DISPUTE RESOLUTION

Romania

LEXOLOGY
Getting The Deal Through

Consulting editor
Latham & Watkins LLP

Dispute Resolution

Consulting editors

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Latham & Watkins LLP

Quick reference guide enabling side-by-side comparison of local insights into litigation, arbitration and alternative dispute resolution (ADR) worldwide, including court systems; judges and juries; limitation issues; pre-action behaviour, starting proceedings and timetable for proceedings; case management; evidence; remedies; enforcement; public access; costs; funding arrangements; insurance; class action; appeals; foreign judgments and proceedings; the role of the UNCITRAL Model Law on International Commercial Arbitration; choice of arbitrator; arbitration agreements and arbitral procedure; court interventions in arbitrations; awards; types of ADR; requirements for ADR; other interesting local features; and recent trends.

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LITIGATION

Court system

What is the structure of the civil court system?

The Romanian civil court system comprises the following subdivisions: the first court, the Tribunal, the Court of Appeal and the High Court of Cassation and Justice. Depending on its nature or size, a claim may be settled in first instance by any of these courts, except for the High Court of Cassation and Justice, which is solely an appeal court (with some exceptions in special matters).

As a rule, from the point of view of the hierarchy of courts, a claim that has been settled in the first instance by the first court will be subject to appeal at the Tribunal and to a second appeal at the Court of Appeal. Similarly, a claim that has been settled in the first instance by the Tribunal will be subject to appeal at the Court of Appeal and to a second appeal at the High Court of Justice. A claim settled in the first court before the Court of Appeal will be subject to (final) appeal at the High Court of Justice. No omission of either of these jurisdictions is acceptable in the course of appeals.

However, following a major modification of the Romanian Civil Procedure Code, which came into force on 15 February 2013 (the New Civil Procedure Code), there have been some changes to the civil court system. Previously, any litigation case would normally go through all three degrees of jurisdiction described above. Under the new provisions, most claims will be settled only in the first instance and appeal, that is, in two degrees of jurisdiction; however, if a claim is important enough either by virtue of its nature or size, a second appeal will be open. During the transition phase from the former Civil Procedure Code to the New Civil Procedure Code, all the situations described above are possible, depending on the date on which the claim was first filed, with the New Civil Procedure Code applicable to claims filed from 15 February 2013 onwards.

There is one judge in the first instance, two judges in appeal and three judges in second appeal, with some exceptions in special matters. A recent government ordinance, which applies to cases initiated from 1 January 2023, abolished appeals adjudicated by three judges.

Specialised courts exist in matters such as relations between professionals, insolvency, family and minors. In addition, there are specialised sections within the courts in matters such as labour law, administrative and fiscal law, and insolvency.

The New Civil Code of Romania (the New Civil Code), which entered into force on 1 October 2011, replaced both Romania's Civil Code of 1864 and the former Commercial Code of Romania of 1887. Consequently, after 2011, in Romania, the notion of 'commercial relation' no longer exists, its equivalent (with certain differences) being 'relations between professionals'.

Law stated - 25 March 2022

Judges and juries

What is the role of the judge and the jury in civil proceedings?

The Romanian legal system does not include the participation of a jury in either civil or criminal proceedings.

The judge has an active, inquisitorial role, leading the settlement of the case and the hearings and, if necessary, asking for any clarifications and supplementary information and documents from the parties. A person may become a judge after taking a course at the Magistrates' National Institute and passing an exam. When graduating from the Magistrates' National Institute, a person may choose the court (that has openings available) where they want to adjudicate, in the order of their grades (as preference is given by the courts to those with higher grades).

Law stated - 25 March 2022

Limitation issues

What are the time limits for bringing civil claims?

The time limits for bringing civil claims differ, according to the nature of the claim and the subjective right at the basis of the claim. Generally, these limits range from one to 10 years, the general term being three years. However, some of the claims are not subject to a certain time limit, such as the claim for partition of certain goods jointly held by more owners.

