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# National legislation

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Romania

Romania



This page provides you with information about the Romanian legal system and an overview of the law in Romania.

## Sources of law

The sources of Romanian law are:

- the [Romanian Constitution](#);
- legislation adopted by Parliament (constitutional law, organic law and ordinary law);
- the decrees of the President of Romania;
- legislative acts of the Government (orders, emergency orders, decisions);
- legislative acts issued by central government (Ministerial orders, guidelines and regulations);
- legislative acts issued by the local government bodies (the County Council, the Local Council, the Bucharest Municipality General Council);
- [European Union law](#) (regulations, directives);
- [international treaties](#) to which Romania is a party.

## Types of legal instruments – description

The Romanian legal framework includes the following legal instruments:

- The Constitution is the supreme law in Romania. It regulates Romania's structure as a national, single and indivisible State, the relations between the executive, the legislative and the judicial powers, and between the public bodies, citizens and legal persons.
- Constitutional law emanates from the constituent power, i.e. from the constituent assembly elected and convened for this purpose.
- Organic law deals with fields of major importance for the State, such as national borders, Romanian citizenship, the state coat of arms and seal, the legal arrangements for property and inheritance, and the organisation and conduct of referenda; criminal offences, sentences and rules on their enforcement, the organisation and functioning of the Superior Council of Magistracy, of the courts, of the Public Prosecution Service and of the Court of Auditors, the rights of persons harmed by a public authority, national defence, the organisation of government bodies, and political parties.
- Ordinary law governs all other fields not covered by organic law. An ordinary law may not amend or modify a higher norm, such as an organic law or the Constitution.
- In special cases (parliamentary recesses), certain fields, as established by Parliament, may be governed by Government orders based on the delegation of legislative powers. Orders are enacted on the basis of a special act of empowerment within its limits and under its conditions. In an emergency the Government may enact emergency orders in any field if considered necessary.
- Government decisions determine how laws are to be effectively enforced or other organisational aspects regarding their application.
- Legislative acts (orders and guidelines) are issued by central government solely on the basis of and in order to enforce laws, Government decisions and orders.
- Acts of the autonomous administrative authorities

- Legislative acts passed by local government authorities (County Council, Local Council, Bucharest Municipality General Council) govern fields falling within their competence.

## Other sources of law

- [ECHR case-law](#) and the case-law of EU courts.
- Although national case-law is not a source of law, judgments by the [High Court of Cassation and Justice](#) in order to ensure the uniform interpretation of certain legal provisions unquestionably represent secondary sources of law. Moreover, the judgments of the Constitutional Court, which produce effects *erga omnes* and not *inter partes litigantes*, may be regarded as secondary sources of law.
- Pursuant to Article 1 of Law No 287/2009 on the Civil Code, the sources of civil law are the law, practices and general principles of law. Here 'practices' means tradition (customs) and professional practices.
- The abovementioned provisions lay down the following rules for the application of practices as a source of law:
  - Practices apply in cases not provided for by law; where no practices exist, the legal provisions regarding similar cases apply and, in the absence of such provisions, the general principles of law will apply.
  - In the matters governed by law, practices are applied only insofar as the law refers expressly to them.
  - Only practices consistent with public policy and accepted principles of morality are recognised as sources of law.
  - The interested party must prove the existence and content of the practices. Practices published in collections drawn up by the relevant authorised entities or bodies are presumed to exist unless there is evidence to the contrary.

## Hierarchy of norms

The hierarchy of norms in Romania is the following:

- The Romanian Constitution and constitutional law rank first in the hierarchy of legal rules. All other legislative acts must comply with them.
- Organic law ranks second in the hierarchy of law. Parliament enacts organic laws by qualified majority.
- Ordinary law constitutes the third category of legal norms. Parliament enacts ordinary laws by simple majority. An ordinary law may not amend or modify organic laws or the Constitution.
- Government orders constitute the fourth category of norms.
- Government decisions constitute the fifth category of norms in the hierarchy of law.
- Legislative acts passed by central government and the autonomous administrative authorities constitute the sixth category of norms in the hierarchy of law;
- Legislative acts passed by local government (County Council, Local Council, Bucharest Municipality General Council) rank last in the hierarchy of norms.

## Institutional framework

### The institutions responsible for the adoption of legislation

In accordance with the Constitution, the State is founded on the democratic constitutional principles of the separation of powers and of checks and balances between the State powers (legislative, executive and judicial).

