Which country's court is responsible?

Rumania

1 Should I apply to an ordinary civil court or to a specialised court (for example an employment labour court)?

In Romania, in addition to ordinary courts, there are specialised sections or panels for dispute resolution with regard to certain matters.

Pursuant to the provisions of Law No 304/2004 on judicial organisation, the High Court of Cassation and Justice (Înalta Curte de Casație și Justiție) has 4 sections – Civil Section I, Civil Section II, the Criminal Section, the Administrative and Tax Litigation Section – the Nine-Judge Panel and the Joint Sections, each having their own jurisdiction. Courts of appeal, tribunals or, as appropriate, district courts have specialised sections or panels for civil cases, criminal cases, cases involving minors and family matters, cases involving administrative and tax disputes, cases related to labour disputes and social insurance, companies, the Trade Register, insolvency, unfair competition, maritime and fluvial cases. Specialised tribunals may be set up to rule on the above matters, as appropriate.

2 Where the ordinary civil courts have jurisdiction (i.e. these are the courts which have responsibility for such cases) how can I find out which one I should apply to?

The Code of Civil Procedure sets out the ordinary procedure for civil cases. Its provisions also apply to other matters, in so far as the laws governing them do not provide otherwise.

Articles 94 to 97 of the Code of Civil Procedure govern the subject-matter jurisdiction of civil courts of law.

As courts of first instance, district courts hear the following cases involving applications that can (cannot) be measured in terms of money:

applications which are, pursuant to the Civil Code, within the jurisdiction of the custody and family court;

applications related to registration in civil status records;

applications related to the administration of multi-storey buildings/apartments/spaces owned exclusively by different persons and the legal relationships established by homeowners' associations with other natural or legal persons;

applications for eviction;

applications related to shared walls and ditches, the distance between buildings and plantations, rights of way, easements, other limitations affecting ownership rights;

applications related to changes in boundaries and to marking boundaries;

applications for the protection of possessions;

applications related to obligations to carry out or not to carry out actions which cannot be measured in terms of money;

applications for judicial partition, regardless of the value involved;

applications for the court declaration of the death of a person;

applications related to inheritance, regardless of the value involved;

applications related to positive prescription, regardless of the value involved;

applications related to land, except for those which are by special law within the jurisdiction of other courts;

other applications that can be measured in terms of money, up to and including RON 200 000, regardless of the parties' capacity.

District courts hear appeals against the decisions of the public authorities with jurisdiction and other bodies with jurisdiction. District courts also hear any other applications which are by law within their jurisdiction.

Tribunals hear:

as courts of first instance, all the applications which are not by law within the jurisdiction of other courts;

as courts of appeal, the appeals against judgments handed down by judges at first instance;

as courts of review, applications for review against judgments handed down by district courts, which, under the law, are not subject to appeal, and in any other cases expressly provided for by the law;

any other applications which are by law within their jurisdiction.

Courts of appeal hear:

as courts of first instance, applications relating to administrative and tax disputes;

as courts of appeal, appeals against judgments handed down by tribunals at first instance;

as courts of review, applications for review against judgments handed down by tribunals on appeal or against judgments handed down at first instance by tribunals which, under the law, are not subject to appeal, and in any other cases expressly provided for by the law;

any other applications which are by law within their jurisdiction.

The High Court of Cassation and Justice hears:

appeals against judgments of courts of appeal and other judgments, in the cases provided for by law;

reviews in the interest of the law;

applications in relation to a prior ruling for clarifying certain legal matters;

any other applications which are by law within its jurisdiction.

2.1 Is there a distinction between lower and higher ordinary civil courts (for example district courts as lower courts and regional courts as higher courts) and if so which one is competent for my case?

The Romanian civil judicial system distinguishes between lower and higher courts, with jurisdiction related to subject matter being established among different-ranking courts according to functional (type of duty) and procedural criteria (value, subject matter or nature of dispute).

The Code of Civil Procedure has brought changes in terms of jurisdiction, and tribunals have become courts with full jurisdiction to hear the substance of cases at first instance. The jurisdiction of district courts includes hearing small and/or less complex claims, which are highly frequent in practice.

Courts of appeal have jurisdiction to mainly hear appeals, while the High Court of Cassation and Justice is the ordinary court of review which ensures the uniform interpretation and application of the law at national level.

