is carried out by the ANSPDCP, which has the full range of GDPR corrective powers and publishes its enforcement decisions.

Enforcement is regular, although the monetary sanctions remain relatively modest: 312 investigations and 50 GDPR fines totalling approximately €350,000 in 2025. A significant proportion of matters are resolved through warnings or corrective measures, and the fines imposed are modest by Western European standards.

25 ARE THERE ANY DATA PROTECTION ISSUES THAT CAUSE PARTICULAR CONCERN IN INTERNAL INVESTIGATIONS IN YOUR COUNTRY?

Yes, and they are a common source of procedural failure in Romanian internal investigations.

The first is the legal basis for reviewing employee data. Consent is not viable in the employment relationship because of the imbalance of power; therefore, the investigation must run on legitimate interests, which requires a balancing assessment to be documented before the review begins, rather than reconstructed afterwards.

The second is article 5 of Law No. 190/2018, which governs the monitoring of employees through electronic communications and video surveillance. Monitoring is permitted only where five cumulative conditions are met:

- the existence of justified and prevailing legitimate interests;
- prior and explicit notification to employees;
- consultation of the trade union or employee representatives;
- the absence of effective less intrusive means; and
- a proportionate retention period.

The conditions most often missed are consultation and the demonstration that less intrusive means were tried.

In practice, companies can reduce these risks by scoping the review narrowly by custodian, date range and search term; documenting the balancing assessment and consultation before collection; and conducting the review through external counsel.

26 DOES YOUR COUNTRY REGULATE OR OTHERWISE RESTRICT THE INTERCEPTION OF EMPLOYEES' COMMUNICATIONS? WHAT ARE ITS FEATURES AND HOW IS THE REGIME ENFORCED?

Romania restricts employer monitoring of communications. Article 5 of Law No. 190/2018 sets five cumulative conditions for such monitoring, as described in question 25. Prior consent is generally not the key issue and is rarely a sound basis for monitoring; the emphasis instead is on prior information and consultation.

Law No. 506/2004 and the criminal offences protecting the secrecy of correspondence establish the boundaries of lawful monitoring. Real-time interception of content is not available to private employers. By contrast, stored data on corporate systems may be reviewed, subject to the conditions set out in article 5.

Enforcement runs through three avenues:

- administrative fines from the supervisory authority, which are low;
- a challenge by the employee to the resulting dismissal, where unlawfully obtained evidence may be disregarded and the dismissal may be set aside, with reinstatement and back pay ordered; and

- in extreme cases, personal criminal exposure for those who carried out the monitoring.

DAWN RAIDS AND SEARCH WARRANTS

27 ARE SEARCH WARRANTS OR DAWN RAIDS ON COMPANIES A FEATURE OF LAW ENFORCEMENT IN YOUR COUNTRY? DESCRIBE ANY LEGAL LIMITATIONS ON AUTHORITIES EXECUTING SEARCH WARRANTS OR DAWN RAIDS, AND WHAT REDRESS A COMPANY HAS IF THOSE LIMITS ARE EXCEEDED.

Dawn raids are a standard feature, rather than an exceptional measure, of Romanian economic crime investigations, and computer searches are routinely bundled with the physical search.

A search is ordered under articles 157 to 164 of the Criminal Procedure Code by the judge of rights and freedoms, at the prosecutor's request, where there is reasonable suspicion that an offence has been committed and that related material is held at the premises. The ruling is given within 24 hours, without summoning the parties. The search warrant is not subject to a separate appeal, although the legality of the search and the admissibility of any resulting evidence may subsequently be challenged.

The principal limitations are as follows:

- the search may not begin before 6am or after 8pm, except in flagrant cases;
- the person concerned must first be asked to voluntarily surrender the items sought; the search is not carried out if they do so, particularly if the items are clearly identifiable; and
- the presence of a lawyer may be requested, and the search may be delayed for up to two hours pending their arrival. In urgent circumstances, these rights may be dispensed with.

Redress is indirect. There is no injunctive remedy, and a complaint to the supervising or superior prosecutor does not suspend the measure. The principal remedy is exclusion of unlawfully obtained evidence during the preliminary chamber stage, under the rules governing procedural nullity.

The company's protections during the raid itself include the right to:

- request the attendance of a lawyer within the two-hour window;
- receive a copy of the warrant;
- require that the search remain within its authorised scope; and
- obtain a record of the items seized.

In our opinion, recording objections in the minutes at the time is the single most valuable step.

28 HOW CAN PRIVILEGED MATERIAL BE LAWFULLY PROTECTED FROM SEIZURE DURING A DAWN RAID OR IN RESPONSE TO A SEARCH WARRANT IN YOUR COUNTRY?

Privileged material can be lawfully protected through the special regime in article 35 of Law No. 51/1995 on the profession of lawyers, which is materially stronger than in many jurisdictions.

Professional acts and work product held by the lawyer or in the lawyer's office are inviolable, and documents containing lawyer–client communications or the lawyer's notes are exempt from seizure.

A company that wishes to protect its investigation work product must ensure that the investigation is conducted by or under the direction of external, Bar-admitted lawyers, that privileged material is identified and segregated, and that the objection and the document identifiers are recorded in the minutes.

29 UNDER WHAT CIRCUMSTANCES MAY AN INDIVIDUAL'S TESTIMONY BE COMPELLED IN YOUR COUNTRY? WHAT CONSEQUENCES FLOW FROM SUCH COMPELLED TESTIMONY? ARE THERE ANY PRIVILEGES THAT WOULD PREVENT AN INDIVIDUAL OR COMPANY FROM PROVIDING TESTIMONY?

There is no power to compel a suspect or defendant to answer questions. The right to silence is absolute.

Witnesses are in a different position. Any person with knowledge of relevant facts may be called, and a summoned witness must appear, take the oath and testify truthfully. Giving false testimony is a criminal offence. Attendance may be compelled, but a person brought under warrant may be held only for the duration of the hearing and for no longer than eight hours.

As regards privileges, close relatives of suspects may refuse to testify and must be informed of that right, while lawyers are protected by professional secrecy. Law No. 201/2023 introduced a full right of witnesses not to incriminate themselves. As with suspects and defendants, witnesses must be informed of that right before every hearing, and evidence obtained in breach of the requirement is inadmissible. There are no specific privileges for companies.

WHISTLEBLOWING AND EMPLOYEE RIGHTS

30 DESCRIBE THE WHISTLEBLOWING FRAMEWORK IN YOUR COUNTRY. WHAT FINANCIAL INCENTIVE SCHEMES, IF ANY, EXIST FOR WHISTLEBLOWERS? WHAT LEGAL PROTECTIONS ARE IN PLACE FOR WHISTLEBLOWERS?

