

The Concept of “Worker” in European Law

Review of the Recent Case-Law of the European Court of Justice

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Aim of the study: the concept of “worker” is not unknown in EU Law, but there is no uniform definition of it. A first definition was given by the ECJ in the arrest *Lawrie-Blum* (1986). The concept of worker is used *inter alia* to distinguish the scope of application of the freedom of establishment of article 49 of the T.F.E.U. and the freedom to provide services of article 56 on one hand, and the free movement of workers of article 45 on the other hand. **Van Peijpe** (2012) analysed two arrests, *Jany* and *Van der Steen*, which diverged quite strongly from the conditions from arrest *Lawrie-Blum*. My intend is to find if these arrests remained isolated and if *Lawrie-Blum* was generalised by the Court in these matters through a **case study** of the Court case-law between **2013 and 2018**.

Main findings: *Lawrie-Blum* applied most of the time BUT two interesting cases: *EEAE* (C-555-11) and *Zako* (C-452/17).

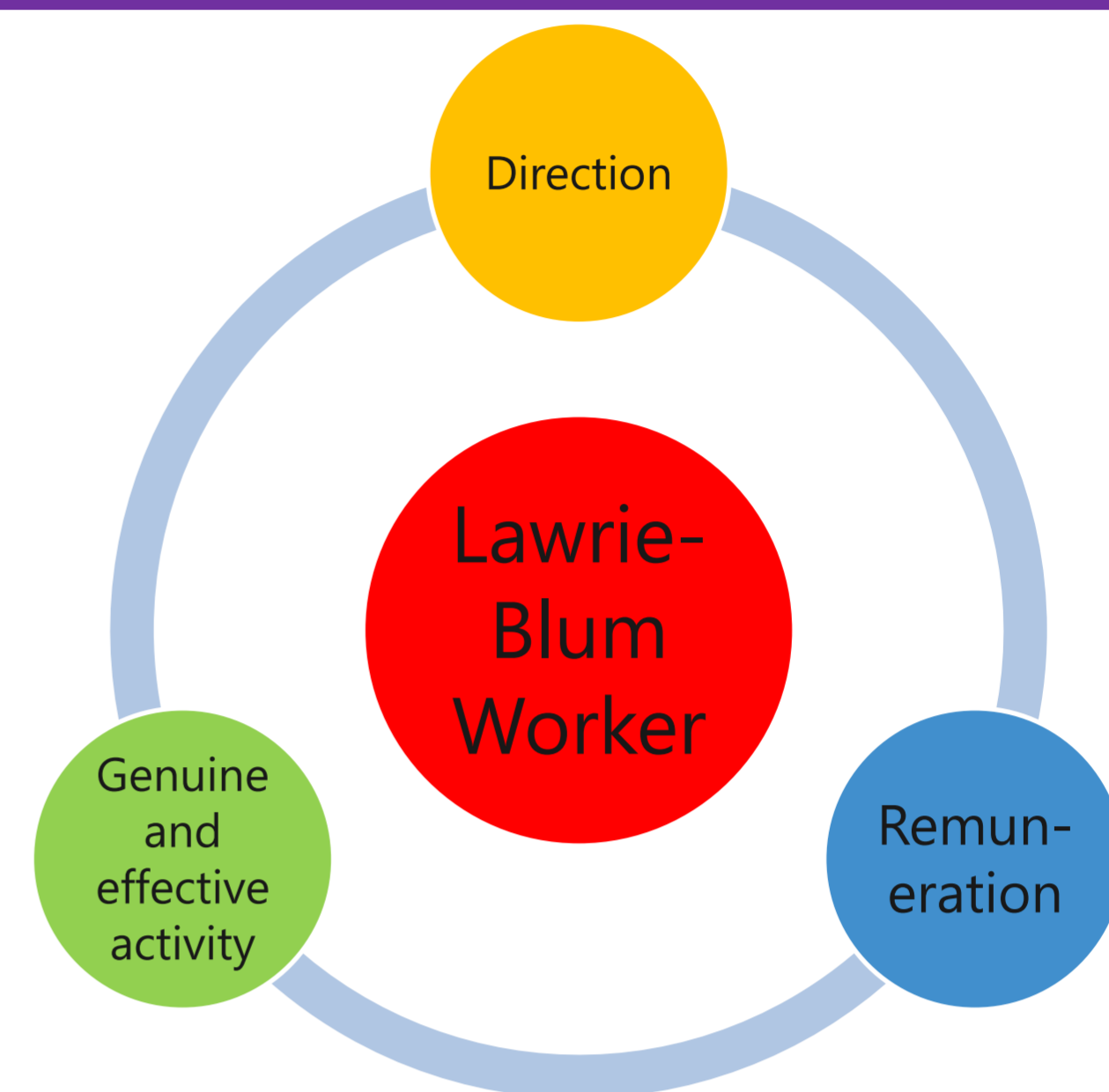
Both cases, which concern requests on preliminary ruling in secondary law, depart strongly from *Lawrie-Blum*, each following a different reasoning.

