

No fake news: the Netherlands Commercial Court proposal approved!

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Today, the Dutch Senate (*Eerste Kamer*) finally voted in favour of the legislative proposal for the establishment of the Netherlands Commercial Court (NCC) (see here). As of 11 December 2018, the Netherlands is added to the countries that have created an English language court or chamber specialized in international commercial disputes, including Singapore and France.

The proposal was already approved by the House of Representatives (*Tweede Kamer*) on 8 March 2018 (see our previous blogpost). Shortly after, we optimistically reported that the bill was scheduled for rubber-stamping by the Senate on 27 March 2018, making it realistic that the NCC would open its doors on 1 July 2018. However, not all senators were convinced by the need for and the modalities of the NCC proposal and it led to heated debates.

The discussions geared primarily around the cost-effective court fees and the fear for a two-tiered justice system (see Report of the meeting of 4 December 2018). The court fees are much higher than in other cases: 15.000 Euros in first instance and 20.000 Euros for appeal proceedings at the NCCA. It was argued that the cost-covering nature of the NCC fees is at odds with the current Dutch court fee system and that it may create an obstacle for small and medium-sized businesses to access the NCC. In response to these objections, the Dutch Minister of Justice and Security emphasized the importance of the NCC for the Netherlands as a trade country, the high quality of the Dutch civil justice system that was nevertheless unattractive due to the Dutch language, and pointed to the establishment of similar courts in other countries. He underlined that the NCC is only available in cross-border cases, that it offers an additional forum that parties can choose while the ordinary courts are still available, and that the court fees are relatively low compared to arbitration or to the fees for commercial courts in

several other countries, including the London Commercial Court.

Information on the NCC, a presentation of the court - a chamber of the Amsterdam District Court - and the Rules of Procedure are available on the website of the Dutch judiciary.

The Minister of Justice and Security will issue a decree soon announcing the date of entry into force of the NCC legislation, but in any case the NCC will open its doors early 2019.