

## English language in Dutch courts

01/12/2016

**Dispute Resolution analysis: Uncertainty created by the UK's vote to leave the EU has left European legal firms and financial institutions considering homes in other parts of mainland Europe. Eelco Meerdink, partner at De Brauw Blackstone Westbroek in Amsterdam, examines this development and explains the rationale behind an English language court for commercial hearings in the Netherlands.**

### What has been introduced in the Netherlands?

In 2017, the Netherlands will officially launch the Netherlands Commercial Court (NCC) in Amsterdam. It is a new commercial court set up to settle cross-border trade disputes. It will hear cases in English and be housed in the Amsterdam District Court building.

The chairman of the Netherlands Council for the Judiciary, Frits Bakker, first mentioned plans to establish this new court in 2014. The NCC is introduced as a means to remain competitive in the legal world. Dutch Minister of Security and Justice Van der Steur called the NCC 'an asset for the Dutch trade infrastructure'. The NCC is in line with the Netherlands government's ambition to make the Netherlands the legal capital of the world.

### What types of cases does the scheme cover?

The court will see large national and international trade disputes:

- o commercial litigation involving contracts
- o breach of contract
- o contractual damages, and
- o termination

### How has this been received by court-users? What sort of feedback has there been?

Proponents say that it has a positive impact on the legal system and that, as the court provides the opportunity to litigate in English, it can improve the Netherlands' position in this market. Besides that, as it will have its own procedural rules, the court will be very efficient, effective, and less costly than, for instance, the London courts. Opponents question whether the facilities offered will be sufficiently attractive to make the Netherlands a centre for international commercial dispute resolution. Time will tell.

### Could this compete with what is offered by the London legal market? What impact do you think Brexit will have on this?

Since the NCC will offer users the option of litigating in English, it can develop as a complement to the London legal market. The court matches international practice and facilitates smooth communication between foreign parties—something the London legal market offers as well. The Dutch judiciary and bar are—in addition to this—of a high quality, while the costs of litigating in the Netherlands are much lower than in the City. At present, English lawyers, as practitioners in an EU Member State, could—when introduced by Dutch lawyers—also plead before the NCC. Whether this will be the case after Brexit remains to be seen—that depends on the deal the government strikes with the EU. Apart from that, the NCC will make the Netherlands as a whole more attractive to foreign companies which, in view of Brexit, consider setting up a business in the Netherlands rather than the UK. Those companies may find the NCC an additional asset to the Dutch investment climate.

### Are there likely to be any future developments in this area?

The first development is the actual launch of the NCC. The official start date is 1 January 2017, but as many of these new institutions have shown, the actual start of operations and court sessions will probably be later.

*Interviewed by Julian Sayerer.*

*The views expressed by our Legal Analysis interviewees are not necessarily those of the proprietor*



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