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Beyond Corporate Separateness: Parent Company Liability for Foreign Subsidiaries' Employment Obligations under Conflict-of-Laws Rules

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Abstract: The expansion of multinational corporations and the increasing cross-border mobility of workers have intensified legal uncertainty concerning employment obligations within corporate groups. A particularly complex issue arises when employees formally employed by foreign subsidiaries seek to hold parent companies liable for employment-related obligations, thereby challenging the traditional doctrine of separate corporate personality. This study examines the circumstances under which a parent company may be held liable for employment obligations arising from contracts concluded with foreign subsidiaries and how such liability should be determined under conflict-of-laws rules. The study employs descriptive, analytical, and comparative legal methods, examining legislation, judicial decisions, and scholarly literature from Jordan, Egypt, France, and the European Union, with particular reference to the Rome I Regulation. The analysis focuses on party autonomy, the employee's habitual place of work, the place of business through which the employee was engaged, the closest connection, and the location of the parent company's central administration as relevant connecting factors. It further examines effective control, legal subordination, corporate separateness, and the protective function of labour law in determining the actual employer and allocating responsibility within multinational corporate structures. The findings demonstrate that relying exclusively on the parent company's central administration as the principal connecting factor may produce outcomes that privilege corporate interests while inadequately protecting employees' legitimate expectations and the realities of their employment relationships. The study therefore proposes a protective conflict-of-laws framework for Jordan that combines limited party autonomy, the habitual place of work as the primary connecting factor, a closest-connection exception, overriding mandatory labour protections, and parent-company liability where effective

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control over material employment decisions can be established. The study contributes to comparative private international law by reconceptualizing parent-company liability beyond formal corporate separateness and developing a worker-oriented framework for resolving cross-border employment disputes within multinational corporate groups.

Keywords: Conflict of Laws; International Employment Contracts; Multinational Corporations; Parent-Company Liability; Worker Protection.

INTRODUCTION

In recent years, international employment relationships have become increasingly important due to the growth of multinational companies (MNCs) and the increased cross-border mobility of employees. This has led to numerous employment relationships spanning multiple countries and potentially several legal systems, creating uncertainty about which laws apply and who is responsible for compliance. Employment relationships also remain an area where states intervene in the workplace through various mandatory provisions, overriding mandatory rules, and public-policy rules. Courts may determine the applicable law based on the legal choice of the contracting parties in order to apply a general principle for contractual relations; courts will also apply the law of the country of performance of the obligation as the common rule of connection between the parties, the law of the place where the contract was made, or the law of the national corporation. Conversely, legal scholars have determined that while the regulatory aspects of the employment relationship are governed by the law of the place of performance, the non-regulatory aspects are governed by the law chosen by the parties.[1]

This divergence is especially troublesome for multinational corporations. The formal employer may be a subsidiary or branch of the corporation in another country, but the parent company's central administration may make employment decisions. Therefore, the formal employer may have little to do with the organisation that actually has decision-making authority over the employment relationship. Although a claim may arise within the internal structure of a single corporate group, it acquires an international character where the parent company, subsidiary, branch, or employee is located in a different State. Two or more legal systems may therefore govern the worker’s contract, and the worker may seek to rely on the law that provides the most favorable protection.[2] Multinational corporations may contribute to economic growth and create employment

[1]H. A. Sadiq, *Studies in Private International Law* (University House for Printing and Publishing, 1981), https://lib.mcy.gov.ae/cgi-bin/koha/opac-detail.pl?biblionumber=51988.

[2]Uglješa Grušić, “Private International Law Regulation of Individual Employment Relationships within the European Union,” *European Labour Law Journal* 15, no. 1 (March 2024): 86–101, https://doi.org/10.1177/20319525241227838.

opportunities for local workers in developing countries, although their overall effects depend on host-country conditions and policies.[3] However, subsidiaries may be influenced by centralized strategies, group-wide policies, informal governance mechanisms, and the parent company's decision-making.[4]

Previous studies have examined different dimensions of this problem, although largely in isolation. Grušić examined the private international law regulation of individual employment relationships in the European Union and emphasised the protective role of the habitual place of work in determining the applicable law.[5] Rosin similarly analyzed the connecting factors applicable to cross-border telework and demonstrated the increasing difficulty of identifying the applicable labor law when work is performed across jurisdictions.[6] Bruurs examined cross-border telework in relation to the Rome I Regulation and the Posting of Workers Directive, particularly the distinction between habitual work and temporary posting.[7] From a corporate law perspective, Paduano analyzed the forms of control and influence exercised within groups of companies, while Pargendler and Pasqualeto examined the development of group liability for workers as an exception to the principle of strict corporate separateness.[8] Dahan further demonstrated, through the employer-of-record model, that the formally designated employer may differ from the entity that effectively directs and benefits from the employee's work.[9] In the Jordanian context, Alawamleh et al. examined circumstances in which limited liability and corporate separateness may be disregarded. However, their analysis did not specifically address cross-border

[3] S. Ferdausy and M. S. Rahman, "Impact of Multinational Corporations on Developing Countries," *The Chittagong University Journal of Business Administration* 24 (2009): 111–137.

