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# Laws Protecting Employees on the Transfer or Sale of a Business

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# LAWS PROTECTING EMPLOYEES ON THE TRANSFER OR SALE OF A BUSINESS

## COMPARATIVE SUMMARY

It is common in many countries to protect the rights of employees of businesses that are sold or transferred. The chief feature of these provisions is the continuation or transfer of contracts of employment with the new owner. In some other countries, a similar result is achieved by means of collective bargaining agreements and other labor relations practices.

The result of both these approaches may be characterized as making the new owners "step into the shoes of the old owners," but the transfer of employment in most cases is not a guarantee of the continuation of the employment. As the old owner could have terminated the employment for causes such as loss of business, etc., so can the new employer. The crux of the right provided is that the *transfer itself cannot be a good cause for dismissing the employees of the business being acquired*. There must be other valid reasons for the dismissals.

The European Community (EC) is an exponent of the automatic transference of contracts of employments to the new owner. As part of its social mandate for providing an improved standard of living for workers, in 1977 the Council of the EC formulated a Directive for safeguarding employees' rights in the event of a transfer of an undertaking.* This Directive has been implemented in the national laws of most of the member states.

The continuity of employment ensured in the EC Directive is predicated on the continuation of the business by the new employer. It does not prohibit dismissals of employees "for economic, technical or organizational reasons entailing changes in the work force." These grounds are subject to careful scrutiny by the courts and their application has been restricted. However, there is no general right of re-employment for those dismissed on valid economic grounds.

Direct rights for the transfer of employment contracts are also granted in Argentina, Brazil, Canada, Chile, Switzerland, Syria, Turkey, and several countries in French-speaking Africa. In Argentina and Chile, if the business of the new employer is substantially changed or previous jobs are eliminated, the employees are entitled to indemnification upon dismissal. The Canada Labour Code also allows the continuation of the bargaining rights of transferred employees but does not provide any right of rehire for terminated employees. Syria guarantees the employment of those transferred to a new owner. Swedish employment protection laws and labor relations practices require the new owners of a business to follow the terms of the labor contract in force at the time of the transfer.

Japan does not provide for the automatic transfer of employment contracts. However, there is a related law that protects the employment rights of seamen after a change in the

* **A copy is *Appended.***

ownership of their ship. Based on the analogy of this Law and on general notions of the role of employees in an enterprise, the majority view among Japanese jurists is that a contract of employment is deemed to be transferred to the new owner. The new employer may then dismiss surplus employees.

Israeli law considers employment to be a matter of personal contract between parties. A 1985 measure to allow the automatic transfer of employment contracts has not yet been enacted.

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# ARGENTINA

Labor contracts in Argentina are governed by special legislation.[1] In cases of conveyance of a company's ownership in any way, the new employer has the same legal duties with respect to all the pre-existing employees as the original employer.[2] The employee may, however, be considered dismissed and, therefore, entitled to indemnification, if the transference of the company causes substantial changes in the employee's business activities, such as changes in either the company's activities or the employee's new activities.[3] Both the former and the new employer are jointly liable for all labor contracts in force at the time of the company's conveyance.[4]

These provisions are not applicable when the company is transferred to the government. In such a case, labor contracts are governed by specific rules.[5]

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[1] Law No. 20.744/74 as modified by Law No. 21.297/76 (Legislación Laboral, Victor Hugo Alvarez Chavez, Ediciones Juridicas, Buenos Aires, 1989 and Law 24.013/91 of Nov. 13, 1991 (*Boletin Oficial*, Dec. 17, 1991).

[2] *Id*. art. 225.

[3] *Id*. art. 226.

[4] *Id*. art. 228.

[5] *Id*. art. 230.

## BELGIUM

Belgian regulation on the protection of rights of employees in the case of a transfer of a business or its part to another owner is based on and was prompted by the Directive of the Council of the European Communities of February 14, 1977, 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 (77/187/EEC).[1] It is embodied in an industry wide Collective Labor Agreement No. 32 *bis* of June 7, 1985, on the Preservation of Workers' Rights in Case of the Change of Employers upon Transfer of the Enterprise, made obligatory by the Royal Decree of July 25, 1985,[2] as amended by Collective Labor Agreement No. 32 *ter* of December 2, 1986, made obligatory by the Royal Decree of January 19, 1987,[3] and by Collective Labor Agreement No. 32 *quater* of December 19, 1989, made obligatory by the Royal Decree of March 6, 1990.[4]

The Collective Labor Agreement quotes and paraphrases the Council Directive. It provides for the transfer of the particular employment relationship and the existing rights and duties to the new employer as they stand on the day of the transfer with the exception of the rights of employees concerning pension and invalidity schemes additional to those provided by social security. Both the transferor and transferee employers are jointly liable to the employees for the payment of their obligations to them existing on the day of the transfer. The new employer is thus bound to observe all the terms of the collective labor agreement which bound the former employer as long as the agreement stays in force. The new employer can, however, make changes which can be made by any employer, including the former employer, and dismiss employees for just cause or for reasons of an economic, technical or organizational nature. He can also renegotiate the wages and the conditions of employment.