According to the New Civil Code, in force since 1 October 2011, in certain limits provided for by the law, the parties may contractually agree to suspend time limits, to fix a different starting point of the time limit or to modify the duration of the time limit. Until the adoption of the New Civil Code, according to the former legal provisions on statutes of limitation (which still govern legal relations entered into before 1 October 2011), rules on limitation and its course were imperative and the parties could not derogate from them at their own will; although, the law described a small number of cases where limitation could be suspended or interrupted.

Law stated - 25 March 2022

Pre-action behaviour

Are there any pre-action considerations the parties should take into account?

In particular cases expressly established by law, preliminary procedures are compulsory. These procedures may consist of mediation, conciliation and inquiries at the notary public, and proof of fulfilment of these procedures will have to be attached to the action submitted to court. In addition, contracting parties may agree that preliminary procedures are to be followed pre-litigation. Other than such legal and contractual preliminary procedures, no pre-action exchange of documents may be considered a preliminary step for bringing an action. In Romania, there are no provisions allowing a pre-action disclosure order.

Law stated - 25 March 2022

Starting proceedings

How are civil proceedings commenced? How and when are the parties to the proceedings notified of their commencement? Do the courts have the capacity to handle their caseload?

Civil proceedings commence at the moment of submission of an action or claim in court by the claimant. Following the registration of the action or claim, a preliminary written procedure takes place solely between the court and the claimant, during which the court makes sure that the claim complies with all the mandatory conditions regarding its contents and that the claimant has filed all the necessary documents that need to be attached to the claim. Only after the claim fulfils all formal conditions does the court proceed to communicate such claim to the defendant and proceed to the issuance of orders regarding the further requests to be fulfilled by the parties, according to the legal provisions regarding civil procedure.

The caseload is a constant concern for the Romanian judicial system. The high degree of congestion in the courts affects the time in which a case is settled, with the duration provided for by law usually being exceeded. Measures to reduce the necessary time for adjudicating a dispute have included increasing the number of judges and also the adoption of the New Civil Procedure Code (which entered into force on 15 February 2013), which – as opposed to the

previous Civil Procedure Code – provides for a written submissions phase aimed at limiting the period when parties may submit defences and written evidence.

Law stated - 25 March 2022

Timetable

What is the typical procedure and timetable for a civil claim?

According to the New Civil Procedure Code, applicable to claims submitted after 15 February 2013, the typical procedure and timetable for a civil claim are as follows: after verifying the fulfilment of the formal conditions of the claim, the judge organises the communication of the claim to the defendant, accompanied by a note obliging the defendant to submit a statement of defence within 25 days of the communication of the claim. If the statement of defence is not submitted in time, the defendant may be unable to propose further evidence in its defence or invoke objections regarding the claim (except for objections of public order).

The submitted statement of defence will thereafter immediately be communicated to the claimant, accompanied by a note obliging them to submit an answer to the statement of defence within 10 days of the communication of the statement of defence.

Within three days of the submission of the answer to the statement of defence, the judge establishes the first court hearing, which will be no later than 60 days from this date. In urgent matters, these terms may be reduced by the judge, according to the circumstances of each matter.

Law stated - 25 March 2022

Case management

Can the parties control the procedure and the timetable?

The civil procedure and timetable are established by law. In practice, they are affected by the high degree of congestion in the courts, and the period in which a case is settled tends to be longer than what the law provides.

The parties have very little influence on the development of the case from this point of view, and their intervention is rather limited. The parties' conduct and diligence in fulfilling their procedural obligations and submitting the necessary documents on time may influence the duration of the case (which may be delayed on purpose), but under the New Civil Procedure Code, there are clear deadlines and sanctions for not meeting them, therefore limiting even more the possibility of the parties to influence the procedure and timetable. However, the parties establish the procedural frame (that is, the parties and the object of the claim) and other relevant elements of the trial, such as the evidence presented in support of the claim, and such frame directly influences both the procedure and the timetable.

Law stated - 25 March 2022

Evidence – documents

Is there a duty to preserve documents and other evidence pending trial? Must parties share relevant documents (including those unhelpful to their case)?