[4] Claudia Paduano, "From Equity to Influence: The Chimera of Corporate Control in Groups of Companies," *Journal of Corporate Law Studies* 25, no. 2 (July 2025): 471–500, https://doi.org/10.1080/14735970.2025.2557688.

[5] Grušić, "Private International Law Regulation of Individual Employment Relationships within the European Union."

[6] Annika Rosin, "Cross-Border Telework and the Applicable Labour Law: The Role of Different Connecting Factors in Determining Objectively Applicable Law," *European Labour Law Journal* 15, no. 4 (December 2024): 755–72, https://doi.org/10.1177/20319525241251435.

[7] Stan Bruurs, "Cross-Border Telework in Light of the Rome I-Regulation and the Posting of Workers Directive," *European Labour Law Journal* 14, no. 4 (December 2023): 588–608, https://doi.org/10.1177/20319525231194267.

[8] Paduano, "From Equity to Influence"; Mariana Pargendler and Olivia Pasqualeto, "Overcoming Corporate Separateness: The Early Origins of Group Liability for Workers and Beyond," *The American Journal of Comparative Law*, April 23, 2026, avag002, https://doi.org/10.1093/ajcl/avag002.

[9] S. Dahan, "The Global Employer: Regulating Cross-Border Work through the Employer of Record Model," *New York University Journal of Law & Business* 22, no. 1 (2025), https://www.nyujlb.org/.

employment relationships or the consequences of parent-company control over foreign subsidiaries under applicable law.[10]

Despite these contributions, the existing literature has generally examined applicable law, cross-border work, corporate control, and parent-company liability as separate legal questions. No comprehensive study has integrated these issues to examine the conflict-of-laws consequences of employment relationships within multinational corporate groups operating in and from Jordan, particularly where the formally designated subsidiary and the entity exercising effective control over the worker are located in different States. Jordanian scholarship has also questioned the absolute operation of limited liability where corporate structures are used in ways that may justify piercing the corporate veil.[11]

This study argues that Jordanian law should adopt a modified application of the seat-of-central-administration connecting factor, supplemented by the habitual place of work, overriding mandatory labor protections, and safeguards to ensure that workers are not deprived of the more favorable rights available within the corporate group. Accordingly, the study examines workers' legal status, trade union organisation, the law applicable to temporary secondment and permanent transfer, and the circumstances in which the parent company may bear liability for employment-related obligations. The study is significant because it integrates private international law, labor law, and corporate-group liability within a Jordanian context where no specific rules govern cross-border employment relationships involving multinational corporate groups.

This study examines the law governing international employment relationships within multinational corporations, how temporary or permanent transfers affect workers' legal rights, and under what conditions an employer can be held responsible for obligations incurred by a subsidiary or branch located in another country. The purpose is to identify the shortcomings in Jordanian law, assess the most significant connecting factors, distinguish temporary secondments from permanent transfers, and propose suitable legislative reforms. Accordingly, the study addresses the following research questions: (1) Which conflict-of-laws connecting factors should determine the law applicable to international employment relationships within multinational corporate groups? (2) Under what circumstances may a parent company be held responsible for employment obligations formally incurred by a foreign subsidiary, particularly where effective control or legal subordination can be established? (3) How should temporary secondment and permanent intra-group transfer affect the applicable law, the identity of the employer, and the preservation of acquired employment

[10] Kamal Jamal Alawamleh, Abeer Hassan Al-Qaisi, and Fathi Tawfiq Alfaouri, "Limited Liability Companies in Jordan: Another Story for Piercing the Corporate Veil," *Journal of Financial Crime* 29, no. 4 (September 2022): 1341–1355, https://doi.org/10.1108/JFC-07-2021-0166.

[11] Alawamleh, Al-Qaisi, and Alfaouri.

rights? Furthermore, (4) What legislative reforms should Jordan adopt to provide a coherent and worker-protective framework for cross-border employment relationships within multinational corporate groups?

METHOD

This study employs a doctrinal legal research method using a descriptive, analytical, and comparative approach to examine the determination of applicable law in international employment relationships. The research focuses primarily on legal materials from Jordan, Egypt, France, the United Kingdom, and the European Union, with particular attention to statutes, regulations, judicial decisions, and other authoritative legal instruments governing cross-border employment contracts and corporate liability. Secondary legal resources, such as scholarly books, peer-reviewed law journal articles, theses and dissertations from academic institutions, government and institutional reports, and other related legal commentaries, are collected through a systematic literature search. Legal data are then identified, selected, and classified based on their relevance to the research objectives and the questions relating to connecting factors, effective control, legal subordination, corporate separation, and the protections afforded employees in multinational employment relations.

