

**Table 4: Labour courts in the EU – an overview**

<b>Summary</b>				
<b>Judicial system</b>	<u>Separated:</u> <ul style="list-style-type: none"> <li>• Denmark</li> <li>• Finland</li> <li>• France</li> <li>• Germany</li> <li>• UK</li> </ul>	<u>Integrated:</u> <ul style="list-style-type: none"> <li>• Belgium</li> <li>• Italy</li> <li>• Portugal</li> <li>• Spain</li> </ul>	<u>None:</u> <ul style="list-style-type: none"> <li>• Greece</li> </ul>	
<b>Composition</b>	<u>Tripartite :</u> <ul style="list-style-type: none"> <li>• Belgium</li> <li>• Denmark</li> <li>• Finland</li> <li>• Germany</li> <li>• Luxembourg</li> <li>• Slovenia</li> <li>• UK</li> </ul>	<u>Bipartite:</u> <ul style="list-style-type: none"> <li>• France</li> </ul>	<u>Only professional judges:</u> <ul style="list-style-type: none"> <li>• Italy</li> <li>• Spain</li> </ul>	
<b>Appointment</b>	<u>Government:</u> <ul style="list-style-type: none"> <li>• Denmark</li> <li>• Finland</li> <li>• Germany</li> <li>• Luxembourg</li> </ul>	<u>National Assembly:</u> <ul style="list-style-type: none"> <li>• Slovenia</li> </ul>	<u>A body:</u> <ul style="list-style-type: none"> <li>• Spain</li> </ul>	<u>Election:</u> <ul style="list-style-type: none"> <li>• France</li> </ul>
<b>Instances</b>	<u>One:</u> <ul style="list-style-type: none"> <li>• Denmark</li> <li>• Finland</li> </ul>	<u>Several:</u> <ul style="list-style-type: none"> <li>• Belgium</li> <li>• France</li> <li>• Germany</li> <li>• Italy</li> <li>• Luxembourg</li> <li>• Portugal</li> <li>• Slovenia</li> <li>• Spain</li> <li>• UK</li> </ul>		
<b>Procedure</b>	<u>Civil:</u> <ul style="list-style-type: none"> <li>• Denmark</li> <li>• Finland</li> <li>• Slovenia</li> <li>• UK (but less restrictive)</li> </ul>	<u>Extra:</u> <ul style="list-style-type: none"> <li>• Belgium</li> <li>• France</li> <li>• Portugal</li> <li>• Greece</li> <li>• Germany</li> </ul>		
<b>Categories of disputes</b>	<u>Individual employment rights:</u> <ul style="list-style-type: none"> <li>• Belgium</li> <li>• France</li> <li>• Italy</li> <li>• Luxembourg</li> <li>• UK</li> </ul>	<u>Individual and collective labour law:</u> <ul style="list-style-type: none"> <li>• Germany</li> <li>• Portugal</li> <li>• Slovenia</li> <li>• Spain</li> </ul>	<u>Collective labour law:</u> <ul style="list-style-type: none"> <li>• Denmark</li> <li>• Finland</li> </ul>	<u>Social security:</u> <ul style="list-style-type: none"> <li>• Belgium</li> <li>• Italy</li> <li>• Slovenia</li> <li>• Spain</li> </ul>

