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

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The shortcomings and loopholes of the 1977 Directive had to be eliminated in order to address the need for high levels of employment and social protection in the EU. However, the 1977 Directive had to be revised without prejudice to workers' rights. Unfortunately, the Commission's proposals introduced a distinction between 'economic entity' and the 'activity' of an undertaking, which seemed highly ambiguous and would require further interpretation by the Court of Justice, notably as regards the contracting out of services. Thus the proposal could be interpreted as a step backwards compared with the 1977 Directive, since it would once again bring into question issues that seemed to have been already resolved from a legal point of view. In contrast with its declared aims (safeguarding employees' rights in the event of transfers of undertakings, businesses or parts of businesses), the proposal undermined employees' rights in this respect. As a result, the Opinion suggested specific changes concerning this vital issue.