The admission and presentation of evidence before the court is an important stage of the civil trial. All documents invoked by a party in support of its claims must be presented to the court and to the other parties in certified copies. Upon the court's request, the party that submitted a certified copy of a document may be compelled to present the original. Failure to do so may result in the exclusion of the respective document from the body of evidence to the case.

The parties must share all relevant documents. If one of the parties informs the court that an opposing party owns a relevant document, the court may compel the latter to submit the document if the document is conjoint for both parties, if the party that owns it made reference to it or if, according to the law, the party is compelled to submit it.

Law stated - 25 March 2022

Evidence – privilege

Are any documents privileged? Would advice from an in-house lawyer (whether local or foreign) also be privileged?

There are several types of privileged documents. On the one hand, public authorities and institutions have a right to refuse the submission of documents related to national defence, public safety or diplomatic relations.

On the other hand, all documents that benefit from a confidentiality provision or agreement may only be presented upon the court's express instruction. The court may refuse to instruct the submission of a document if such submission would breach a legal confidentiality obligation, such as a lawyer's advice.

Law stated - 25 March 2022

Evidence – pretrial

Do parties exchange written evidence from witnesses and experts prior to trial?

In Romanian civil trials, all evidence is managed by and through the court. It is the court, at the parties' request, that allows for different types of evidence to be submitted. All exchanges of written evidence between the parties will be done only after the commencement of the trial. In addition, written evidence from witnesses and experts not appointed by court will only count as documents, not as witness statements or expert reports. The rule is that all evidence is presented directly in front of the judge and not by intermediary means.

Law stated - 25 March 2022

Evidence – trial

How is evidence presented at trial? Do witnesses and experts give oral evidence?

As a rule, evidence is presented directly to the court. The witness statement is given orally before the judge. Each of the parties has the right to address questions to the witness. The answers to these questions and the statement are written down by the court clerk and signed by the witness. The document thus drafted is attached to the file as a witness statement.

Experts primarily give written evidence in the form of an expert report that is submitted to the file. However, if the judge requires additional information, the expert may be called before the court for an oral statement of clarification.

There also exists the possibility that the administering of evidence is conducted between lawyers without the participation of the court, within a deadline set in this respect by the court. In practice, this procedure is very rarely used.

Law stated - 25 March 2022

Interim remedies

What interim remedies are available?

Search orders are not available in the Romanian civil procedure. Interim remedies are, however, at the parties' disposal. An interim levy or a freezing injunction may be placed in relation to the debtor's assets in particular conditions, upon the creditor's request. This measure freezes the assets of the debtor and prevents him or her from selling them, taking them abroad, etc. The levy may be lifted if the debtor provides a sufficient guarantee that the debt will be paid.

Law stated - 25 March 2022

Remedies

What substantive remedies are available?

Both punitive damages and interest are available according to Romanian law. Punitive damages are available in the case of observance of the debtor's fault. Interest is payable upon request, and its amount is either previously established by the parties or, in the absence of an agreement, the legal interest rate.

Law stated - 25 March 2022

Enforcement

What means of enforcement are available?

Any final or otherwise enforceable court decision or order can be enforced with the assistance of an enforcement officer and under the court's supervision, following the request of the creditor, if the debtor does not willingly obey the dispositions of the court.

Disobeying a court decision or order, aside from the criminal consequences, gives the creditor the right to request the application of enforcement procedures that may consist of the capitalisation of movables and immovables or the garnishment of bank accounts.

Law stated - 25 March 2022

Public access

Are court hearings held in public? Are court documents available to the public?

As a rule, court hearings are held in public sessions. In particular cases, the law provides that some types of claims are to be settled in the presence of the parties only. In addition, following a grounded request of a party, the court itself may instruct that hearings are held in the presence of the parties only.

Under the provisions of the New Civil Procedure Code, the trial has been divided into two phases: the administration of evidence and debate of any prior issues necessary for the settlement of the case, and the closing arguments, both to be held as a rule in public sessions.

Court documents are only available to the parties in the trial and their representatives. To study a file, applicants must present an identification document proving their capacity. Under specific conditions provided by the law, members of the press may study court documents.