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<b>Prior negotiation</b>	<u>Before the procedure:</u> <ul style="list-style-type: none"> <li>• Denmark</li> <li>• Italy</li> <li>• Spain</li> </ul> <u>If provided by agreement:</u> <ul style="list-style-type: none"> <li>• Finland</li> </ul>	<u>Encouraged:</u> <ul style="list-style-type: none"> <li>• UK</li> </ul> <u>Only in collective disputes:</u> <ul style="list-style-type: none"> <li>• Slovenia</li> </ul>	<u>Within the procedure:</u> <ul style="list-style-type: none"> <li>• Belgium</li> <li>• France</li> <li>• Germany</li> <li>• Italy</li> <li>• Spain</li> </ul>	
<b>Parties</b>	<u>Any concerned person:</u> <ul style="list-style-type: none"> <li>• Belgium</li> <li>• France</li> <li>• Germany</li> <li>• Italy</li> <li>• Slovenia</li> <li>• Spain</li> <li>• UK</li> </ul>	<u>Organisations:</u> <ul style="list-style-type: none"> <li>• Denmark</li> <li>• Finland</li> </ul>		
<b>Representation organisations</b>	<u>Yes :</u> <ul style="list-style-type: none"> <li>• Belgium</li> <li>• Denmark</li> <li>• France</li> <li>• Germany</li> </ul>	<u>No:</u> <ul style="list-style-type: none"> <li>• Portugal (except special cases)</li> </ul>		
<b>Costs</b>	<u>Lower court fees:</u> <ul style="list-style-type: none"> <li>• Germany</li> <li>• Slovenia</li> </ul>	<u>No court fees:</u> <ul style="list-style-type: none"> <li>• UK</li> <li>• Spain</li> </ul>	<u>Each party own costs:</u> <ul style="list-style-type: none"> <li>• Denmark</li> <li>• Germany</li> </ul>	

**Table 4: Labour courts in the EU – an overview****Belgium**

Specialised courts	Yes, integrated in the civil system
Creation	By law – 1970
Composition	Three members: <ul style="list-style-type: none"> <li>• One career magistrate = chair</li> <li>• Two lay judges</li> </ul>
Appointment of Members	<ul style="list-style-type: none"> <li>• Professional judge: the normal statute of a judge</li> <li>• Lay judges: drawn from representatives of employees, self-employed and employers</li> </ul>
Lay judges	<p>During the performing of the judge duties = suspension of the employment contract</p> <p>Receive attendance fees</p>
Procedure	<ul style="list-style-type: none"> <li>• Specific labour law procedure</li> <li>• Begin with unilateral “requête”</li> </ul>
Individual disputes	<ul style="list-style-type: none"> <li>• Individual contracts of employment</li> <li>• Allowance for industrial accidents or occupational illnesses</li> <li>• Social security</li> <li>• Workplace health and safety committees</li> <li>• Administrative fiscal sanctions</li> <li>• Works council</li> </ul>
Collective disputes	No
Prior peaceful settlement	Attempt of conciliation in the labour procedure is mandatory
Representation	By the correspondent representative organisation
Costs	
Instances	<ul style="list-style-type: none"> <li>• Tribunal du travail - appeal</li> <li>• Cour du travail – pourvois de cassation</li> <li>• Chambres sociales de la Cour de Cassation</li> </ul>
Time	
Specificities	Labour prosecutor: attached to each labour tribunal to represent the public interest, delivering oral or written opinions

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**Denmark**

Specialised courts	Yes, separated from the civil system
Creation	By law - 1997
Composition	<ul style="list-style-type: none"> <li>• a president</li> <li>• five vice-presidents</li> <li>• 12 ordinary and 31 substitute lay judges</li> </ul>
Appointment of Members	<p>By the Minister of labour:</p> <ul style="list-style-type: none"> <li>• presidency appointed on recommendation by the ordinary judges</li> <li>• 6 ordinary and 14 substitute lay judges: on recommendation by private employer's organisations and public employers</li> <li>• 6 ordinary and 17 substitutes, on recommendation by employees' organisations</li> </ul>
Lay judges	
Procedure	The principles of procedure for normal civil cases are applicable
Individual disputes	-----
Collective disputes	<ul style="list-style-type: none"> <li>• interpretation and breach of basic agreements</li> <li>• breaches of ordinary collective agreements</li> <li>• disputes concerning the lawfulness of industrial action initiated with the aim of obtaining a collective agreement</li> <li>• the question as whether a collective agreement exists at all</li> </ul>
Prior peaceful settlement	<ul style="list-style-type: none"> <li>• obligatory conciliation before a conciliation committee</li> <li>• arbitration tribunals: interpretation of agreements</li> <li>• labour court preparatory meetings: search of amicable solution</li> </ul>
Representation	<p>Relevant employees' organisations, or an individual firm/authority which is not affiliated to an employers organisation</p> <p>An individual employee cannot bring a case before the labour court</p>
Costs	Each party covers it's own legal costs
Instances	No appeal
Time	
Specificities	

