

19 November 2019

Ludovic Orban

Prime-minister of Romania

Dear Prime-Minister,

Congratulations for your appointment as prime minister of Romania and best of luck in your mandate. The Foreign Investors Council is an association that is more than two decades old bringing together major investors in the Romanian economy with a turnover that is roughly 20% of GDP which is why we read the governing program and believe we are one of the many voices that should provide feedback on it.

We are of course not the only stakeholder, maybe not even the most important nor do we have expertise in every field. What follows is the point of view of the companies coming together in our association and it has to be balanced with the inputs of citizens, other associations or professional bodies. We expect no special treatment, no privileged position.

Being consistent with all our endeavors for contributing to the improvement of Romanian business environment we have studied the governing program which the Parliament accepted when your Cabinet was invested. We would like to outline below some of the strong points we have identified and where your proposals are fully shared by the business community but also highlight some key issues which we believe your Cabinet might want to reflect on. For this reason, we will send this letter to all the members of the Cabinet.

Dear Prime-Minister, we represent Romanian companies with Romanian employees which indeed have foreign capital invested in them but otherwise are no different than any other local company. For foreign companies to continue their investing and developing all they need is a stable and predictable legislative process, a structured dialogue with the authorities and public policy and discourse based on facts.

We are committed to the well-being of our employees and customers and to Romania's prosperous future as a solid member of the European Union and NATO. It is with all the above in mind that we raise some of the points below regarding the PNL governing program.

Regards,

The Board of the Foreign Investors Council

General remarks about the governing program

What we welcome from the governing program

1. There are short-term actions which are clearly defined.
2. We believe it is good that the Government was restructured with fewer ministries and that there is a focus on efficiency.
3. Plans to invest in the key areas of infrastructure and healthcare with a focus on European funding.
4. The strong commitment of the government for a business environment that is predictable
5. Good focus on the reform of public administration using technology to bring it closer to what it should be in the XXI century.
6. Revision of the fiscal and economic legislation which had a negative impact on the economy and businesses (especially OuG 114/2018): energy, telecommunications, banking sector, Pillar 2, excise tax on fuel, part-time taxation, split VAT etc.
7. The commitment to not make any changes to the fiscal legislation without a serious impact analysis.
8. Accelerating the absorption of EU funds by speeding up procedures and finalizing the Partnership Agreement with the European Commission for the 2021-2027 financial framework.

Things that should also be taken into consideration

1. Some targets in the governing program are too ambitious for a single year and they would much rather suit a complete governing program after the general elections.
2. Permanent contact with the business environment for impact studies before changing the legislation and a formal framework for consultation.
3. Restore investors' confidence in the long-term stability of Romania's fiscal regime where legislation and regulation are developed in a predictable manner and with time for dialogue with stakeholders.
4. The Government should quickly find solutions to encourage exports to improve Romania's commercial balance.
5. Promote measures that support digitization in all areas of the economy and focus on the use of IT technologies to support economic development of Romania and assure its competitiveness with other markets.

Public Finance and taxation

What we welcome from the governing program

1. The commitment for fiscal predictability. All fiscal and budgetary policy initiatives should be presented and discussed with the business stakeholders at least 6, if not 12 months before their adoption. We welcome the intention to revisit fiscal legislation that had a negative impact on the business environment, especially the one we made reference to in point number 6 above.
2. The intention to modernize and reform ANAF, although the program is thin on details of how this is going to be achieved.

3. That the budget for 2020 is a priority. It should be. Considering the dynamics, a balanced and wise budget in 2020 will avoid unnecessary harsh corrections in 2021 or 2022.
4. The commitment to maintain a flat tax rate. The Ministry of Finance should do some serious studies in this area, but we believe this taxation regime will keep Romania competitive in the region.

Things that should also be taken into consideration

1. Concrete measures for better tax collection, especially when it comes to VAT – in connection with the modernization of ANAF. The Fiscal Administration should continue the institutional steps for implementing SAF-T.
2. We will welcome if the Government would support the adoption of the legislative package amending the Fiscal Code and Fiscal Procedure Code which are currently under debate at the level of the Romanian Parliament. This package had been debated with the business community for over one year.
3. Romania has to urgently transpose in national legislation the DAC 6 Directive and the VAT Directive implementing the so called” quick fixes”.
4. The program stipulates that the revenue collected from “sin taxes” and from excise duties on products harmful for human health are going to go to the National Fund for Social Health Insurance (FNUASS). This would deprive the State Budget of more than RON 10.5 billion (collected as excise duties for alcohol and tobacco). We believe that excises should continue to be collected in the State Budget and from there the Government can distribute them wherever it deems necessary.
5. Reviewing the measure imposing a 30% cap on the deductibility of bad debts that we sold. This had many unintended consequences in the market including for companies in the utilities and telecom sectors.

