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## Spain: Staff information and consultation on business transfers

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Spain

Phase:

Anticipation

Type: [Staff information and consultation on business transfers](#)

Last modified: 17 February, 2021

Native name:

**Directiva 98/50/CE DEL CONSEJO de 29 de junio de 1998 por la que se modifica la Directiva 77/187/CEE sobre la aproximación de las legislaciones de los Estados miembros relativas al mantenimiento de los derechos de los trabajadores en caso de traspaso de empresas, de centros de actividad o de partes de centros de actividad; Ley 12/2001, de 9 de Julio, de medidas urgentes para reformar el mercado de trabajo**

English name:

**Council Directive 98/50/EC of 29 June 1998 amending Directive 77/187/EEC 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 businesses; Law 12/2001 of 9 July on urgent measures to reform the labour market**

### Article

44

### Description

Information and consultation rights in the event of transfers of undertakings are exercised by workers' delegates and workers' committees. These rights are guaranteed in enterprises with more than 5 employees.

The law 12/2001 literally reproduced the definition of transfer included in the 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 transfer of undertaking, business or parts of undertakings of business. Thus, it is stated that 'there is a transfer when the transmission affects an economic entity which retains its identity, meaning an organised grouping of resources which has the objective of pursuing an economic activity, whether or not that activity is central or ancillary'.

The transferee shall continue to observe the terms and conditions agreed in any collective agreement on the same terms applicable to the transferor under that agreement until the date of termination or expiry of the collective agreement or the entry into force or application of another collective agreement.

Transferor and transferee are required to inform the employees' representatives of the following issues:

- the date or proposed date of the transfer;
- the reasons for the transfer;
- the legal, economic and social implications of the transfer for the employees;
- any measures envisaged in relation to the employees.

This information must be provided in good time (before the change of the business takes place). If there are no employees' representatives, transferor and transferee must give such information to the workers affected.

When the transferor or transferee envisages implementing substantial changes in the employment and working conditions, a consultation process must be opened with the employees' representatives which will not be longer than 15 days. The parties must negotiate with a view to reaching an agreement.

### Comments

Before transposition of the Directive 98/50/EC, Spanish legislation only established the obligation of notifying the transfer to the employees' representatives. Currently, numbers 6 to 9 of article 44 (Statute of Worker's Rights) contain a more complete regulation. The Directive 2001/23/EC was transposed to the Spanish legislation by means of the law 12/2001 of 9 July.

### Cost covered by

Not applicable

### Involved actors other than national government

Trade union  
Works council

### Thresholds

Company size by number of employees:


6


Number of affected employees:


6

### Sources

 [Law 12/2001](#)

 [Council Directive 98/50/EC of 29 June 1998 amending Directive 77/187/EEC 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 businesses](#)

 [Implementation Report Directive 2001/23/EC on the approximation of laws of the Member States relating to the safeguarding of employees' rights in the event of transfers of undertakings, businesses or parts of businesses](#)

 [European Commission \(2012\), Operation and effects of information and consultation directives in the EU/EEA countries 'Fitness Check', Final Synthesis Report](#)

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