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[1] *Official Journal of the European Communities*, No. L 61/26 of March 5, 1977.

[2] J. Servais and E. Mechelynck, 4 *Les Codes Belges* 173/17 (Bruxelles, Bruylant, 1990).

[3] *Id*.

[4] *Id*.

## BRAZIL

The Brazilian Constitution protects workers against unjust separation as a matter of fundamental right.[5] The Transfer of ownership of a commercial or industrial establishment or organization is not included among the just causes for the termination of a labor contract by an employer.[6] Furthermore, the Consolidated Labor Laws specifically provides that the transfer of ownership or change of legal structure of the enterprise shall not affect the labor contracts of the respective employees.[7] However, labor contracts may be terminated when such termination has been specifically agreed upon as a part of the contract.

A cursory search for specific standards governing the above circumstance for airline employees yielded no such standards. It may, therefore, be concluded that the above general provisions are applicable to them as well.

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[5] *Constituicao da Republica Federativa do Brasil* (Editora Atlas S.A., Sao Paulo, 1988), art. 7, I.

[6] E. G. Saad, *comp., Consolidacao das Leis do Trabalho (*LTr, Editora Ltda., Sao Paulo, 1990), arts. 477-486.

[7] Id. Art. 448

## CANADA

In Canada, virtually all employees of airline companies are governed by federal labor laws. Thus, such employees are protected by the transfer provision of the Canada Labour Code. This section provides where an employee is transferred from one employer to another as a result of a sale or merger, his or her employment is deemed to have been continuous with one employer.[8]

The Canada Labour Code also contains provisions respecting successor rights and obligations in the collective bargaining context.[9] One of these provisions states where an employee sells his or her business, a trade union that is the bargaining agent for the employees employed in the business continues to be their bargaining agent.[10] The Code contains special rules for sales of businesses that result in an intermingling of employees.[11]

Canada's federal labor laws do not contain any special provisions that create a duty on employers to hire terminated airline employees.

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[8] R.S.C. ch. L-2, § 189 (1985).

[9] *Id*. §§ 43-45.

[10] *Id*. § 44(2)(a).

[11] *Id*. § 45.

# CHILE

Labor Contracts in Chile are governed by the Labor Code.[1] Even though no specific provision protects an employee's job, in cases of transference of the company and when similar jobs exist, the employee retains his status in the new company. If the employee is not retained, he may be considered fired without cause and is entitled to indemnification.[2]

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[1] Law No. 18.620 of July 6th, 1987 in *Código de Trabajo* Edicion Oficial, Editorial Juridica de Chile, Santiago, 1988 as amended by Law No. 19.010 of November 23, 1990 in *Diario Oficial de la Republica de Chile* of November 29, 1990.

[2] *Id*. Law No. 19.010/90 arts. 3, 4,5,6,10,11,12.

## FRANCE

Article L 122-12 of the Labor Code[*] provides that in case of modification of the legal situation of the employer in connection with a sale, merger, transformation, spin-off or reorganization, all employment agreements between employees and the new employer remain in effect as they were before.

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[*] *Code de Travail* (Paris, PRAT/Europa, 1987), p. 89.

## FRENCH-SPEAKING AFRICAN COUNTRIES

### Specific Protection of Airlines Employees

No special provisions of protection for airlines employees have been enacted by the French speaking African countries listed below.

### General Protection of Employment Contracts when a Tranfer of Business Occurs

The French speaking African countries listed below, have adopted, in their Labor Code, a provision similar or identical to the Article L.122.12 of the French Labor Code which states that the employment contracts applicable at the date of the modification of the legal status of the enterprise, are maintained between the employees and the new employer. However, the principle of maintenance of the employment contracts is not applicable if there is not legal obligations between the two employers. These countries include: Benin, Burkina Fasso, Cameroon, Central African Republic, Chad, Congo, Gabon, Guinea, Ivory Coast, Madagascar, Mali, Mauritania, Niger, Senegal, Togo,[12] Burundi,[13] Rwanda,[14] and Zaire.[15]

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[12] M. Kirsch, 1 *Le droit du Travail en Afrique*, 274-275 (1987).