Economy, Energy and Business Environment

What we welcome from the governing program

1. The decision to observe the governance rules for state-owned companies as provided Law 111/2016 regarding corporate governance; an energy sector governance based on competence and integrity.
2. Simplification of administrative procedures and development of e-government services together with the interconnection between public databases and introduction of common standards
3. An energy policy focused on energy efficiency and protecting vulnerable consumers. Protecting vulnerable consumers should be an absolute priority. Energy needs to be available to everyone, including disadvantaged people and communities, energy being one of the drivers for people to be lifted out of the condition of vulnerability. To this end, all types of barriers to energy access need to be reduced or eliminated.
4. The Tech Nation program to support and promote the digitization of Romania’s economy.
5. Setting goals for and the professionalization of Romania’s economic attachés abroad and an evaluation of the Romania’s internationalization program for SMEs.

6. Measures to make the Start Up Nation program more efficient by focusing on innovation, new technologies and entrepreneurial performance.
7. Increase Romania's energy security by unlocking its hydrocarbon potential, offered by its Black Sea resources, and diversifying its resources and energy supply routes including better interconnection with neighbor states.
8. Regaining the trust of investors in the energy sector considering that the energy transition requires investments of tens of billions of euros for modernization of the sector.
9. Support for the establishment of a common European policy in the energy sector and a reduction of the cases where Romanian legislation infringes EU rules.

Things that should also be taken into consideration

1. Stimulating Romania's foreign trade by consolidating the Digital Single Market's tools at national level. Full alignment of national legislation to all key changes proposed at the EU level, especially considering that such a synergy with current legislative proposals would have a direct effect in improving and boosting e-commerce.
2. Actively involving Romania in the negotiations of the key files at EU level with an impact on the economic sectors of strategic interest at national level.
3. Romania should use its competitive advantage in the ITC sector and become a leader in the field of digital energy services.
4. Launch a national level program for green energy transition of industrial consumers. Ease access to available European funds and adapt local policies to encourage investments that can bring a large-scale impact in CO2 emissions and pollution reduction.
5. Romania has an impressive natural potential for renewable energy production. Investments in new generation capacities, from renewable sources, are not only an opportunity to improve the environment, but also an opportunity to develop many subsectors in our economy.
6. Define Romania's road map towards climate neutrality starting from buildings, as its backbone. Reaching climate and energy objectives will not be achievable without considering improving buildings' energy efficiency. Implementation of EPBD (Energy Performance of Buildings Directive) and adopting the Long-Term Renovation Strategy for Romania is essential.
7. A constructive approach of the Energy Regulator through an effective dialogue with the industry for achieving long term objectives deriving from EU policies and national strategy.
8. Resume the development of a competitive energy market in Romania and enable Romania to become the energy hub in the South-East Europe region by fully and effectively implementing the EU's energy market framework, better interconnecting its energy infrastructure with those of its neighbors, and enabling market participants to freely trade energy products.
9. Ensure the unrestricted right for investors in the energy sector to negotiate contracts with parties and at terms of their choice enabling them to manage complex commercial interrelations to underpin the needed significant investments into new energy sources and associated infrastructure and also eliminate any role of the Government in determining prices for international energy commodities sold in Romania and thus avoid the massive market distortions from price caps and unmanageable administrative systems.
10. Support to competitiveness, both for existing companies and for attracting new investors, via dedicated agency.

11. Emphasizing the energy efficiency sector through renovation programs that finance all types of buildings (including Single Family Homes), not just the public ones and not only with European money. Buildings are responsible for about 50% of the energy consumption in Romania.
12. Updating technical norms and other types of legislation needed in the construction sector as some of them are 10 and even 20 years old (technical norm P118/1999 for example). It would be good to have guidelines for public authorities who mostly lack knowledge about public procurement and thus still use lowest price criteria (poor quality works, less energy saved in the longer term).
13. The Construction Service and the Technical Direction of the Ministry for Public Works and Development are seriously understaffed and in need of many more experienced people.

