

Romania

Employment protection in relation to business transfers

Phase	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
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
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Description

According to the Law no. 67/2006 on the safeguarding of employees' rights in the event of transfers of undertakings, businesses or parts of undertakings or businesses, all the rights and obligations resulting from the employment contracts and the collective agreement are transferred to the new employer in the event of a business transfer. All employees benefit from this rule, regardless of whether they have a fixed-term or an open-ended employment contract.

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.

A business transfer, whether it is a part of or the whole business that is being transferred, does not warrant grounds for dismissal of employees (i.e. persons employed on an individual employment contract) neither from the side of the former, nor of the new employer. As such, the simple fact that the company has changed its owner does not justify dismissals being made, either before or after the transfer. The law does not prohibit dismissal by reference to a specific period of time, but instead by reference to the reason of the dismissal: the reason cannot be the transfer itself. Certainly, dismissals can be made, but only on other grounds, namely one of the reasons for dismissal related to the individual employee.

The transferee has the obligation to observe the provisions of the collective agreement applicable at the date of the transfer, until the date of termination or expiry of the collective agreement. By agreement between the transferor and the representatives of employees, the terms and conditions of the collective agreement in force at the time of the transfer may be renegotiated, but not earlier than one year from the date of the transfer. In the event that, following the transfer, the undertaking, business or parts thereof do not preserve their autonomy and the collective agreement applicable at the level of the transferee is more favourable, the more favourable collective agreement shall be applied to the transferred employees. This is the only case in Romanian legislation when two collective agreements may be in force simultaneously at the same undertaking.

Commentary

Law no. 67/2006 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.

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. Indeed, although an agreement for transferring the ownership is the most common reason for the transfer of an undertaking, there exist other contracts (for example lease agreements), which could establish such a transfer and render the protective rules laid down in the Directive applicable.

Additional metadata

Cost covered by None

Involved actors other than national government	National government
Involvement (others)	None
Thresholds	Affected employees: No, applicable in all circumstances Company size: No, applicable in all circumstances Additional information: No, applicable in all circumstances

Sources

- [Lege nr. 67/2006 privind protecția drepturilor salariaților în cazul transferului întreprinderii, al unității sau al unor părți ale acestora \[Law no 67/2006 on the protection of employees' rights in the event of the transfer of an undertaking, establishment or parts thereof\]](#)~~~ [Legea nr. 67/2006 \(Law no. 67/2006\)](#)~~~ Transfer Agreement – Implementation of the Acquired Rights Directive (2001/23/EC)~~~ [Council Directive 2001/23/EC](#)~~~

Citation

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