Qualitative legal analysis is conducted using both doctrinal interpretation and comparative analysis, with the descriptive analysis being used to establish which legal rules apply to each jurisdiction and what judicial approaches have been adopted, and the analytical interpretations seeking to establish the principles or the legal rationale behind the responsibility allocated to parent corporations vis-à-vis their overseas subsidiaries. The comparative analysis will be applied to identify similar trends, variations, and shortcomings in legislation across all selected jurisdictions and to evaluate their implications for multinational work contract law and worker protection.

Data validity is ensured through source triangulation, by cross-checking primary legal materials against secondary scholarly literature and, where available, judicial interpretations and authoritative institutional documents. The findings are then synthesized to identify weaknesses in the existing Jordanian legal framework and to formulate theoretically grounded, comparative recommendations for reforming and developing Jordanian Labor Law to address contemporary cross-border employment relationships.

RESULTS AND DISCUSSION

Legal Status of Workers and Parent-Company Liability

The subsidiaries are legally independent from their parent companies in accordance with the laws of each host country. Therefore, simply because there is common ownership or shared economics between the two does not, in itself, establish liability for the subsidiary's obligations on behalf of its parent company. Scholarship in comparative law has identified countries that provide exceptions to strict corporate separateness when it becomes necessary to protect employees working within large, economically integrated corporate groupings.[12] Parent-company liability is more likely to arise when the parent exercises substantive control over recruitment, remuneration, discipline, transfers, dismissal, restructuring, or the decision that causes the harm. Recent scholarship also supports imposing a preventive duty on controlling corporate actors when their position and level of involvement justify responsibility.[13] The identity of the true employer should therefore depend on which entity controls the key elements of the employment relationship, rather than on formal contractual labels alone.[14]

Workers may pursue claims against a parent company where the parent acted as the actual employer or exercised direct control over the decision that caused the harm. Recent scholarship on corporate groups supports a fact-based assessment of responsibility that focuses on the parent company’s conduct and level of involvement rather than ownership alone.[15] Employer-of-record arrangements also show that the formally named employer does not always correspond to the entity that directs the work, benefits from the worker’s services, and exercises substantial control over the employment relationship.[16] Courts should therefore assess separate legal personality, legal subordination, and effective control.[17] Within a corporate group, such control may result from equity ownership, strategic supervision, group-wide policies, informal governance structures, or influence over the subsidiary’s decisions.[18]

Trade Union Organisation and the Right to Strike

Trade unions operating within multinational corporate groups often have less bargaining power than national unions. Subsidiaries may follow a centrally coordinated economic strategy, production may move between States, and the

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[12] Pargendler and Pasqualeto, “Overcoming Corporate Separateness.”

[13] Andreas Kokkinis, “The Duty to Prevent Corporate Harms: A Normative Analysis,” *Journal of Corporate Law Studies* 25, no. 2 (July 2025): 321–353, https://doi.org/10.1080/14735970.2025.2593029.

[14] Dahan, “The Global Employer: Regulating Cross-Border Work through the Employer of Record Model”; Irene-Marie Esser and Christopher A. Riley, “Corporate Liability Within Groups: Human Rights And Tort Law Perspectives,” *SSRN Electronic Journal*, ahead of print, 2024, https://doi.org/10.2139/ssrn.5064156.

[15] Esser and Riley, “Corporate Liability Within Groups.”

[16] Dahan, “The Global Employer: Regulating Cross-Border Work through the Employer of Record Model.”

[17] Muhammad Azam et al., “AI-Driven Sharia Governance in Islamic Digital Payment Systems: Developing a Contemporary Islamic Law Framework for Ethical and Regulatory Compliance,” *Nusantara: Journal of Law Studies* 5, no. 2 (July 2026): 849–80, https://doi.org/10.66325/nusantaralaw.v5i2.339.

[18] Paduano, “From Equity to Influence.”

parent company may absorb disruption at a single location. Industrial action at one subsidiary may also affect workers employed elsewhere within the group. In response, trade unions have developed forms of transnational cooperation, including information sharing, coordinated action, and solidarity strikes in support of workers employed by another entity in the same corporate group.[19] These practices raise an important legal question concerning the conditions under which such action is lawful. French case law recognises that a work stoppage retains its legal character as a strike even where only a minority of employees participate, provided that the action is collective, coordinated, and connected to occupational demands.[20] ILO Conventions Nos. 87 and 98 protect freedom of association and collective bargaining.[21] These principles support solidarity action where it serves a genuine worker-protection purpose and satisfies the requirement of proportionality.

Law Applicable to International Employment Contracts

Modern EU private international law gives priority to the habitual place of work and treats the engaging place of business as a subsidiary connecting factor, reflecting the protective purpose of the rules governing individual employment contracts.[22] Reliance on the seat of central administration has been criticised because it may favour the economically stronger employer and conflict with labour law's protective function.[23]

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[19] Muna Muneer Mohammed Ali Al Shuriedeh and Abdelhamid Akhrif, "Criminal Liability Following Corporate Mergers: A Comparative Analysis of Arab Legal Systems, French Law, and Common Law," *Nusantara: Journal of Law Studies* 5, no. 2 (August 2026): 1362–1391, https://doi.org/10.66325/nusantaralaw.v5i2.376.

