

SUMMARY

## **ECJ 8 May 2019, case C|194/18 (Dodič), Transfer of undertakings, Transfer**

### ***Jadran Dodič – v – Banka Koper, Alta Invest, Slovenian case***

#### **Question**

Must Article 1(1) of Directive 2001/23 be interpreted as meaning that the transfer, to a second undertaking, of the financial instruments and other assets of the clients of a first undertaking, following the cessation of the first undertaking's activity and under an agreement the conclusion of which is required by national legislation, constitutes a transfer of an undertaking or of part of an undertaking, even though (i) the first undertaking's clients remain free not to entrust the management of their stock market securities to the second undertaking and, (ii) the first undertaking continues to operate as a dependent stock-exchange intermediary and, in performing that role, cooperates with the second undertaking?

#### **Ruling**

Article 1(1) of 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, must be interpreted as meaning that the transfer, to a second undertaking, of financial instruments and other assets of the clients of a first undertaking, following the cessation of the first undertaking's activity, under a contract the conclusion of which is required by national legislation, even though the first undertaking's clients remain free not to entrust the management of their stock market securities to the second undertaking, may constitute a transfer of an undertaking or of part of an undertaking if it is established that there was a transfer of clients, that being a matter for the referring court to determine. In that context, the number of clients actually transferred, even if very high, is not, in itself, decisive as regards classification as a 'transfer' and the fact that the first undertaking cooperates with the second undertaking as a dependent stock-exchange intermediary, is, in principle, irrelevant.

**Creator:** European Court of Justice (ECJ)

**Verdict at:** 2019-05-08

**Case number:** C|194/18