Whistleblowing in Romania is governed by Law No. 361/2022 on the protection of whistleblowers in the public interest, which transposes Directive (EU) 2019/1937 (the EU Whistleblowing Directive).

The regime establishes reporting channels, sets procedural requirements for the handling of reports and provides protection against retaliation for qualifying whistleblowers:

- *Scope and channels*: Public authorities and other public sector bodies must operate internal reporting channels irrespective of headcount. Private-sector enterprises must also do so if they have at least 50 employees. Whistleblowers may report through internal or external channels, or, in defined circumstances, make a public disclosure. The National Integrity Agency is the designated external reporting authority.
- *Deadlines*: Receipt of a report must be acknowledged within seven calendar days, and feedback must be given within three months or, in justified cases, within six months.
- *Anonymity*: Anonymous reporting is permitted and falls within the scope of the law. However, an anonymous report may be closed without further action if it lacks sufficient information and the request for additional information is not met.

- *Protections*: Whistleblowers are protected against a broad range of retaliatory measures, including dismissal, demotion, a negative appraisal and blacklisting. In proceedings concerning alleged retaliation, the burden of proof is reversed.
- *Penalties*: Administrative fines range from 2,000 to 40,000 lei, depending on the breach. The highest fines apply to failures to meet the principal requirements governing internal reporting channels and to breaches of the confidentiality of a whistleblower's identity.
- *Financial incentives*: Romania has no financial reward scheme for whistleblowers.

31 WHAT RIGHTS DOES LOCAL EMPLOYMENT LAW CONFER ON EMPLOYEES WHOSE CONDUCT IS WITHIN THE SCOPE OF AN INVESTIGATION? IS THERE ANY DISTINCTION BETWEEN OFFICERS AND DIRECTORS OF THE COMPANY FOR THESE PURPOSES?

Employees retain all contractual and statutory rights during an investigation. If the process becomes a disciplinary investigation, the employee must receive a written summons stating the subject, date, time and place of the hearing, may present explanations and evidence, and may be assisted by a lawyer, an employment law specialist or a union representative.

Directors who are not employees fall primarily under company and mandate rules rather than employment law.

32 DO EMPLOYEES' RIGHTS UNDER LOCAL EMPLOYMENT LAW DIFFER IF A PERSON IS DEEMED TO HAVE ENGAGED IN MISCONDUCT? ARE THERE DISCIPLINARY OR OTHER STEPS THAT A COMPANY MUST OR SHOULD TAKE WHEN AN EMPLOYEE IS IMPLICATED IN OR SUSPECTED OF MISCONDUCT, SUCH AS SUSPENSION OR IN RELATION TO COMPENSATION?

Employees retain their contractual and statutory employment rights throughout the process. Where the company suspects a disciplinary breach, it must conduct a disciplinary investigation under article 251 of the Labour Code before imposing any sanction other than a written warning. The sanctions available range from written warnings to demotion, salary reductions and disciplinary termination.

The time limits are strict: the sanctioning decision must be issued within 30 calendar days of the date the employer became aware of the breach – which, under a binding High Court decision, is deemed to occur when the final disciplinary investigation report is filed with the employer – and no later than six months after the act itself.

Article 52(1)(b) of the Labour Code originally permitted suspension both where the employer had filed a criminal complaint and where the employee had been sent to trial. The first limb was declared unconstitutional in 2015 but the second remains in force. Suspension during a disciplinary investigation was likewise declared unconstitutional in 2016.

If innocence is established, the employee must be reinstated to their previous position and compensated for any salary and other rights of which they were deprived.

Where the person is a director or officer under a mandate rather than an employment contract, these employment law protections do not generally apply. Instead, the relationship is governed principally by company law and the rules applicable to civil liability.

33 CAN AN EMPLOYEE BE DISMISSED FOR REFUSING TO PARTICIPATE IN AN INTERNAL INVESTIGATION?

There are no statutory provisions in Romania and no reported case law on dismissing an employee for refusing to cooperate with an internal investigation.

However, much depends on how the internal policies are drafted. The Labour Code obliges employees to observe work discipline and internal regulations, and imposes a duty of fidelity. Where internal regulations expressly require cooperation with internal investigations, a refusal could, in principle, constitute a disciplinary breach; where it does not, the position is weaker.

Two further points arise. The first concerns self-incrimination. Since the introduction of Law No. 201/2023, witnesses have a comprehensive right not to state facts that would incriminate them, and disciplining an employee for exercising an equivalent right would, in our view, be difficult to justify before an employment court. The second concerns proportionality: dismissal is the most severe sanction available and any disciplinary response must therefore be proportionate.

COMMENCING AN INTERNAL INVESTIGATION

34 IS IT COMMON PRACTICE IN YOUR COUNTRY TO PREPARE A DOCUMENT SETTING OUT TERMS OF REFERENCE OR INVESTIGATORY SCOPE BEFORE COMMENCING AN INTERNAL INVESTIGATION? WHAT ISSUES WOULD IT COVER?

There is no legal requirement to do so, and it is not yet universal practice domestically, but it is common practice where the matter is significant or a multinational group is involved. We would regard it as necessary in any matter with criminal exposure.

The terms of reference would ordinarily cover:

- the allegations and the period under review;
- the scope, including entities, jurisdictions and custodians;
- the person giving instructions;
- reporting lines;
- the arrangements for privilege;
- the data protection framework;
- document preservation;
- the treatment of interviews;
- escalation triggers; and
- the output form.

35 IF AN ISSUE COMES TO LIGHT PRIOR TO THE AUTHORITIES IN YOUR COUNTRY BECOMING AWARE OR ENGAGED, WHAT INTERNAL STEPS SHOULD A COMPANY TAKE? ARE THERE INTERNAL STEPS THAT A COMPANY IS LEGALLY REQUIRED TO TAKE OR SHOULD CONSIDER TAKING?

Romanian law prescribes no steps for a company in that position, but several are recommended:

- *Preserve*: There is no litigation hold doctrine; however, destruction or concealment of evidence is a criminal offence, and steps taken to shield an employee can expose the

company and its officers. The company should immediately suspend routine deletion, forensically image devices and preserve mailboxes, documenting each step.