[20] Dupont v. Tréfileries et Ateliers de Commercy, 66-40.442 (French Court of Cassation, Social Chamber June 21, 1967), https://www.legifrance.gouv.fr/juri/id/JURITEXT000006975430.

[21] Freedom of Association and Protection of the Right to Organise Convention, 1948, International Labour Organization, 1948, 87 ILO Convention, https://normlex.ilo.org/dyn/nrmlx_en/f?p=NORMLEXPUB:12100:0::NO:12100:P12100_INSTRUMENT_ID:312232:NO; Right to Organise and Collective Bargaining Convention, 1949, International Labour Organization, 1949, 98 ILO Convention, https://normlex.ilo.org/dyn/nrmlx_en/f?p=NORMLEXPUB:12100:0::NO:12100:P12100_INSTRUMENT_ID:312243:NO.

[22] Grušić, "Private International Law Regulation of Individual Employment Relationships within the European Union."

[23] J. Karila de Van, "Les différentes formes d'extranéité et leurs conséquences sur la loi applicable au contrat de travail international" (Doctoral thesis, Université Paris II, 1977), https://ci.nii.ac.jp/ncid/BA6326701X?l=en; A. Raharinarivonirina, "Le droit du contrat de travail face à la libre circulation des travailleurs dans la C.E.E." (Doctoral thesis, University of Aix, 1970), https://www.sudoc.fr/097682438.

The Protective Framework under the Rome I Regulation

Article 8 of the Rome I Regulation gives priority to the law chosen by the parties, subject to mandatory worker protection.[24] In the absence of choice, the contract is governed by the worker's habitual place of work, followed by the engaging place of business, unless another country is more closely connected. The seat of central administration should therefore operate only as a supplementary factor. Recent scholarship similarly emphasises the need to assess the habitual place of work and other connecting factors in light of the actual organisation of cross-border work.[25] Where a branch functions as an extension of the parent, the parent law may apply; where it operates as an independent employer, the branch law is more appropriate.[26] Article 44 of the draft Egyptian Civil Code adopted the law of central administration, subject to Egyptian law where a local branch concluded the contract.[27] The provision excluded party autonomy but was deleted from the enacted Code.

Employment Performed in Several States

Employment contracts performed in several States, including those of commercial representatives and international transport workers, may make it difficult to identify a principal place of performance. This difficulty remains particularly significant for transport workers whose activities span several jurisdictions.[28] Recent CJEU case law adopts a broad interpretation of the habitual place of work by focusing on the country in which, or from which, the worker mainly performs contractual duties. This approach limits reliance on the location of engagement and the employer's central administration.[29] In Koelzsch,

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[24] Regulation (EC) No. 593/2008 of the European Parliament and of the Council of 17 June 2008 on the Law Applicable to Contractual Obligations, 593/2008 Official Journal of the European Union, L 177 6 (2008), https://eur-lex.europa.eu/eli/reg/2008/593/oj/eng.

[25] Rosin, "Cross-Border Telework and the Applicable Labour Law."

[26] Karila de Van, "Les différentes formes d'extranéité et leurs conséquences sur la loi applicable au contrat de travail international."

[27] A. E. E. Abdullah, *Egyptian Private International Law: Part Two, Conflict of Laws and Conflicts of International Judicial Jurisdiction* (Maktabat Al-Nahda Al-Misriyya, 1954), https://fll.law.cu.edu.eg/cgi-bin/koha/opac-detail.pl?biblionumber=37917&shelfbrowse_itemnumber=56488; A. E. E. Abdullah, "Conflict of Laws in the Individual Employment Contract," *Egyptian Journal of International Law* 27 (1971): 1–18; H. A. Sadiq, "The Employment Contract in Private International Law: Commentary on the Court of Cassation Judgment of 5 April 1967," *Journal of the Government Litigation Department* 15, no. 1 (1971): 115–172.

[28] Laura Carballo Piñeiro, "The Conundrum of the Habitual Workplace: In Search of Access to Justice for Transport Workers in the European Union," *European Labour Law Journal* 15, no. 1 (March 2024): 123–136, https://doi.org/10.1177/20319525241227839.

[29] Michael Wilderspin, "The Contribution of the CJEU to the Notion of Habitual Workplace in the Field of International Transport," *European Labour Law Journal* 15, no. 1 (March 2024): 137–143, https://doi.org/10.1177/20319525241228979.

the CJEU held that, where an employee works in several States, the habitual place of work is the country in which, or from which, the employee principally performs the obligations arising from the employment relationship, taking into account all relevant circumstances.[30]

In its judgment of 5 April 1967, the Egyptian Court of Cassation applied the law of the undertaking's central administration to an employment contract performed across several States. The Court relied on Article 44 of the draft Civil Code, despite its removal from the enacted text.[31] Critics argued that the Court should have applied the law of the place of performance or, where appropriate, treated mandatory Egyptian labour provisions as rules of immediate application.[32] Contemporary scholarship distinguishes between the protective connecting factors used to determine the law governing employment contracts and overriding mandatory rules or public policy, which exceptionally alter the operation of the otherwise applicable law.[33] Supporters of the judgment argue that the place-of-performance rule is ill-suited to employment carried out across several States.[34] In such cases, applying the law of the central administration may promote legal unity, reflect the worker's integration into the undertaking, and preserve stronger protection where the law of the host State is less favourable.[35]

