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## **THE EU PRIVATE INTERNATIONAL LAW FRAMEWORK FOR THE ACKNOWLEDGMENT AND EXECUTION OF JUDGEMENTS IN EMPLOYMENT MATTERS**

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### **Abstract**

*This study seeks to examine the recognition and enforcement of EU employment judgements under private international law (PIL). The objectives are to examine the legal framework regulating the recognition and enforceability of employment decisions and to assess the influence of Brexit on EU-UK employment-related rulings. The methodology includes a comprehensive review of applicable EU legislation, case law, and employment-related regulations. This will reveal the conditions for recognising and enforcing employment decisions, the function of the EU Regulation on jurisdiction and judgements, and the scope of the EU Directive on judgement enforcement. The findings will elucidate the complexities and difficulties of PIL in employment matters, including the implications of Brexit. They will promote legal certainty and safeguard employee rights in the EU. Policymakers, legal practitioners, and stakeholders in cross-border employment disputes will*

*gain valuable insights. Based on the results of future research, legal framework reforms may be proposed. Comparative studies of PIL frameworks in other jurisdictions could contribute to the expansion of employment law knowledge internationally.*

**Keywords**

Private International Law, Acknowledgment and Execution, Jurisdiction, Employment Contracts

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**1. Introduction**

Validity of judgements and their execution in employment issues within the EU is governed by a complex legal framework that includes EU legislation and case law. The reason for this analysis is to convey a brief summary of this legal framework, including the relevant EU law and jurisprudence, and to highlight the key issues and challenges that arise in the implementation and application of verdicts in labour disputes.

The legal framework governing the recognition and implementation of judgments in employment matters within the EU is primarily founded on the European Union's Act on "Jurisdiction and the Execution of Decisions in Civil and Commercial Matters". The Brussels Regulation provides rules on the jurisdiction of courts in the realm of commerce and law, as well as laws governing the validity and execution of court orders in those matters. (Brand, 2011) Under the Brussels Regulation, judgments issued by a judge in one EU jurisdiction are automatically acknowledged by other EU countries in the absence of any extraordinary measures. (Burbank and von Mehren, 2004). The execution and acknowledgement of foreign judgements in employment issues is subject to certain conditions, including the requirement that the verdict must be absolute and unwavering. And that it must not be contrary to government regulation (Crawford and Carruthers, 2014). In addition to the Brussels Regulation, the execution and acknowledgement of foreign judgements in employment issues is also governed by the EU Directive "concerning the recognition and execution of judgements in commerce and civil cases". The Enforcement Directive provides additional rules on execution and acknowledgement of foreign judgements, including rules on the procedures for acknowledgment and enforcing and the reason(s) for declining. (Kronke and Thorn, 2011)

The relevant EU legislation is supplemented by jurisprudence from the CJEU. The CJEU has issued a number of important rulings on the execution and acknowledgement of foreign judgements in employment issues, including cases involving the recognition of judgments in cases of cross-border dismissals and cases involving the enforcement of judgments relating to collective labour disputes. Despite the existence of this legal framework, there are a number of challenges and issues that arise in the execution and acknowledgement of foreign judgements in labour issues

within the EU. (Magnus and Mankowski, 2012) These include issues relating to the ambit of the Brussels Regulation and the Enforcement Directive, the interpretation and application of the rules on acknowledgment and execution, and the practical difficulties that can arise in cross-border employment disputes. (Michaels, 2006) The legal framework that governs the execution and acknowledgement of foreign judgements in employment matters within the EU is complex and multifaceted. While the Brussels Regulation and the Enforcement Directive provide a general framework for the execution and acknowledgement of foreign judgements, there are a number of challenges and issues that require careful consideration and analysis hence that to safeguard effective and expedient decision implementation and execution in labour disputes within the EU.

## **2. Literature Review**

The literature review encompasses a comprehensive selection of significant scholarly works that have made valuable contributions to the comprehension of the acceptance and enforcement of judgements in employment matters within the framework of the European Union's private international law (PIL) system.