- *Report up*: There is no general statutory duty to brief the board, but the administrators' obligations of prudent and diligent management mean that failing to escalate an issue is itself a source of exposure for the officers concerned. Where the company is a listed issuer, the disclosure analysis must be commenced immediately and documented.
- *Check the specific reporting duties*: There is no general duty to self-report, but sector-specific duties exist, including suspicious transaction reporting, notification under the sanctions regime and incident reporting under the NIS2 Directive and the GDPR.

Finally, remediation must not look like concealment, which is itself a criminal offence.

36 WHAT INTERNAL STEPS SHOULD A COMPANY IN YOUR COUNTRY TAKE IF IT RECEIVES A NOTICE OR SUBPOENA FROM A LAW ENFORCEMENT AUTHORITY SEEKING THE PRODUCTION OR PRESERVATION OF DOCUMENTS OR DATA?

The immediate steps would be to:

- verify the instrument and its scope, the offences under investigation and the capacity in which the company has been addressed;
- instruct external counsel and seek access to the requested file;
- impose a preservation hold;
- identify custodians and data locations, including material held abroad;
- agree search terms and record the methodology; and
- keep a complete record of what was produced.

37 AT WHAT POINT MUST A COMPANY IN YOUR COUNTRY PUBLICLY DISCLOSE THE EXISTENCE OF AN INTERNAL INVESTIGATION OR CONTACT FROM A LAW ENFORCEMENT AUTHORITY?

There is no general obligation on a private company to disclose the existence of an internal investigation or of contact from a law enforcement authority.

For listed issuers, the position is governed by article 17 of Regulation (EU) No. 596/2014 (the EU Market Abuse Regulation). Inside information must be disclosed as soon as possible. Whether the existence of an investigation constitutes inside information requiring disclosure will depend on factors such as its precision and potential impact on the issuer's share price. That assessment will often depend on the stage the matter has reached.

The opening of a file ***in rem***, of which the company may not even be aware, will often not be considered inside information for the purpose of the EU Market Abuse Regulation. Searches of company premises, the commencement of criminal proceedings or the crystallisation of a material financial exposure will generally trigger disclosure obligations.

38 HOW ARE INTERNAL INVESTIGATIONS VIEWED BY LOCAL ENFORCEMENT BODIES IN YOUR COUNTRY?

They are tolerated rather than welcomed. No Romanian statute regulates the conduct or format of internal investigations. There is no requirement to notify an authority, no prescribed methodology and no framework under which the results are received. Correspondingly, there

is no cooperation credit; a company that investigates thoroughly and hands over the results acquires no entitlement to a reduced penalty or a deferred resolution because no such outcome exists.

The only recognition available is discretionary and occurs during sentencing, through the court's power to consider the offender's conduct following the offence.

Prosecutors' attitudes vary. Some regard an internal investigation as a useful source of structured material in complex financial matters. Others regard it with suspicion, taking the view that the company is attempting to shape the narrative and that interviews conducted before prosecutors reach witnesses may affect the integrity of the evidence.

ATTORNEY–CLIENT PRIVILEGE

39 CAN THE ATTORNEY–CLIENT PRIVILEGE BE CLAIMED OVER ANY ASPECTS OF INTERNAL INVESTIGATIONS IN YOUR COUNTRY? WHAT STEPS SHOULD A COMPANY TAKE IN YOUR COUNTRY TO PROTECT THE PRIVILEGE OR CONFIDENTIALITY OF AN INTERNAL INVESTIGATION?

Internal investigations carried out by external lawyers who are members of the Bar should generally be protected by attorney–client privilege.

The steps we would advise to protect the privilege are as follows:

- engage external counsel at the outset and have counsel direct the investigation;
- have forensic accountants, e-discovery providers and other experts engaged under the law firm's mandate to ensure their work forms part of the lawyer's work product;
- restrict circulation of advice to a defined group; and
- where a written report is required, consider whether it can be confined to conclusions rather than a narrative of the evidence.

40 SET OUT THE KEY PRINCIPLES OR ELEMENTS OF THE ATTORNEY–CLIENT PRIVILEGE IN YOUR COUNTRY AS IT RELATES TO CORPORATIONS. WHO IS THE HOLDER OF THE PRIVILEGE? ARE THERE ANY DIFFERENCES WHEN THE CLIENT IS AN INDIVIDUAL?

Attorney–client privilege is a professional obligation imposed on the lawyer and regarded as a matter of public order, rather than an evidentiary privilege belonging to the client. Accordingly, unlike a common-law privilege, it cannot simply be waived at the client's discretion.

The duty extends to all matters entrusted to the lawyer, except where otherwise provided by law, and applies equally to advisory and contentious work. Romanian law does not draw an advice-versus-litigation distinction.

The regime is the same whether the client is a company or an individual.

41 DOES THE ATTORNEY–CLIENT PRIVILEGE APPLY EQUALLY TO IN-HOUSE AND EXTERNAL COUNSEL IN YOUR COUNTRY?

No. Romania distinguishes between lawyers, who are admitted to a Bar and governed by Law No. 51/1995, and in-house counsel, who are governed by Law No. 514/2003.

In-house counsel occupy a distinct professional role. They are not members of the Bar and are subject only to the rules applicable to their own profession.

The privilege afforded by article 35 of Law No. 51/1995 applies only to lawyers' offices and files (see question 28).

42 DOES THE ATTORNEY–CLIENT PRIVILEGE APPLY EQUALLY TO ADVICE SOUGHT FROM FOREIGN LAWYERS IN RELATION TO INVESTIGATIONS IN YOUR COUNTRY?

A foreign lawyer lawfully practising in Romania is generally subject to the Romanian confidentiality regime: EU, European Economic Area (EEA) and Swiss lawyers practising in Romania, whether permanently or temporarily, and other foreign lawyers registered in the special roll of a Romanian Bar are subject to Romanian professional-conduct and professional-secrecy rules.

The attorney–client privilege is unlikely to be granted to non-EU/EEA/Swiss lawyers without recognised professional status in Romania.

For sensitive investigations, Romanian external counsel should therefore coordinate the engagement and document the foreign lawyer's status and legal role.

43 TO WHAT EXTENT IS WAIVER OF THE ATTORNEY–CLIENT PRIVILEGE REGARDED AS A COOPERATIVE STEP IN YOUR COUNTRY? ARE THERE ANY CONTEXTS WHERE PRIVILEGE WAIVER IS MANDATORY OR REQUIRED?

Romania has no cooperation credit regime. There is accordingly no context in which a prosecutor can offer a benefit in exchange for a waiver and no practice of prosecutors requesting this.

