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Haviltex or CAO standard – Supreme Court rules on interpretation of contracts

The Dutch Supreme Court recently delivered an important ruling on the interpretation of contracts.

Under Dutch law, there is a certain distinction between the two general standards used to interpret contracts. According to the basic “Haviltex standard”, it is not the text of the contract that is decisive, but the meaning that the parties could have reasonably attached to the provisions of the contract in the particular circumstances at hand and what they could reasonably have expected. In the “CAO standard” (CAO meaning: collective bargaining agreement standard), the specific wording of the contractual provision is, in principle, decisive for interpretation. This does not mean that the parties’ intentions are irrelevant to the interpretation of contracts governed by the CAO standard, but that these intentions are relevant only to the extent that third parties could objectively have known about them. The CAO standard has been applied to specific contracts, including not only collective bargaining agreements but also collective redundancy plans.

The Dutch Supreme Court recently ruled that particular circumstances can arise which make it necessary, in interpreting the contract, to consider the intentions of the contracting parties, even if these intentions are not known to third parties. This can also apply where the justification for using the CAO standard is not a factor; that is, when the protection of third parties and the uniform interpretation of the contract are not at issue.

Clients should therefore pay attention to the fact that all the circumstances of the particular case may be relevant when it comes to the interpretation of contracts, even if those contracts are interpreted according to the CAO standard. Aside from collective bargaining agreements and collective redundancy plans, the CAO standard has also been applied to deeds of transfer of real property, deeds of trust on which bonds were based, and pension plans.

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