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Latvia: Employment protection in relation to business transfers

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Latvia

Phase:

Management

Type: Employment protection in relation to business transfers

Last modified: 01 October, 2019

Native name: **Darba Likums**

English name: **Labour law**

Article

117, 118

Description

According to the Labour law the transfer of an undertaking means the transfer of an undertaking or its unaffiliated, identifiable part (economic unit) to another person on the basis of an agreement, administrative or normative act, judgement of a court or another basis arisen between the parties outside contractual commitments thereof, as well as a merger, division or reorganisation of commercial companies.

The legislation does not apply to state administrative institutions or local governments or their functions.

The legislation is applied to the transfer of ownership of a sea vessel if it is a part of an enterprise, but not separately for the transfer of ownership of one or more sea vessels. The rule that the acquirer should be located in EU, or that the undertaking remains in the EU, should be observed.

The law prescribes that rights and duties of the transferor of an undertaking that arise from employment legal relationships applicable at the moment of transfer of the undertaking will devolve to the acquirer of the undertaking.

After transfer of an undertaking the acquirer must continue to comply with the provisions of the collective agreement previously in place and applicable at the moment of the transfer up to the moment of termination of such collective agreement, or until the moment a new collective agreement enters into effect, or until the moment of application of the provisions of another collective agreement. Within a one-year period from the transfer of the undertaking, the provisions of the collective agreement can not be amended to the detriment of employees.

Transfer of an undertaking may not form the basis for a notice of termination of an employment contract. The acquirer has the right to give a notice of termination of an employment contract based on the performance of economic, organisational, technological or similar measures in the undertaking.

The terminology employed by the EU directive regarding an economic entity has not been transposed. In order to help providing clarity as to when a transfer of undertaking has occurred, Latvian courts use the criteria defined by the European Court of Justice as follows:

- the nature of the undertaking;
- whether there is a transfer of tangible or intangible assets;
- the value of the intangible assets at the time of the transfer;
- whether the new employer takes over most of the employees,
- whether clients or customers are taken over;
- the nature of the activity before and after the transfer;
- the period of time for which operations were interrupted.

Comments

No information available.

Cost covered by

Not applicable




Involved actors other than national government

National government only

Thresholds

No, applicable in all circumstances

Sources

-  A Ius Laboris Publication (2009) 'Transfers of Undertakings Guide'
-  [Labour Law](#)
-  [Irēna Kalniņa. Darbinieku aizsardzība uzņēmuma pārejas gadījumā](#)

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