The most that can be said is that voluntary provision of material to the prosecutor may bear, at sentencing, on the assessment of the entity's conduct after the offence. That is a discretionary benefit, available at the end of a process that will typically have taken years.

44 DOES THE CONCEPT OF LIMITED WAIVER OF PRIVILEGE EXIST IN YOUR JURISDICTION? WHAT IS ITS SCOPE?

No.

45 IF PRIVILEGE HAS BEEN WAIVED ON A LIMITED BASIS IN ANOTHER COUNTRY, CAN PRIVILEGE BE MAINTAINED IN YOUR OWN COUNTRY?

Because Romanian law protects the lawyer's file and office rather than conferring a client-held privilege capable of being waived, a waiver in another jurisdiction should not, in itself, remove the protection afforded under article 35 of Law No. 51/1995. Material contained in a Romanian lawyer's professional file should therefore remain protected even if copies have been disclosed in another jurisdiction.

46 DO COMMON INTEREST PRIVILEGES EXIST AS CONCEPTS IN YOUR COUNTRY? WHAT ARE THE REQUIREMENTS AND SCOPE?

The common interest privilege is not recognised under Romanian law.

Joint defence arrangements do occur in practice, particularly where a company and its officers are co-defendants, but they operate as a means of coordinating the defence rather than as a source of protection. To the extent that communications between lawyers acting for different defendants are protected, that protection stems from each lawyer's duty of professional secrecy rather than from any common interest privilege.

47 CAN PRIVILEGE BE CLAIMED OVER COMMUNICATIONS WITH THIRD PARTIES?

Generally, no. Romanian professional secrecy protects the relationship between the lawyer and the client, and communications with third parties, whether accountants, forensic consultants, public relations advisers or insurers, are not protected as such.

All such third parties should therefore be engaged under the law firm's mandate, for the purpose of enabling the firm to advise.

WITNESS INTERVIEWS

48 DOES YOUR COUNTRY PERMIT THE INTERVIEWING OF WITNESSES AS PART OF AN INTERNAL INVESTIGATION?

Internal interviews are a regular feature of corporate investigations in Romania.

There is no prohibition on a company interviewing its own employees, nor is there any statutory regime governing such interviews. Romanian law does not prescribe warnings (although they are common in practice), confer rights on interviewees or attach any evidential status to the record. The constraints come from data protection, employment law, the professional conduct rules applicable to the lawyers conducting the interview and the criminal prohibitions on interfering with an investigation.

49 CAN A COMPANY CLAIM THE ATTORNEY–CLIENT PRIVILEGE OVER INTERNAL WITNESS INTERVIEWS OR ATTORNEY REPORTS?

The company should be able to claim the privilege where the interview is conducted by an external Bar-admitted lawyer on an advisory basis.

50 WHEN CONDUCTING A WITNESS INTERVIEW OF AN EMPLOYEE IN YOUR COUNTRY, WHAT LEGAL OR ETHICAL REQUIREMENTS OR GUIDANCE MUST BE ADHERED TO? ARE THERE DIFFERENT REQUIREMENTS WHEN INTERVIEWING THIRD PARTIES?

There is no Romanian equivalent of the *Upjohn* or corporate *Miranda* warning, and no professional conduct rule prescribing the content of an internal interview. The requirements derive from general principles, and, in our view, the following safeguards should be observed when interviewing employees or third parties:

- *Client identity*: The lawyer acts for the company, not the individual, and the interviewee should be told this clearly at the outset.
- *Conflict avoidance*: A lawyer who allows an interviewee to believe that they are being advised risks a conflict if the interests of the company and the individual later diverge.
- *Self-incrimination privilege*: Pressing an employee for answers on matters that may expose them to criminal liability raises obvious ethical concerns and is likely to undermine the value of any information obtained.
- *Data protection compliance*: The interview will involve personal data about the interviewee and others and the requirements of article 5 of Law No. 190/2018 must therefore be observed.
- *Witness influence*: Where employees or third parties are likely to be questioned later by law enforcement authorities, care should be taken not to influence their subsequent testimony.

51 HOW IS AN INTERNAL INTERVIEW TYPICALLY CONDUCTED IN YOUR COUNTRY? ARE DOCUMENTS PUT TO THE WITNESS? MAY OR MUST EMPLOYEES IN YOUR COUNTRY HAVE THEIR OWN LEGAL REPRESENTATION AT THE INTERVIEW?

Interviews are typically conducted by two lawyers from an external firm, one leading the interview and one taking notes. As a matter of practice, interviews are not recorded; instead, notes are taken and counsel's analysis is incorporated into the investigation report.

Documents may be put to the witness, albeit selectively and with care, so as not to influence their responses.

There are no specific rules governing representation. Whether an employee is permitted or encouraged to have separate legal representation is therefore largely a matter of practice, depending on the sensitivity of the investigation and the employee's role.

REPORTING TO THE AUTHORITIES

52 ARE THERE CIRCUMSTANCES UNDER WHICH REPORTING MISCONDUCT TO LAW ENFORCEMENT AUTHORITIES IS MANDATORY IN YOUR COUNTRY?

There is no general duty on a company to report misconduct to law enforcement. Specific duties do exist in the Criminal Code, but they are narrow:

- article 266 (failure to denounce) is confined to offences against life or resulting in death and does not extend to economic, fiscal or corruption offences;
- article 267 (mandatory reporting) binds public officials only, in relation to offences connected with the service in which they perform their duties. The criminal law concept of a public official is broad and can encompass persons performing a public interest service within a private company; and
- article 269 (accessory after the fact) is particularly relevant in the context of internal investigations (see question 53); steps taken to shield an employee or impede an investigation may expose the company and its officers to liability.

53 IN WHAT CIRCUMSTANCES MIGHT YOU ADVISE A COMPANY TO SELF-REPORT TO LAW ENFORCEMENT EVEN IF IT HAS NO LEGAL OBLIGATION TO DO SO? IN WHAT CIRCUMSTANCES WOULD THAT ADVICE TO SELF-REPORT EXTEND TO COUNTRIES BEYOND YOUR COUNTRY?

Self-reporting confers no systemic benefit on a company in Romania. The available benefits are largely personal to individuals: impunity for a briber who reports before the authorities are otherwise alerted; non-punishment or a reduction of up to one half of the penalty in certain tax matters; and a halving of the applicable sentencing limits for a person who reports another person's serious offence to the authorities. For a company, the most that self-reporting will usually achieve is a potential mitigation argument at sentencing.

