

LEGAL UPDATE

Litigating in English: bill for the establishment of a Netherlands Commercial Court (NCC) and a Netherlands Commercial Court of Appeal (NCCA)

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Although several Dutch arbitration institutes offer the option to litigate in English, this option is not available yet for legal proceedings at Dutch courts. However, this could change in the near future.

On 8 March 2018, the Dutch House of Representatives approved the [bill](#) to establish a Netherlands Commercial Court and a Netherlands Commercial Court of Appeal. The aim of this bill is to make it possible to conduct legal proceedings in English at the (still to be established) international commercial divisions of the Amsterdam District Court and the Amsterdam Court of Appeal, which will be called the Netherlands Commercial Court (NCC) and the Netherlands Commercial Court of Appeal (NCCA), respectively.

The most important provision of the bill concerns a new section that this to be added to the Dutch Code of Civil Procedure as Section 30r(1):

'1. If the Amsterdam District Court or the Amsterdam Court of Appeal is competent to hear a dispute that has arisen or arises in future in connection with a particular legal relationship that is at the free discretion of the parties and which concerns an international dispute, parties who have expressly agreed to do so can litigate at the Netherlands Commercial Court of this District Court or at the Netherlands Commercial Court of Appeal of this Court of Appeal in the English language.

In cases dealt with by the NCC or the NCCA, the parties can therefore conduct the legal proceedings in English and the court will also render judgment in English, except if the proceedings have been conducted in Dutch at the request of the parties. The NCC will have jurisdiction if all parties involved in the proceedings have designated the NCC to hear their disputes and the case concerns an international dispute. An international dispute exists if, for example, one of the parties to the proceedings is domiciled abroad, if a treaty or foreign law applies to the dispute or if the dispute arises from an agreement drawn up in a language other than Dutch.

Proceedings at the NCC or the NCCA will be subject to increased court registry fees compared to other proceedings at Dutch district courts and courts of appeal. At the NCC, the court registry fees will amount to EUR 15,000 for regular proceedings and EUR 7,500 for interim relief proceedings. At the NCCA, the court registry fees will amount to EUR 20,000 for regular proceedings and EUR 10,000 for interim relief proceedings. This is also explicitly laid down in the bill.

On Tuesday 11 December, the Dutch Senate will vote on this bill. So, we will have to wait a while before we know if it will become possible to litigate in English in the Netherlands. We will keep you informed through our Legal Updates.

This is a Legal update from Sonja Kruisinga.

For more information:

Sonja Kruisinga
+31 30 25 95 646
sonjakruisinga@vbk.nl