COUNCIL DIRECTIVE

of 14 February 1977

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 businesses

(77/187/EEC)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 100 thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament [1],

Having regard to the opinion of the Economic and Social Committee [2],

Whereas economic trends are bringing in their wake, at both national and Community level, changes in the structure of undertakings, through transfers of undertakings, businesses or parts of businesses to other employers as a result of legal transfers or mergers;

Whereas it is necessary to provide for the protection of employees in the event of a change of employer, in particular, to ensure that their rights are safeguarded;

Whereas differences still remain in the Member States as regards the extent of the protection of employees in this respect and these differences should be reduced;

Whereas these differences can have a direct effect on the functioning of the common market;

Whereas it is therefore necessary to promote the approximation of laws in this field while maintaining the improvement described in Article 117 of the Treaty,

HAS ADOPTED THIS DIRECTIVE:

SECTION I

Scope and definitions

Article 1

1. This Directive shall apply to the transfer of an undertaking, business or part of a business to another employer as a result of a legal transfer or merger.

2. This Directive shall apply where and in so far as the undertaking, business or part of the business to be transferred is situated within the territorial scope of the Treaty.

3. This Directive shall not apply to sea-going vessels.

Article 2

For the purposes of this Directive:

(a) 'transferor' means any natural or legal person who, by reason of a transfer within the meaning of Article 1 (1), ceases to be the employer in respect of the undertaking, business or part of the business;

(b) 'transferee' means any natural or legal person who, by reason of a transfer within the meaning of Article 1 (1), becomes the employer in respect of the undertaking, business or part of the business;

(c) 'representatives of the employees' means the representatives of the employees provided for by the laws or practice of the Member States, with the exception of members of administrative, governing or supervisory bodies of companies who represent employees on such bodies in certain Member States.

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[1] OJ No C 95, 28. 4. 1975, p. 17.
[2] OJ No C 255, 7. 11. 1975, p. 25.