

EN  
E-002630/2022  
Answer given by Mr Schmit  
on behalf of the European Commission  
(23.9.2022)

In cases of transfer of undertaking, Directive 2001/23/EC<sup>1</sup> establishes the obligation for the transferee to assume the obligations of the previous employer in relation to its employees. Moreover, before the transfer, the transferor must provide the workers' representatives with sufficient information about the transfer, including the legal, economic and social implications of the transfer for the employees.

Directive 2001/23/EC, has been transposed in Spanish law (principally through Article 44 of the Workers Statute<sup>2</sup>) and therefore an enforcement of the rights from the Directive is a matter primarily for national administrative or judicial authorities. The Commission has no competence to intervene in individual disputes when it is claimed that an employer does not act in conformity with the applicable national legislation. It is for national authorities to determine in the light of the facts and national provisions that transpose the Directive whether the company in question complied with its legal obligations.

When they act within the scope of European Union law, Member States and their national administrative and judicial authorities must respect the rights and observe the principles set out in the Charter of Fundamental Rights of the European Union.

---

<sup>1</sup> Council Directive 2001/23/EC of 12 March 2001 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 undertakings or businesses (OJ L 82, 22.3.2001, p. 16–20).

<sup>2</sup> Royal Decree-law 2/2015, of 23 October 2015, *por el que se aprueba el texto refundido de la Ley del Estatuto de los Trabajadores* (BOE n. 255, of 24/10/2015).