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PERSONNEL RESTRUCTURING

The table below represents a preliminary self-assessment tool with respect to issues with a potential impact with regards to labor 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 labor 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 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 the expiry, the cancellation or the renegotiation of its clauses no sooner than 1 year period following the transfer?	<input type="checkbox"/>	<input type="checkbox"/>

NO.	QUESTION	ANSWER	
		YES	NO
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:		
	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 suspension of activity			
7.	The only reasons for temporary suspension of activity had an economic, technological, structural or similar nature?	<input type="checkbox"/>	<input type="checkbox"/>
8.	During the temporary 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"/>

NO.	QUESTION	ANSWER	
		YES	NO
9.	In case of you granted the employees unpaid leaves related to the reduction or suspension of activity for objective reasons, have you observed the maximum term of 15 days/year as provided by law?	<input type="checkbox"/>	<input type="checkbox"/>
10.	In circumstances mentioned above, have you obtained the agreement of the trade union/employees' representatives regarding the unpaid leave?	<input type="checkbox"/>	<input type="checkbox"/>
Individual lay-off for reasons not related to the employee			
11.	In case you have to perform individual lays off for reasons not related to the employees, do you observe the order and the social criteria regarding the selection of the persons who shall become redundant?	<input type="checkbox"/>	<input type="checkbox"/>
12.	In case two or more employees are in the same situation based on the social criteria which have to be observed, have you initiated consultation with trade unions/employees' representatives in order to select the employees who shall become redundant?	<input type="checkbox"/>	<input type="checkbox"/>
13.	Have you notified, in written, each employee affected by the lay-off, on the possibility to be granted an alternative position or to be integrated in a professional training programe in order to occupy another position within the employer, if there is such a possibility?	<input type="checkbox"/>	<input type="checkbox"/>
14.	In the situation mentioned above, have you observed the 3 days term prvided for the employee affected by the lay-off in order to decide on the possibility to be granted an alternative position or to be integrated in a professional traning programe in order to occupy another position within the employer?	<input type="checkbox"/>	<input type="checkbox"/>
15.	Have you observed the 20 working days notice period?	<input type="checkbox"/>	<input type="checkbox"/>
16.	Have you provided the employee with written decision regarding the termination of the employment contract?	<input type="checkbox"/>	<input type="checkbox"/>
17.	Upon termination of the employment contract, have you paid to the employee a severance payment		

NO.	QUESTION	ANSWER	
		YES	NO
	amounting at least one monthly salary, besides the legally provided rights?	<input type="checkbox"/>	<input type="checkbox"/>
Collective lay-offs			
18.	In case of collective lay-offs, have you initiated, in due time ¹ consultation with trade union/employees' representatives?	<input type="checkbox"/>	<input type="checkbox"/>
19.	During consultations, have you communicated in written to the trade unions/employees' representatives the following:		
	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 unfavorable consequences of the collective lay-offs?	<input type="checkbox"/>	<input type="checkbox"/>

¹ Prior to the notification to be sent to the Territorial Labor Authority /Territorial Employment Agency on envisaged lay-offs measures, as follows: at least 15 days prior notification in case the employer has maximum 100 employees, at least 20 days prior notification in case the employer has between 101 and 250 employees, at least 30 days prior notification in case the employer has at least 251 employees.

NO.	QUESTION	ANSWER	
		YES	NO
20.	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"/>
21.	Have you notified the Territorial Labor 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"/>
22.	Have you observed all the legally provided conditions regarding individual termination decisions, as mentioned in the previous section on individual lay-offs for reasons not related to the employees?	<input type="checkbox"/>	<input type="checkbox"/>
23.	In case of increase/restart of activity within 9 months starting the termination of the employment contract, have you notified, in written the trade unions and the affected employees regarding such a measure?	<input type="checkbox"/>	<input type="checkbox"/>

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

Further **quick | CHECK** lists are available for download at the address www.bvp-grigorescu.com.

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