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**Finland**

Specialised courts	Yes, separated
Creation	Labour Court Act 1974
Composition	Tripartite <ul style="list-style-type: none"> <li>• chairman + neutral member</li> <li>• two employees members</li> <li>• two employers members</li> </ul>
Appointment of Members	All members are appointed by the President of the Republic upon nomination: <ul style="list-style-type: none"> <li>• employees and employers members of the most representative respective organisation</li> <li>• neutral members by the Ministry of Justice</li> </ul>
Lay judges	
Procedure	Resemble the procedure in the regular courts
Individual disputes	-----
Collective disputes	Arising out of collective agreements or out of the Collective Agreement Act
Prior peaceful settlement	If it is provided for by the collective agreement concerned
Representation	
Costs	
Instances	Court of first and final instance
Time	
Specificities	Only one labour court for the jurisdiction in the whole country

**Table 4: Labour courts in the EU – an overview****France**

Specialised courts	Yes, separated
Creation	
Composition	Bipartite, half of the judges from the employees side, half of the employers side
Appointment of Members	Elected for 5 years
Lay judges	
Procedure	Oral
Individual disputes	Arising from the contract of employment
Collective disputes	-----
Prior peaceful settlement	Within the system of prud'hommes: Initial conciliation stage before a joint conciliation board
Representation	By a trade union representative or a lawyer
Costs	
Instances	<ul style="list-style-type: none"> <li>• Prud'hommes</li> <li>• Courts of appeal</li> <li>• Supreme court</li> </ul>
Time	
Specificities	Emergency procedure

**Table 4: Labour courts in the EU – an overview**

**Germany**

Specialised courts	Yes, separated
Creation	By law
Composition	<ul style="list-style-type: none"> <li>• professional judges</li> <li>• lay judges</li> </ul>
Appointment of Members	By the responsible ministry
Lay judges	Receive their normal remuneration from their employers
Procedure	Law of labour courts – special provisions and civil procedure in addition
Individual disputes	Arising from employment between the employer and the employee
Collective disputes	<ul style="list-style-type: none"> <li>• arising from collective agreements</li> <li>• regarding works councils</li> </ul>
Prior peaceful settlement	The first hearing at the LC is with the chairman of the chamber only to try a settlement without judgment
Representation	<ul style="list-style-type: none"> <li>• Only needed in the higher labour court: secretary of a trade union or lawyer</li> <li>• In the federal supreme labour court: lawyer</li> </ul>
Costs	<ul style="list-style-type: none"> <li>• Lower fees: min. 10 – max. 500 Euros; when amicable settlement: no court fees</li> <li>• Each party pays its own costs for a lawyer</li> </ul>
Instances	<ul style="list-style-type: none"> <li>• labour court</li> <li>• higher labour court</li> <li>• federal supreme labour court</li> </ul>
Time	First instance: 50 % in 3 months; 90 % in 6 months; depends on the different Bundesländer
Specificities	<ul style="list-style-type: none"> <li>• Special procedure for cases of the “Betriebsverfassungsgesetz” the Act regarding the participation of workers in the enterprise</li> <li>• Interim injunction</li> </ul>

**Table 4: Labour courts in the EU – an overview****Greece**

Specialised courts	No
Creation	
Composition	One judge or several judges
Appointment of Members	
Lay judges	-----
Procedure	Relatively simplified and rapid special procedure – Art. 663 Code of Civil Procedure
Individual disputes	Arising from an employment relationship
Collective disputes	Arising from a collective agreement or provisions of similar standing
Prior peaceful settlement	
Representation	<ul style="list-style-type: none"> <li>• in person</li> <li>• by a lawyer</li> <li>• employers to be represented by their professional or managerial employee</li> </ul>
Costs	
Instances	<ul style="list-style-type: none"> <li>• appeal</li> <li>• review</li> </ul>
Time	
Specificities	



