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Jurisdiction and applicable law in cross-border employment disputes

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Cross-border employment disputes

- **Brussels I Regulation (44/2001) and Rome I Regulation (593/2008) aim at solving in a uniform manner across EU conflict of jurisdictions and conflict of laws situations**
- **Principle of concentration of jurisdiction and applicable law**
- **Derogations from the general conflict rules in Brussels I (jurisdiction) and Rome I (applicable law) Regulations...**
- **...justified by the need to protect the weaker party to the contract – the employee**

How is employee protection ensured

- **Limited party autonomy**
- **Employee can be sued only in the Member State of his domicile, and has several alternative courts for suing the employer**
- **Mandatory protection of the law which has a close link with the contract if it is more favourable than the law chosen by the parties**
- **Enhanced protection in situations falling under the Posting of Workers Directive (PTD)**

How to determine jurisdiction and applicable law

- **Main connecting factor: the place where the employee habitually carries out work**
- *Mulox (C-125/92), Rutten (C-383/95), Weber (C-37/00), Koelzsch (C-29/10)*
- **Other possible connecting factors:**
 - **Law of the place through which the employee was hired:** *Voogsgeerd (C-384/10)*
 - **Law of the place with which the contract has a closer link:** *Schlecker (C-64/12)*

Posted Workers – enhanced protection

- **Special protection of posted workers in respect of the rights granted by the PTD:**
 - **Special jurisdiction for disputes concerning the rights granted by the PTD for the courts of the MS of the posting**
 - **Special conflict of law rules in favour of the law of the MS of the posting which takes precedence over any other applicable law**