

Belgian Reference for a Preliminary Ruling on Art. 6 of the Rome Convention

As pointed out by our friend *Federico Garau* over at the *Conflictus Legum* blog, **the Belgian Supreme Court (*Hof van Cassatie/Cour de Cassation*) has made a preliminary reference to the ECJ, with regard to the interpretation of Art. 6 (individual employment contracts) of the 1980 Rome Convention on the law applicable to contractual obligations.**

The case (the second, to the best of my knowledge, to be made pursuant to the two 1988 Protocols on the interpretation of the Convention by the Court of Justice, after the *ICF* case, no. C-133/08), was lodged on 29 July 2010 under **C-384/10, *Jan Voogsgeerd v Navimer SA*.**

Questions referred

Must the country in which the place of business is situated through which an employee was engaged, within the meaning of Article 6(2)(b) of the Convention on the law applicable to contractual obligations, opened for signature in Rome on 19 June 1980, 1 be taken to mean the country in which the place of business of the employer is situated through which, according to the contract of employment, the employee was engaged, or the country in which the place of business of the employer is situated with which the employee is connected for his actual employment, even though that employee does not habitually carry out his work in any one country?

Must the place to which an employee who does not habitually carry out his work in any one country is obliged to report and where he receives administrative briefings, as well as instructions for the performance of his work, be deemed to be the place of actual employment within the meaning of the first question?

Must the place of business with which the employee is connected for his actual employment within the meaning of the first question satisfy certain formal requirements such as, inter alia, the possession of legal personality, or does the

existence of a de facto place of business suffice for that purpose?

Can the place of business of another company, with which the corporate employer is connected, serve as the place of business within the meaning of the third question, even though the authority of the employer has not been transferred to that other company?

The referring decision is available on the *Juridat* database (under no. S.09.0013.N), and can be downloaded as a .pdf file [here](#).