Law stated - 25 March 2022

Costs

Does the court have power to order costs?

The court has the power to order several types of costs, including a stamp fee, bail and an expert's fee. The stamp fee is determined by law, according to the object and value of the litigation, and the court ensures that the claimant pays it. Payment of bail may be requested in several cases; for example, a request for suspension of the execution of a judgment. According to the New Civil Procedure Code, unless otherwise established by law, bail will not exceed 20 per cent of the value of the claim or 10,000 lei for claims that cannot be evaluated. The expert's fee is determined according to the complexity of the case and the amount of work to be completed by the expert. In Romania, there is no provision requiring a claimant to provide security for the defendant's costs. There are no new rules governing how courts rule on costs.

Law stated - 25 March 2022

Funding arrangements

Are 'no win, no fee' agreements, or other types of contingency or conditional fee arrangements between lawyers and their clients, available to parties? May parties bring proceedings using third-party funding? If so, may the third party take a share of any proceeds of the claim? May a party to litigation share its risk with a third party?

The legal provisions regulating the relations between lawyers and clients forbid a pactum de quota litis . However, the parties to the legal assistance contract are free to set any combination of fixed or hourly fees and success fees, the latter being due from the client only if a certain result is reached.

Litigation funding by a third party is not officially provided for within the Civil Procedure Code. Therefore, third-party funding of the proceedings is permitted, according to the principle that in civil proceedings everything that is not interdicted is permitted. However, third-party funding is not frequently used in Romania. The third-party funding will be governed by the agreement concluded between the funder and the beneficiary. Therefore, third-party funding of the proceedings generates private law effects between the third party and the beneficiary but does not affect the procedural frame unless the third party purchases the rights stemming from the claim and becomes a party in the trial. In this case, there are certain cases in which certain third parties cannot purchase the rights stemming from the claim. In the absence of such formal purchase, any understanding between a party of a trial and a third party exceeds the limits of the trial and will be dealt with separately.

Law stated - 25 March 2022

Insurance

Is insurance available to cover all or part of a party's legal costs?

It is possible to sign an insurance policy covering a party's legal costs, as well as the opponent's costs, if such a judgment is issued.

Law stated - 25 March 2022

Class action

May litigants with similar claims bring a form of collective redress? In what circumstances is this permitted?

The concept of class actions is not regulated in Romania. However, several litigants may address the court with a collective claim if their rights stem from the same cause or if there is a close connection between their claims. These elements (same cause, connection) must be justified in front of the court. In addition, class actions may be filed by organisations representing the interests of its members; for example, a trade union can represent its members in a claim with respect to labour rights. There are no new developments regarding class actions.

Law stated - 25 March 2022

Appeal

On what grounds and in what circumstances can the parties appeal? Is there a right of further appeal?

The parties can file an appeal against the judgment of the first court. There are different grounds of appeal, depending on the particular conditions of each case. As a rule, all judgments issued in the first court can be appealed, unless otherwise provided by the law, because in Romania the double degree of jurisdiction principle is recognised by the law.

A second appeal is possible against a judgment issued in appeal. In particular cases expressly provided by law, a judgment can only be appealed once, with no possibility for a further appeal. The law enumerates the grounds for filing a second appeal. Failure to prove the existence of one of these grounds results in the annulment of the second appeal.

The law also provides further means of appeal that are only applicable in particular conditions.

Law stated - 25 March 2022

Foreign judgments

What procedures exist for recognition and enforcement of foreign judgments?

The recognition and enforcement of foreign judgments is governed either by the Civil Procedure Code or by reciprocal agreements. According to the Civil Procedure Code, foreign judgments are directly recognised in Romania in expressly provided cases. Apart from these cases, foreign judgments are recognised after the fulfilment of several conditions, among them the existence of a reciprocal agreement with the issuing state.

Law stated - 25 March 2022

Foreign proceedings

Are there any procedures for obtaining oral or documentary evidence for use in civil proceedings in other jurisdictions?