Under this approach, Egyptian law applies where the undertaking's central administration is in Egypt or where an Egyptian branch entered into the employment contract. In other cases, the designated foreign law governs, subject to overriding mandatory provisions and public policy. Overriding mandatory rules apply directly by virtue of their legislative purpose. Public policy, by

[30] Heiko Koelzsch v. État Du Grand-Duché de Luxembourg, C-29/10 (Court of Justice of the European Union March 15, 2011), https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:62010CJ0029.

[31] Appeal No. 371 of Judicial Year 32, 18 Collection of Civil Court of Cassation Judgments 798 (Egyptian Court of Cassation 1967), https://search.mandumah.com/Record/303965.

[32] Sadiq, "The Employment Contract in Private International Law: Commentary on the Court of Cassation Judgment of 5 April 1967."

[33] Grušić, "Private International Law Regulation of Individual Employment Relationships within the European Union"; Ivana Kunda, "Law Applicable to Employment Contracts Under the Rome I Regulation," in *Transnational, European, and National Labour Relations*, vol. 4, ed. Gerald G. Sander, Vesna Tomljenović, and Nada Bodiroga-Vukobrat, Europeanization and Globalization (Cham: Springer International Publishing, 2018), 73–96, https://doi.org/10.1007/978-3-319-02219-2_5.

[34] Yevhen Leheza et al., "Interpretation of Regulatory and Legal Acts in Contemporary Contexts: Foreign Experience, Comparative Perspectives, and Pathways for Regulatory Reform," *Nusantara: Journal of Law Studies* 5, no. 1 (February 2026): 102–122, https://doi.org/10.5281/zenodo.18727992.

[35] H. A. Sadiq, *Conflict of Laws: A Comparative Study of General Principles and the Solutions Adopted in Egyptian Legislation*, 2nd ed. (Alexandria: Manshaʾat Al-Maʿarif, 1974), https://www.iraqnla.gov.iq/opac/fullrecr.php?hl=ara&nid=75186.

contrast, operates only in exceptional cases to exclude foreign law where its application would conflict with the forum's fundamental principles.[36] The central issue is whether the applicable Egyptian labor statute applies irrespective of the laws generally applicable to the employment relationship at hand. To apply the law of the central administration, there should be a real link between the foreign employment and the administration's center, specifically through instructions issued by that center.[37] In the above-referenced case, the Court held that Missouri law applied because both the employee and employer were American, the agreement was concluded outside Egypt, and only part of the work was performed in Egypt. The place where a company is centrally administered for conflict of laws purposes should be based on the true operational center of that company's business, rather than where it was formally registered or established. If a company has the majority of its operations, employs the majority of employees, and conducts most of its business within another member state than the one where it is formally registered. This operational base could be viewed as more significant in determining which legal jurisdiction has the greatest interest in an employee's contract claims.[38]

Overriding Mandatory Rules and Public Policy

The Court found that Egyptian labour law was not intended to govern all foreign employment relationships. It therefore declined to exclude Missouri law solely because its provisions differed from mandatory rules under Egyptian law.[39] The judgment suggests that the regulatory provisions of Egyptian employment law apply where the contract was concluded in Egypt, the worker is an Egyptian national, or the worker is domiciled in Egypt. Regulatory rules governing domestic employment relationships therefore do not apply automatically to contracts of an international character.[40] This reasoning explains the Court's acceptance of American law as the law governing the disputed employment contract. Under Jordanian law, the proposed framework should distinguish between employment carried out mainly in Jordan and employment with only a limited or incidental link to the country. Where the employment relationship is

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[36] Sadiq, "The Employment Contract in Private International Law: Commentary on the Court of Cassation Judgment of 5 April 1967."

[37] Abdullah, *Egyptian Private International Law: Part Two, Conflict of Laws and Conflicts of International Judicial Jurisdiction*; Sadiq, "The Employment Contract in Private International Law: Commentary on the Court of Cassation Judgment of 5 April 1967."

[38] Grušić, "Private International Law Regulation of Individual Employment Relationships within the European Union"; Rosin, "Cross-Border Telework and the Applicable Labour Law."