We would nonetheless advise self-reporting in several situations:

- where the individual concerned is a briber who can secure impunity, and the company's interests are aligned with theirs, provided the report is made promptly, before the authorities become aware of the conduct from another source;
- in regulated sectors, where employees are required to report any work-related offences;
- where discovery is likely, and self-reporting may preserve the company's credibility with the authorities;
-

where the conduct is ongoing, and silence risks allegations of complicity, including as an accessory after the fact; and

- where a corporate group has decided to self-report in another jurisdiction, making a coordinated approach desirable.

54 WHAT ARE THE PRACTICAL STEPS NEEDED TO SELF-REPORT TO LAW ENFORCEMENT IN YOUR COUNTRY?

The mechanism for self-reporting is the submission of a denunciation, made in writing or orally, which must identify the person making it and set out the relevant facts.

The practical steps include:

- establishing the relevant facts;
- preparing a counsel-signed written referral setting out those facts, including the individuals involved, the chronology, any loss and the available evidence, accompanied by key documents, indexed for ease of reference;
- determining who will submit the denunciation and confirming their authority to do so; and
- identifying the competent authority (the DNA for corruption above the thresholds, DIICOT for organised crime, cybercrime or large-scale tax evasion, the EPPO for offences affecting EU funds and the ordinary prosecutor's office for all other matters).

RESPONDING TO THE AUTHORITIES

55 IN PRACTICE, HOW DOES A COMPANY IN YOUR COUNTRY RESPOND TO A NOTICE OR SUBPOENA FROM A LAW ENFORCEMENT AUTHORITY? IS IT POSSIBLE TO ENTER INTO DIALOGUE WITH THE AUTHORITIES TO ADDRESS THEIR CONCERNS BEFORE OR EVEN AFTER CHARGES ARE BROUGHT? HOW?

The company should acknowledge receipt, appoint a response team led by external counsel, verify scope, preserve responsive material and engage promptly with the prosecutor.

Technical dialogue on deadlines, format, search terms and phased production is possible as a matter of practice, although the authority need not negotiate and may order a compulsory seizure. Even before charges, counsel can make written representations about scope and about the company's own account of the facts, and it is common to file a memorandum inviting the prosecutor to consider whether any statutory bar to prosecution applies.

Before criminal proceedings commence, access to the file is limited and the company is often required to make representations without full access to it. Once proceedings have commenced, counsel has the right to consult the file, subject to a restriction that may be imposed only by reasoned decision and for a maximum of 10 days. Substantive engagement is generally more productive after that point.

56 ARE ONGOING AUTHORITY INVESTIGATIONS SUBJECT TO CHALLENGE BEFORE THE COURTS?

There is no general right to seek judicial review of an ongoing investigation. Complaints must be addressed to the supervising prosecutor, who must resolve them within 20 days, or further up the prosecutorial hierarchy where the challenged act is that of the prosecutor. Filing does

not suspend the act complained of, and the decision on the complaint cannot be challenged further.

57 IN THE EVENT THAT AUTHORITIES IN YOUR COUNTRY AND ONE OR MORE OTHER COUNTRIES ISSUE SEPARATE NOTICES OR SUBPOENAS REGARDING THE SAME FACTS OR ALLEGATIONS, HOW SHOULD THE COMPANY APPROACH THIS?

The company should assume from the outset that the responses will be compared and manage them as a single exercise even though it must respond to each request on its own terms.

We would ordinarily build a consistent disclosure package: a common factual chronology, a central defence document and consistent positions on the facts, with each response tailored to the scope of the particular request.

There is no mechanism in Romania for coordinating with foreign authorities on the company's behalf, and no Romanian prosecutor will sequence a request to accommodate another jurisdiction's timetable.

58 IF A NOTICE OR SUBPOENA FROM THE AUTHORITIES IN YOUR COUNTRY SEEKS PRODUCTION OF MATERIAL RELATING TO A PARTICULAR MATTER THAT CROSSES BORDERS, MUST THE COMPANY SEARCH FOR AND PRODUCE MATERIAL IN OTHER COUNTRIES TO SATISFY THE REQUEST? WHAT ARE THE DIFFICULTIES IN THAT REGARD?

A Romanian production order is addressed to the person on whom it is served and operates within Romanian territorial jurisdiction. It does not compel a Romanian entity to procure documents held abroad by a separate legal person, including a foreign parent. In practice, material stored abroad is within scope where the Romanian entity has possession or control of it.

Prosecutors expect production of what the company can obtain, and a refusal based on territorial limits is likely to be treated as non-cooperation. Where production would breach foreign law, the company should explain the conflict in writing, identify mutual legal assistance as the alternative and produce what can lawfully be produced in the meantime.

59 DOES LAW ENFORCEMENT IN YOUR COUNTRY ROUTINELY SHARE INFORMATION OR INVESTIGATIVE MATERIALS WITH LAW ENFORCEMENT IN OTHER COUNTRIES? WHAT FRAMEWORK IS IN PLACE IN YOUR COUNTRY FOR COOPERATION WITH FOREIGN AUTHORITIES?

Yes, routinely, and at high volume within the EU.

The framework statute is Law No. 302/2004 on international judicial cooperation in criminal matters, covering extradition, European arrest warrants, mutual legal assistance, transfer of proceedings, recognition of foreign judgments, joint investigation teams, European Investigation Orders, and freezing and confiscation orders.

The EPPO is now the most significant channel in relation to offences affecting the financial interests of the European Union; within its structure, cooperation is internal rather than a matter of mutual assistance. Romania also participates fully in Eurojust, Europol and OLAF, and joint investigation teams are frequently used.

Outside the EU, cooperation is based on multilateral conventions and bilateral instruments. It is slower but remains common in practice: the DNA's Annual Activity Report 2025 records

cooperation with authorities in the United States, the United Kingdom, India and Ukraine, among others.

60 DO LAW ENFORCEMENT AUTHORITIES IN YOUR COUNTRY HAVE ANY CONFIDENTIALITY OBLIGATIONS IN RELATION TO INFORMATION RECEIVED DURING AN INVESTIGATION OR ONWARD DISCLOSURE AND USE OF THAT INFORMATION BY THIRD PARTIES?

Criminal investigations are non-public under article 285(2) of the Criminal Procedure Code, and public officials involved in the investigation are subject to confidentiality obligations in relation to information obtained through it.

The principal criminal provision is contained in article 277 of the Criminal Code, although its scope is relatively narrow. It applies to unauthorised disclosure by a magistrate or public official of confidential information relating to evidence, or of evidence from a criminal case before its resolution, as well as disclosure by a witness or expert where procedural law prohibits it. It does not create a general prohibition binding on all persons.

