

quick | check®

PERSONNEL RESTRUCTURING

The table below represents a preliminary self-assessment tool with respect to issues with a potential impact with regards to labour relations for your company, as an employer, in case such performs personnel restructuring. Personnel restructuring may be performed by transfer of undertakings, businesses or parts of undertakings or businesses, by amendment of the employment contracts, by temporary suspension of activity or individual lay-off for reason not related to the employee or collective lay-offs. The table refers to matters with a large scale of applicability and has relevance for the majority of employers on the Romanian market.

The questions to which you answer negatively represent matters that can imply risks. If you identify such answers, it is recommended that you make a precise analysis in order to establish the accordance with labour legislation of the concluded documents and of the procedures followed by you, as an employer, in case you operate personnel restructuring.

NO.	QUESTION	ANSWER	
		YES	NO
Transfer of undertakings, businesses or parts of undertakings or businesses			
1.	As a transferor, in case of transfer of undertakings, businesses or parts of undertakings or businesses, have you notified the transferee, prior to the transfer, of all rights and obligations to be fully transferred to it?	<input type="checkbox"/>	<input type="checkbox"/>
2.	As a transferee, in case of transfer of undertakings, businesses or parts of undertakings or businesses, have you observed the obligation of not worsen the working conditions of the transferred employees?	<input type="checkbox"/>	<input type="checkbox"/>
3.	In the situation mentioned above, have you observed the provisions of applicable collective bargaining agreement at the transferor's level on the transfer date as the transferred employees are concerned until	<input type="checkbox"/>	<input type="checkbox"/>

NO.	QUESTION	ANSWER	
		YES	NO
	the expiry, the cancellation or the renegotiation of its clauses no sooner than 1 year period following the transfer?		
4.	In case of measures affecting your own employees, have you initiated consultations with the employees' representatives in order to meet an agreement, at least 30 days prior to the transfer date?	<input type="checkbox"/>	<input type="checkbox"/>
5.	Have you notified the employees' representatives/your own employees, at least 30 days prior to the transfer date, on the following:	<input type="checkbox"/>	<input type="checkbox"/>
	a) date or the proposed date of the transfer;	<input type="checkbox"/>	<input type="checkbox"/>
	b) reasons for the transfer;	<input type="checkbox"/>	<input type="checkbox"/>
	c) legal, economic and social implications of the transfer for the employees;	<input type="checkbox"/>	<input type="checkbox"/>
	d) measures envisaged in relation with the employees;	<input type="checkbox"/>	<input type="checkbox"/>
	e) working and employment related conditions?	<input type="checkbox"/>	<input type="checkbox"/>
Amendment of the employment contract			
6.	In case of amendment of the employment contract (work time reduction, salary reduction, modification of the position within the company, professional reconversion) have you obtained the employee's agreement?	<input type="checkbox"/>	<input type="checkbox"/>
Temporary reduction or suspension of activity			
7.	Did the reasons for temporary reduction or suspension of activity have an economic, technological, structural or similar nature?	<input type="checkbox"/>	<input type="checkbox"/>
8.	During the temporary reduction or suspension of activity have you paid to the employees an indemnity of at least 75% of the base salary corresponding to their position within the company?	<input type="checkbox"/>	<input type="checkbox"/>
9.	In case of temporary reduction of activity for economic, technological, structural or similar reasons for more than 30 working days, if you have reduced the work schedule from 5 to 4 days per week with the corresponding decrease of salary until the remedy of the situation leading to the reduction of the work schedule, have you consulted the representative trade union/employees' representatives prior to	<input type="checkbox"/>	<input type="checkbox"/>

