



Netherlands Commercial Court: Consultation closed for legislative proposal



The Netherlands, May 2017

Reactions received in the consultation on the legislative proposal introducing a chamber for the settlement of international commercial disputes at the District Court and the Court of Appeal of Amsterdam, are predominantly positive. Although the details of the proposal may need some tweaking as some reactions have pointed out, the majority seems to welcome the introduction of the NCC.

The NCC offers foreign and Dutch parties the opportunity to submit commercial disputes with cross-border aspects to the jurisdiction of a specialized court that can conduct the entire proceedings in the English language, if they wish so. The proposed law is expected to have positive effects on the Dutch economy and its competitive edge in international trade – and positively reflect on the Netherlands as a suitable location for international companies and/or their headquarters.

To appoint the NCC as their court of choice, the parties to a (potential) dispute must enter into a specific agreement. Apart from such *choice of forum*, the jurisdiction of the NCC can also be based in other grounds of international competence, *i.e.* if one of the parties is seated or living in Amsterdam (for the avoidance of doubt: the proposed law requires their agreement to submit the dispute to the NCC if this is the case). The explanatory memorandum of the proposal excludes general terms and conditions as a valid method to establish jurisdiction for the NCC, although this is questioned by some.

After the introduction of the NCC, the Amsterdam court may be a favorable place for international companies and investors to settle their disputes on contracts, tort, transfer of property and corporate law.

It is widely agreed that the NCC may be a viable alternative for the possibility to settle international commercial disputes through arbitration. It may also offer venue for the nullification of arbitral awards if the Amsterdam Court of Appeal is (chosen as) the competent court thereto. Lower costs and higher predictability may be relevant factors for parties considering to have their commercial dispute(s) settled by the NCC.



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