

**Judgment of the Court (Sixth Chamber) of 26 November 2015 (request for a preliminary ruling from the Tribunal Superior de Justicia de la Comunidad Autónoma del País Vasco — Spain) — Administrador de Infraestructuras Ferroviarias (ADIF) v Luis Aira Pascual, Algeposa Terminales Ferroviarios SL, Fondo de Garantía Salarial**

(Case C-509/14) <sup>(1)</sup>

*(Reference for a preliminary ruling — Directive 2001/23/EC — Article 1(1) — Transfers of undertakings — Safeguarding of employees' rights — Obligation on the transferee to take on workers — Public undertaking responsible for a public service — Provision of the service by another undertaking pursuant to a public service operating agreement — Decision not to extend that agreement following its expiry — Retention of identity of the economic entity — Activity based essentially on equipment — Employees not taken on)*

(2016/C 038/12)

Language of the case: Spanish

**Referring court**

Tribunal Superior de Justicia de la Comunidad Autónoma del País Vasco

**Parties to the main proceedings**

Applicant: Administrador de Infraestructuras Ferroviarias (ADIF)

Defendants: Luis Aira Pascual, Algeposa Terminales Ferroviarios SL, Fondo de Garantía Salarial

**Operative part of the judgment**

Article 1(1) of 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 must be interpreted as meaning that the scope of that directive covers a situation in which a public undertaking, responsible for the economic activity of handling intermodal transport units, entrusts, by a public service operating agreement, the performance of that activity to another undertaking, providing to the latter undertaking the necessary facilities and equipment, which it owns, and subsequently decides to terminate that agreement without taking over the employees of the latter undertaking, on the ground that it will henceforth perform that activity itself with its own staff.

<sup>(1)</sup> OJ C 26, 26.1.2015.

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**Judgment of the Court (Ninth Chamber) of 26 November 2015 (request for a preliminary ruling from the Bundesfinanzhof — Germany) — Hauptzollamt Frankfurt am Main v Duval GmbH & Co. KG**

(Case C-44/15) <sup>(1)</sup>

*(Reference for a preliminary ruling — Customs union and Common Customs Tariff — Tariff classification — Combined Nomenclature — Position 9025 — Concept of 'thermometer' — Indicators of exposure to a predetermined target temperature to be used on one occasion only)*

(2016/C 038/13)

Language of the case: German

**Referring court**

Bundesfinanzhof