Safeguarding of employees' rights in the event of transfers of undertakings

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PREVIOUS COMMUNITY LEGISLATION: The 1977 Directive obliges new owners to respect all existing employment contracts and collective agreements, and gives employee representatives prior information rights on the transfer of ownership. Dismissals may not be ordered purely as a result of the transfer, though they are permissible on economic, technical or organisational grounds. Of the three employment Directives, it is this Directive which has, by far, engendered the most litigation before the European Court of Justice. At least 12 judgments have been handed down. PREVIOUS POSITION OF EP: The EP opinion of the 1977 Directive (OJ C 95/75, p. 17) welcomed the initiative of the Commission and approved the proposal in general although EP doubted that the proposed means were sufficient. Generally, the EP would like to see high protection of workers and employees as regards regulation of working conditions in the Member States. SITUATION IN THE MEMBER STATES: Commission report to the Council on progress with regard to the implementation of Directive 77/187/EEC. The Commission draws the following conclusions: a) the legislation in the UK does not conform sufficiently with the Directive. The Commission, therefore, brought an action against the UK (Case C-382/92) before the Court of Justice. The Commission finds that the UK legislation fails to implement the Transfers of Undertakings Directive correctly in respect of Article 6 (i) and (ii)(provision for workers' representatives and the obligations of information and consultation), limit the scope of the Directive and fail to provide effective sanctions to ensure employers fulfil their obligations under the Directive; b) the Irish legislation concerning information and consultation is unsatisfactory; c) except for minor points there is a broad degree of harmonisation between the Belgian, Danish, German and Luxembourg legislations and the main provisions of the Directive; d) for France, Greece, Portugal and Spain the basic principles are broadly in line with the Directive but some specific points are missing; e) the Netherlands and Italy have implemented the Directive only partially.