



PROJECT FINANCE INTERNATIONAL

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Romania – Light and shadows

PFI Global Infrastructure Report 2019

Romania has a 2018–2020 governing programme that recognises the development of infrastructure of all types as a second-to-none policy focus. Its 2019 National Reform Programme includes a number of priority actions that would be conducive of growth in combination with commercially focused institutional assistance to businesses and a true partnership between the public and private sectors. By **Adriana Gaspar, Nestor Nestor Diculescu Kingston Petersen (NNDKP)**.

The current Dancila Cabinet has identified 22 infrastructure projects of strategic importance and counting.

The European Parliament Elections of May 2019 have, however, changed the political map in Romania after the ruling party severely fell in polls and lost its president to prison for 3.5 years.

The Dancila Cabinet has committed to reassessing the criticism from the opposition and revising the governing programme under the pressure of an upcoming motion of no-confidence or early elections.

An inviting outlook

Romania has seen historical under-investment in infrastructure and mounting pressure to replace and expand facilities. Its economic development has outgrown existing capacities and the country faces compelling requirements to meet applicable EU standards for various categories of infrastructure and an increased need to facilitate cross-border trade of goods and utilities.

It is generally expected that the country will:

- i) Launch investment catalyst, job creation and GDP increase-driven programmes, where transport infrastructure of all types and new energy capacities emerge as absolute priorities;
- ii) Assert itself as a uniquely placed hub for the majority of BRIC countries trading with Central and Western Europe, through massive infrastructure and logistic developments, including water and terrestrial logistic corridors to the Western European states;
- iii) Capitalise on European Union (EU) financial commitments to the country to develop much-needed social infrastructure or less productive infrastructure reducing regional disparities and containing the most concerning surfacing and surging shortage of educated, as well as less qualified, workforce due to emigration; European funded infrastructure could also scale-up Romania's research and development (R&D) and agri-business performance, allowing investors to drastically out-perform regional peers in these sectors.

Formal government approvals have been issued for the development of the following projects as PPP arrangements:

* *Motorways*– Ploiesti to Brasov (109km), tendered for the fourth time since 2003 to achieve swift commuting between several business and touristic-intense areas of the country, Bucharest to Lugoj (550km) aiming to secure time and cost-efficient connection between the southern and the western borders of Romania, and Târgu Neamt to Iasi (100km), just launched, linking East Romania and the Republic of Moldova to Europe;

* *High-speed railways*– Bucharest to Budapest (1,275km) and Ploiesti to Suceava (505km);

* *Underground*– Bucharest;

* *Airport*– Bucharest South, for dual passenger (30m) and cargo use;

* *Port and navigation facilities* – Piers 3 and 4 of Constanta Port – a gate to the European Union for seaborne freight and the inception point for the Constanta Rotterdam logistic corridor – to accommodate large cargo vessels, and development of the Bucharest Danube navigation line by appropriate works on the Arges and Dâmbovitza rivers;

* *Hydro-technical developments* – Siret Baragan Channel (190km) as major water supplier for agriculture and households and naval transportation, and Turnu-Magurele Nicopole hydrotechnical complex to be built on the Danube;

Power– 1,000MW hydro-power plant Tarnita-Lapussti, with major contribution to Romania's energetic independence and safety;

* *Plant*– Electric-powered vehicles;

* *Health care* – Hospitals in Braila-Galati, Timisoara and Târgu-Mures, multi-specialities clinic in Bucharest, first tender declared unsuccessful, operation of 15 hospitals in Bucharest, plasma, blood and stem cells bank with a minimum of ten regional centres, University Medical City including hospital, medical R&D and university facilities in the proximity of Bucharest;

* *Tourist resorts* – Winter sports resort in Fagaras (centre of Romania), including 150km of ski slopes, and luxury summer resort along 2.5km of beach on the Black Sea Coast.

The 2019 National Reform Programme includes, in addition, a wide array of infrastructure projects, ranging from more traditional transport, utilities and municipal services infrastructure, such as the Integrated Infrastructure for the Orbital Zone of Bucharest, to R&D and cyber-security infrastructure.

Also included are multi-purpose IT infrastructure and the edification of smart cities, from national alternative fuel infrastructure projects and high energy efficiency cogeneration to pan-European projects such as Extreme Light Infrastructure-Nuclear Physics – ELI-NP, the International Centre of Advanced Studies for Rivers-Deltas-Seas or the newer Advanced Lead Fast Reactor European Demonstrator (ALFRED).