[13] *Recueil de la Legislation du Travail du Burundi* (Republic of Burundi, 1982).

[14] *Code du Travail*, Law of February 28, 1967, in J.O. 1967, p. 107.

[15] *Code du Travail*, Vol I, 1985, p. 17.

## GERMANY

According to German law, the transfer of an enterprise is not a valid reason for the dismissal of employees.[16] Nevertheless, employees can lawfully be dismissed before or after a transfer of ownership if this is justified by economic conditions or by the need to reform production methods.[17] If contested, such dismissals are subject to the careful scrutiny of the courts which will ascertain not only whether the transfer was a substantial reason for dismissal,[18] but also whether the economic or operational justifications for dismissal were sufficient and whether the selection of employees to be dismissed was based on the principles of social justice.[19]

A right to be re-employed if the employer's assessment of the economic situation proves overly pessimistic has been suggested in the legal literature.[20] To date, however, reinstatement is granted by the courts only in exceptional cases.[21] In any event, the right to be reinstated would exist only for a limited time after termination of the employment relationship.[22]

In case of mass dismissals, employees may be granted severance pay on the basis of collective agreements[23] or on the basis of a social plan created through a works council agreement.[24]

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[16] Bürgerliches Gesetzbuch (Civil Code), § 613a, para. 4, as enacted by EG Anpassungsgesetz, August 13, 1980, *Bundesgesetzblatt* (BGBl., official law gazette of the Federal Republic of Germany) I, p.1308, in implementation of Council Directive 77/187/EEC.

[17] G. Schaub, *Arbeitsrechts-Handbuch* 708 (München, 1983).

[18] O. Palandt, *Bürgerliches Gesetzbuch* 655 (München, 1990).

[19] R. Blanpain, "Federak Republic of Germany," 5 *International Encyclopaedia for Labour Law and Industrial Relations,* 86 (Boston, 1987-).

[20] U. Preis, *Prinzipien des Kündigungsrechts bei Arbeitsverhältnissen* 349-357 (München, 1987).

[21] *Supra* note 3, Palandt, at 643.

[22] *Supra* note 5, Preis, at 351.

[23] P. Meisel, *Arbeitsrecht für die betriebliche Praxis* 422 (Köln, 1986).

[24] *Supra* note 2, Schaub, at 1414.

These features of German labor law are applicable to all enterprises exceeding a certain minimum size. Special rules for airline employees or for any other industry do not exist.

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## GREECE

The employee's right to his position and job security are protected in Greek labor law. The following laws deal with employee protection in the event of change of employer.

Article 6 of Law 2112/20 which states that a change of employer, irrespective of the manner in which it occurs, does not influence the application of provisions favorable to an employee.[25] Furthermore, Article 6 of Law 3139/1955 which declares that a change of an employer does not have an impact on the collective agreement by which the employer is bound, and any future rights or obligations emanating from this collective agreement are transferred to the new employer.[26]

Additionally, in compliance with Council Directive 77/187,[27] Greece enacted Presidential Decree 572/1988 on the Protection of Employee's Rights in the Event of Transfers of Undertakings, Businesses or Part of Businesses.[28] According to article 4 of this Decree, such a transfer does not in itself constitute grounds for dismissal. However, this provision does not prohibit employee dismissals that may take place because of economic, technical or organizational reasons that may call for changes in the work force.

The Decree 572/1988 does not apply to sea-going vessels.

In light of the above, under Greek law, the transfer of an enterprise does not bring about the termination of the contract of employment, but the transferor's rights and obligations arising from a contract of employment or collective agreement are transferred to the transferee. There is no specific law that safeguards only the rights of airlines employees under such conditions. These employees are covered and protected by the laws discussed above.

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[25] P. Raptarchis, 15(2) *Diarkes Kodix Nomothesias*, 163,(d) (Athens, Looseleaf).

[26] G. Leventis, "Metavivase Epicheireseos kai Synepeies gia tis Ergasiakes Scheseis" (Transfer of an Enterprise and Its Consequences in Labor Relations), *Deltion Ergatikes Nomothesias* (Bulletin of Labor Law), no. 1101, at 1169 (1989).

