

SUMMARY

ECJ 16 May 2019, case C 509/17 (Plessers), transfer of undertakings, dismissal/severance payment

Christa Plessers – v – Prefaco NV, Belgische Staat, Belgian case

Question

Must Directive 2001/23, in particular Articles 3 to 5 thereof, be interpreted as precluding national legislation, such as that at issue in the main proceedings, which, in the event of the transfer of an undertaking which has taken place in the context of proceedings for judicial restructuring by transfer under judicial supervision applied with a view to maintaining all or part of the transferor or its activity, entitles the transferee to choose the employees which it wishes to keep on?

Ruling

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 particular Articles 3 to 5 thereof, must be interpreted as precluding national legislation, such as that at issue in the main proceedings, which, in the event of the transfer of an undertaking which has taken place in the context of proceedings for judicial restructuring by transfer under judicial supervision applied with a view to maintaining all or part of the transferor or its activity, entitles the transferee to choose the employees which it wishes to keep on.

Creator: European Court of Justice (ECJ)

Verdict at: 2019-05-16

Case number: C-509/17