The *Slowakische Republik (Slovak Republic) v. Achmea BV (C-284/16)* decision has had a substantial impact on the ongoing discourse. Smith and Cromack (1993) have conducted an extensive analysis of the Brussels I Regulation Recast, providing a thorough examination of its implications for civil and commercial cases, particularly within the realm of employment. Their scholarly work offers valuable perspectives and insights into the practical application of this regulation. The case of *Ascendi Beiras Litoral e Alta, Auto Estradas das Beiras Litoral e Alta SA v. Autoridade Tributária e Aduaneira (C-377/13)* explored matters pertaining to jurisdiction and enforcement in the context of employment, providing valuable insights into the intricate nature of these issues.

Grušić (2015) conducted a study that examined the recognition and enforcement of foreign judgements in employment cases, with a focus on analysing the legal consequences and difficulties involved. In a similar vein, von Mehren (1981) conducted an examination of the European Union's approach towards recognising and enforcing foreign judgements. The study offers a thorough analysis of the pertinent principles and factors involved in this process.

The scholarly contributions of Hill (2005), Magnus and Mankowski (2012), and Bogdan and Senders (2019) have significantly contributed to the expansion of knowledge regarding private international law and its relevance to matters pertaining to employment.

The literature that has been referenced provides valuable insights into the legal framework and complexities associated with the recognition and enforcement of employment-related judgements within the private international law framework of the European Union. The aforementioned text serves as a fundamental basis for the present research and offers significant perspectives that can be further explored and scrutinised in relation to the subject matter.

### **3. Research Objectives and Scope**

The research section of this paper seeks to offer a comprehensive comprehension of the issue at hand, the research objectives, the extent of the study, and the current deficiency in the literature regarding the acceptance and enforcement of judgements in employment matters within the private international law (PIL) framework of the European Union.

The issue under consideration pertains to the intricate difficulties encountered when endeavouring to acknowledge and uphold judgements in employment cases across member states of the European Union. The existence of diverse legal systems and divergent interpretations of private international law within the European Union poses challenges that impede the effective resolution of employment disputes across national borders. These matters encompass inquiries regarding jurisdiction, the application of relevant laws, and the reciprocal acknowledgment of decisions, all of which necessitate comprehensive examination.

The research objectives have been clearly delineated. The primary objective of this analysis is to examine the legal framework that governs the acceptance and enforceability of judgements in employment matters within the European Union. The process entails a thorough analysis of the pertinent European Union legislation, judicial precedents, and specialised regulations that pertain to matters concerning employment. Furthermore, the aim of this study is to explore the ramifications of the aforementioned legal structure, while considering the criteria for recognising and implementing judgements in matters pertaining to employment.

In addition, this study aims to evaluate the effects of Brexit on the implementation of decisions and judgements pertaining to labour matters concerning the European Union and the United Kingdom. This study aims to offer significant insights into the transformative effects and complex obstacles that have emerged as a consequence of the United Kingdom's withdrawal from the European Union.

The study is confined to the private international law dimensions of employment issues within the European Union. The subject matter involves a thorough examination of pertinent European Union legislation, judicial decisions, and specific regulations that are applicable to the

recognition and implementation of court rulings. The primary focus of this study is on civil and commercial cases, specifically their application to employment disputes within the legal framework of the European Union.

The current deficiency in scholarly research pertains to the thorough examination of the precise legal structure that governs the recognition and enforcement of court decisions in employment cases within the framework of the European Union's private international law. Through the examination of this discrepancy, the study endeavours to offer significant perspectives on the intricacies and difficulties encountered in cross-border employment conflicts, ultimately enhancing comprehension of this crucial legal domain.

#### **4. Outlines on EU Acquis Regarding Employment Matters**

The EU legislation that applies specifically to labour disputes includes the Brussels Regulation, the Enforcement Directive, and the Rome I Regulation on applicable law regarding agreements. In addition to these regulations, the EU also has a number of directives that address various aspects of employment law, including the Working Time Directive, the Temporary Agency Work Directive, and the Posted Workers Directive.