[39] *Egyptian Court of Cassation, Appeal No. 371/32.*

[40] Ghazi Ayed Alghathian et al., "Contemporary Issues in Arbitration Agreements: Sharia Public Order and Civil Law Perspectives," *MILRev: Metro Islamic Law Review* 5, no. 2 (July 2026): 1071–1102, https://doi.org/10.32332/milrev.v5i2.13682.

genuinely centred in Jordan, Jordan's overriding mandatory labour protections should apply directly. Where the work is performed only partly in Jordan, the application of those protections should depend on their legislative purpose and the strength of the relationship with Jordan rather than on physical presence alone.[41]

Temporary Secondment to a Foreign Affiliate: *Characterisation of Temporary Secondment*

Temporary assignments occur when employees are assigned to perform a special duty or project in a different state than their usual place of work for a specified time frame. Typically, after completion of the special duty or project, they are returned to their previous role as if no interruption had occurred. The law governing the employee's normal (habitual) workplace generally applies during the term of the temporary assignment.[42] The method outlined above applies under Article 8 of the Rome I Regulation, where the usual workplace of an employee is not changed by virtue of a short-term secondment (posting) to another state. Whether a transfer continues to be classified as a temporary secondment will depend on the length and purpose of the secondment, and on the extent to which the individual maintains a connection to their original employer. The increased use of cross-border and remote working arrangements has made it increasingly difficult to determine employees' usual workplaces and distinguish between typical employee movement and temporary postings.[43] Recent scholarship in the UAE similarly shows how digital management, algorithmic oversight, and remote supervision extend employer authority beyond the physical workplace and reshape the conventional understanding of legal subordination.[44]

Secondment may occur from the parent company to a foreign branch or from the branch to the parent company for temporary training.[45] Secondment depends principally on duration and continuing subordination. Duration is quantitative,

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[41] Grušić, "Private International Law Regulation of Individual Employment Relationships within the European Union"; Kunda, "Law Applicable to Employment Contracts Under the Rome I Regulation."

[42] F. Morgenstern, *Les conflits de lois en droit du travail* (Geneva: International Labour Office, 1986), https://labordoc.ilo.org/discovery/fulldisplay?vid=41ILO_INST:41ILO_V2&docid=alma992490403402676&lang=en&context=L&adaptor=Local%20Search%20Engine.

[43] Bruurs, "Cross-Border Telework in Light of the Rome I-Regulation and the Posting of Workers Directive."

[44] Mohammad Khamaysa, Ghazi Ayed Alghathian, and Murad Altarawneh, "Redefining Subordination in the Digital Workplace: Regulation of Teleworking in the United Arab Emirates," *Jurídicas CUC* 21, no. 1 (December 2025): 323–335, https://doi.org/10.17981/juridcuc.21.1.2025.17.

[45] Alghathian et al., "Contemporary Issues in Arbitration Agreements."

while subordination concerns which entity directs, disciplines, remunerates, and may dismiss the worker.[46] Continued social-security affiliation may support, but does not determine, this classification.[47] Under Regulation (EC) No. 883/2004,[48] a qualifying posting may remain subject to the sending State's social-security system for up to 24 months, but the A1 document does not determine the law applicable to the employment contract. Secondment does not ordinarily alter the governing law where the contract authorizes temporary work abroad, or the worker consents to it. Its temporary character should be assessed based on duration, the nature and purpose of the assignment, organizational integration, and continuing employer authority.

Applicable Law and Worker Protection during Secondment

Any choice of law remains subject to overriding mandatory rules and may not deprive the worker of otherwise applicable protection.[49] For a fixed-term contract, the periods and nature of work performed before and during secondment may be compared to identify the principal place of performance.[50] For an indefinite-term contract, total duration cannot be determined in advance; the Court should therefore consider both the actual periods worked and the nature and purpose of the assignment. The distinction should therefore turn on whether the foreign work remains temporary or becomes the worker's new habitual place of work, taking account of the duration and organisation of the cross-border arrangement.[51] During secondment, acquired rights and mandatory protections should be preserved. Where the parent initiated the assignment and retained authority, it should remain responsible for remuneration, repatriation, and branch debts owed to the worker, as recognised in some Brazilian and Argentinian rules.[52]

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[46] M. Danti-Juan, "Le détachement d'un travailleur auprès d'une autre entreprise," *Droit social*, 1985, 834–839; Raharinarivonirina, "Le droit du contrat de travail face à la libre circulation des travailleurs dans la C.E.E."

[47] Raharinarivonirina, "Le droit du contrat de travail face à la libre circulation des travailleurs dans la C.E.E.," 143.

[48] Regulation (EC) No. 883/2004 of the European Parliament and of the Council of 29 April 2004 on the Coordination of Social Security Systems, 883/2004 Official Journal of the European Union, L 166 1 (2004), https://eur-lex.europa.eu/eli/reg/2004/883/oj/eng.

[49] Raharinarivonirina, "Le droit du contrat de travail face à la libre circulation des travailleurs dans la C.E.E."

[50] Raharinarivonirina.

[51] Bruurs, "Cross-Border Telework in Light of the Rome I-Regulation and the Posting of Workers Directive"; Grušić, "Private International Law Regulation of Individual Employment Relationships within the European Union."