Obtaining oral or documentary evidence for use in civil proceedings in other jurisdictions is possible, in accordance with the provisions of EC Regulation No. 1206/2001 of 28 May 2001 on cooperation between the courts of the member states in the taking of evidence in civil or commercial matters. The applicable procedure provides that, to obtain evidence, the foreign court must address the Romanian court with a standard request, indicating the procedure step to

be fulfilled and all relevant details.

Law stated - 25 March 2022

ARBITRATION

UNCITRAL Model Law

Is the arbitration law based on the UNCITRAL Model Law?

No; Romania has not transposed the UNCITRAL Model Law into national law. The provisions with respect to arbitration are contained within the Civil Procedure Code, which does not follow the Model Law.

Law stated - 25 March 2022

Arbitration agreements

What are the formal requirements for an enforceable arbitration agreement?

The arbitration agreement must be concluded in writing, otherwise it is deemed null. The condition of the written form is considered fulfilled when the referral to arbitration was agreed following an exchange of correspondence, notwithstanding its form, or exchange of procedural deeds. If the arbitration agreement refers to a dispute regarding the transfer of a right to immovable property or regarding the constitution of other real rights over immovable property, then the arbitration agreement must be concluded in a notarised authentic form under the absolute nullity sanction.

Law stated - 25 March 2022

Choice of arbitrator

If the arbitration agreement and any relevant rules are silent on the matter, how many arbitrators will be appointed and how will they be appointed? Are there restrictions on the right to challenge the appointment of an arbitrator?

In such a situation, three arbitrators will be appointed, one by each party and the third arbitrator – the chair – by the other two arbitrators.

An arbitrator may be challenged in cases of incompatibility, namely if he or she finds him or herself in one of the situations of incompatibility provided for judges in the Romanian Civil Procedure Code (eg, the arbitrator previously expressed his or her opinion in relation to the solution in the dispute that he or she was appointed to settle; there are circumstances that justify the doubt that he or she, his or her spouse, ancestors or descendants have a benefit related to the dispute; his or her spouse or previous spouse is related (at a maximum, to the fourth degree) with one of the parties; etc) or for the following reasons that cast doubt on the arbitrator's independence and impartiality:

- he or she does not meet the qualifications or other requirements regarding arbitrators provided in the arbitration agreement;
- a legal person whose shareholder the arbitrator is or in whose governing bodies the arbitrator is bears an interest in the case;
- the arbitrator has employment relations or direct trade links with one of the parties, with a company controlled by one party or that is placed under common control with the latter; or
- the arbitrator has provided consultancy to one of the parties, assisted or represented one of the parties or testified in one of the earlier stages of the case.

The challenge request must be filed within 10 days from the moment that the party was informed of the appointment of the arbitrator or from the moment that the cause for challenge occurred.

Law stated - 25 March 2022

Arbitrator options

What are the options when choosing an arbitrator or arbitrators?

Under Romanian arbitration law, any natural person with full capacity to exercise his or her rights may act as an arbitrator, without any other criteria needing to be met (eg, citizenship, as the previous rules stipulated, or certain qualifications).

If the parties agree to arbitrate under the purview of the Bucharest Court of International Commercial Arbitration (CICA), they must check the specific requirements set out in the regulations of this arbitral institution. For arbitral disputes initiated after 1 January 2018 under the purview of CICA, the new rules that entered into force on 1 January 2018 apply.

The list of arbitrators of CICA comprises reputed professors of law and lawyers with a high degree of experience in various areas of law, including niche areas of law. Thus, the pool of candidates meets the needs of the majority of complex arbitral disputes.

Law stated - 25 March 2022

Arbitral procedure

Does the domestic law contain substantive requirements for the procedure to be followed?

Under Romanian law, provided that the arbitration clause is valid, the parties are free to determine the procedural laws applicable to the arbitral proceedings or may entrust such choice to the arbitral tribunal.

