



EU jurisdiction rules applicable to employment

EU jurisdiction rules applicable to civil and commercial cases have recently been [recast](#). However, the EP's Committee on Legal Affairs [suggests](#) that further changes could be made in order to enhance employee protection.

Background

Within EU private international law the [recast Brussels I Regulation](#) (Brussels I) determines which court decides an employment dispute. The [Rome I Regulation](#) (Rome I) determines which law applies to an **employment contract** and the [Rome II Regulation](#) (Rome II) the law applicable to liability arising from an **industrial action**. Weaker parties, such as employees, benefit from protective rules under EU private international law, aimed at restoring the balance distorted by inequalities in bargaining power.

Individual disputes

Under [Brussels I](#), an employee **may only be sued** in courts of their place of domicile. Conversely, an employee may **bring a case** against their employer in the courts of a Member State (MS) where the employer is domiciled, or where the employee habitually carries or carried out their work, or, if there is no such place, **where 'the business which engaged the employee is or was situated'**.

Under [Rome I](#), parties may choose the law applicable to an employment contract. However, they may not derogate from **mandatory provisions** of the law of the MS where the employee habitually carries out their work, or, failing that, of the MS in which the place of business through which the employee was engaged is situated, or – if the contract is **more closely connected** with another country – of the law of that country.

The **'engaging place of business' clause** in [Brussels I](#) has been [criticised](#) for leading to legal uncertainty and not furthering the aim of

employee protection. The [Voogsgeerd](#) case (2011) has been cited as an example of litigation in which it took ten years to determine which court had jurisdiction to hear the employee's claim. It has been [proposed](#) to replace this clause with a reference to the MS with which the employment contract is most closely connected (as in [Rome I](#)), or to [allow](#) employees to bring cases in any of the places where they carry out work.

Disputes regarding industrial actions

Under [Brussels I](#) an employee or trade union may be sued in the MS where the 'harmful event' occurred or may occur. Under [case law](#) of the Court of Justice of the EU, this includes both the location of the **event** causing the damage (e.g. industrial action) and the place where the **damage** occurred (e.g. where the firm allegedly suffered a loss).

However, [Rome II](#) provides that, in case of liability arising from **industrial action**, the applicable law is that of the country where such an action is to take place or has taken place. This does not include the place where illegal industrial action causes harm. Discrepancy between [Brussels I](#)

and [Rome II](#) may lead to a [situation](#) in which a court in country A has to apply country B's law.

Committee on Legal Affairs

In September 2013, the Committee on Legal Affairs adopted a [Report](#) on improving private international law: jurisdiction rules applicable to employment (rapporteur: Evelyn Regner, S&D, Austria). The report suggests amending [Brussels I](#) to clarify that jurisdiction in disputes arising from **industrial action** is given to courts of the place where such action is to be, or has been, taken. Furthermore, it suggests replacing the 'engaging place of business' clause with a reference to the **'place from where the employee receives day-to-day instructions'**.