

BDBF success at the EAT in the case of Prahł & Others v Lapinski

BDBF represents Mr Lapinski in a claim for disability discrimination under the Equality Act 2010 brought against Triton Investment Advisers LLP and several individual respondents, including three non-UK-domiciled individuals referred to as the “Swedish respondents”. The Swedish Respondents challenged the Employment Tribunal’s international jurisdiction over them. At a Preliminary Hearing on the issue, the Tribunal held that it had jurisdiction. The Swedish Respondents’ appeal against that decision was dismissed by the EAT.

The Tribunal’s Decision

The Tribunal concluded that there was no failure in serving the claim upon the Swedish Respondents. The Employment Tribunals Rules of Procedure 2013 (the **ET Rules 2013**) in respect of service of claims were followed, and the claims were delivered to their attention. The Civil Procedure Rules in respect of service did not apply.

The Tribunal also determined that Mr Lapinski, who had been a member of Triton Investments Advisers LLP, had a good arguable case that he was an “employee” for the purposes of section 15C of the Civil Jurisdiction and Judgments Act 1982 (the **1982 Act**), which was intended to preserve the principles of the Brussels Recast Regulation post-Brexit (the **Brussels Regulation**). The Brussels Regulation is protective of the rights of employees (in the broad European sense) to pursue litigation in the jurisdiction in which they habitually carry out their work, including in cases involving overseas respondents, with a view to avoiding a multiplicity of claims

and the uncertainty that would bring.

Grounds of Appeal

The Swedish Respondents argued that the ET Rules 2013 in respect of service of claims did not confer international jurisdiction. They contended that either service on them in person while they were present in England or an application to the High Court for permission to serve out of the jurisdiction was required.

They also argued that section 15C of the 1982 Act did not apply as Mr Lapinski was not an employee, and, in any event, the Swedish Respondents were not his employer.

EAT Judgment

The EAT upheld the Tribunal's judgment and dismissed all the grounds of appeal.

HHJ Auerbach held that the claim had been served correctly on the Swedish Respondents. The ET Rules 2013 provided a complete code for service, and no additional steps were required to establish jurisdiction over the Swedish Respondents.

He went on to hold that sections 15C and 15E of the 1982 Act were intended to maintain the protective approach of the Brussels Regulation for employment claims, ensuring that employees are not worse off post-Brexit. The Tribunal's conclusion that Mr Lapinski had a good arguable case that he was an employee (in the broad European sense) by reference to the substance of the relationship between the parties, rather than the legal structure, was correct. As to the argument that the Swedish Respondents were not his employer in any event, section 110 of the Equality Act 2010 expressly provides for individual co-liability of employees and agents who do something that is treated as being done by their employer or principal.

In considering the appeal, HHJ Auerbach referred to the recent EAT decision of Kerr J in *Cable News International Inc v Bhatti* [2025] EAT 61, as well as *Simpson v Intralinks* [2012] ICR 1343, *Powell v OMC Exploration & Production Ltd* [2014] ICR 63 and *Stena Drilling PTE Ltd v Smith* [2024] EAT 57.

Comment

This decision is important for multinational organisations who frequently have UK staff working with, or reporting to, colleagues overseas. The judgment makes it clear that those overseas colleagues may be easily included as respondents to Tribunal claims for discrimination through compliance with the Employment Tribunal's rules for service (here, under the ET Rules 2013 and, from 6 January 2025, under the Employment Tribunal Procedure Rules 2024). It will also be of interest to LLPs and LLP members since it makes it clear that LLP members may be within the scope of 15C of the 1982 Act.

BDBF instructed Daniel Stilitz KC and Patrick Halliday of 11KBW in the EAT.

<https://caselaw.nationalarchives.gov.uk/eat/2025/77>