

Clifford Chance Badea: Companies need to get ready for Brexit, no matter their profile, nor the Brexit scenario that will eventually materialize



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Unknown aspects aside, Brexit will radically change the economic landscape, and Romanian companies will feel the short and long-term impact. Therefore, real preparation is needed and a customised plan that would help them limit negative effects, maximize opportunities and efficiently react to economic realities, according to lawyers at Clifford Chance Badea, the local office of global firm Clifford Chance.

Radu Ropota, counsel with the Banking & Finance and Capital Markets Practice and head of the Restructuring and Insolvency practice, said: "The European Commission has proposed a series of measures in case of the so called hard Brexit, both at Union level, and at state member level. Regarding the measures at state member level, currently most countries in the EU have already drafted Brexit contingency plans aimed at limiting the negative impact in areas such as financial markets and citizens' rights. For instance, in financial markets - measures mainly aimed to ensure continuity of financial services (banking and investment) provided by UK-regulated entities, based on pre-Brexit contracts. In Romania, the National Bank has issued so far a press release regarding hard Brexit and financial services on Romanian territory, basically saying that banking and payment activities provided through an European passport will end on 30 March 2019, unless authorisation is given by the National Bank."

As part of the contingency plan, the European Commission said that "contingency measures implemented by national authorities or by the European Union cannot replace the actions that each citizen and enterprise must take in order to prepare for the UK leaving", a relevant principle being that contingency (emergency) measures must not be designed so as to remedy delays that could have been avoided through preparation and prompt actions by relevant, interested parties.

Currently, the **Clifford Chance Badea** team identifies three main areas that a Romanian company seeing Brexit as relevant needs to take into account, no matter the way that the UK will eventually choose to leave the European Union.

1. The impact will be indirect, but stronger and longer lasting

"No matter how ironic this sounds, no man is an island entire of itself, and this quote is applicable to all areas. As such, no matter their activity, companies operate within a connected economy, and this means that there will be a domino effect to be experienced in Romania as well sooner or later", **Radu Ropota** says. "As long as our country is commercially dependent on European economies that will be affected by Brexit, we will have to face the consequences here as well. This applies to our suppliers, producers, commercial partners, clients."

2. Companies need to draft their own Brexit plan

"We expect a direct impact for some companies and economic areas. With this in mind, every company that could be affected needs to do its own due diligence of internal activities and processes, to identify areas that are directly or indirectly linked to the UK or to English law", **Georgiana Evi**, *associate with the Banking & Finance and Capital Markets practice of Clifford Chance Badea*, said.

"For example, if they depend on a production/ supply chain of British products, or if they export to the UK; if they send data to the UK as part of personal data processing; if they benefit from services regulated by UK-regulated entities (financing or others); if they have securities or invest in securities listed on the London Stock Exchange; if they have contracts regulated by English law or UK jurisdiction; if they have British management or British employees. Depending on their findings, corresponding measures need to be identified and implemented."

3. Brexit may also bring opportunities for Romanian companies

Following such a planning, companies may identify market areas that could generate business opportunities, the moment that the UK competition on the European market diminishes (for example, in the food sector).

At a local level, the **Clifford Chance** office is currently advising clients in relation to regulatory aspects (banking and payment services, financial investment services, personal data protection), as well as commercial aspects.

Ever since the UK has announced its intention to organize a Brexit referendum, Clifford Chance has set up a Brexit HUB to analyse the entire process, its impact on the economic environment and the relationship between the EU and the UK. These efforts were acknowledged by the London business environment, and the firm was awarded the Risk Advisory (Brexit) Firm – Specialist of the Year Award in February, at The Legal 500 UK 2019 Awards.

"Our mindset is to anticipate and be proactive on all relevant subjects setting the global public agenda, in order to prepare our clients for any scenario", **Daniel Badea**, Managing Partner of the Bucharest office, adds. "Brexit will definitely generate a completely new jurisprudence in many areas. The most recent example is the huge victory of our London colleagues that will influence judicial practice from now on – the winning of a £500 million court case for Canary Wharf Group against the European Medicines Agency (EMA), rejecting the EMA's case that their lease of premises in Canary Wharf would be legally frustrated as a result of Brexit. This is an extremely important decision that will influence other similar court cases."

The Brexit scenarios, their implications on the business environment, the risks and opportunities for Romanian companies from various sectors were discussed during a seminar organised by **Clifford Chance Badea**, last week, with the local team and global team support, through the participation of **Gail Orton** (*Head of EU Public Policy*).

The event was attended by companies in key industries such as Banking, Insurance, Investment funds, Real Estate, Energy, Oil & Gas, Technology, Food processing, and Agribusiness. The agenda looked into the impact on commercial contracts and applicable law, personal data protection, and financial services in case the UK leaves the European Union on March 29, 2019.

Clifford Chance has been present in Romania since 2006 and operates now as Clifford Chance Badea. The Bucharest office is fully integrated in the global network and is frequently involved in complex transactions such as syndicated loans, project finance, restructurings, Eurobonds and shares issues on international capital markets, derivatives, companies' acquisitions by strategic investors or private equity funds, infrastructure and motorway projects, real estate investments etc., as well as domestic and international litigation and arbitration.