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**Italy**

Specialised courts	Yes, integrated in civil system
Creation	By law
Composition	
Appointment of Members	Professional judges only
Lay judges	-----
Procedure	<ul style="list-style-type: none"> <li>• speed</li> <li>• immediacy</li> <li>• emphasis on oral evidence</li> <li>• greater power of investigation initiative in conducting the hearing vested in the judge whose judgements are immediately enforceable</li> </ul>
Individual disputes	<ul style="list-style-type: none"> <li>• private law disputes</li> <li>• social insurance and social security issues</li> <li>• civil servant disputes</li> </ul>
Collective disputes	-----
Prior peaceful settlement	<ul style="list-style-type: none"> <li>• prior negotiation activity is mandatory, either in public offices or by collective contract proceedings</li> <li>• the judge mediates</li> </ul>
Representation	<ul style="list-style-type: none"> <li>• lawyer</li> <li>• unions on their own behalf</li> <li>• on behalf of their members only by specific proxy</li> </ul>
Costs	
Instances	<ul style="list-style-type: none"> <li>• tribunale</li> <li>• specialized labour section of the court</li> <li>• cassazione</li> </ul>
Time	
Specificities	Emergency procedure: Good reason to fear, that due to delays in court procedure the right which is being defended may suffer imminent and irreparable prejudice - a speedy and effective protection

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**Luxembourg**

Specialised courts	Yes
Creation	1989 by law
Composition	<ul style="list-style-type: none"> <li>• presiding magistrate</li> <li>• two lay judges, chosen by the magistrate, one from the employers side and one from the employees side, from either white-collar workers or manual workers depending on the party of the case</li> </ul>
Appointment of Members	By the Minister for Justice on the advice of the Minister of Labour for the term of four years
Lay judges	
Procedure	<ul style="list-style-type: none"> <li>• procedure applicable to ordinary magistrates' courts are followed, but all judgments on pay are automatically enforceable</li> <li>• injunction procedure (référé)</li> </ul>
Individual disputes	relating to contracts of employment that arise between employers and employees
Collective disputes	
Prior peaceful settlement	
Representation	
Costs	
Instances	<ul style="list-style-type: none"> <li>• labour tribunals are courts of last instance for small claims</li> <li>• court of appeal, two specialized chambers in labour law cases</li> </ul>
Time	
Specificities	<p>Urgent rulings:</p> <ul style="list-style-type: none"> <li>• nullity of dismissal</li> <li>• order for reinstatement</li> <li>• maternity protection against dismissal</li> <li>• protection against dismissal of board-level employee representatives</li> <li>• protection against dismissal of employee committee members</li> <li>• protection against dismissal of joint works committee members</li> </ul>

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**Portugal**

Specialised courts	Yes, integrated in the civil system, but not the entire territory is covered
Creation	
Composition	
Appointment of Members	
Lay judges	
Procedure	Code of labour procedure <ul style="list-style-type: none"> <li>• speedy</li> <li>• simplified</li> <li>• the court may rule beyond the scope of the applicants actual demand</li> <li>• public prosecutors department has to provide legal assistance and represent employees, if they do not have a lawyer</li> </ul>
Individual disputes	All civil and contractual disputes on issues arising from the employee's individual employment relationship, extending to associated matters such as accidents at work and occupational illnesses, social security and welfare matters and labour relations
Collective disputes	applications for the annulment of clauses in instruments of collective labour regulation which are considered to contravene the law
Prior peaceful settlement	
Representation	<ul style="list-style-type: none"> <li>• trade unions may attend or assist if the employee concerned requests it</li> <li>• trade unions may not represent or act as substitute, except: employee concerned is one who performs union functions, where the dispute relates to the applicability of an instrument of collective labour regulation</li> </ul>
Costs	
Instances	<ul style="list-style-type: none"> <li>• labour court</li> <li>• social division of appeal courts</li> <li>• social division of supreme court</li> </ul>
Time	
Specificities	