[52] Morgenstern, *Les conflits de lois en droit du travail.*

Modern EU law distinguishes recruited cross-border agency workers from posted agency workers.[53] Posted agency workers generally retain their employment relationship with the sending agency and remain subject to the law of their habitual country of work. At the same time, relevant host-State rules and equal-treatment protections may apply during the posting.[54] The original governing law remains subject to the overriding mandatory rules and public policy of the host State.[55] Although EU free movement facilitates temporary assignments and promotes equal treatment, parity with local workers does not always preserve the higher level of protection provided by the law originally governing the employment relationship.[56]

Permanent Transfer to a Foreign Affiliate: *Distinguishing Permanent Transfer from Temporary Secondment*

A permanent transfer differs from a temporary secondment in three main respects: its duration, the employee's habitual place of work, and the identity of the entity exercising authority over the employee. Permanent transfers are usually long-term and often occur when specialised employees move to a foreign office or when a merger or corporate restructuring relocates them to another undertaking.[57] Duration alone does not determine whether an arrangement constitutes a secondment or a permanent transfer. A lengthy foreign assignment may still qualify as a secondment where the original employer retains authority over the employee and expects the employee to return. By contrast, a change in the habitual place of work, together with the transfer of disciplinary, organisational, and remuneration authority to the foreign entity, points towards a permanent transfer.

Temporary secondment normally preserves the original employment relationship and the worker's continuing subordination to the sending entity. Conversely, a permanent transfer can affect two major terms of the employment agreement: the habitual place of work and the employer who exercises legal authority over the employee. Where these changes fundamentally alter the

[53] Maher Ghazal and Mohamed Abd-Elmotlb Azab, "Sheikh Mahmoud Shukri Al-Alusi and His Stance on Contemporary Intellectual Currents: An Analytical Study in Light of the Intellectual Transformations of the Nineteenth Century," *Al-Biruni Journal of Humanities and Social Sciences*, September 23, 2025, 12, https://doi.org/10.64440/BIRUNI/BIR004.

[54] Mijke Houwerzijl, "The Working Conditions of Cross-Border Temporary Agency Workers on Paper and in Reality," *European Labour Law Journal* 15, no. 1 (March 2024): 50–67, https://doi.org/10.1177/20319525241227846.

[55] C. de Visscher, "Les conflits de lois en matière de contrat de travail," *Revue de droit international et de législation comparée*, 1939, 153–54.

[56] Danti-Juan, "Le détachement d'un travailleur auprès d'une autre entreprise."

[57] Morgenstern, *Les conflits de lois en droit du travail*; Karila de Van, "Les différentes formes d'extranéité et leurs conséquences sur la loi applicable au contrat de travail international."

employment contract, the worker's consent is generally required.[58] Whether the transfer represents a novation will depend upon the nature of the transaction. A novation occurs when the original contract terminates, and a new contract is concluded with the foreign undertaking. In some cases, the original contract may be placed into abeyance while a second contract is in operation in a foreign jurisdiction; alternatively, by virtue of statute, the original contract continues in existence with the successor employer as a result of the transfer. The employer's identity depends on the entity that exercises effective authority over the worker. Relevant factors include responsibility for remuneration and social security contributions, the power to issue instructions, disciplinary authority, control over dismissal, and the entitlement to the worker's services.[59]

Where the original employer retains these powers, the arrangement remains closer to a secondment, even where the foreign assignment is lengthy. Where those powers pass to the foreign entity and the original relationship of subordination ends, the arrangement is better characterised as an intra-group transfer. In some cases, both entities exercise sufficient control to support joint liability for specific employment obligations.

Comparative Protection in Transfers of Undertakings

Directive 2001/23/EC and the UK Transfer of Undertakings (Protection of Employment) Regulations 2006 provide a comparative model for cases involving the transfer of a business or economic entity to a new employer.[60] These instruments preserve continuity of employment by transferring existing employment rights and obligations to the successor employer. Although they regulate business transfers rather than the relocation of an individual employee, they show that a change of employer does not necessarily interrupt the employment relationship. Under Article L1231-5 of the French Labour Code, where an employee hired by a parent company is transferred to a foreign affiliate and enters into an employment agreement directly with the affiliate, the parent company must guarantee the employee's repatriation. If the affiliate terminates the employee's services, the parent company must offer the employee a position commensurate with the former position's importance. Service time spent at the subsidiary will be considered as part of total service time for purposes of

[58] Danti-Juan, "Le détachement d'un travailleur auprès d'une autre entreprise."

[59] Danti-Juan; de Visscher, "Les conflits de lois en matière de contrat de travail."

