

SUMMARY

## **ECJ 25 February 2021, Case C-804/19 (Markt24), Competency**

### ***BU – v – Markt24 GmbH, Austrian Case***

#### **Summary**

Section 5 of Chapter II of Regulation (EU) No 1215/2012 also apply if an employee in one member state was recruited to work in another member state, even though that work was not performed for a reason attributable to that employer. They preclude the application of national rules of jurisdiction in respect of an action irrespective of whether those rules are more beneficial to the employee. Also, in this situation, the intention expressed by the parties to the contract as to the place of that performance is, in principle, the only element which makes it possible to establish a habitual place of work for the purposes of Article 21(1)(b)(i) of Regulation No 1215/2012.

#### **Questions**

Must the provisions laid down in Section 5 of Chapter II of Regulation No 1215/2012, under the heading 'Jurisdiction over individual contracts of employment', be interpreted as applying to a legal action brought by an employee domiciled in a Member State against an employer domiciled in another Member State in the case where the contract of employment was negotiated and entered into in the Member State in which the employee is domiciled and provided that the place of performance of the work was located in the Member State of the employer, even though that work was not performed for a reason attributable to that employer?

Must the provisions set out in Section 5 of Chapter II of Regulation No 1215/2012 be interpreted as precluding the application of national rules of jurisdiction in respect of an action such as that referred to in paragraph 28 of the present judgment, in a situation where it should be established that those rules are more beneficial to the employee?

Must Article 21 of Regulation No 1215/2012 be interpreted as applying to an action such as that

referred to in paragraph 28 of the present judgment. As appropriate, the referring court also requests the Court of Justice to specify the competent forum under that article?

## **Ruling**

The provisions set out in Section 5 of Chapter II of 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, under the heading 'Jurisdiction over individual contracts of employment', must be interpreted as applying to a legal action brought by an employee domiciled in a Member State against an employer domiciled in another Member State in the case where the contract of employment was negotiated and entered into in the Member State in which the employee is domiciled and provided that the place of performance of the work was located in the Member State of the employer, even though that work was not performed for a reason attributable to that employer.

The provisions set out in Section 5 of Chapter II of Regulation No 1215/2012 must be interpreted as precluding the application of national rules of jurisdiction in respect of an action such as that referred to in point 1 of the operative part of the present judgment, irrespective of whether those rules are more beneficial to the employee.

Article 21(1)(b)(i) of Regulation No 1215/2012 must be interpreted as meaning that an action such as that referred to in point 1 of the operative part of the present judgment may be brought before the court of the place where or from where the employee was required, pursuant to the contract of employment, to discharge the essential part of his or her obligations towards his or her employer, without prejudice to point 5 of Article 7 of that regulation.

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**Creator:** European Court of Justice (ECJ)

**Verdict at:** 2021-02-25

**Case number:** C-804/19