2.2 Territorial jurisdiction (is the court of city/town A or of city/town B competent for my case?)

2.2.1 The basic rule of territorial jurisdiction

In the Romanian civil judicial system, the rules on territorial jurisdiction are laid down in Article 107 et seq. of the Code of Civil Procedure.
According to the general rule, the application is lodged with the court in whose area the defendant's domicile or registered office is located.

2.2.2 Exceptions to the basic rule

There are specific rules on territorial jurisdiction, such as:
if the defendant’s domicile/registered office is not known, the application shall be lodged with the court in whose area the defendant's residence /representative office is located, and, if that is unknown, with the court in whose area the claimant's domicile/registered office/residence/representative office is located;
an application against a legal person governed by private law may be also lodged with the court in whose area one of its branches without legal personality is located;
an application against an association, company or other entity without legal personality may be lodged with the court that has jurisdiction over the person who, as agreed by its members, has been entrusted with its management or administration; in the absence of such a person, the application may be lodged with the court that has jurisdiction over any of the members of the entity in question;
applications against the State, central or local authorities and institutions and other legal persons governed by public law may be lodged with the court in whose area the applicant's domicile/registered office is located or with the court in whose area the defendant's registered office is located.

2.2.2.1 When can I choose between the court in the place where the defendant lives (court determined by the application of the basic rule) and another court?

The Romanian Code of Civil Procedure lays down a number of rules of alternative jurisdiction (Articles 113 to 115). Thus, the following courts also have territorial jurisdiction:
the court in the place where the applicant is domiciled (applications for establishment of parentage);
the court in the place where the applicant/creditor is domiciled (maintenance obligation);
the court in the place where the contractual obligation is to be performed;
the court in the place where the immovable property is located (leases, land registration/justification/correction);
the court in whose area departure/arrival takes place (transport agreements);
the court in whose area payment is made (bills of exchange, cheques, promissory notes or other securities);
the court in whose area the consumer is domiciled (compensation for damages to consumers in connection with agreements concluded with professionals);
the court in whose area the unlawful act was committed or the damage caused, for applications concerning obligations arising from such an act.
Where the defendant regularly carries out professional activities/agricultural, commercial, industrial or similar activities away from their domicile, the application may be also lodged with the court in whose area the activities are carried out, insofar as concerns pecuniary obligations arising or to be performed in that place.
In respect of insurance matters, an application for damages may also be lodged with the court in whose area the insured party's domicile or registered office is located, in whose area the insured party's assets are located or in whose area the insured risk has materialised.
The choice of jurisdiction under an agreement is deemed to be null and void if carried out before the right to compensation has arisen, while, in respect of matters concerning compulsory civil liability insurance, the injured third party may initiate direct proceedings also before the court in whose area their domicile /registered office is located.
In the case of applications regarding the protection of natural persons, where, pursuant to the Civil Code, the custody and family court is competent, it is the court in whose area the protected person's domicile/residence is located that decides on the question of territorial jurisdiction. In the case of applications for the authorisation, by the custody and family court, of the conclusion of certain legal acts (in relation to an immovable property), the court in whose area the immovable property is located also has jurisdiction. In this case, the custody and family court that has handed down the judgment delivers a copy of the judgment to the custody and family court in whose area the protected person has his/her domicile/residence.
An application for divorce falls within the jurisdiction of the district court in whose area the last joint home of the spouses is located. If there is no such joint home or if neither spouse lives any longer in the area of the district court having jurisdiction where the joint home is located, the competent district court is the one in whose area of jurisdiction the defendant’s home is located. If the defendant does not live in Romania and the Romanian courts have international jurisdiction, the court in whose area the applicant’s home is located has jurisdiction. If neither the applicant nor the defendant lives in Romania, the parties may agree to lodge the application for divorce with any district court in Romania. In the absence of such agreement, the application for divorce shall be lodged with Bucharest's 5th District Court (Article 915 of the Code of Civil Procedure).
Applications for the resolution of individual labour disputes shall be lodged with the tribunal in whose area the applicant's domicile/place of work is located (Article 269 of Law No 53/2003 – Labour Code).

2.2.2.2 When do I have to choose a court other than that in the place where the defendant lives (court determined by the application of the basic rule)?

