

**Reference for a preliminary ruling from the Tribunale di Trento (Italy) lodged on 11 October 2012 — Lorenzo Amatori and Others v Telecom Italia SpA, Shared Service Center Srl**

(Case C-458/12)

(2012/C 389/09)

*Language of the case: Italian*

**Referring court**

Tribunale di Trento

**Parties to the main proceedings**

*Applicants:* Lorenzo Amatori and Others

*Defendants:* Telecom Italia SpA, Shared Service Center Srl

**Questions referred**

1. As regards the ‘transfer of a part of a business’, does European Union legislation (in particular, Article 1(1)(a) and (b) of Council Directive 2001/23/EC<sup>(1)</sup> of 12 March 2001, read in conjunction with Article 3(1) thereof) preclude a rule of national law, such as that laid down in the fifth paragraph of Article 2112 of the [Italian] Civil Code, which permits the transferee to take over the employment relationships of the transferor, without the consent of the employees transferred being necessary, even where the part of the business transferred is not a functionally independent economic entity already existing before the transfer and identifiable as such by the transferor and the transferee at the time when it is transferred?

2. As regards the ‘transfer of a part of a business’, does European Union legislation (in particular, Article 1(1)(a) and (b) of Council Directive 2001/23/EC of 12 March 2001, read in conjunction with Article 3(1) thereof) preclude a rule of national law, such as that laid down in the fifth paragraph of Article 2112 of the [Italian] Civil Code, which permits the transferee to take over the employment relationships of the transferor, without the consent of the employees transferred being necessary, even where, after the transfer, the transferor undertaking wields in-depth and supreme control over the transferee, a relationship which manifests itself through a tight commercial bond and the commingling of business risk?

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<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 2003 L 82, p. 16).

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**Order of the President of the Court of 28 June 2012 — (reference for a preliminary ruling from the Amtsgericht Münster — Germany) — Criminal proceedings against Thomas Karl-Heinz Kerkhoff, intervener: Amtsgericht Münster**

(Case C-408/11)<sup>(1)</sup>

(2012/C 389/10)

*Language of the case: German*

The President of the Court has ordered that the case be removed from the register.

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<sup>(1)</sup> OJ C 211, 22.10.2011.