

Viva la revolution!

Romania

Nestor Nestor Diculescu Kingston Petersen

The events of the past two decades have left Romania's legal landscape in a state of constant flux, but one firm is riding the winds of change and leading its own revolution in client care

Talk to any commercial lawyer around the world about client care and you will hear how the last 25 years have seen huge changes in this area. A new focus on accessibility and reliability – not to mention industry know-how and commercial expertise – has transformed the service that law firms offer. However, seldom is the difference between the old way of doing business and the new as stark as in Romania. Ion Nestor, a founding partner of Nestor Nestor Diculescu Kingston Petersen (NNDKP), refers to the years before the bloody overthrow of the Ceausescu regime in 1989 as “the dark period”, and it is something that he experienced first hand.

A new way of doing business

Before 1989, Nestor and his wife Manuela worked as in-house lawyers for state-owned enterprises, advising on international transactions. This gave them an unusually strong background in international commercial law at a time when few Romanian lawyers had any experience of foreign working methods. When the opportunity came to put this knowledge to use they seized it with both hands, founding their own firm in February 1990 – a scant few months after the revolution. Right from the firm's inception, the emphasis was on a different way of doing business, one that would appeal to international clients as

well as to Romanians. This dual focus was cemented in 1995 when two American partners, Patricia Petersen and Andrew Kingston, joined the firm. Nestor explains how the resulting entity had the knowledge and skills to navigate the (sometimes impenetrable) Romanian legal system, combined with the commercial experience and knowledge of a more US style of doing business. “It taught us the importance of client care,” he says, describing how crucial this exposure to international working methods has been in shaping the firm.

Adriana Gaspar, a senior partner who joined the firm 12 years ago, explains that client care has evolved as the firm has grown. She was previously a magistrate and a judge at the Bucharest court, as well as a professor at the University of Bucharest Law School, and joined the firm soon after it was founded. “I feel I have grown with the firm,” she laughs. She describes how it quickly became apparent that taking excellent care of clients would help NNDKP set itself apart from competitors. However, this was not always an easy thing to instil. “Before '89, lawyers did not include clients in the decision-making process and this is still the case outside Bucharest,” she explains. “There was no reporting to the client. Instead, clients had to chase lawyers to find out what was going on. There was also little need for, and thus little knowledge of, foreign languages in the provision of legal services.” In addition to these cultural and linguistic barriers, there was the problem of access to legal knowledge. Under Communism, legal studies and practice had been severely restricted and Romanian lawyers were simply not trained in certain areas, particularly commercial ones. “Clients would be told that certain transaction types were simply not recognized by law or in commercial practice,” Gaspar says.

However, these difficulties seem to have acted only as a spur to the firm. “We have worked hard to change the type of relationship,” Gaspar says, with admirable understatement. “We decided early on that we needed to specialize in order to assist clients in pursuing their issues. We also realized that it was important for us to know our client's industry, their commercial goals.” While it's always good to learn that firms are taking on the importance of

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Right:
Ion Nestor



commercial expertise, for this to be such a priority in these circumstances is truly impressive. Nestor, though, is a long way from resting on his laurels. He believes that despite all the firm has accomplished in the last 18 years, it can still do better. “Honestly, we are far from achieving what we would like to,” he says. “We are supported by bright young partners sharing the same spirit and goal. But fighting inertia and inherent defects in the training of young lawyers is still a challenge.”

Education, education, education

Given issues with domestic legal training – Nestor says “the law faculties in Romania are not yet experienced enough to give students much beyond knowledge of the law” – it is little surprise to learn that NNDKP has put in place several programmes to address this. However, rather than simply shoring up the gaps in new recruits’ knowledge, the firm has used this as an opportunity to reach out to its clients. Gaspar explains that a particular area in which Romanian lawyers have little experience is EU law – it is simply not covered sufficiently in law schools to satisfy clients’ real-life requirements. Given that many of NNDKP’s clients are multinationals and that Romania joined the European Union on January 1 2007, this lack of knowledge is a critical concern. The firm therefore commissioned a reputable organization, the Academy of European Law, to build a course in EU law, tailored to its in-house training needs and taught by instructors from Brussels and Luxembourg. Once this was underway, the firm invited clients, including in-house counsel, to participate in the course. “This was very much appreciated, and not just for the opportunity to learn: it also showed clients that we are committed to learning about EU regulations,” Gaspar explains. “It always reassures clients to know we have the knowledge they need.”

Inviting clients to attend workshops and seminars at NNDKP is not unusual. It gives in-house counsel the chance to take advantage of the high-quality training in which the firm has invested – a concrete, professional benefit for them – while providing opportunities for clients to mingle and interact with NNDKP lawyers, helping to

establish relationships and trust. It also gives the firm the chance to demonstrate to domestic clients the value that good lawyers can bring to a business. “It’s amazing to see – not immediately, not the next day or even the next year – that if you are consistent in your approach and seek out ideas of sound legal background and sound legal knowledge, it pays off,” Gaspar says.