**Table 4: Labour courts in the EU – an overview****Slovenia**

Specialised courts	Yes
Creation	
Composition	<ul style="list-style-type: none"> <li>• professional judges</li> <li>• lay judges of employees and employers side</li> <li>• individual disputes: 3 judges, 1 professional and 2 lay judges</li> <li>• collective disputes: 5 judges, 1 professional and 4 lay judges</li> </ul>
Appointment of Members	<p>elected by the National Assembly of Slovenia</p> <ul style="list-style-type: none"> <li>• professional judges: upon the proposal of the judicial council</li> <li>• lay judges: list of candidates prepared by employees and employers respectively</li> </ul>
Lay judges	
Procedure	<ul style="list-style-type: none"> <li>• the Code of Civil procedure applies</li> <li>• burden of proof often on the employer</li> </ul>
Individual disputes	Yes
Collective disputes	Yes
Prior peaceful settlement	If arbitration is prescribed by law or a collective agreement the suit may be filed only if the prior negotiations were not successful
Representation	
Costs	Court fees are 70% lower than those of civil litigation
Instances	<ul style="list-style-type: none"> <li>• court of first instance</li> <li>• high labour social court</li> </ul>
Time	
Specificities	

**Table 4: Labour courts in the EU – an overview**

**Spain**

Specialised courts	Yes, integrated in the general system
Creation	1958, 1995 by law, Labour procedure act
Composition	Only professional judges
Appointment of Members	
Lay judges	-----
Procedure	<ul style="list-style-type: none"> <li>• greater power to the judge</li> <li>• free of charge</li> <li>• judge can deliver a decision orally either immediately after the hearing or within a very short period</li> <li>• facilitate workers access to the judicial system</li> </ul>
Individual disputes	Related to the contract of employment between the employer and the one or more employees
Collective disputes	Related to the contract of employment between an employer of employers' association and employee representatives in the undertaking, or trade unions for interpretation of a legal rule or a collective agreement or to challenge a collective agreement clause
Prior peaceful settlement	<ul style="list-style-type: none"> <li>• prior administrative conciliation action is mandatory for labour claims</li> <li>• a judicial conciliation is tried before the hearing of the trial</li> <li>• settlement by conciliation is enforceable as judicial decision</li> </ul>
Representation	
Costs	Free of charge
Instances	<ul style="list-style-type: none"> <li>• social court</li> <li>• social court chambers in the higher courts of justice</li> <li>• social chamber in the supreme court</li> </ul>
Time	Social court: 3 months in average First appeal: 6 months or longer
Specificities	

**Table 4: Labour courts in the EU – an overview****United Kingdom**

Specialised courts	Yes, separated
Creation	statutory
Composition	<ul style="list-style-type: none"> <li>• tripartite</li> <li>• chair: solicitors or barristers with at least seven years' experience</li> <li>• two lay members</li> </ul>
Appointment of Members	<ul style="list-style-type: none"> <li>• lay members drawn from panels nominated via employer and employee organisations</li> </ul>
Lay judges	Paid on fee-paid basis
Procedure	<p>Modelled on, but generally less restrictive than, the Civil Courts</p> <ul style="list-style-type: none"> <li>• short procedure</li> <li>• informal and flexible</li> </ul>
Individual disputes	<ul style="list-style-type: none"> <li>• claims involving employment rights derived from statute</li> <li>• claims of employees for money due under contract, or damages of breach of contract of up to 25.000 pounds if the claim arises on termination of employment</li> </ul>
Collective disputes	
Prior peaceful settlement	Parties are encouraged to seek conciliation through the offices of ACAS (Advisory Conciliation and Arbitration Service)
Representation	Not required
Costs	<ul style="list-style-type: none"> <li>• no court fees</li> <li>• costs are normally awarded against the losing party</li> </ul>
Instances	<ul style="list-style-type: none"> <li>• employment tribunal</li> <li>• employment appeal tribunal</li> <li>• court of appeal and House of lords</li> </ul>
Time	
Specificities	

## Table 4: Labour courts in the EU – an overview

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