Onward use by third parties is therefore constrained more by the confidentiality obligations attached to access to the investigation file than by article 277.

Enforcement is weak. Leaks to the press from criminal files have been a persistent feature of Romanian practice and prosecutions are rare. The more effective remedy is civil: courts have awarded moral damages for press disclosure of material from an investigation file.

61 HOW WOULD YOU ADVISE A COMPANY THAT HAS RECEIVED A REQUEST FROM A LAW ENFORCEMENT AUTHORITY IN YOUR COUNTRY SEEKING DOCUMENTS FROM ANOTHER COUNTRY, WHERE PRODUCTION WOULD VIOLATE THE LAWS OF THAT OTHER COUNTRY?

We would advise that the company engage promptly with the Romanian authority and demonstrate good-faith compliance efforts, without waiving Romanian objections or rights under foreign law. It should also explain the conflict to the prosecutor in writing, identifying the foreign provision, the sanction and the person exposed to it; a reasoned written explanation is far more effective than a bare refusal, and it preserves the position at sentencing.

62 DOES YOUR COUNTRY HAVE SECRECY OR BLOCKING STATUTES? WHAT RELATED ISSUES ARISE FROM COMPLIANCE WITH A NOTICE OR SUBPOENA?

Romania has no blocking statute. It does have secrecy regimes in specific sectors.

Banking secrecy is governed by Government Emergency Ordinance No. 99/2006. The duty is real but subject to statutory exceptions: information is provided to the criminal authorities after proceedings have been initiated against a client, at the written request of the prosecutor or the court. The practical effect is that banking secrecy delays and formalises access, but does not prevent it.

Professional secrecy applies to lawyers, as described above, and to certain other professions. Classified information under the national security regime is subject to a separate and more restrictive regime.

63 WHAT ARE THE RISKS IN VOLUNTARY PRODUCTION VERSUS COMPELLED PRODUCTION OF MATERIAL TO AUTHORITIES IN YOUR COUNTRY? IS THIS MATERIAL DISCOVERABLE BY THIRD PARTIES? IS THERE ANY CONFIDENTIALITY ATTACHED TO PRODUCTIONS TO LAW ENFORCEMENT IN YOUR COUNTRY?

Compelled production is the safer course in most respects, as the company is complying with an order, the scope is defined by the authority and production carries no implication of a positive decision to place material in the file. Where the order is unlawful or excessive, the resulting evidence is capable of exclusion in the preliminary chamber, provided the objection is recorded at the time.

Voluntary production is not confined by any order and cannot later be challenged at trial. It nevertheless occurs frequently in practice.

As to discoverability, material in a criminal file is accessible to the parties and their lawyers, including co-defendants and any civil party. At trial, proceedings are public, subject to the court's power to sit *in camera*. Foreign regulators may obtain the material through mutual legal assistance and shareholders may obtain it through the civil party route if they have a claim.

PROSECUTION AND PENALTIES

64 WHAT TYPES OF PENALTIES MAY COMPANIES OR THEIR DIRECTORS, OFFICERS OR EMPLOYEES FACE FOR MISCONDUCT IN YOUR COUNTRY?

Individuals face imprisonment, fines and complementary penalties, including prohibitions on holding public office or occupying management positions. Custodial sentences are substantial on paper: two to seven years for active bribery, abuse of office and embezzlement; three to 10 years for passive bribery, money laundering and tax evasion; and seven to 15 years for large VAT fraud offences. In practice, sentences at the lower end are common for first-time offenders, and the statutory reductions are significant, typically reducing the penalty by one-third.

Alternatives to immediate imprisonment are available only in limited circumstances. Deferral is barred where the penalty provided by law is seven years or more, which excludes most core white-collar offences; suspension under supervision requires a sentence of not more than three years.

For companies, the principal penalty is a fine, calculated on a day-fine basis, with the amount of the day-fine ranging from 100 to 5,000 lei and the number of day-fines ranging from 30 to 600. The general maximum is 3 million lei, increased by one-third where the offence was committed in pursuit of a patrimonial benefit. This ceiling is low by international standards and far below the administrative maxima under the anti-money laundering, competition, data protection and market abuse regimes.

Separate penalty rules apply to sanctions offences under Emergency Ordinance No. 202/2008 on the implementation of international sanctions. For legal entities, the value of a day-fine may reach 835,000 lei, with the number of day-fines ranging from 30 to 600.

In practice, complementary penalties are often more significant than the fine itself and may be imposed cumulatively:

- dissolution;
- suspension of activity for three months to three years;
- closure of business units;
- prohibition on participating in public procurement;

- judicial supervision for one to three years; and
- publication of the conviction.

Corporate prosecutions remain uncommon relative to individual ones. The DNA indicted 41 corporations in 2023, 28 in 2024 and 42 in 2025, compared with 610, 655 and 750 individual defendants in the same periods.

65 WHERE THERE IS A RISK OF A CORPORATE'S SUSPENSION, DEBARMENT OR OTHER RESTRICTIONS ON CONTINUING BUSINESS IN YOUR COUNTRY, WHAT OPTIONS OR RESTRICTIONS APPLY TO A CORPORATE WANTING TO SETTLE IN ANOTHER COUNTRY?

Romanian law does not stop a company from settling with foreign authorities, and the company does not need to obtain consent from, or notify, a Romanian authority before doing so.

Any constraints are practical rather than legal. They arise from the effect a foreign resolution may have on the company's ability to keep contracting in Romania, particularly in public procurement. When structuring a foreign settlement, the company should therefore consider how it will affect its Romanian position.

66 WHAT DO THE AUTHORITIES IN YOUR COUNTRY CONSIDER WHEN FIXING PENALTIES?

Romania has no sentencing guidelines. Sentencing is a matter of judicial discretion within the statutory limits, and uniformity is pursued only indirectly through rulings on points of law issued by the High Court.

The general criteria are the gravity of the offence and the offender's degree of culpability, assessed by reference to the circumstances and manner in which the offence was committed, the harm or risk created, the consequences of the offence, the motive, criminal history and conduct following the offence. For a corporation, conduct after the offence is the only real hook for crediting cooperation and remediation, and it is discretionary.

For corporate fines, the court fixes the number of day-fines by reference to the above criteria and the daily value by reference to turnover. The value of the day-fine is where the entity's size actually enters the calculation.

Mitigating circumstances reduce the applicable sentencing range by one-third. Full compensation for the material damage before the first hearing constitutes a statutory mitigating circumstance, except in cases of corruption, offences affecting the EU's financial interests and money laundering.

