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

1994/0203(CNS) - 08/09/1994 - Legislative proposal

This proposal for a directive related to the safeguarding of employees' rights in the event of transfers of undertakings, businesses or parts of businesses. It repealed and replaced Directive 77/187/EEC on the transfer of undertakings whilst retaining its key aspects. The amendments involved: - the scope of Directive 77/187/EEC and its definitions: clarifying the concept of "transfer" to include all transfers carried out under contract, through a legal measure or court or administrative decision, so that the directive was not limited to "legal transfers"; - the definition of "employee representatives", which would be stipulated by the Member States; - applying the directive in cases where undertakings were insolvent (where the transferred undertaking was declared bankrupt or undergoing liquidation); - the application of the directive to all public or private undertakings whether or not they were operating for gain, sea-going vessels, part-time workers and workers employed on a temporary basis; - maintaining the rights of employees; . the directive provided Member States with the possibility of providing for joint responsibility for the transferor and transferee with regard to rights and obligations (particularly in relation to the contract or working relationship linking the employees to the employer); . it protected the status and function of employee representatives; - information and consultation of employees: the directive ensured the implementation of measures when the decision leading to the transfer was taken by an undertaking other than the employer. It also provided for the appointment of employee representatives for information and consultation purposes; - the directive contained a clause aimed at applying the more beneficial agreements in this respect where they existed but did not impose any specific sanction where the obligations laid down in the text were not fulfilled.