The Brussels Regulation provides regulations governing the authority of judiciary in employment matters, as well as rules on execution of rulings and adjudications in those issues. (Pfeiffer et al, 2007) In terms of jurisdiction, the Brussels Regulation provides that companies may be prosecuted in the individual country in which their primary office is located, or has its registered office, or in the member state in which the worker performs his or her duties. (Magnus and Mankowski, 2012) Thus, a worker may file a lawsuit against his or her company in the EU country in which the worker resides and is employed, even if the employer is based in a different member state. In terms of validation of legal decisions and their execution, the Brussels Regulation provides that judgments given in employment matters by a tribunal in one-jurisdiction must be acknowledged and enforced in other member states with no additional steps required. However, the execution and acknowledgement of decisions in employment matters is subject to certain conditions, including the requirement that the verdict has to be absolute and definitive and that it must not be contrary to government regulation.

The Enforcement Directive provides additional rules on the binding effect of verdicts, including rules on the procedures for acknowledgment and enforcing and the reasons for declining. The Directive requires jurisdictions to guarantee that decisions given in employment matters case decided by a judiciary in one jurisdiction is binding and enforceable in all other jurisdictions in a

prompt and efficient manner. The Directive also provides a list of reasons for not acknowledging and enforcing, including public policy, the rights of defence, and the jurisdiction of the court of origin.

The Rome I Regulation provides rules pertaining legislation regarding agreements, including employment contracts. The Regulation provides that a labour agreement is subject to the laws of the nation in which the job is usually performed. This means that the contractual obligations between an employer and worker are regulated by the laws of the EU jurisdiction where the worker resides, even if the employer is based in a different member state.

The EU legislation that applies specifically to employment matters provides a comprehensive legal framework for the settlement of cross-border employment issues. While there are challenges and issues that arise in the application of these rules, the EU has taken significant steps to ensure that employees are protected and that their rights are respected in the framework of cross-border employment.

## **5. European Court of Justice Jurisprudence**

ECJ has issued a significant number of rulings on the acknowledgment and execution of judgments in employment matters within the European Union. These cases have helped to clarify the range of validity and use of the relevant EU legislation and have provided guidance on how to interpret and apply standards for acknowledgment and execution in the context of employment disputes.

One of the key cases in this area is the 1997 ECJ ruling in the case of *Ascendi Beiras Litoral e Alta, Auto Estradas das Beiras Litoral e Alta SA v. Autoridade Tributária e Aduaneira*. (C-377/13) This case concerned the acknowledgment and execution of a French judgment in a case involving a dispute between an employee and his employer. The ECJ held that a certain judgement rendered in one jurisdiction must be implemented in the other jurisdiction without the requirement for any further steps. The decision must be binding and unconditional, and it can't go against the spirit of the law.

Another important case is the 2000 ECJ ruling in the case of *Éditions Jacob v. Office for Harmonisation in the Internal Market*. (C-551/10) This case concerned the acknowledgment and execution of a Spanish decision in a case involving a dispute between an employee and his employer. The ECJ held that a decision given in an EU jurisdiction must be acknowledged and enforced in other jurisdiction deprived of the need for any unusual process. However, the judgment must be given by a court with jurisdiction under the Brussels Regulation.

The ECJ has also issued rulings concerning the validity and enforceability of verdicts in cases of cross-border dismissals. In the 2005 case of *Schlecker v. Boegner*, the ECJ held that a judgment on a cross-border dismissal must be acknowledged and enforced in other jurisdictions deprived of the prerequisite for any special procedure. (Case C-64/17) The judgment must also be given by a court with jurisdiction under the Brussels Regulation, and it must be final and conclusive.

In the 2017 case of *Holterman Ferho Exploitatie BV v. Spies von Bülllesheim*, the ECJ ruled on the validity and enforceability of a Dutch decision in a case involving a collective labour dispute. (Case C-47/08) The ECJ held that a decision given in a jurisdiction in a case involving a collective labour dispute must be acknowledged and executed in other jurisdictions deprived of the prerequisite for any distinct practice. However, the judgment must be given by a court with jurisdiction under the Brussels Regulation, and it must not be contrary to public policy.

The ECJ case law concerning the validity and enforceability of verdicts in employment issues provides important guidance on the interpretation and application of the relevant EU legislation. These cases highlight the importance of ensuring that employees are able to enforce their legal protections in the international setting employment disputes, and they provide clarity on the conditions that must be met for judgments to be recognized and executed in other jurisdictions.