EEAE:

- ✓ Can be compared with **Van Der Steen**
- ✓ The employer is responsible for the activity of its worker if this activity falls within the context of the link of subordination
- ✓ Extension of the scope of the link of subordination

Zako:

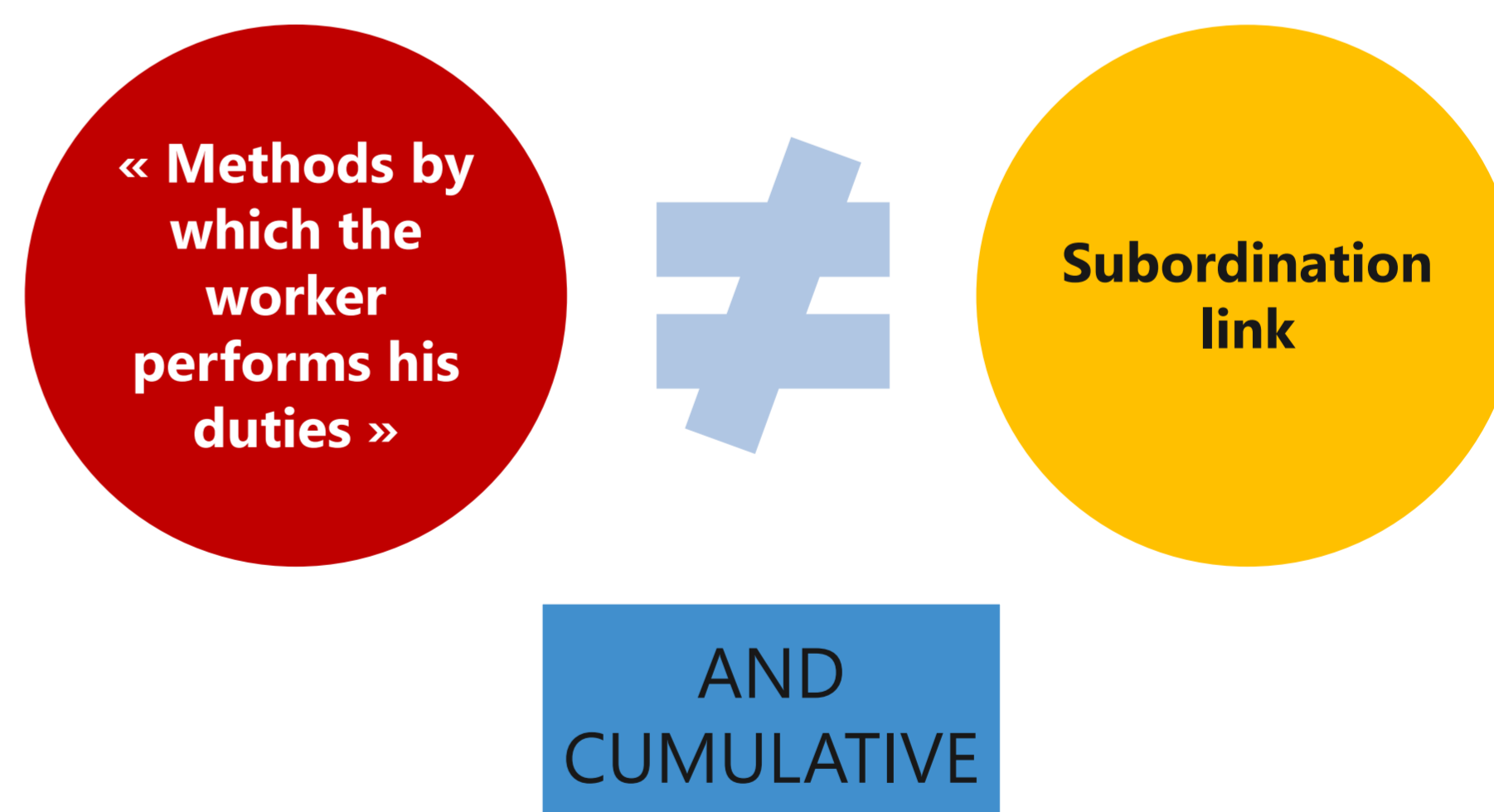
- ✓ Can be compared with **Jany**
- ✓ To conclude to an independent worker, the subordination link is not sufficient. The “**methods by which the worker performs his duties**” must be **separately and cumulatively** checked in order to determine if it does not lead to **dependency**
- ✓ Examples: presence at the contracting party’s premises, organisational facilities, decrease of economic risks



EEAE Case



Zako Case



Conclusions: No generalisation of *Lawrie-Blum* yet and the cases studied by Mr Van Peijpe (2012) are not isolated.

Further questions raised by the research:

- ✓ What about primary law?
- ✓ Why maintain such different logics?
- ✓ Position of the Court **on economic dependency?** Scope of the link of subordination?