The rules laying down exclusive territorial jurisdiction are set out in Articles 117 to 121 of the Code of Civil Procedure. Thus:
applications concerning rights in rem in immovable property may be lodged only with the court in whose area the immovable property is located. If the immovable property is located in the areas of jurisdiction of several courts, the application must be lodged with the court in whose area the defendant has their domicile/residence, if it is located in any of these areas of jurisdiction, or, if not, with any of the courts in whose area the immovable property is located. The provisions also apply to possessory actions, applications for the marking of boundaries, applications concerning restrictions on a right in immovable property and applications for judicial partition of an immovable property, where undivided co-ownership does not result from succession;
in matters of inheritance, until the severance of undivided co-ownership, the court in whose area the last domicile of the deceased is located has exclusive jurisdiction over applications concerning:
the validity or execution of testamentary dispositions;
inheritance, associated charges and those related to the heirs’ possible claims against one another;
applications of legatees/creditors of the deceased against any of the heirs/the executor of the will;
in respect of applications related to companies, until completion of liquidation/deregistration proceedings, the court in whose area the company has its principal office has exclusive jurisdiction;
the tribunal in whose area the debtor's registered office is located has exclusive jurisdiction over applications related to insolvency/creditors’ arrangements;
applications submitted by a professional against a consumer may be lodged only with the court in whose area the consumer is domiciled.

2.2.2.3 Can the parties themselves attribute jurisdiction to a court that would not be competent otherwise?

Parties may agree in writing or, in respect of ongoing disputes, by means of a verbal statement before the court, that cases related to assets and other rights they may have should be heard by other courts than those that would have territorial jurisdiction, unless they have exclusive jurisdiction. In disputes concerning the protection of consumers’ rights and other cases provided for by law, the parties may agree on the choice of competent court only after the right to compensation has arisen, any agreement to the contrary being deemed null and void (Article 126 of the Code of Civil Procedure).

Ancillary, additional and incidental applications come under the jurisdiction of the court that is competent for the principal application, even if they fall within the subject-matter or territorial jurisdiction of another court, except for applications concerning insolvency or creditors' arrangements. These provisions also apply where the jurisdiction over the principal application has been laid down by law in favour of a specialised section or panel. If a court has exclusive jurisdiction over one of the parties, it shall have exclusive jurisdiction over all parties (Article 123 of the Code of Civil Procedure).
Moreover, pursuant to the provisions of Article 124 of the Code of Civil Procedure, the court that has jurisdiction to rule on the principal application shall also rule on defences and exceptions, except for those that are preliminary matters and fall within the exclusive jurisdiction of another court, while procedural incidents are heard by the court before which they are raised.
The issue of a general lack of courts' jurisdiction may be raised by the parties or by the judge at any stage in the case. The issue of a lack of subject-matter and territorial jurisdiction of public order must be raised at the first hearing to which the parties have been duly summoned before the court of first instance, while a lack of jurisdiction of private order may be raised only by the defendant, through the defence or, if defence is not mandatory, at the latest at the first hearing to which the parties have been duly summoned before the court of first instance. If the lack of jurisdiction is not of public order, the party that has lodged the application with a court that has no jurisdiction will not be able to request a declaration of lack of jurisdiction (Article 130 of the New Code of Civil Procedure).
In civil disputes with cross-border implications, in matters concerning rights freely available to the parties under Romanian law, if the parties have validly agreed that the Romanian courts have jurisdiction to rule on current or possible disputes in relation to those rights, only the Romanian courts shall be competent to rule on such matters. Unless the law provides otherwise, the Romanian court before which the defendant is summoned remains competent to rule on the application if the defendant appears before the court and submits defences as to the substance of the case, without raising an objection of lack of jurisdiction at the latest by the end of the stage of inquiry into the case before the court of first instance. In the two above-mentioned situations, the Romanian court to which the matter has been referred may dismiss the application if it becomes clear, from all the circumstances of the case, that the dispute has no significant link to Romania (Article 1067 of the New Code of Civil Procedure).

3 Where specialised courts have jurisdiction how can I find out which one I have to address?

See answers to questions 1, 2, 2.1., 2.2., 2.2.2.1., 2.2.2.2.

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