Finally, it has approved energy and oil and gas infrastructure projects aiming to enhance the exchange capacity with neighbouring countries and participation in regional projects, such as the Corridor Bulgaria–Romania–Hungary–Austria (BRUA), the Southern Transit Corridor on the territory of Romania for taking over the natural gas from the Black Sea coast.

The political dynamics in Romania could lead to a stand-still period for the review and reassessment of projects in preparation or under initial stages of contracting, as well as for health-checking projects undergoing implementation in various phases.

Continuity of growth-fostering projects immune to political changes, coherence of strategy all the way from concept through implementation and commitment to business environment enhancement to prevail over any other commands are key for the upcoming period. However, priority ranking of the projects is critical to observe technical, financial and institutional capabilities to develop and implement the projects.

Development and implementation

Massive criticism is directed by political opposition as well as by investors towards the government's choice, preparation, award or implementation of infrastructure or infrastructure-related projects.

Insufficient analysis of the economic efficiency of the projects, unrealistic or unnecessary technical requirements, underestimated budgets, significantly outdated feasibility studies, non-existence of geo-technical studies and inability to execute the contracting authority's obligations to enable the progress of the works are among the most frequently expressed concerns.

Land expropriation, preparation and delivery to the contractors, permitting, and securing of finance are examples of actions that often lag behind contractual deadlines and milestones, exposing the project to delays, increased costs due to lack of predictability, loss of momentum or litigation.

Specifically, as it pertains to public-private partnership arrangements, the award documentation seems generally oblivious to the need that the project prove productive for the private partner to undertake it, bankable to allow funding by financiers and adequately balanced in terms of risks to secure timely implementation within the budget.

There is a long and many times unsuccessful journey for the private partner to correct the perception and start-off the project on sound contractual ground.

Legislative framework

Romania has a recognised functional market economy, an EU-shaped legislative and an institutional framework generally bridging investment culture gaps.

Romanian legislation imposes the principles of non-discrimination and equal treatment between the bidders upon the award of a publicly-procured contract, therefore, no express legal regime is provided for national or EU bidders to the detriment of other foreign bidders.

In particular, the contracting authority must not restrict competition by requiring the conformity of goods, services or works with a specific national or European standard but should rather accept all equivalent international standards.

While the legislation governing the award of contracts for the development of public infrastructure represents largely the localised version of the EU directives on public procurement, the implementation thereof has been for the past years one of the most severe source of disputes and failure of projects and top-ranking among the concerns of various investor associations.

Public-private partnership arrangements have been explored for almost two decades as an option for large infrastructure projects; still, Romania has taken no credit for PPPs. The legislation has never been supportive enough and the most recent regulation on PPPs is still to receive implementing norms.

The implementation of hybrid projects, with financing secured both from European funds and under PPP arrangements, is generally viewed as key for upcoming transport and environment infrastructure development. However, EU-endorsed hybrid PPP projects have had little success, in general, and there is no precedent in Romania.

Institutional capabilities

Over the past decade, various factors have inhibited Romania's ability to design and pursue a coherent country strategy for infrastructure and the development of major pillar infrastructure projects. In the face of opposition to the governmental agenda, it has failed to offer predictability and to facilitate convergence of policies, efforts and resources.

Frequent staff changes are draining the already scarce experience and know-how in the public sector and negatively impacting the continuity of projects and vital public-private.

In 2018, strategic infrastructure projects were transferred by law from the relevant ministries that were acting in the name of the government for the development thereof, towards the National Commission for Strategy & Prognosis (NCSP), which has no track record of infrastructure development to capitalize on.

It is a growing concern that the NCSP will not be able to make its limited resources, experience, documentation and good practices available to the institutions previously in charge of infrastructure projects. Furthermore, there is a fear that projects might get lost in the gaps between the roles of various institutions in the development or implementation thereof. A highly competent advisory team to the contracting authority is a must.

Time-wise, the Romanian state's offering for strategic projects along with many other projects that are in the pipeline or pending implementation shows a very long-term potential of infrastructure investment in the country.

Summary

The slow pace of infrastructure development has maintained Romania's investment absorption capacity at an outstandingly attractive level and the country currently offers high potential for good returns on investment.

While promising and vibrant, the government's agenda of projects is indicative of needs only; the priority ranking of the projects to watch for launching will be given by budgetary limitations, whether for on- or off-balance sheet projects, cross-border agreements and institutional capacity.

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