Environment

1. Are the Romanian environmental laws aligned with the European Directives?

In anticipation of Romania's accession to the European Union, Romanian authorities made serious efforts in order to transpose the principles of EU Directives in the field of environmental law and, at the time of this report, the most important EU Directives have already been implemented.

2. Which are the authorities entrusted with the application of environmental laws?

The Ministry of Environment, Waters and Forests (Ministry EWF) is the authority in charge of the environmental protection strategy and the general coordination of the authorities entrusted with the application of environmental laws. At the same time, the Ministry EWF is responsible for the national strategy in the fields of water management, fishing, forests, management of floods, as well as the coordination of the local water management bodies. The main authorities involved in the application of environmental and water protection laws are:

- The National Environmental Protection Agency;
- The local environmental protection agencies;
- The local water management bodies;
- The National Environmental Guard.

3. Which are the environmental permits required for implementing environmental impacting projects?

Implementing projects that may generate impact on the environment requires a two-tier authorisation. On the one hand, such projects may only be developed subject to obtaining an environmental agreement (Romanian: *acord de mediu*), which sets out the conditions to be fulfilled to ensure that the implementation (construction) of the project complies with the statutory environmental requirements. The environmental

agreement is one of the documents substantiating the application for a building permit.

On the other hand, the operations phase may not be commissioned until the operator obtains an environmental authorisation (Romanian: *autorizație de mediu*), which is separate from the environmental agreement. Such document lays down the specific rules to be followed when carrying out the authorised activity.

3.1. What is an environmental agreement?

By law, applying for and obtaining the environmental agreement is mandatory in order to start, amend or expand private or public projects which may have substantial environmental impact.

An environmental agreement is issued further to conducting a complex procedure coordinated by the environmental protection agencies at different levels or, in certain cases, by the Ministry EWF itself.

As a first step in this legal procedure, the environmental authorities conduct a preliminary assessment aimed at establishing the magnitude of the environmental impact possibly generated by the project. For projects deemed to generate minor impact, the law prescribes a simplified authorisation procedure, the project developers being allowed to begin construction works without an environmental impact assessment. For projects generating an important impact on the environment, developers are invited to prepare an environmental impact assessment. To this end, after having consulted the interested members of the public, the competent authority prepares a checklist with the items to be covered in the report. The report is submitted by the environmental authority for public debate. Based on the findings in the environmental impact assessment report and, if the case, on the comments received from the public, the environmental authority takes its decision on issuing the environmental agreement. The decision is published in the media, so as to allow interested parties to challenge it. The environmental agreements are valid for the whole duration of project development. The public potentially affected by the project and the NGOs specialising in environmental protection play an important role in the procedure, as they have the right to participate in the process by submitting their points of view in relation to the project and by taking part in public debates organised by the environmental authorities.

For projects that may generate impact on the environment of neighbouring countries, the Ministry EWF conducts consultations with the relevant authorities of the potentially affected state. Decisions on issuing the environmental agreement in such cases must take into account the comments and suggestions received from the

potentially affected state.

3.2. What is an environmental authorisation?

While the environmental agreement is the document regulating the implementation of environment impact projects, activities with possible impact on the environment may only be carried out subject to an environmental authorisation. The authorisation sets forth the requirements and specific technical conditions to be complied with when carrying out the authorised activities with significant impact on the environment.

Further, the environmental authorisation may provide for a set of measures to be implemented in order to reduce the impact on the environment, establishing also the time schedule for implementing the respective measures. Failure to abide by its terms may trigger the suspension or annulment of the environmental authorisation.

3.3. In which cases are integrated environmental agreements and integrated authorisations required?

For installations subject to the Industrial Emissions Directive, integrated environmental agreements and integrated environmental authorisations are required.

The integrated environmental agreement is the document setting out the conditions to be fulfilled to ensure that development (construction) of the project complies with the statutory environmental requirements. Applying for a building permit is only possible after having obtained the integrated environmental agreement.

The integrated environmental authorisation sets forth the specific technical conditions to be complied with when operating an installation subject to the IPPC regulations. While establishing measures to reduce the impact is allowed in environmental authorisations, the integrated environmental authorisation is issued only if the installation in question complies with the best available techniques.

4. How can an investor assess the environmental obligations related to a certain activity?

Whenever the operator of an activity generating significant impact on the environment is subject to change of control, sale of assets, merger, spin-off, concession or other operations entailing a change of the operator, such operations must be notified to the local environmental protection agency, in order for the latter to inform the parties

involved on the specific environmental obligations they must undertake.

Having received the list of environmental obligations, the parties involved in any of the operations above will negotiate the allocation of such obligations among them. The exact manner in which the parties involved understood to split the responsibility for fulfilment of the relevant environmental obligations must be notified to the local environmental protection agency.

However, it should be noted that the list provided by the public authority may not always reflect accurately the environmental issues related to a specific asset. Whereas the authority usually grounds its assessment on existing regulatory acts, it is advisable to have a technical consultant perform environmental due diligence to confirm potential issues.