[27] On the Approximation of the Laws of the Member States Relating to the Safeguarding of Employee's Rights in the Event of Transfers of Undertakings, Businesses or Part of Businesses, *Official Journal of the European Communities*, 20, 1977.

[28] *Supra* note 1, at 170,03.

# ISRAEL

A labor contract is regarded by the Israeli law of contracts as a personal contract between a specific employer and a specific employee. A bill was introduced to the *Knesset* (the Israeli Parliament) in 1985 to provide that in case of change of the ownership of a business the new employer will replace the former one with regard to the employment contract. The bill has not passed yet.

Labor laws, however, protect the rights of employees in such cases. If the new owner decides to continue the employment of the employees, he may not change the conditions of their contract if there is a collective agreement applying to their sector of work except if the change is for their benefit. Only contracts of employees to whom no collective agreement applies may be changed.[31] The legal rights based on seniority of an employee chosen by the new owner to continue employment continue without interruption.[32]

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[31] Collective Agreements Law, 5717-1957, 11 *Laws of the State of Israel* 61 (5717-1956/57).

[32] H, Channa, *Zchuyot Ovdim Behilufei Maavidim Beperuk Hevra Uvekinus Nechasim* (Employees' Rights Upon Transfer of Employment in Company Liquidation in Receivership) 25 (1988).

# ITALY

As a general rule, the transfer of a business does not determine the automatic termination of labor relations, and the employees' accrued seniority is preserved.[*] The termination of a labor contract at will for an indefinite period of time, though such exists under the provisions of the Civil Code, was substantially limited by legislation enacted in 1966 and 1970.

According to recent material available in the Library of Congress, legislation related to EEC Directive 77/187, though acted upon by the Senate in 1988, has not yet received the approval of the second chamber of Parliament.

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[*] Art. 2112, Civil Code, in I 4 *Codici e le leggi complementari* (Milano, Giuffrè, 1987).

## JAPAN

Japan has no general statutory provisions dealing with the continuation of employment contracts after a business is sold or transferred to another employer nor specific provisions dealing with airline worker contracts. However, on the basis of the majority opinion on the subject and the Seamen's Law, described below, it may be construed that airline employees are protected even after an airline is sold or transferred to new owners.

Although, in the absence of statutory provisions, judicial and scholarly opinion is divided,[33] the majority view holds that the employees are part of an enterprise's organization and a change of employer would not affect the contents of the employment contract; therefore, the contract in its entirety is deemed to be transferred to the new employer. Superfluous employees resulting from the transfer of a business are to be dismissed not by agreement between the old and new employers but only by action of the new employer after the transfer has taken place.[34]

The only specific statutory provisions applicable to the continuation of employee contracts are those found in the Seamen's Law.[35] The relevant articles provide that if there is a change of ship owner (with the exception of a change through inheritance or other general form of succession), the old employment contract will expire, but from the time of its expiration that same contract will be deemed to exist between the new owner and the seamen. The seamen may rescind the contract, in which case they will be guaranteed the receipt of an allowance equivalent to one-month's wages.

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[33] Noboru Kataoka, *Shin rodo kijunho ron* [On the New Labor Standards Law] 218-219 (Tokyo, Horitsu Bunka Sha, 1982).

[34] *Rodoho jiten* [Dictionary of Labor Law] 286 (Tokyo, Rodo Junposha, 1979).

[35] Arts. 43 and 46, Law No. 213, Aug. 15, 1953, as last amended by Law No. 39, May 17, 1988.

## MEXICO

The Mexican Federal Constitution protects employees from being discharged without justifiable cause.[36] The substitution of an employer because of a transfer of ownership of a company or enterprise is not included among the valid reasons for the dismissal of employees[37] or the termination of a labor relation.[38]

The Federal Labor Law provides that the substitution of an employer will not affect the labor relations of the company or enterprise. The old employer will be jointly and severally responsible with the new employer for obligations derived from both labor relations and this Law and which were created before the date of the substitution for a term of six months. When this term has ended, labor relations will remain the sole responsibility of the new employer. Furthermore, the comments to this provision state that to consider that a substitution of an employer has been effected it is enough that the employer had sold part of the enterprise or part of its economic assets or had transferred the administration of an important part of the services to other people or if the reason of the transference was due to insolvency of the employer.[39]

The six-month term referred to above will begin from the date the union or the employees were notified of the substitution.[40]

A search of our available sources did not reveal specific labor standards applicable only to airline employees. Therefore, the general Federal Labor Law also applies to them.