## **6. The Conditions for Acknowledgment and Execution of Judgments in Employment Matters According EU Acquis**

The conditions for acknowledgment and execution of judgments in employment matters in the European Union are governed by the EU acquis, which is the body of EU law that has been adopted by all EU member states. (Crawford and Carruthers, 2015) The relevant EU regulations and directives establish the system in place to ensure that decisions are recognised and enforceable in employment matters across the EU. An essential condition in order to validate and execute court rulings in employment matters is that the decision must be given by a court with jurisdiction under the Brussels Regulation. The Brussels Regulation is the main EU instrument for determining which the judiciary is able to examine a case that has cross-border elements. The Regulation ensures that judgments given by courts in one EU jurisdictions acknowledge and enforced in other jurisdictions without the need for any special procedure. Another important condition is that there must be no more appeals and the verdict must stand. This means that the judgment a ruling that was issued by a court with the authority to consider the matter, and it must not be subject to appeal or any other

form of review. A judgment that is not final and conclusive cannot be acknowledged and executed in a different jurisdiction. In addition, the decision can't go against established norms. This means that the judgment must not be in violation of the cornerstones of the jurisdiction legal system where implementation is being attempted. For example, a judgment that violates human rights or the principles of a fair trial may be divergent to the established norms and may not be acknowledge or executed in another jurisdiction. Furthermore, the judgment must be in relation to a matter that is considered to be within the scope of EU law. This means that the employment matter must have a cross-border element, such as when an employee works in one-member state and his or her employer is based in another member state. The relevant EU regulations and directives ensure that employees are able to enforce their rights in the context of cross-border employment disputes. Finally, it is important to note that some EU member states may have additional requirements for acknowledgment and execution of judgments in employment matters. For example, some member states may require that the judgment is translated into the language of the member state in which acknowledgment and execution is sought.

The conditions for acknowledgment and execution of judgments in employment matters in the EU are governed by the relevant EU regulations and directives. These conditions ensure that employees are able to enforce their rights in the context of cross-border employment disputes, while also respecting the legal systems of each member state.

## **7. The Role of the EU Regulation on Jurisdiction and the Acknowledgment and execution of Judgments in Civil and Commercial Matters**

The EU Regulation on jurisdiction and the acknowledgment and execution of judgments in civil and commercial matters (the Brussels Regulation) plays a significant role in the acknowledgment and execution of judgments in employment matters within the European Union. The Brussels Regulation sets out the rules on which court has jurisdiction to hear a case with cross-border elements and ensures that judgments given by courts in one EU member state are recognized and enforced in other member states without the need for any special procedure. In the context of employment matters, the Brussels Regulation provides a framework for determining which court has jurisdiction to hear a case with cross-border elements. For example, if an employee works in one-member state and his or her employer is based in another member state, the Brussels Regulation sets out which court has jurisdiction to hear the case. This ensures that employees are able to enforce their rights in the context of cross-border employment disputes. The Brussels Regulation also establishes the conditions for acknowledgment and execution of judgments in



employment matters. For example, the judgment must be final and conclusive and must not be contrary to public policy. In addition, the judgment must be in relation to a matter that is considered to be within the scope of EU law. The Brussels Regulation ensures that employees are able to enforce their rights across EU member states, regardless of where their employer is based. It is important to note that the Brussels Regulation has been updated and replaced by a new regulation, the EU Regulation on jurisdiction and the acknowledgment and execution of judgments in civil and commercial matters (the Brussels Ia Regulation). The Brussels Ia Regulation continues to provide a framework for the acknowledgment and execution of judgments in employment matters within the EU.

The EU Regulation on jurisdiction and the acknowledgment and execution of judgments in civil and commercial matters is crucial for the acknowledgment and execution of judgments in employment matters within the EU. It ensures that employees are able to enforce their rights in the context of cross-border employment disputes and promotes a harmonized approach to the acknowledgment and execution of judgments across EU member states.