However, there are some limitations as to the parties' freedom to determine the procedural rules applicable. In this respect, the law provides that the rules chosen by the parties must observe the fundamental principles of civil procedure, namely:

- no arbitrator can refuse to judge, arguing that the law does not provide for the specific case at hand or is unclear or incomplete;
- the arbitral proceedings must be conducted in such a manner to ensure equality of parties and that they are treated in an equal and non-discriminatory manner;
- the parties are free to dispose of their rights (by waiving them, acknowledging the other party's claims, etc) and can choose to initiate or not the arbitral proceedings;
- the object and limits of the arbitral proceedings are to be determined by the parties' claims and defences;
- the parties are obliged to oversee the obligations and deadlines imposed by the arbitral tribunal and to substantiate or prove their claims and defences, thus ensuring that the procedures are conducted in a timely manner;
- the parties must exercise their procedural rights in good faith, so as not to adversely affect the procedural rights of the other party;
- each party has a right to defence and is allowed to participate in any and all phases of the proceedings, have access to the case file, request evidence and present its oral and written pleadings;
- the arbitral proceedings must be conducted in an adversarial manner and ensure that all aspects presented

during the proceedings are subject to comments or arguments from both parties;

- the arbitral proceedings must be conducted in an oral manner, except for the situation where the parties have expressly requested that judgment be based solely on the written submissions and evidence on file;
- the evidence must be administered before the arbitral tribunal, except for situations where the parties have decided otherwise;
- the arbitral tribunal vested with the resolution of the case cannot be replaced during the proceedings except for limited situations and in accordance with the law; and
- the arbitral tribunal must decide the case in accordance with the legal provisions applicable and must endeavour to establish the truth in the case, based on the parties' pleadings and evidence administered.

Law stated - 25 March 2022

Court intervention

On what grounds can the court intervene during an arbitration?

The court has a limited role with regard to an ongoing arbitration case. As a matter of principle, a court (namely the tribunal whose jurisdiction covers the seat of the arbitration), may intervene to remove impediments that occurred in the organisation and development of the arbitration proceedings or to fulfil particular duties belonging to the courts; for example, following the request of one of the parties, the court may order precautionary or provisional measures regarding the object of arbitration, ascertain various circumstances of fact, or intervene in the selection of arbitrators by appointing an arbitrator (when the party who should appoint him or her fails to cooperate) or the presiding arbitrator (chair) if the parties do not agree on the appointment of the sole arbitrator or, in the case of a three-panel arbitral tribunal, when the two arbitrators do not agree on whom should they appoint as presiding arbitrator.

Law stated - 25 March 2022

Interim relief

Do arbitrators have powers to grant interim relief?

The arbitral tribunal has the power to grant interim relief by ordering precautionary or provisional measures or ascertaining various circumstances of fact, and if the parties do not obey those orders there is the possibility to request the intervention of the court.

Law stated - 25 March 2022

Award

When and in what form must the award be delivered?

If the parties do not agree otherwise, the arbitral tribunal must render its award within six months of its constitution, under the sanction of caducity of the arbitration (that is, the expiry or nullity of the arbitration proceedings following the lapse of the time allowed for its settlement). The party who intends to invoke such sanction if the arbitration term is not observed must indicate so in writing at the first hearing, or else the caducity sanction will not be applied.

The award must be delivered in written form, which must be communicated to all the parties involved within one month of its issuance.

Law stated - 25 March 2022

Appeal

On what grounds can an award be appealed to the court?

The grounds for setting aside an arbitral award are limited to the following:

- the dispute is not arbitrable;
- the arbitral tribunal was vested in the lack of an arbitration agreement or under a null and void or ineffective agreement;
- the arbitral tribunal was not constituted in accordance with the arbitration agreement;
- the party was not present at the hearing and the summoning proceedings were not legally fulfilled;
- the award was rendered outside the six-month deadline for arbitrage, although one of the parties raised the time limitation objection and the parties refused to continue the proceedings (caducity of the arbitral tribunal);
- the arbitral tribunal ruled on aspects that had not been requested for or granted more than requested (ultra petita);
- the award does not include the relief granted and the reasoning, does not indicate the date and place of the arbitral seat, or is not signed by the arbitrators;
- the award is contrary to the public policy, good moral conduct or mandatory provisions of Romanian law; and
- following the date on which the award was rendered, the Romanian Constitutional Court declares as unconstitutional the law, the ordinance or any legal provisions part of a law or ordinance related to the arbitration.

