

SUMMARY

## Case C-416/16. Transfers of undertakings

Does Article 1, and in particular paragraph (b) thereof, of Council Directive 2001/23/EC apply to a situation such as that of the present case, in which a municipal undertaking (whose sole shareholder is the municipality) is dissolved (by a decision of the municipality's executive body), and the activities carried on by it are allocated in part to the municipality and in part to another municipal undertaking (whose objects were altered to that end – and which is also wholly owned by the municipality)? That is, in those circumstances may it be considered that there has been a transfer of a business within the meaning of the abovementioned Directive? Must an employee not in active service (i.e. having had his employment contract suspended) be considered included in the concept of 'employee' within the meaning of Article 2(1)(d) of Directive 2001/23/EC and, accordingly, must the rights and obligations arising from the contract of employment be considered transferred to the transferee, in accordance with Article 3(1) of Directive 2001/23/EC? Is the introduction of restrictions on the transfer of employees (i.e. according to the type of employment relationship or its duration, in particular, restrictions of the type referred to in Article 62(5), (6) and (11) of the RJAEL) permissible and therefore consistent with EU law?

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

**Verdict at:** 2016-07-27

**Case number:** C-416/16