[60] Council Directive 2001/23/EC of 12 March 2001 on the Approximation of the Laws of the Member States Relating to the Safeguarding of Employees' Rights in the Event of Transfers of Undertakings, Businesses, or Parts of Undertakings or Businesses, 2001/23/EC Official Journal of the European Communities, L 82 16 (2001), https://eur-lex.europa.eu/eli/dir/2001/23/oj/eng; Transfer of Undertakings (Protection of Employment) Regulations 2006, SI 2006/246 UK Statutory Instruments (2006), https://www.legislation.gov.uk/uksi/2006/246/contents.

determining both the length of mandatory notice periods and the amount of dismissal compensation.[61]

Applicable Law and Protection of Acquired Rights

Outside statutory transfer regimes, the forum must first identify the actual employer and then determine the applicable law.[62] Where the original employment contract continues in force or is merely suspended, the law already governing it may remain applicable. Where a new employer and a new habitual place of work emerge, the law governing the new employment relationship becomes more significant, subject to acquired rights and overriding mandatory protections.[63] The parties may choose a new governing law following the transfer. In fact, this is especially true when the employee has full freedom in negotiating any changes.[64] The parties' choice of law must not deprive the worker of mandatory protections or prejudice the rights of third parties. Article 3(2) of the Rome Convention allows the parties to change the applicable law after the contract has been concluded, provided that the change does not affect the contract's formal validity or prejudice third-party rights.[65]

CONCLUSION

This study demonstrates that the regulation of cross-border employment relationships within multinational corporate groups requires a careful balance between the principle of separate corporate personality and the protection of employees whose employment is affected by decisions taken across corporate boundaries. Although a parent entity typically will not have liability for the obligations of its foreign subsidiary, the parent entity could find itself liable when it is exercising control over the subsidiary and the employment relationship is subject to such a high degree of legal subordination in areas which include but are not limited to recruitment, compensation, disciplinary actions, transfers, termination of employment, or other decisions which result in damage to employees. Additionally, the research indicates that the habitual place of work would be considered the primary connecting factor under Jordanian law in resolving international employment disputes. However, if employees are receiving instructions from or performing tasks on behalf of the employer in

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[61] Code du travail, §§ L1231-5 (2008), https://www.legifrance.gouv.fr/codes/article_lc/LEGIARTI000006900997.

[62] Morgenstern, *Les conflits de lois en droit du travail.*

[63] Karila de Van, "Les différentes formes d'extranéité et leurs conséquences sur la loi applicable au contrat de travail international."

[64] Karila de Van.

[65] Convention on the Law Applicable to Contractual Obligations Opened for Signature in Rome on 19 June 1980, June 19, 1980, 80/934/EEC Official Journal of the European Communities, L 266 1, https://eur-lex.europa.eu/eli/convention/1980/934/oj/eng.

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multiple jurisdictions, the employer's administrative center may act as an additional connecting factor. Furthermore, party autonomy (i.e., the right of the parties to choose what law applies), overriding mandatory rules, and whether there exists a stronger connection to a different legal jurisdiction should all be taken into account. It is also important to distinguish between a temporary assignment/secondment and a permanent transfer. In contrast, temporary assignments generally maintain the employee's original employment status and accrued rights; permanent transfers, however, can establish a new habitual place of work and may create a new employment contract. Regardless of this distinction, both types of employment arrangements should continue to provide protections for employees' seniority, social security entitlements, repatriation rights, employment benefits, and protection from unjustified dismissals. As a result, this study has contributed to the integration of private international law, labor law, and corporate liability within the Jordanian legal framework and has emphasized the necessity of a cohesive framework regulating cross-border employment relations.

This study has several limitations. As it uses a doctrinal approach, there are no empirical data to support the study's claims. Additionally, the volume of Jordanian case law on multinational employment disputes remains limited. Therefore, future studies will need to use an empirical methodological approach and include employees, MNC representatives, labor lawyers, judges, regulators, and trade unions as participants to assess if the principles of this study are being implemented effectively. In addition, future comparative research can focus on countries with more well-developed parent company liability, cross-border secondment, and international labor dispute laws to identify which models can serve as a reference for the development of legislation in Jordan. From a legislative perspective, the Jordanian Parliament should develop specific choice-of-law rules that give priority to the employee's habitual workplace; however, the application of more protective mandatory labor standards should be permitted when appropriate. Furthermore, the legal framework needs to clearly distinguish between temporary secondment and permanent transfer, and ensure the continuity of all accrued employment rights, social security protection, seniority, repatriation, and protection against unfair dismissal. Lastly, Jordanian labor law needs to clearly define the legal status of solidarity strikes involving workers within the same multinational corporate group, subject to legitimate occupational interests and applicable procedural requirements. These reforms will increase legal certainty and ensure that the increasing globalization of employment does not diminish fundamental workers' rights.

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GA: Conceptualization, methodology, legal analysis, supervision, and preparation of the original draft. MS: Comparative legal analysis, literature review, and manuscript drafting. TA: Doctrinal analysis, review of legal sources, and critical revision of the manuscript. SM: Commercial law analysis, validation, and final review. All authors read and approved the final version of the manuscript.

AI USAGE STATEMENT

The authors declare that generative artificial intelligence (AI) tools were used solely to support language editing, proofreading, and improvement of the clarity and readability of the manuscript. AI tools were not used to generate research findings, conduct data analysis, or determine the scientific conclusions. The authors remain fully responsible for the accuracy, originality, integrity, and final content of the manuscript.

CONFLICT OF INTEREST

The authors declare that they have no conflict of interest, financial or otherwise, that could have influenced the research, analysis, interpretation of the findings, or publication of this article.

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