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[36] *Constitución Política de los Estados Unidos Mexicanos*, 86th ed. (Editorial Porrúa, S.A., Mexico, 1989), art. 123(A)(XXII).

[37] *Ley Federal del Trabajo*, 59th ed. (Editorial Porrúa, S.A., Mexico, 1989), art. 47.

[38] *Id*. arts. 53 and 434.

[39] *Id*. art. 41.

[40] *Id*.

## THE NETHERLANDS

As a consequence of the directive of the Council of Ministers of the European Communities of 1977, related to the safeguarding of employees' rights in the event of the transfer of an organization, the Civil Code of the Netherlands was amended in 1981.[*] The new provisions provide for the transfer of the individual employment relationship and the rights and duties attached to it when an enterprise changes hands and the employee is transferred from the old employer to the new employer. The new provisions have given rise to several questions of interpretation. The main question regards whether the new provision can also be applied in case of bankruptcy, and case law, to date, has held that the new provisions do not apply in case of bankruptcy. These decisions were based on a prejudicial decision given by the European Court of Justice with respect to the meaning of the directive of the European Community.

There are no special provisions that apply to airlines.

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[*] Law of May 15, 1981, *Staatsblad* (official gazette of the Netherlands) 400.

## POLAND

### Laws Protecting Airline Employees

In Poland, there are no particular laws providing specific protection to airlines employees after a business is sold or transferred to another employer.

### Laws Protecting All Employees

Pursuant to a 1989 Amendment to the Labor Code, when enterprises are merged, the enterprise formed during such a merger becomes automatically a party to all employment contracts.[41] In case of the acquisition of an enterprise, the acquiring enterprise automatically becomes a party to all the employment contracts of the acquired employees.[42] When the enterprise is split, the enterprises created during the split also automatically become parties to all their respective employees' employment contracts.[43]

Poland is presently in a period of transition. It is restructuring its economy and undergoing other important economic changes. These changes have often resulted in the transfer of ownership or other organizational restructuring and mass dismissals of the labor force. Rights of employees during this transitional period are regulated by the Group Dismissal Law.[44] The provisions of this Law apply to work places in which employment is reduced due to economic considerations or organizational, production, or technological changes, if they require the termination, all at once or over a period of not more than three months, of the labor relationship with a group of employees amounting to at least 10% of the work force at work places employing up to 1,000 persons or at least 100 employees at work places employing more than 1,000 persons.[45]

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[41] Art. 23.1, sec. 1, of the Law of June 26, 1974. The Labor Code, *Dziennik Ustaw*, hereinafter Dz.U., No. 24, item 141 (1974), as amended.

[42] Art. 23.1, sec. 2, Labor Code.

[43] Art. 23.1, sec. 3, Labor Code.

[44] The Law of December 28, 1989, on Special Rules for Termination of the Employment Relationship With Employees Due to Reasons Relating to the Work place and on Amendments to Certain Laws, hereinafter the Group Dismissal Law, Dz.U. No. 4, item 19 (1990); amended: Dz.U. No. 10, item 59 (1990); Dz.U. No. 51, item 298 (1990); Dz.U. No. 83, item 372 (1991); Dz.U. No. 106, item 457 (1991).

[45] Art. 1, para 1, Group Dismissal Law.

Pursuant to article 12 of the Group Dismissal Law, the work place should re-employ an employee whose labor relationship has been terminated for the reasons referred to in article 1, paragraph 1, in the event it is rehiring personnel in the same vocational or professional group, if the employee declares his or her intention to resume employment at that work place within a year from the date of termination of his or her labor relationship.[46]

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[46] Art. 12, Group Dismissal Law.

## REPUBLIC OF IRELAND

1. If a business is acquired through a transfer of shares, the new owner of the company inherits all the existing legal obligations and rights as employer. A potential purchaser should therefore require full disclosure of these obligations. Dismissal of any employees will be subject to their existing employment agreements. All existing service agreements should also be inspected as these may give an employee the right to resign with compensation on an acquisition.[29]

2. If an undertaking is transferred through the acquisition of assets, the European Communities (Safeguarding of Employees Rights on Transfer of Undertakings) Regulations 1980, will apply. This Regulation provides that the rights and obligations of any existing employment contracts transfer to the purchaser with the undertaking. Although the Regulation prohibits the transfer of the undertaking as a ground for dismissal, it does not prohibit dismissals for economic, technical or organizational reasons entailing changes in the work force.[30]

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[29] P. Ussher, B. O'Connor, C. McCarthy, *Doing Business in Ireland* 4-29 (1987).