This patient approach towards results has also governed the firm’s decision to open up more regional offices in order to extend its reach throughout the whole country, not just the commercially sophisticated environs of Bucharest. Rather than rushing in, this expansion has taken place slowly, with each office being firmly established before the next is considered. “We are trying to build offices that really represent the firm and offer the same standard of client care,” Gaspar says. “This is difficult and requires dedication.” The firm’s first step in its carefully calibrated programme of expansion was to open a regional office in Timisoara (the northwest of Romania is second to Bucharest in terms of investment) at the end of 2004. A third office in Brasov followed in 2007, while a fourth is due to open mid-2008 in Cluj. This slow and steady growth ensures that the firm can offer an unrivalled domestic service throughout the whole of the country – increasingly important as investment finally trickles in to long-neglected infrastructure (of which, more below).

Checks and balances

Of course, recognizing the importance of client care is one thing, but managing it in order to meet and even exceed clients’ expectations is entirely another. Nestor describes how the firm has developed a system through which it tries to implement and control client satisfaction. First, the lawyer in charge of a project must write a report on his or

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her estimation of the client's satisfaction with the project, which is placed in a centralized database. There is a twice-yearly internal audit where representatives of the firm liaise with clients and ask them about their experiences working with the firm. Practice heads then go through this information and, where necessary, act upon it.

While ideally this only serves to confirm that NNDKP lawyers are consistently delivering excellent service, Nestor knows that this is an area in which there is no room for complacency. "Sometimes we must restore the relationship," he says. Client care at the firm is led by lawyers, so it is lawyers who step in if an issue is identified. "In real life, you can't standardize reactions and situations – or solutions," says Nestor, explaining why there is no set response to an issue being raised. Instead, a lawyer will be asked to look into it and to react appropriately. "The first person to restore the relationship is the lawyer dealing with the client or project. If the situation is more serious then we address it at a higher level, involving the head of practice or one of the managing partners." If the problem has resulted in dissatisfaction, then lawyers might offer discounts or other incentives in order to rectify the relationship.

How they deal with clients and the health of their client relationships is part of the way in which NNDKP lawyers are assessed; specifically, it is an area on which they are graded when it comes to their reviews. While lawyers are not rewarded directly for standards of client care, their performance in this area will affect their overall remuneration.

A long road

All this emphasis is necessary and well timed because of the myriad commercial opportunities opening up in Romania, most of which focus on the country's infrastructure. This

has suffered from severe under-investment over the last 25 years, with roads being a particular problem: Gaspar estimates that there are only 350 kilometres of motorway throughout the entire country, which is the second largest in Eastern Europe after Poland. There is also a dire shortage of airport facilities and adequate port infrastructure in the area around the Black Sea.

The firm's proactive involvement in this area demonstrates its flair for reading the prevailing mood and seizing opportunities. In October 2007 it organized a conference on public-private partnerships (PPPs) – the classic model for organizing investment in infrastructure projects – with speakers attending from nine different countries, including Romania. Less than a month later the first PPP project in Romania was announced – a contract of between €1 billion and €2 billion for a big motorway being built between Comarnic and Brasov; NNDKP represented one of the bidders.

Gaspar expects this project to be followed by many more. However, the advent of this type of work has thrown up its own unique set of challenges. Quite simply, there haven't always been available in Romanian legislation all ingredients necessary to meet investors' PPP-related expectations. Gaspar explains how lawyers at the firm have worked hard to translate some alien concepts into workable Romanian solutions. "We tried to understand what was specific to this instrument and what is permitted under the Romanian Constitution in order to offer the client a comparable product." She points out that this is not an isolated example: for instance, there are no concepts of trust and trustee in Romanian law. Thus, NNDKP lawyers have become adept at interpreting non-Romanian legal concepts or instruments and working out equivalents. This saves multinational clients the headache of trying to find a



Left:
Adriana Gaspar

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fit in a law with which they may not be familiar, and means that the firm is actively making Romania a more inviting place for multinationals to do business. Of course, this takes place only where NNDKP lawyers are confident they can offer a high-quality solution. “We’re not always able to offer all the tools clients are looking for. For instance, capital markets is an area that is being developed now at good pace, but not long ago it was too early for sophisticated investments therein,” Gaspar says.

A look at NNDKP’s work and its approach to clients reveals that it is has been able to act as an entry point for multinational companies looking to start operations in a complicated and unfamiliar legal system. The firm has

been clear sighted enough to recognize gaps in the training of its lawyers and accordingly to remedy these. It has also understood how radically attitudes towards clients and legal services have changed, particularly with regard to what international clients expect. At the same time, NNDKP has not neglected the many opportunities at home, in particular the potential of major infrastructure projects. Nestor points out that the firm has chosen as its logo the symbol of the bridge: “We think it represents the way that we are building bridges between clients and Romania.” With this sort of attitude, it looks as though the firm will continue to act as a bridge – both for multinational firms working in Romania and for domestic firms looking to expand their business – for many years to come.

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