Interview with Ciprian Dragomir, Partner, Ţuca Zbârcea & Asociaţii

02.09.2011

Tags: Ţuca Zbârcea & Asociaţii

A lot of the opportunities and challenges in the pharma and healthcare sector of Romania depend on the overall Romanian business environment in the first place. How would you assess the overall attractiveness of the Romanian business environment for foreign companies?

Romania’s overall business environment has improved significantly over the past few years, in particular as Romania joined the EU. We are pleased to be under the supervision of the EU Commission, which acts as a watchdog to supervise our legislation. Except for some bureaucracies, the business environment today is as good as it can get in a fast-growing Eastern European country. Obviously we cannot yet compare our capabilities or facilities with those in Western Europe, but compared to neighbours such as Hungary and Poland, Romania is sufficiently competitive to attract investments. History proves it, as Romania has already been able to attract a number of big investors in the past.

To what extent has Romania been able to create a climate that is sufficiently transparent to do business here? Is there still room for improvement?

There is always room for improvement in transparency when talking about working with the state authorities. Today, investors are probably much more pleased than they were with the regime in the nineties, even though there were already courageous investors who took up the challenge early in the process. The latter have been successfully establishing their businesses in Romania, which

has created a certain path forward. The authorities are now also more used to dealing with such investors.

Within this local context, Tuca Zbarcea & Asociatii has managed to gain a strong foothold as one of the best law firms in the country. Can you briefly summarize the key milestones that brought the firm to such a leading position?

We have established ourselves as a law firm in 2005. The firm was started by a team of 8 partners, senior associates and associates. This was already a strong team that had worked together for more than 10 years. We already knew each other very well, which facilitated the set-up. Our clients already knew us and were already confident about our capabilities. When you start a new practice, you first need to prove yourself as a firm. Because of our track record, this proof was already there. For instance, very early on, since our establishment, we were mandated by a very large financial institution to support the privatization of one of the largest Romanian state-owned banks at that time, exactly because of our already proved personal track record and despite the Tuca Zbarcea & Asociatii entity being just born. Our work environment is relaxed and certainly more casual than usual for our industry, which makes it easier to motivate people do their best and keep cohesiveness of the team.

As a diversified law firm, pharma and healthcare is naturally not your only area of activity. Nonetheless, you now have a multidisciplinary team of experienced lawyers with the purpose of constantly advising your clients that are active in pharma. Where does this unit fit within the firm’s activities?

Because of the characteristics of the industry in Romania, the mandates a pharmaceutical company can provide to a law firm are rather limited in volume and diversity. On the one side, there are the distributors which have significant budgets to afford law firms, while you have the producers on the other hand, which are largely only present through representative and sales branches in Romania. The latter parties are generally smaller in size and function as a link between the distributors and their parent companies. Additionally, there is a small set of producers with a strong presence in Romania.

Our focus in terms of clients has generally been the distributors, which sometimes puts us in a delicate situation where we have to take care of conflict of interests in order to provide legal advice to the producers as well, which we also do.

The pharma unit is however a practice that has been growing. We have recently boosted this practice by bringing in a new lawyer with specific expertise in the pharmaceutical industry.

Coming back on this delicate balance you mentioned. How do you strike that balance to gain the trust of your clients?

Our main concern is obviously to avoid having conflict of interests. Whenever we enter into a relationship with a producer, we already make them aware of which distributors we also represent. It happens that our clients on the producer side ask us not to work with certain (generally smaller) distributors. If you define a conflict of interest in an acceptable manner for both parties, you can work with both the distributors and the producers.

If we take a look at the pharmaceutical landscape in Romania, we have seen an increasing presence of international companies over the years. Local success stories such as Terapia, Zentiva and Labormed have been selling off their business to foreign firms. Has this changed the complexity and legal framework of the landscape for your clients, as well as the support Tuca Zbarcea & Asociatii can provide?

For domestic producers in Romania, it has become increasingly difficult to compete. Following the aforementioned acquisitions, the local Romanian industry is almost entirely owned by foreign conglomerates. Assuming that they implement the same standards as abroad, this should have a positive effect on quality. On the other hand, it has become more difficult for the small domestic producers to remain competitive. At the end of the day, I think these changes are positive and should provide better prospects for the industry.

Many multinational companies have been coming to Romania for years to take advantage of cost savings in manufacturing opportunities, but not so much yet –or barely- for R&D reasons. How would you rate the level IP protection in the country?

The IP protection is up to the required standards in any developed country. Obviously, producers are protecting their patents worldwide, and Romania is no particular concern for them. Counterfeit products in the pharma sector are insignificantly present too. Moreover, the authorities are working considerably on this front. I therefore do not see any concerns for producers not to develop or sell anything in Romania. It will be up to their strategies and the personnel they have available to conduct such activities.
When multinational companies come to the Romanian market, they do not know the market or the culture and they are often scared of hazards such as getting into a bad joint venture. What mediating role do you see for Tuca Zbarcea & Asociatii to take away some of these concerns?

It has been more of a role for us in the past years, in particular before Romania became part of the EU. At that time, there was a real need to understand the legal framework. Today we just need to

confirm that all the local legislation complies with the EU regulations, and whether or not certain EU regulations have been implemented at a local level. Nonetheless, these companies still need us in order to mediate their relationships with the authorities.

Obviously, the pharma industry has its particularities in dealing with marketing, the relations with doctors, hospitals, and so on. Here, we have a very important function in guiding our clients. There have been numerous scandals around the world, Romania including, on unethical sponsorship agreements, etc. Producers are now paying a lot of attention to these issues. Here, we play a major role in trying to process the legislation into the practices that our clients know. We can help them to accommodate their European contracts to the particular Romanian context. We can guide them in dealing with day-to-day issues with the government, such as the recent clawback mechanism, price-adjustments with reference to generic prices, and so on. There are many delicate issues where we can support our clients.

Tuca Zbarcea & Asociatii has already won numerous awards as the best law firm in Romania. Why do you think that your clients prefer you?

Tuca Zbarcea & Asociatii is very open about where it can support the client. It comes down to being perceived as sincere and honest, rather that priding yourself as knowing everything and having done everything. This honesty gains us new clients, as they know exactly where our expertise can be fully used. Plus, we strive to ensure a level of predictability and stability over clients' dedicated team of lawyers. Clients hate being marketed a senior lawyer and actually being given a junior lawyer to work with after the client agreement is signed, Last but not least important, access to our partners is spot on irrespective of the importance of the task entrusted by the client. If the client requests the partner to do it, the partner will do it. We do not hide our partners from the clients or involve them only in mega projects.

Looking ahead, you have already mentioned that a new lawyer has been hired for the pharma practice. In 5 years from now, what would this practice ideally look like?

Currently, we have roughly 5 lawyers who are dealing with pharma issues and are very familiar with the sector according to a number of subdivisions, including competition, litigation, IP and specific issues such as clinical trials, the clawback, marketing issues, discussions with CNAS, and so on.

Our intent is to keep these subdivisions while additionally bringing in 1 or 2 new lawyers. In 5 years from now, I think we will only have maximum 6 lawyers working on the pharma sector, but I do expect us to be more visible on the pharma scene.

What is your final message to the international readers of Pharmaceutical Executive?

Romania is a good country to invest in.. While we all have our faults, I invite everyone to come to Romania and when they do to have a look at Tuca Zbarcea & Asociatii when choosing a legal advisor.

See more interviews