The court decision rendered following a setting-aside claim can also be further appealed before the superior court of law for formal reasons.

Law stated - 25 March 2022

Enforcement

What procedures exist for enforcement of foreign and domestic awards?

Domestic awards can be enforced in the same manner as court decisions. Foreign awards must first follow a special procedure for recognition and enforcement, with the observance of certain formal conditions similar to those provided by the New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards of 1958, including situations in which recognition and enforcement are denied.

Enforcement procedures have not been affected by changes in the political landscape.

Law stated - 25 March 2022

Costs

Can a successful party recover its costs?

Yes; assuming there is no agreement between the parties regarding the costs incurred, the winning party can recover its costs on the condition that it requests and proves such costs. The arbitral tribunal will include the order for the defendant to pay those costs within the arbitral award.

The court has the power to order the losing party to cover several types of costs incurred by the winning party, including judicial taxes, experts' fees, lawyers' fees and other expenses incurred in relation to the court proceedings

(eg, travel expenses). The court has the ability to limit the amount of the prevailing party's attorneys' fees by taking into account the difficulty of the litigation, the actual amount of work required from the attorneys and other similar elements. If a claim is only partly admitted, the court may order the costs to be shared (ie, each party will cover their own costs).

Law stated - 25 March 2022

ALTERNATIVE DISPUTE RESOLUTION

Types of ADR

What types of ADR process are commonly used? Is a particular ADR process popular?

The most commonly used ADR process until recently was conciliation. In the past couple of years, though, mediation has become more popular. However, because mediation is more expensive than conciliation, which is usually organised by the parties themselves or by the assisting attorneys, conciliation remains the more popular procedure. Also, mediation has seen a decline owing to the removal of its mandatory nature in particular cases, following a decision of the Romanian Constitutional Court issued in 2014.

Adjudication is also used, generally in disputes arising from International Federation of Consulting Engineers contracts.

Law stated - 25 March 2022

Requirements for ADR

Is there a requirement for the parties to litigation or arbitration to consider ADR before or during proceedings? Can the court or tribunal compel the parties to participate in an ADR process?

Since August 2014, mediation has no longer been compulsory before submitting a claim to court.

If either the law or the contract provides for another type of preliminary procedure, such as adjudication, the courts or tribunals may compel the parties to undergo that procedure.

Law stated - 25 March 2022

MISCELLANEOUS

Interesting features

Are there any particularly interesting features of the dispute resolution system not addressed in any of the previous questions?

There are some interesting issues, such as the settlement of contradictory judgments, incidents during enforcement procedure and the rules of legal representation, but these require a more technical approach than is required for this publication.

Law stated - 25 March 2022

UPDATE AND TRENDS

Recent developments

Are there any proposals for dispute resolution reform? When will any reforms take effect?

No updates at this time.

Law stated - 25 March 2022

Jurisdictions

Australia	Clayton Utz
Austria	OBLIN Attorneys at Law
Belgium	White & Case LLP
Cayman Islands	Campbells
China	Buren NV
Cyprus	AG Erotocritou LLC
Denmark	Lund Elmer Sandager
Ecuador	Paz Horowitz
Egypt	Soliman, Hashish & Partners
Germany	Martens Rechtsanwälte
Greece	Bernitsas Law
Hong Kong	Hill Dickinson LLP
India	Cyril Amarchand Mangaldas
Indonesia	SSEK Legal Consultants
Israel	Lipa Meir & Co
Japan	Anderson Mōri & Tomotsune
Liechtenstein	Marxer & Partner Rechtsanwälte
Luxembourg	Baker McKenzie
Malaysia	SKRINE
Malta	MAMO TCV Advocates
Pakistan	RIAA Barker Gillette
Panama	Patton Moreno & Asvat
Philippines	Ocampo, Manalo, Valdez & Lim Law Firm
Romania	Zamfirescu Racoți Vasile & Partners
Russia	Morgan, Lewis & Bockius LLP

South Korea	Jipyong
Switzerland	Wenger Vieli Ltd
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