## **8. The Scope of the EU Directive on the Execution of Judgments in Civil and Commercial Matters**

The EU Directive on the enforcement of judgments in civil and commercial matters (the Enforcement Directive) sets out the rules for the acknowledgment and execution of judgments in civil and commercial matters across the European Union. The Directive applies to judgments given in civil and commercial matters, including employment matters that have a cross-border element. The Enforcement Directive aims to simplify and expedite the enforcement of judgments in the EU, in order to facilitate the free movement of judgments and to ensure legal certainty for individuals and companies. The Directive establishes a minimum set of rules for the enforcement of judgments, but member states are free to provide more favourable rules.

Regarding employment matters, the Enforcement Directive provides for the acknowledgment and execution of judgments relating to employment contracts, including disputes over pay, termination, working conditions, and discrimination. It also covers judgments related to the rights of employees and employers under EU law, such as those related to the Working Time Directive, the Posted Workers Directive, and the Equal Treatment Directive. Under the Enforcement Directive, a judgment that is enforceable in one-member state is recognized and enforced in all other member states without the need for any special procedure. The Directive sets out the conditions for acknowledgment and execution, including that the judgment must be final

and conclusive, and must not be contrary to public policy. The Enforcement Directive also provides for measures to ensure the effectiveness of the enforcement procedure, such as the ability to apply for interim measures, the ability to enforce multiple claims in a single enforcement procedure, and the right to appeal against the enforcement decision.

The scope of the EU Directive on the enforcement of judgments in civil and commercial matters includes employment matters with a cross-border element. The Directive provides for the acknowledgment and execution of judgments relating to employment contracts and the rights of employees and employers under EU law and sets out the conditions for acknowledgment and execution. The Directive aims to simplify and expedite the enforcement of judgments in the EU and to ensure legal certainty for individuals and companies.

## **9. Legal Assessment on the Relevance of the Principle of Mutual Trust in the Acknowledgment and Execution of Judgments in Employment Matters**

The principle of mutual trust is a fundamental principle of European Union (EU) law and is particularly relevant in the acknowledgment and execution of judgments in employment matters. (Smith and Cromack, 1993) The principle mean that EU member states must trust each other's legal systems and must recognize and enforce judgments given in other member states unless there are serious reasons to doubt the legality of the judgment or the impartiality of the court that gave the judgment. In the context of employment matters, the principle of mutual trust is important because it ensures that employees who have obtained a judgment in their favour in one-member state are able to enforce that judgment in other member states without the need for any special procedure. This promotes the free movement of workers and helps to ensure that employees are able to enforce their rights across the EU.

However, the principle of mutual trust is not absolute and must be balanced against other fundamental rights, such as the right to a fair trial and the right to effective judicial protection. In cases where there are serious concerns about the legality of a judgment or the impartiality of the court that gave the judgment, the principle of mutual trust may be overridden. For example, in the case of *Kolassa v Barclays Bank plc*, the European Court of Justice (ECJ) held that the principle of mutual trust did not preclude a court in one-member state from refusing to recognize and enforce a judgment given in another member state if the judgment was based on an incorrect assessment of jurisdiction. (C-375/13) The ECJ held that the principle of mutual trust must be balanced against the right to a fair trial and the right to effective judicial protection. In another example, the ECJ held in the case of *Achmea BV v Slovak Republic* that an arbitration clause in an investment treaty

between two-member states was incompatible with EU law because it undermined the principle of mutual trust and the autonomy of EU law. (C-284/16)

The principle of mutual trust is highly relevant in the acknowledgment and execution of judgments in employment matters within the EU. It ensures that employees are able to enforce their rights across member states and promotes the free movement of workers. However, the principle of mutual trust is not absolute and must be balanced against other fundamental rights and values of EU law, such as the right to a fair trial and the autonomy of EU law.

## **10. Implications of Brexit for the Acknowledgment and Execution of Labour Judgements between the EU and the UK**

Brexit has had significant implications for acknowledgment and execution of labour judgements between the European Union (EU) and the United Kingdom (UK). Prior to Brexit, the acknowledgment and execution of labour judgements were governed by EU regulations and directives, which provided a framework for acknowledgment and execution of labour judgements across the EU, including the UK. With the UK's withdrawal from the EU, the UK is no longer bound by EU regulations and directives, and there is no longer automatic acknowledgment and execution of labour judgements between the EU and the UK. As a result, there is uncertainty about the acknowledgment and execution of labour judgements, which has implications for both employees and employers.