Aggravating circumstances permit the court to impose a sentence up to the statutory maximum. Where that is insufficient, the maximum term of imprisonment may be increased by up to two years, provided that the resulting sentence does not exceed the statutory maximum by more than one-third. For legal entities, fines may also be increased by up to one-third.

Corporate fines have not increased in real terms because the maximum fine has remained unchanged at 3 million lei since 2014 and has been substantially eroded by inflation. Penalties have instead increased under specific statutes: the penalty for core tax evasion offences was raised from two to eight years' imprisonment to three to 10 years'

imprisonment, and the 2025 sanctions offences provide for day-fines of up to 835,000 lei, compared with the standard maximum day-fine of 5,000 lei applicable to all other offences.

RESOLUTION AND SETTLEMENTS SHORT OF TRIAL

67 ARE NON-PROSECUTION AGREEMENTS OR DEFERRED PROSECUTION AGREEMENTS AVAILABLE IN YOUR JURISDICTION FOR CORPORATIONS?

No. Romania has no deferred prosecution agreements or non-prosecution agreements. There is no mechanism by which a prosecutor may suspend or forgo prosecution in exchange for a corporate undertaking to pay a penalty, remediate, install a monitor or cooperate.

The only negotiated alternative to prosecution is a plea agreement under articles 478 to 488 of the Criminal Procedure Code, which results in a court conviction. It is available during the investigation, once proceedings have commenced, and only for offences carrying a fine or imprisonment of not more than 15 years. A defendant who enters into a plea agreement benefits from a mandatory reduction of one-third of the imprisonment range and one-quarter of the applicable fine range. The court may reject the agreement if it considers the proposed outcome unjustifiably lenient.

Plea agreements are widely used and their use is growing: the DNA concluded 253 in 2025, in comparison with only 114 indictments in the same period. They are used overwhelmingly for individuals.

The advantages are certainty, speed and the statutory reduction. The principal disadvantage for a corporate is that the outcome is a conviction, with the consequences that follow for procurement eligibility and regulatory status.

There is also a separate, non-negotiated procedure available at the trial stage. A defendant who admits the facts set out in the indictment may ask the court to determine the case solely on the basis of the investigation record, without hearing evidence afresh. The same sentence reductions are possible and acquittal remains available.

68 DOES YOUR JURISDICTION PROVIDE FOR REPORTING RESTRICTIONS OR ANONYMITY FOR CORPORATES THAT HAVE ENTERED INTO NON-PROSECUTION AGREEMENTS OR DEFERRED PROSECUTION AGREEMENTS UNTIL THE CONCLUSION OF CRIMINAL PROCEEDINGS IN RELATION TO CONNECTED INDIVIDUALS TO ENSURE FAIRNESS IN THOSE PROCEEDINGS?

Not applicable.

69 PRIOR TO ANY SETTLEMENT WITH A LAW ENFORCEMENT AUTHORITY IN YOUR COUNTRY, WHAT CONSIDERATIONS SHOULD COMPANIES BE AWARE OF?

Settlement in Romania means conviction; it is not a negotiated resolution without a finding of guilt. Before entering into a plea agreement, companies should assess the potential criminal fine, confiscation, civil damages and tax liabilities, as well as any asset restraints, procurement exclusion, and licensing and market disclosure consequences.

70 TO WHAT EXTENT DO LAW ENFORCEMENT AUTHORITIES IN YOUR COUNTRY USE EXTERNAL CORPORATE COMPLIANCE MONITORS AS AN ENFORCEMENT TOOL?

External compliance monitors are not used as a negotiated prosecution tool because there is no deferred prosecution or non-prosecution agreement regime.

Article 144 of the Criminal Code does permit judicial supervision as a complementary penalty, under which the corporation carries on the activity that occasioned the offence under a court-appointed judicial agent for one to three years. The agent notifies the court if the entity has not taken the measures necessary to prevent new offences. However, this is punitive court supervision, not a prosecutor-selected corporate monitor.

71 ARE PARALLEL PRIVATE ACTIONS ALLOWED? MAY PRIVATE PLAINTIFFS GAIN ACCESS TO THE AUTHORITIES' FILES?

Yes. Injured persons may join criminal cases as a civil party or pursue a separate civil action.

The primary route is joinder as a civil party under articles 19 to 28 of the Criminal Procedure Code. The injured party may join the proceedings as a civil party until the judicial investigation commences, stating the nature and extent of the claim and the supporting evidence; otherwise, the claim must be pursued before the civil courts. This route is used heavily because it is cost-effective, benefits from the prosecution's evidence-gathering and provides access to precautionary measures over the defendant's assets.

A separate civil action is also available. The previous rule under which criminal proceedings indefinitely suspended the civil case has been narrowed: civil proceedings are suspended only after criminal proceedings have commenced, and only for a maximum of one year.

Access to the file is more restricted. The right to consult the file belongs only to the lawyer of a party or other principal procedural participant. A prospective claimant who has not joined the proceedings as a civil party therefore has no access. This is why claimants join criminal proceedings at an early stage.

PUBLICITY AND REPUTATIONAL ISSUES

72 OUTLINE THE LAW IN YOUR COUNTRY SURROUNDING PUBLICITY OF CRIMINAL CASES AT THE INVESTIGATORY STAGE AND ONCE A CASE IS BEFORE A COURT.

The investigation phase is non-public. Prosecutors may communicate certain procedural information under judicial system media rules, while protecting the investigation, personal data, fair trial and the presumption of innocence.

Court hearings are generally public. Exceptions apply in cases involving minors or where the court orders proceedings to be held in private because publicity could harm state interests, public morals, a person's dignity or private life, or the administration of justice. Judgments are pronounced publicly.

In practice, the position can differ. The authorities issue press releases when searches are conducted and indictments issued; those releases do not name suspects but are frequently detailed enough to make identification possible.

73 WHAT STEPS DO YOU TAKE TO MANAGE CORPORATE COMMUNICATIONS IN YOUR COUNTRY? IS IT COMMON FOR COMPANIES TO USE A PUBLIC RELATIONS FIRM TO MANAGE A CORPORATE CRISIS IN YOUR COUNTRY?

Companies should assume that the matter will become public at an early stage. Searches are frequently reported within hours and prosecution press releases are often the primary source of those reports.

The steps we would ordinarily take are to:

- prepare the underlying factual position before any anticipated enforcement action;

- appoint a single spokesperson;
- align the external statement with the regulatory disclosure position; and
- brief employees, key counterparties, lenders and any public sector clients whose procurement position may be affected.