Transport, Infrastructure and Communications

What we welcome from the governing program

1. Very well-defined order of priorities: maintenance, accelerate investments in execution then prepare future projects for large infrastructure.
2. Accelerating the execution of projects in the Operational Program for Large Infrastructure (POIM) for the 2021-2027 budgeting period with a focus on transport: rehabilitation of railways, highways and expressways which are eligible for EU funding.
3. A focus on increasing the digitalization index (DESI) where Romania ranks very low
4. Establishment of the Authority for Romania's Digitization (ADR) subordinated to the Prime Minister having the role of developing and ensuring the implementation of the strategies and public policies in the digitization field.
5. Digital Skills - the Government's plans to prioritize a national digital literacy program, aiming all citizens.
6. Initiation of a draft law imposing all institutions within the central administration to accept widespread online submission of all forms, requests and declarations.

Things that should also be taken into consideration

1. Focus on developing and finalizing the most important infrastructure projects that would enable economic growth:
 - a. As far as road infrastructure is concerned, the Sibiu-Pitești highways, the Transylvania Highway and the Moldova Highway are priorities, but also the Craiova-Pitești expressway is important. It is also necessary to start or complete the most important bypass belts such as Bucharest South and West, Pitesti West, Bacau, Azuga, Predeal and Suceava. Last but not least, the main border exit points should be modernized and the most important industrial areas should be connected with the motorways in their proximity.
 - b. Regarding the railway, the south and north branches of Corridor 4 must be rehabilitated, connections between the major industrial platforms and the national railway infrastructure should be built and it is important to double the railway belt of Bucharest. To stimulate exports, the transit time through Curtici border must be

- reduced. Last but not least, we believe that the Predeal-Braşov-Sighişoara-Curtici line must be completed, the Craiova-Calafat line electrified and the Gara de Nord - Otopeni connection built.
- c. For port infrastructure it is necessary to further develop the Constanţa South - Agigea port by improving the road and rail infrastructure that connect the port with the transport network and also to further develop the Calafat port. It is also important to connect the ports of Brăila and Galaţi.
 - d. Last but not least, new investment projects in the intermodal / multimodal terminals are required according to the General Transport Master Plan and the capacity of the Otopeni Airport should be increased together with the construction of a new terminal.
2. Financing these infrastructure projects through basic budgetary financing, as well as aiming to achieve better absorption of EU funds and to use PPPs.
 3. Greater involvement in infrastructure projects by the private sector, because many aspects can be outsourced. The private sector has considerable expertise which the Government can use to facilitate the development of more infrastructure projects at a faster rate.
 4. There is a high risk of infringement on water infrastructure given the need to comply with EU standards by December 2018 according to the Accession Treaty. More than 22 billion euro still need to be spent for water and wastewater infrastructure in order to meet those standards.
 5. Continue the institutional steps towards the passing of Romania's National Ecommerce Strategy, with concrete targets and tactics within the Action Plan designed to increase awareness of ecommerce benefits for both the business environment and the population.
 6. 5G license auction: It is extremely important to maintain equilibrium between the prices (reserve price, annual fees), the coverage obligations and the operator's capacity to invest.
 7. Stimulate the implementation of new technologies (5G networks, very high broadband networks) by creating a simplified and predictable legislative framework for building permits which will allow a faster deployment of these networks.
 8. Push high speed connectivity on all Romanian territory, by using EU funding for developing networks in the areas which need it.
 9. Evaluation of all draft laws and initiatives providing for the introduction of the electronic identity card followed by the unblocking of one of these initiatives and the correlation with EU Regulation no. 1157/2019 on enhancing the security of the identity cards of EU citizens.

European funds

What we welcome from the governing program

1. Detailed analysis regarding actual absorption rate of EU Funds.
2. Decrease bureaucracy and simplify implementation system for EU Funds.
3. Define strategic vision for 2021-2027 financing scheme.
4. Providing technical assistance and preparing a portfolio of mature projects that can be financed immediately after the launch of new programs, starting from the analysis of projects not funded in the period 2014-2020.

5. Increasing and accelerating the absorption of European funds by speeding up procedures for major investment projects in infrastructure, health and education and preparing the Partnership Agreement with the European Commission for the multiannual European financial framework 2021 - 2027.