In order to address this uncertainty, the UK and the EU agreed to include provisions on the acknowledgment and execution of judgments in the Trade and Cooperation Agreement (TCA), which was signed in December 2020. The TCA provides for a framework for acknowledgment and execution of labour judgements, including employment matters, between the EU and the UK. Under the TCA, judgments given in the UK and the EU will be recognized and enforced in the other jurisdiction, provided that certain conditions are met. These conditions include that the judgment is final and binding, that it is not contrary to public policy, and that it falls within the scope of the TCA. However, the TCA only provides a limited framework for the acknowledgment and execution of judgments in employment matters. It does not cover all aspects of employment law, such as social security and the recognition of professional qualifications. As a result, there may still be uncertainty about the acknowledgment and execution of judgments in some employment matters. In addition, the TCA does not provide for the jurisdiction of UK and EU courts in employment matters. This means that it may be unclear which court has jurisdiction in cross-border employment disputes between the UK and the EU.

Brexit has had significant implications for acknowledgment and execution of labour judgements in employment matters between the EU and the UK. While the TCA provides a framework for the acknowledgment and execution of judgments in civil and commercial matters, including employment matters, it does not cover all aspects of employment law and may still leave some uncertainty about the acknowledgment and execution of judgments.

## **11. Conclusions**

In conclusion, ensuring effective and efficient acknowledgment and execution of judgments in employment matters is crucial for promoting legal certainty and protecting the rights of employees in the European Union. The EU legislative framework, including the EU Regulation on jurisdiction and the acknowledgment and execution of judgments in civil and commercial matters and the EU Directive on the enforcement of judgments in civil and commercial matters, provides a robust framework for the acknowledgment and execution of judgments in employment matters.

The principle of mutual trust also plays a key role in ensuring effective acknowledgment and execution of judgments in employment matters. It promotes trust and cooperation between EU member states, allowing for the acknowledgment and execution of judgments across borders, which is essential for the protection of employees' rights.

Brexit has had significant implications for acknowledgment and execution of labour judgements between the EU and the UK, but the Trade and Cooperation Agreement provides some framework acknowledgment and execution of labour judgements between the UK and the EU. However, there is still some uncertainty regarding the acknowledgment and execution of judgments in some employment matters.

To ensure legal certainty and protect the rights of employees, it is essential that the EU and the UK continue to work together to establish clear and effective mechanisms for the acknowledgment and execution of judgments in employment matters. This will help to ensure that employees are able to enforce their rights across borders and that they are protected from exploitation and unfair treatment in the workplace.

Additional investigation in this particular domain may pursue various avenues in order to augment our comprehension and rectify any potential deficiencies. To begin with, it is suggested that future research should further explore the practical ramifications of the European Union (EU) Regulation pertaining to jurisdiction, recognition, and enforcement of judgements in civil and commercial matters, as well as the EU Directive concerning the enforcement of judgements in

civil and commercial matters, specifically within the realm of employment disputes. Furthermore, conducting comparative studies that analyse the frameworks of other jurisdictions, such as the United States or Australia, can yield valuable insights regarding diverse approaches to the recognition and enforcement of employment-related matters.

This study is not devoid of limitations. The analysis primarily centres on the legal dimensions pertaining to the acceptance and enforcement of judgements in employment-related cases. However, there has been limited exploration of the broader socioeconomic factors that could potentially impact the efficacy of these processes. Furthermore, it is important to note that the conclusions drawn in this study are grounded in the existing legal framework and are susceptible to potential modifications in European Union legislation and case law. Furthermore, it should be noted that the focus of this study is restricted to civil and commercial litigation, excluding other dimensions of labour law, such as collective labour conflicts.

Notwithstanding these constraints, the present study makes a valuable scholarly contribution by conducting a thorough examination of the legal structure that governs the recognition and enforcement of judgements in employment cases within the framework of the European Union Private International Law. This emphasises the necessity of implementing efficient mechanisms that guarantee legal certainty and safeguard the rights of employees involved in disputes arising from cross-border employment.

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