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Romania: Staff information and consultation on business transfers

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Romania

Phase:

Anticipation

Type: Staff information and consultation on business transfers

Last modified: 23 April, 2019

Native name:

Legea nr. 67/2006 privind protectia drepturilor salariatilor in cazul transferului intreprinderii, al unitatii sau al unor parti ale acestora, publicata in Monitorul Oficial al Romaniei, nr. 276 din 28 martie 2006

English name:

Law no. 67/2006 regarding the transfer of undertakings, businesses, or parts of undertakings or businesses, published in the Official Gazette of Romania, no. 276 of 28 March 2006

Article

11, 12, 15

Description

The law defines a business transfer as the transfer of an undertaking, business or parts thereof from the ownership of the transferor to the ownership of the transferee, with the aim of continuing the main or ancillary activity, whether or not they are operating for gain. However, this does not apply if the former employer is in a state of insolvency.

The transferor and transferee shall inform in writing their employees' representatives or, if they are not set up or appointed, their employees at least 30 days before the date of transfer of:

- the date or proposed date of the transfer;
- the reasons for the transfer;
- the legal, economic and social implications of the transfer for employees;
- the measures envisaged in relation to employees;
- conditions of work and employment.

The obligations shall apply irrespective of whether the decision resulting in the transfer is taken by the employer or an undertaking controlling the employer.

Where the transferor or the transferee envisages measures in relation to his or her employees, he or she shall consult the representatives of the employees, with a view to reaching an agreement, at least 30 days before the date of transfer.

In the event of failure by the transferor or the transferee to comply with the obligations laid out in the law, the employees or representatives of the employees affected by the transfer may address the competent court for resolution of the labour disputes, according to the law.

Comments

This law transposes the [Council Directive 2001/23/EC of 12 March 2001](#) on the approximation of the laws of the Member States relating to the safeguarding of employees' rights in the event of transfers of undertakings, businesses or parts of undertakings or businesses.

In some respects, the Romanian law establishes a legal regime which is more favourable to workers than the Directive, e.g. by providing narrower exceptions or by not using the possibility afforded by the Directive not to apply certain provisions to certain specific categories of employees or undertakings.

However, the Romanian law defines the transfer as a change in ownership from the hands of the transferor to those of the transferee. The reference to 'ownership' may be regarded as restrictive in relation to the definition in the Directive, since the transfer of an undertaking to another employer would not necessarily also mean a transfer of ownership.

Cost covered by

Not applicable

Involved actors other than national government

Trade union

Other

Involvement others


representatives of the employees (where there is no trade union)

Thresholds

No, applicable in all circumstances

Sources

 [Legea nr. 67/2006 \(Law no. 67/2006\)](#)

 Voiculescu, N. and Neagu, V. (2016), Protecția drepturilor lucrătorilor în dreptul internațional și European [Protection of workers' rights in international and European law], Ed. Universitara, Bucharest

 [Council Directive 2001/23/EC](#)

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