NO.	QUESTION	ANSWER	
		YES	NO
	deciding the measure?		
Individual lay-off for reasons not related to the employee			
10.	Have effectively you cut-off the position held by the employee for a real and serious cause?	<input type="checkbox"/>	<input type="checkbox"/>
11.	Have you observed the minimum 20 working days notice period?	<input type="checkbox"/>	<input type="checkbox"/>
12.	Have you provided the employee with written decision regarding the termination of the employment contract?	<input type="checkbox"/>	<input type="checkbox"/>
Collective lay-offs			
13.	In case of collective lay-offs, have you initiated, in due time consultation with trade union/employees' representatives?	<input type="checkbox"/>	<input type="checkbox"/>
14.	During consultations, have you communicated in written to the trade unions/employees' representatives the following:	<input type="checkbox"/>	<input type="checkbox"/>
	a) Grounds for the collective lay-offs;	<input type="checkbox"/>	<input type="checkbox"/>
	b) Number/categories of employees affected by the lay-offs;	<input type="checkbox"/>	<input type="checkbox"/>
	c) Criteria for determining the priority of dismissals;	<input type="checkbox"/>	<input type="checkbox"/>
	d) Measures envisaged in order to limit the number of dismissals;	<input type="checkbox"/>	<input type="checkbox"/>
	e) Severance payments to the dismissed employees;	<input type="checkbox"/>	<input type="checkbox"/>
	f) Period for the collective lay-offs;	<input type="checkbox"/>	<input type="checkbox"/>
	g) Term during which the trade union/employees' representatives may make proposals in order to limit the unfavourable consequences of the collective lay-offs?	<input type="checkbox"/>	<input type="checkbox"/>
15.	Have you provided the trade unions/employees' representatives with a written justified answer to their proposals within 5 calendar days starting their submission?	<input type="checkbox"/>	<input type="checkbox"/>
16.	Have you notified the Territorial Labour Authority/Territorial Employment Agency about the envisaged measures regarding the lay-offs, at least 30 calendar days prior to the issuance of the termination decisions?	<input type="checkbox"/>	<input type="checkbox"/>
17.	Have you observed all the legally provided conditions regarding individual termination decisions, as	<input type="checkbox"/>	<input type="checkbox"/>

NO.	QUESTION	ANSWER	
		YES	NO
18.	mentioned in the previous section on individual lay-offs for reasons not related to the employees? In case of increase/restart of activity within 45 days starting the termination of the employment contract, have you notified, in written, the affected employees regarding such a measure?	<input type="checkbox"/>	<input type="checkbox"/>

quick | CHECK® PERSONNEL RESTRUCTURING is complimentary self-assessment tool provided by our firm to its clients and business partners*. It does not represent legal advice, but it contains non-exhaustive questions in the area of personnel restructuring, which are meant to facilitate the addressee's work in identifying potentially problematic issues in his/her own organization. We recommend that you seek specialized legal advice prior to adopting or implementing any decisions on the basis of this document.

We would appreciate any reaction and suggestion regarding this tool. Please feel free to contact our Employment team, led by partner Anca Grigorescu, for any clarification about this table. You can contact us by telephone on (+40 21) 264 16 50 or by e-mail on anca.grigorescu@bpv-grigorescu.com.

bpv GRIGORESCU ȘTEFĂNICĂ is a Romanian law firm that comprehensively advises in the areas of Anti-trust and Merger Control, Banking and Finance, Corporate and Commercial, Dispute Resolution, Employment and Pensions, Energy, Environment and Regulatory, EU Law, Mergers and Acquisitions, Public Procurement, PPP and Concessions, Real Estate and Construction, Taxation. **bpv GRIGORESCU ȘTEFĂNICĂ** is a founding member of **bpv LEGAL**, an alliance of independent commercial law firms represented in Bratislava, Brussels, Bucharest, Budapest, Prague and Vienna, which offers cross-border legal advisory services to clients in Central and Eastern Europe.

bpv GRIGORESCU ȘTEFĂNICĂ is one of the leading firms in Romania in the area of Employment Law. The most recent recognitions of the expertise in these fields are included in the 2011 edition of the prestigious international legal directory *PLC Which Lawyer?* which awards the credentials of "recommended" for the individual expertise of Anca Grigorescu and of Employment team, respectively.

* **quick | CHECK®** is a registered mark of the law firm bpv GRIGORESCU ȘTEFĂNICĂ (Grigorescu și Asociații SPARL).