Things that should also be taken into consideration

1. To detail the measures on how to “remove obstacles and adjust public acquisition law to increase implementation degree of EU funded projects”.
2. To set up an organization (or more at local level) that would help companies in order to obtain European funds – the Polish model.
3. The European code of conduct on partnership in the framework of the European structural and investment funds implying close cooperation between public authorities at national regional and local and with social partners, NGOs and other relevant stakeholders has not been implemented properly.

Labour

What we welcome from the governing program

1. Strengthen cooperation with business environment to both identify measure to return qualified workforce from abroad and to align joint approach for dual education system.
2. Objective and predictable mechanism for setting the minimum wage.
3. Consolidation of 2nd Pillar and focus on the long-term sustainability of the pension system
4. Eliminating the extra taxation for part-time labour contracts.
5. Opening the labor market to non-EU workers depending on the necessities of the economy
6. Connecting the social dialogue to the evolutions in the economic and social environment in Romania.

Things that should also be taken into consideration

1. Despite politically difficulty some guidance would be needed on how the government intends to reduce the overall expenditure with public salaries, pensions and social assistance as a percentage of the revenues (currently around 80% and going up).
2. Develop a general view on the taxation of labour in Romania together with Ministry of Finance
3. Improving the efficiency and accuracy of statistical data related to labour markets.
4. Revise the Occupational Health policies and legal framework in line with the aging workforce trend.

Healthcare

What we welcome from the governing program

1. Increase the financing and development of national curative programs.
2. Development of eHealth programs.

3. Increase the quarterly reference budget (BaT) of the clawback tax.
4. Reduction of the assessment period of new therapies by the National Medicines and Medical Devices Agency in Romania (ANMDDMR).
5. Optimization of the Unique Integrated Information System (SIUI).
6. Focus on financing possibilities for both regional hospitals and individual medical offices.
7. Start national screening programs for various chronic diseases.
8. Increase transparency of recruitment process for vacancies.
9. Start building the regional hospitals with realistic resources and planning.

Things that should also be taken into consideration

1. Roll out of a comprehensive health needs assessment at national and county level.
2. Continuous increase of the % of GDP allocated to healthcare to close the gap versus the European Union average (9,6%¹).
3. Access for Romanian patients to innovative treatments should be a national priority, whatever government is in power.
4. Romania should close the gap in terms of access of patients to innovative treatments which should be done in a timely manner;
5. Prevention and immunisation policies should be developed and promoted.
6. Development of community-based services (mother and child services, home care services for elderly and disabled, remote patient monitoring etc.), of the primary healthcare network and of the ambulatory services.
7. Ensuring that the e-prescription system (SIPE) functions properly.
8. Electronic registries should be developed and introduced as soon as possible to create more efficiency in the way financial resources in healthcare are spent, increase transparency and gather supporting data for better healthcare policy decision making.
9. Adopt new Managed Entry Agreement Schemes to complement the current CV/CVR methodology while extend contracting period (multiannual agreements) for chronic diseases;
10. Increase the overall digitization within the healthcare system.
11. Increase focus on performance-based funding of the primary and ambulatory care services, especially in the area of prevention and early detection; Repair the inequalities produced by the most recent salary law and provide further details on how to increase additional salaries in the medical sector (chemists, biologists, auxiliary personnel) without further impact on budget deficit.

Education

What we welcome from the governing program

1. No sudden changes that might destabilize the education system even more.
2. Involve local municipalities in providing additional competences regarding CSR activities, professional counselling, for a better integration on the labour market.

¹ https://ec.europa.eu/health/sites/health/files/state/docs/2018_healthatglance_rep_en.pdf

3. Promote measures that support the digitization of the education system and focus on the use of IT technologies for the teaching-learning process and for educational management.
4. Focus on developing vocational and technical schools.
5. Improve partnership between industry and education – develop obligatory internship programs.

Things that should also be taken into consideration

1. Increased cooperation with the business community to support the dual education.
2. Introduction of the Informatics and ICT classes in the school curricula for primary education (grades I-IV), along with maintaining and consolidating these disciplines in secondary, high school and higher education. Increasing the number of publicly financed university seats for IT&C graduates (STEAM education). Adapt the curricula to industrial market needs (automation, industry 4.0).
3. Update building norms for schools taking into consideration safety, hygiene, air quality, acoustic and thermal insulation, daylight to enable educational process.
4. Efforts to improve the level of financial education should be intensified, so that Romania does not have to wait another generation to benefit from the effects of financial literacy.