Power is also divided between and exercised by Parliament, the Government and the judicial authorities. The [Constitutional Court](#), the [Romanian Ombudsman](#) (*Avocatul Poporului din România*), the [Court of Auditors](#) (*Curtea de Conturi*) and the [Legislative Council](#) (*Consiliul Legislativ*) also safeguard the balance of powers between public authorities and citizens.

Parliament is the citizens' supreme representative body and the only legislative authority in the country. It comprises [the Chamber of Deputies](#) and [the Senate](#). In principle, legislative power pertains exclusively to Parliament, but in certain cases it shares this function with the [executive \(Government\)](#) and the electors (citizens).

The [Government](#) may enact orders under specific competence legislation adopted by Parliament. In exceptional cases that must be handled urgently, the Government may also enact emergency orders.

## Legislative decision-making process

The legislative decision-making process comprises three stages:

1. The governmental or pre-parliamentary stage refers to:

- the preparation of the draft legislation at Government level;
- the submission of the draft legislation for public debate under the conditions laid down by law;
- endorsement by the Legislative Council, at inter-ministerial level and by other institutions;
- the adoption of the draft legislation by the Government.

2. The Parliamentary stage refers to:

- the submission of the draft legislation act to one of the Chambers (the Chamber of Deputies or the Senate as first Chamber), depending on the competences established under the Romanian Constitution;
- discussion and adoption of the report/opinion on the draft legislation act in the standing Parliamentary committees (special committees may also be set up under specific circumstances);
- in the plenary session, the first Chamber delivers its opinion on the draft legislation and legislative proposals referred to it within 45 days from the date of their submission to the Standing Bureau;
  - in the case of codes and other particularly complex legislation, the time limit is 60 days from the date of submission to the Standing Bureau;
  - for Government emergency orders, the time limit is 30 days.
- if these deadlines are exceeded, the draft legislation or the legislative proposal is deemed to have been adopted and is forwarded to the Chamber of Deputies for the final decision.

Draft legislation/legislative proposals are then voted on (approved or rejected) and forwarded to the Decisional Chamber (the Chamber of Deputies or the Senate), which will adopt the final version of the legislative act.

3. The post-parliamentary stage refers to:

- the constitutional check on the law (the *a priori* check) (the Constitutional Court confirms the compatibility of the law with the Constitution). This check may be requested by the [President of Romania](#), by the President of either Chamber, by the Government, by the [High Court of Cassation and Justice](#), by the Romanian Ombudsman or by at least 50 deputies or 25 senators, and ex-officio in the case of a Constitutional review.
- Finally, the law is promulgated by the President within 20 days of receiving it. Where the President requests a re-examination of the law (only one such request is possible) or of its constitutionality, the law will be promulgated within 10 days of its reception after it has been reviewed or after receipt from the Constitutional Court of confirmation that the law complies with the Constitution.
- The law enters into force within three days of publication in the [Official Gazette of Romania](#), Part I or on a later date mentioned in the law.

## Legal databases

a) The [Legislative Portal](#), managed by the Ministry of Justice, is a law information system which enables quick, free and unrestricted access for any interested person to national law in updated and consolidated form. This application interconnects with the European common gateway to National Law [N-Lex](#).

The Legislative Portal was developed by the Ministry of Justice under a project for which a grant was received from the European Social Fund under the '*Administrative Capacity*' Operational Programme.

The database is updated on a daily basis and provides access to over 150 000 laws from 1989 to date, and to a series of previous relevant laws.

The database may be searched using multiple criteria, such as:

- words in the title;

- words in the text;
- type of document;
- document number;
- type and number of official publication;
- date of publication;
- the authority enacting the law, etc.

b) Another [legal database in Romania](#) designed, managed and updated by the Legislative Council also provides free public access to Romanian legislation.

This is the online version of the *Directory of Romanian Law*® – the official record of Romanian law which provides accurate and correct information on the legal status of each law at different moments in time.

The database covers the period between 1864 and the present.

The database may be browsed using the following criteria:

- category/type of legislative act;
- number;
- enactment year (period);
- publication interval;
- official publication (type, number, year);
- keywords in the title;
- status of the act (in force, no longer in force);
- other criteria (legislative, individual/published, unpublished).

The Intranet of the Legislative Council hosts a database updated with detailed legal information needed for the specific activity of endorsing draft legislation and to provide information useful during the legislative process.

c) Another [legal database](#) (although organised differently) may also be accessed on the website of the [Chamber of Deputies](#) (one of the Parliamentary chambers). Searches may be performed by:

- type of legislative act;
- number;
- date;
- public authority which issued the legislative act;
- publication date and keywords (in the title and in the main body of the act).

## Is access to the database free of charge?

Yes, access to the database is free of charge.

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