



EUROPEAN PARLIAMENT

2009 - 2014

Committee on Employment and Social Affairs

2010/0383(COD)

10.11.2011

OPINION

of the Committee on Employment and Social Affairs

for the Committee on Legal Affairs

on the proposal for a regulation of the European Parliament and of the Council
on jurisdiction and the recognition and enforcement of judgments in civil and
commercial matters (recast)
(COM(2010)0748 – C7-0433/2010 – 2010/0383(COD))

Rapporteur: Evelyn Regner

PA_Legam

SHORT JUSTIFICATION

Calls for the requirement of a new section on jurisdiction over industrial actions, to be introduced in the Regulation. In the past, ECJ cases, especially the "Viking-case" showed that there is some scope for forum shopping for court jurisdictions. Due to lack of a jurisdiction for industrial actions, a British court was appointed to decide over an industrial action that took place in Finland. Courts in Member States without any relation to the industrial action make decisions in civil law. This is against the spirit and the objectives of this regulation. The courts of the Member States with the closest connection to the industrial action - that's naturally the Member State where the action has been taken or took place - should have the competence to decide in those cases.

Calls for the requirement for exequatur to be abolished, but considers that before abolishing exequatur it has to be guaranteed that it is balanced by stringent safeguards, which are sufficiently capable of protecting the rights of the judgment debtor and which ensure that fundamental rights are respected to a full extent;

Considers in the meantime that the Community rules on exclusive jurisdiction with regard to rights in immovable property or tenancies of immovable property could be extended to proceedings brought in a third State; jurisdiction rules for consumers and employees shall also be applicable with regard to third-state companies;

AMENDMENTS

The Committee on Employment and Social Affairs calls on the Committee on Legal Affairs, as the committee responsible, to incorporate the following amendments in its report:

Amendment 1

Proposal for a regulation Recital 1 a (new)

Text proposed by the Commission

Amendment

(1a) Regulation (EC) No 44/2001 entered into force in March 2002. Eight years later, the Commission has reviewed its operation in practice and considered necessary amendments to the instrument. This recast will improve access to justice, inter alia by making it possible for employees to bring actions against multiple defendants in the employment area under Article 6(1). That possibility existed under the 1968 Brussels

Convention. Its reinsertion in the Regulation will benefit employees who wish to bring proceedings against joint employers established in different Member States.

Amendment 2

Proposal for a regulation Recital 1 b (new)

Text proposed by the Commission

Amendment

(1b) Jurisdiction in matters concerning industrial action is hereby created in order to avoid forum shopping and to ensure consistency with Regulation (EC) No 864/2007 of the European Parliament and of the Council of 11 July 2007 on the law applicable to non-contractual obligations (Rome II)¹; the competent court should be the court of the Member State in which the industrial action takes place.

¹ OJ L 199, 31.7.2007, p. 40.

Amendment 3

Proposal for a regulation Article 22 – point 1 – point aa (new)

Text proposed by the Commission

Amendment

(aa) in proceedings concerning industrial action which takes place in a given Member State, the courts of that Member State shall have jurisdiction;

Justification

According to recital 7 of Rome II, there should be coherence between these Community law instruments that regulate applicable law and court jurisdiction. A jurisdiction that corresponds with Art. 9 of Rome II should be introduced in Brussels I to avoid "forum shopping". In the case of more defendants (industrial action) a company can still choose the court jurisdiction which seems to be more favourable for its interests, which is not in

coherence with Brussels I objectives.

PROCEDURE

Title	Jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (recast)
References	COM(2010)0748 – C7-0433/2010 – 2010/0383(COD)
Committee responsible Date announced in plenary	JURI 18.1.2011
Committee(s) asked for opinion(s) Date announced in plenary	EMPL 15.9.2011
Rapporteur(s) Date appointed	Evelyn Regner 7.7.2011
Discussed in committee	12.9.2011 5.10.2011 7.11.2011
Date adopted	7.11.2011
Result of final vote	+: 20 –: 15 0: 0
Members present for the final vote	Edit Bauer, Jean-Luc Bennahmias, Pervenche Berès, Philippe Boulland, Milan Cabrnach, Alejandro Cercas, Ole Christensen, Frédéric Daerden, Karima Delli, Frank Engel, Richard Falbr, Marian Harkin, Roger Helmer, Liisa Jaakonsaari, Ádám Kósa, Veronica Lope Fontagné, Elizabeth Lynne, Thomas Mann, Elisabeth Morin-Chartier, Siiri Oviir, Konstantinos Poupakis, Sylvana Rapti, Elisabeth Schroedter, Jutta Steinruck, Traian Ungureanu, Andrea Zanoni
Substitute(s) present for the final vote	Georges Bach, Raffaele Baldassarre, Edite Estrela, Julie Girling, Richard Howitt, Ria Oomen-Ruijten, Antigoni Papadopoulou, Emilie Turunen
Substitute(s) under Rule 187(2) present for the final vote	Catherine Bearder