Environment

What we welcome from the governing program

1. The top zero priority to address deforestation issue in Romania.
2. The importance to implement an operating waste management system, with focus on prevention, reuse and recycle (implement the measures from the National Plan for Waste Management). Also restart the dialogue with the European Commission in order to improve the status and to reach the targets defined for 2020.
3. The target to improve the management of the protected areas and to preserve the biodiversity for the next generations.
4. Improve monitoring network of air pollution and identify fast and efficient solutions to be implemented in order to avoid infringement.
5. Elaboration of a project of technical and operational assistance financed from European funds for supporting local authorities in order to increase the institutional capacity to implement separate waste collection.

Things that should also be taken into consideration

1. Legislative predictability should be ensured, and a uniform and consistent legislative framework should be created, based on EU principles.
2. Effective consultation with industry representatives should take place with enough time prior to the adoption of new environmental regulations or the amending of existing ones. Draft legislation should be based on prior impact assessment studies clearly explaining the need for the proposed changes and documenting why the mechanisms/ rules which are planned to be introduced are the most suitable and fair means to attain the desired results

3. Simplification and correlation measures for permitting.
4. Uniform and consistent environmental practice at the level of all local relevant authorities should be developed in order to avoid different approaches to the same issue. A potential solution to achieve this would be the issuance of written guidelines by the central authorities which would regulate the approach to be taken by local subordinated authorities
5. Increase of the population life standard by ensuring, for the entire population, access to tap water and to a wastewater sewage network served by adequate waste water treatment facilities.
6. Define clear objectives for Water treatment, Waste management and Air pollution
7. Address the waste management problem taking into consideration all the components (packaging waste, construction and demolition waste, WEEE, landfilled waste, reusables, infrastructure issues, the traceability of the system, investments, the responsibilities and involvement of all actors, awareness campaigns).
8. Climate Change and Energy Plan, National Renovation Strategy and National Energy Strategy, as well as other documents related to energy and environment should be coordinated. Define the roadmap towards net zero carbon emissions by 2050. Define Romania's road map towards climate neutrality starting from buildings, as its backbone. Reaching climate and energy objectives will not be achievable without significantly improving buildings' energy efficiency. Clarification of the procedures regarding the authority managing protected areas.
9. Clarification of procedures which underpin the activity of the authority managing protected areas.
10. It is important to implement the indirect emissions compensation scheme for the big energy consumers in order to reduce the huge distortions of competitiveness for the Romanian companies, being especially affected the metallurgical industry (steel, aluminum), the cement industry and the building materials (glass and ceramics), chemistry, cellulose and paper industry, etc., as a result of the costs with CO2 certificates for hydrocarbon-based electricity. (Directive 2003/87 / EC allows EU members to compensate industrial consumers for the costs of indirect emissions and to facilitate this, 12 states already implementing the scheme, some even from 2013).
11. Immediate decision on medium-term plans for reducing the negative car park age impact on the environment (infringement risk) and road safety.

Public Administration

What we welcome from the governing program

1. Reduce the set-up of public administration, including the number of ministries.
2. Increase decision and financial autonomy of local communities.
3. Development of metropolitan areas which involve sustainable infrastructure investments (water, wastewater, transport).

Things that should also be taken into consideration

1. Define clear plan to reduce the footprint of public administration.
2. Digitalization of the processes and simplification of the flows.
3. Improve transparency of Public Administration.
4. Maintaining the independence of the regulatory authorities.
5. Review of Administrative Code recently approved, in order to eliminate the negative effect of certain measures related to financing local authorities (if these measures will not be eliminated, local authorities will impose new taxes).

Justice system

What we welcome from the governing program

1. Take steps in restoring the independence of the judicial system and continue the fight against corruption.
2. Focus on the MCV-targets and define fast measures to improve the actual status mentioned in the latest report.

Things that should also be taken into consideration

1. The creation of a database on existing national jurisprudence on tax issues, allowing traceability of legal actions, from one court to another.
2. The creation of specialised sections in the Romanian courts focused only on tax matters. To assist this process, we recommend professional training for judges, with the help and the participation of the institutions required to ensure the institutional framework for the training of judges i.e. the Supreme Council of Magistrates (CSM) and the National Institute of Magistrates (INM).