[30] European Communities (Safeguarding of Employees' Rights on Transfer of Undertakings) Regulations, S.I. No. 306 (1980).

## SWEDEN

In Sweden, relations between the labor force and the employers are regulated by the terms of general contracts concluded between the parties involved. Thus, Sweden does not have a code covering labor law, but there are specific laws for general employment protection. When a company is transferred to another party, this is done in consideration of all the rights and obligations of those persons involved. Also, the labor contract is a contract which must be respected by those who are party to it. Hence, the company being transferred must follow the terms of the labor contract existing at the time of the transfer. In principle, since the 1930s all factions in the Swedish labor market have cooperated amicably, and there have been no hostilities on either side.

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## SWITZERLAND

In Switzerland, the provisions governing private contracts are incorporated into the Swiss Code of Obligations of March 30, 1911.[47] The Code provides a definition of the employment contract and limits the rights and duties of both the employer and the employee.[48]

In regard to the business transfer from one owner to another and those elements that affect the position of the employee, the Code includes a specific provision in its article 333 which reads as follows:

### Art. 333.

(1) If the employer transfers the enterprise to another party, and comes to an agreement with the latter on the assumption of the employment relation, it will be assumed by the acquiring party together with all rights and obligations from the date of passing of the enterprise, insofar as the employee does not reject the transfer.

(2) In case of rejection of the transfer, the employment relation shall be cancelled upon the expiry of the legal term of notice; the acquiror of the business and the employee are bound to abide by the contract until then.

(3) The former employer and the acquiror of the enterprise are jointly liable for the claims of the employee, which became due before the transfer and for those which will become due until the point in time at which the employment relation could have ended in an orderly way, or in case of rejection of the transfer it is ended by the employee.

(4) Otherwise the employer is not entitled to transfer the rights arising from the employment relation to a third person, unless otherwise agreed or is justified by the circumstances.

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[47] *Recueil officiel des lois federales*, v. 2, p. 189, as amended.

[48] *Id*. arts. 319-362.

## SYRIA

Article 85 of Labour Law No. 91 of April 5, 1959, as amended,[*] provides that for a business liquidation, bankruptcy, closure or its joining with another or its transfer by inheritance, will, sale, or purchase, all of its commitments shall be guaranteed, including the employment of labor.

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[*] *Majmu'at al-Qawanin wa al-Anzimah* No. 4 [Compilation of Laws and Regulations], Ministry of Treasury, Damascus, 1991, p. 3569 [in Arabic].

## TAIWAN

There is no specific law of the Republic of China (ROC) on Taiwan governing employee contracts for airline workers. However, a general law, the Labor Standards Law of the ROC (adopted July 30, 1984), addresses the rights of employees when a new employer takes over a business. The new employer has no obligation to hire the old employees. Should the new employer reach an agreement with the old employer to hire some of these employees, he must recognize the seniority of the transferred workers (art. 20). An employer may give advance notice to employees in terminating their contracts when his business is closed or is sold to another employer (art. 11).

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## TURKEY

Under the provisions of the Turkish Labor Law, the transfer of a business does not terminate the employment contract. Furthermore, the existing rights and benefits of the employees are protected, such as seniority, accumulated leave and retirement. The new employer is responsible from them. However, the original employer's obligations towards his employees continues until fulfilled by the new one.

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## UNITED KINGDOM

At common law, the transfer of a business impliedly terminated the employment contracts of all employees. The rule was changed in 1981 when the United Kingdom implemented an EC Directive safeguarding employees' rights on the transfer of businesses.

The Transfer of Undertakings (Protection of Employment) Regulations, 1981,[49] ensure that the transfer of a business does not terminate the employment contracts of the employees of the transferor; the contracts continue automatically with the new owner. Thus, "the new owners of the business step into the shoes of the old owners."[50]

The Regulations prohibit the dismissals of employees for a reason connected with the transfer. However, under an escape clause provided in the Directive, the prohibition does not apply to dismissals in a limited range of circumstances on account of "economic, technical or organizational reason entailing changes in the workforce of either the transferor or the transferee." The application of this exception has been limited by the courts.[51]

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[49] S.I. 1981, No. 1794.

[50] Ingle, *Transfers of Business In* F. Younson with Baker & McKenzie, *Employment Law Handbook* 342 (1987).

[51] *Id*. at 351.