Tuesday, October 8, 2013

P7_TA(2013)0396

Private international law and employment

European Parliament resolution of 8 October 2013 on improving private international law: jurisdiction rules applicable to employment (2013/2023(INI))

(2016/C 181/03)

The European Parliament,

— having regard to Articles 12, 15, 16, 27, 28, 30, 31 and 33 of the Charter of Fundamental Rights of the European Union,

— having regard to Article 3(3) of the Treaty on European Union,

— having regard to Articles 45, 81 and 146 of the Treaty on the Functioning of the European Union,

— having regard to the judgments of the Court of Justice of the European Union in Cases C-18/02 ([1]), C-341/05 ([2]) and C-438/05 ([3]),

— having regard to Rule 48 of its Rules of Procedure,

— having regard to the report of the Committee on Legal Affairs and the opinion of the Committee on Employment and Social Affairs (A7-0291/2013),

A. whereas the review of the Brussels I Regulation ([4]) was a great success, as it introduced considerable improvements to the rules on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters within the European Union;

B. whereas the scope of that recast procedure did not include certain employment law issues;

C. whereas the Interinstitutional Agreement of 28 November 2001 ([5]) provides that the recast technique is to be used for acts which are frequently amended;

D. whereas it is important to ensure coherence between the rules governing jurisdiction over a dispute and the rules governing the law to be applied to a dispute;

E. whereas it is also a major concern of private international law at European level to prevent forum shopping — particularly when this might occur to the detriment of the weaker party, such as employees in particular — and to ensure the greatest possible level of predictability as to jurisdiction;

([1]) Judgment of the Court (Sixth Chamber) of 5 February 2004 in Case C-18/02, Danmarks Rederiforening, acting on behalf of DFDS Torline A/S v LO Landsorganisationen i Sverige, acting on behalf of SEKO Sjöfolk Facket för Service och Kommunikation, ECR 2004 p. I-01417.

([2]) Judgment of the Court (Grand Chamber) of 18 December 2007 in Case C-341/05, *Laval un Partneri Ltd v Svenska Byggnadsarbetareförbundet, Svenska Byggnadsarbetareförbundets avdelning 1, Byggettan and Svenska Elektrikerförbundet*, ECR 2007 p. I-11767.

([3]) Judgment of the Court (Grand Chamber) of 11 December 2007 in Case C-438/05, *International Transport Workers' Federation and Finnish Seamen's Union v Viking Line ABP and OÜ Viking Line Eesti*, ECR 2007 p. I-10779.

([4]) Regulation (EU) No 1215/2012 of the European Parliament and of the Council of 12 December 2012 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (OJ L 351, 20.12.2012, p. 1).

([5]) Interinstitutional Agreement of 28 November 2001 on a more structured use of the recasting technique for legal acts (OJ C 77, 28.3.2002, p. 1).

F. whereas, as a general principle, the court having the closest connection to a case should have jurisdiction;

G. whereas a number of high-profile European court cases on jurisdiction and applicable law in relation to individual employment contracts and industrial action have led to fears that national provisions on employment law could be undermined by European rules which can lead, in certain cases, to the law of one Member State being applied by the court of another Member State ([1]);

H. whereas, in view of the major importance of employment law for the constitutional and political identities of the Member States, it is important that European law should respect national traditions in this field;

I. whereas it is also in the interest of the proper administration of justice to align the rules on jurisdiction with the rules on applicable law to the extent possible;

J. whereas it seems appropriate to evaluate whether there is a need for changes to be made to the rules on jurisdiction in the field of employment law;

K. whereas, in particular, with regard to industrial action, the courts of the Member State where the industrial action is to be or has been taken should have jurisdiction;

L. whereas, with regard to individual employment contracts, it should be ensured, to the extent desirable, that the courts of the Member State which has the closest connection with the employment relationship should have jurisdiction;

1. Congratulates the institutions on the successful review of the Brussels I Regulation;

2. Considers that employment law issues should be further addressed by the Commission with a view to a possible future revision;

3. Notes that one of the main principles of private international law relating to jurisdiction is the protection of the weaker party and that the objective of employee protection is spelt out in the current jurisdiction rules;

4. Notes that employees are generally well protected by jurisdiction rules in employment matters when they are defendants in cases brought by their employers through the exclusive grounds of jurisdiction laid down in the Brussels I Regulation;

5. Urges the Commission to assess whether the current legal framework under the Brussels I Regulation sufficiently takes into account the specificities of actions in the employment sector;

6. Calls on the Commission to pay particular regard to the following questions:

(a) whether, concerning the liability of a worker or an employer or of an organisation representing the professional interests of workers or employers for damages caused by industrial action, any steps need to be taken to clarify that Article 7(2) of the recast Brussels I Regulation refers to the place where the industrial action is to be or has been taken, and whether alignment with Article 9 of the Rome II Regulation is necessary;

([1]) See, in particular, the circumstances surrounding Case C-438/05, *International Transport Workers' Federation and Finnish Seamen's Union v Viking Line ABP and OÜ Viking Line Eesti*, ECR 2007 p. I-10779.

(b) whether, in cases where an employee sues an employer, the fall-back clause which applies where there is no habitual place of work should be reworded so as to refer to the place of business from which the employee receives or received day-to-day instructions rather than to the engaging place of business;

7. Instructs its President to forward this resolution to the Council and the Commission, and to the European Economic and Social Committee.

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Gendercide: the missing women?

European Parliament resolution of 8 October 2013 on Gendercide: the missing women? (2012/2273(INI))

(2016/C 181/04)

The European Parliament,

— having regard to Article 3 of the Treaty on European Union (TEU) which emphasises values common to the Member States, such as pluralism, non-discrimination, tolerance, justice, solidarity and equality between men and women, and Article 8 of the Treaty on the Functioning of the European Union (TFEU) which lays down the principle of gender mainstreaming, as it states that the Union shall in all its activities aim to eliminate inequalities, and to promote equality, between men and women,

— having regard to Article 19 of the TFEU which refers to combating discrimination based on sex,

— having regard to Article 23 of the Charter of Fundamental Rights of the European Union,

— having regard to the United Nations Convention of 18 December 1979 on the Elimination of All Forms of Discrimination against Women (CEDAW),

— having regard to the Beijing Declaration and Platform for Action adopted by the Fourth World Conference on Women on 15 September 1995, and to its resolutions of 18 May 2000 ([1]), 10 March 2005 (Beijing + 10) ([2]), and 25 February 2010 (Beijing + 15) ([3]),

— having regard to the Millennium Development Goals (MDGs) adopted at the Millennium Summit of the United Nations in September 2000, and in particular the MDG on promoting gender equality and empowering women as a prerequisite for overcoming hunger, poverty and disease, reaching equality at all levels of education and in all areas of work, equal control over resources and equal representation in public and political life,

— having regard to the European Pact for Gender Equality (2011-2020), adopted by the European Council in March 2011,

— having regard to the European Consensus on Development,

([1]) OJ C 59, 23.2.2001, p. 258.
([2]) OJ C 320 E, 15.12.2005, p. 247.
([3]) OJ C 348 E, 21.12.2010, p. 11.