5. What permits are required for securing the right to use water resources?

While most waters are included in the public domain of the state and administered by a special governmental agency (Administrația Națională "Apele Române"), the Government has the exclusive right to establish the rules governing the use of waters, irrespective of whether water sources are included in the public domain or not.

Unless the relevant water installations exceed a certain capacity, the use of underground and surface waters is free for small activities specific to households, such as human and animal consumption. The right to use waters for other activities is only granted through administrative acts regulating the terms and conditions of use, namely:

- The water management permit (Romanian: *aviz de gospodărire a apelor*); and/or
- The water management authorisation (Romanian: *autorizație de gospodărire a apelor*).

The water management permit is a prerequisite document when beginning construction works for new investment projects built on/near water sources, or related to the use of waters. Applying for a building permit is possible only after having obtained the water management permit.

The water management authorisation is required before the commissioning and exploitation of new projects built on/near water sources, or which are related to the use of water. The water management authorisation regulates in detail the terms and conditions under which the use of water is allowed.

Exceptionally, for certain projects or activities, the law exempts the project developers/

operators from their obligations to obtain the water management permit or the water management authorisation. In this situation, a mere notification to the relevant branch of Administrația Națională "Apele Române" will suffice.

6. Does Romania have a scheme for limitation of CO2 emissions?

In 2001, Romania was among the first states to ratify the Kyoto Protocol regarding the framework Convention of the United Nations with respect to climate changes. In 2006, Romania transposed Directive 2003/87/EC establishing a scheme for greenhouse gas emission allowance trading within the Community.

As of 1 January 2007, any operator of equipment listed in Annex I to Directive 2003/87/EC must hold a greenhouse gas emission authorisation and an adequate number of greenhouse gas emission certificates allowing a certain level of greenhouse gas emissions.

At the same time, starting 1 January 2007, Romania has implemented a greenhouse gas emission trading scheme.

7. Are there express noise level thresholds to be observed?

The Romanian standards in the field of noise pollution stipulate that any constructions which may generate environmental noise must be placed in such a way so as not to exceed certain thresholds over inhabited areas.

Currently, the continuous noise level measured under certain technical conditions must not exceed the standard level of 55 dB. During the night, the limit is 45 dB.

Aside from the above general limits, the law prescribes special noise limits applicable to specific cases (e.g., restaurants located in residential buildings).

In the field of noise impact, Romania has implemented Directive 2002/49/EC relating to the assessment and management of environmental noise, thus implementing a system aimed at preventing the negative effects caused by environmental noise. Public authorities must prepare noise maps for the noisy areas identified in the law (for big cities, airports, roads, railways, harbours, sites where industrial activities are performed) and propose action plans that would help prevent and reduce the impact of environmental noise.

8. How does Romania plan the management of protected areas?

Romanian legal framework was aligned to EU requirements primarily through the implementation of Directive No. 92/43/EEC on the conservation of natural habitats and of wild fauna and flora, Directive 2009/147/EC on the conservation of wild birds and Council Directive 2006/105/EC of 20 November 2006 adapting Directives 73/239/EEC, 74/557/EEC and 2002/83/EC in the field of environment following accession of Bulgaria and Romania to the EU.

In Romania, there are several types of protected areas, depending on their importance:

- Protected areas of national interest;
- Protected areas of international interest;
- Protected areas of Community interest or Natura 2000;
- Protected areas of local interest.

Management of protected areas is usually ensured by the National Agency for Protected Areas or by special units under the control of public administration bodies, national companies, research institutions, museums or state-owned enterprises.

The management of the Danube Delta Wildlife Reservation is entrusted to the Danube Delta Wildlife Reservation Administration, an entity created especially for this purpose and placed under the direct control of the Ministry EWF.

For each protected area, management plans and regulations are prepared in order to detail the rules and restrictions applicable within the area. Such management plans and regulations are approved by the Ministry EWF. The possible influence of any environmental impact projects on the protected areas is subject to assessment within the environmental impact assessment procedure conducted for the purpose of obtaining the relevant environmental agreement.

9. Does Romania have special rules on environmental liability?

The liability for damages caused to the environment is governed by the principle "the polluter pays" and Romania has implemented Directive No. 2004/35/EC on environmental liability with regard to the prevention and remedying of environmental damages. Operators must promptly inform the local environmental protection agency on any damage caused to the environment, as well as on any imminent threat of such damage. In any such situation, the operator must take all necessary repair and/or

precautionary measures.

If the operator does not comply with these obligations, or if the operator is not identified, the relevant environmental protection agency is entitled to take all repair or precautionary measures itself, on the account of the operator who has to bear the related costs. In order to recover the costs, the environmental protection agency may proceed to seizing the goods of the operator. If damage to the environment or a threat of such damage is caused by two or more operators, they will be jointly liable.