Where the file is open, the company should be careful not to disclose material from it because doing so may breach the confidentiality obligations attaching to file access and may also antagonise the prosecutor.

Public relations (PR) firms are now commonly used in significant matters, particularly by listed and foreign-owned companies. Communications with PR firms are not protected by professional secrecy and should therefore be treated as potentially disclosable. Where the advice needs protection, the adviser should be engaged by the law firm under its defence mandate.

74 HOW IS PUBLICITY MANAGED WHEN THERE ARE ONGOING RELATED PROCEEDINGS?

Coordination and consistency are key. Companies should map every related criminal, civil, employment, insolvency and regulatory proceeding and agree a common factual narrative.

Statements should not prejudice individual defendants or witnesses, breach the confidentiality of an ongoing investigation or undermine civil positions. They should be confined to procedural facts and avoid commenting on identified individuals.

DUTY TO THE MARKET

75 IS DISCLOSURE TO THE MARKET MANDATORY IN CIRCUMSTANCES WHERE A SETTLEMENT HAS BEEN AGREED BUT NOT YET MADE PUBLIC?

For a listed issuer, yes, once the information constitutes inside information within the meaning of the EU Market Abuse Regulation. An agreed but unannounced settlement will ordinarily meet that definition: it is precise, relates directly to the issuer and constitutes information that a reasonable investor would be likely to use.

An issuer may nonetheless delay disclosure on its own responsibility where immediate disclosure would prejudice its legitimate interests, delay would not mislead the public and confidentiality can be ensured.

For unlisted companies, there is no market disclosure obligation.

ENVIRONMENTAL, SOCIAL AND CORPORATE GOVERNANCE

76 DOES YOUR COUNTRY REGULATE OR PROSECUTE ENVIRONMENTAL, SOCIAL AND GOVERNANCE MATTERS?

Yes, although the regime is relatively new and currently operates primarily as a reporting and compliance regime rather than an enforcement mechanism.

Romania transposed Directive (EU) 2022/2464 (the Corporate Sustainability Reporting Directive) through Order of the Minister of Finance No. 85/2024, replacing the previous non-financial reporting regime with sustainability reporting under the European Sustainability Reporting Standards. The requirements have applied since the 2024 financial year for the largest listed and public interest entities and are subject to limited assurance.

77 DO YOU EXPECT TO SEE ANY KEY REGULATORY OR LEGISLATIVE CHANGES EMERGE IN THE NEXT YEAR OR SO DESIGNED TO ADDRESS ENVIRONMENTAL, SOCIAL AND GOVERNANCE MATTERS, AND WHAT HAS BEEN THE RESPONSE TO ANY RECENT REGULATORY OR LEGISLATIVE CHANGE?

Three developments are likely to shape the environmental, social and governance (ESG) landscape in the near future.

Directive (EU) 2024/1760 (the Corporate Sustainability Due Diligence Directive) must be transposed by all EU member states by 26 July 2028. The Directive introduces due diligence obligations in respect of human rights and environmental impacts across the value chain, with civil liability and supervisory enforcement.

Directive (EU) 2024/1203 (the EU Environmental Crime Directive) expands the list of environmental offences, requires liability for legal persons and mandates turnover-linked fines. Although Romania missed the May 2026 transposition deadline, transposition is under way. This is the change most likely to alter the enforcement landscape because it would introduce turnover-linked corporate penalties for environmental offences, a feature otherwise absent from Romanian criminal law.

The European Commission's Omnibus I Package has narrowed the scope of, and deferred implementation deadlines under, the sustainability reporting and due diligence regimes.

78 HAS THERE BEEN AN INCREASE IN RELATED LITIGATION, INVESTIGATIONS OR ENFORCEMENT ACTIVITY IN RECENT YEARS IN YOUR COUNTRY?

Environmental enforcement has increased, primarily through the prosecution of traditional environmental offences rather than ESG litigation. Illegal logging has been the subject of sustained enforcement activity, including at the level of organised crime, and waste trafficking has generated cross-border investigations. Environmental non-governmental organisations have also obtained suspensions and merits rulings affecting major hydropower projects. By contrast, litigation based on sustainability reporting or disclosures remains limited.

ANTICIPATED DEVELOPMENTS

79 DO YOU EXPECT TO SEE ANY KEY REGULATORY OR LEGISLATIVE CHANGES EMERGE IN THE NEXT YEAR OR SO DESIGNED TO ADDRESS CORPORATE MISCONDUCT OR THAT MAY BE RELEVANT TO THE INVESTIGATION OF ALLEGED CORPORATE MISCONDUCT?

Several developments are expected over the coming years.

Directive (EU) 2026/1021 (the EU Anti-Corruption Directive) is the most significant in this regard. It entered into force on 31 May 2026 and harmonises bribery in the public and private sectors, misappropriation, trading in influence and abuse of functions. Of particular significance for corporate practice, the Directive provides for corporate liability where an offence results from inadequate supervision and introduces turnover-linked fines. Transposition is due by 1 June 2028, and it will displace the low 3 million lei ceiling.

The EU anti-money laundering package is also expected to be significant. Regulation (EU) 2024/1624 applies from 10 July 2027 and Directive (EU) 2024/1640 must be transposed by the same date. These instruments will introduce more detailed customer due diligence requirements, expressly place responsibility for anti-money laundering compliance on management and bring new sectors into scope, including cryptoasset service providers, traders in high-value goods, and professional football clubs and agents. These measures

are likely to lead to greater regulatory scrutiny, more referrals to prosecutors and more internal investigations into due diligence and reporting failures, while increasing the personal exposure of senior management.

Limitation remains unresolved and is the dominant practical issue. Following the CJEU's decision in ***Lin II*** (Case C-280/25, 16 July 2026), courts have begun reopening EU funds and tax evasion cases. The Prosecutor General takes the position that ***Lin II*** applies only to EU funds fraud and tax evasion above €50,000; the DNA considers that it also applies to corruption. Until there is clarification, the limitation position in each case must be assessed on its own facts.

The mandatory tax expertise requirement is also likely to generate further legislative and judicial developments. High Court Decision No. 430/2025 held that the absence of a tax expert report during an investigation renders the indictment irregular, requiring cases to be returned to prosecutors. In response, 118 prosecutors in Romania petitioned for an urgent amendment, arguing that the requirement causes cases to become time-barred. An amendment is likely, but whether it applies to pending cases is likely to be litigated.



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