

Latest issue Netherlands Internationaal Privaatrecht (2013/3)

The third issue of 2013 of the Dutch journal on Private International Law, *Nederlands Internationaal Privaatrecht*, includes the usual overview of important Dutch and European case law, as well as three articles on the following topics: The functioning of the European Small Claims Procedure in the Netherlands; the EU Regulation on Succession and Wills; and Child Protection Measures against the background of Article 8 ECHR.

X.E. Kramer & E.A. Ontanu, The functioning of the European Small Claims Procedure in the Netherlands: normative and empirical reflections, p. 319-328. The abstract reads:

The European small claims procedure was the first uniform adversarial procedure in the EU, introduced to increase the efficiency and to reduce the costs of cross-border small claims litigation in the Member States. The European Commission regards this procedure as an important potential contribution to access to justice in order to resolve small claims disputes. However, there are clear signs that this procedure is seldom used and the Commission seeks to improve its attractiveness. This paper focuses on the implementation and application of this European procedure in the Netherlands. Normative and empirical research has been conducted to assess how this procedure is embedded in the Dutch legal order and how it actually functions in practice and is perceived by the judiciary. The question is whether, from the Dutch perspective, this procedure meets the objectives of providing a simple, fast and low-cost alternative to existing national procedures, while respecting the right to a fair trial. The paper concludes with several recommendations for improvement.

P. Lokin, De Erfrechtverordening, p. 329-337. The English abstract reads:

This article focuses on (EU) Regulation No. 650/2012 dealing with the jurisdiction, applicable law, recognition and enforcement of decisions and the acceptance and enforcement of authentic instruments in matters of succession and the creation of a European Certificate of Succession. Is this Regulation, which

shall be applicable to the succession of persons dying on or after 17 August 2015, a step forward for the Netherlands? In light of its application in the near future, the article gives a first introduction into the new rules and concentrates on some aspects of the Regulation which require more attention, such as the determination of one's last habitual residence and the transitional provisions when the deceased has made a choice for the applicable law prior to 17 August 2015.

R. Blauwhoff, Kinderbeschermingsmaatregelen in de Nederlandse IPR-rechtspraak in het licht van artikel 8 EVRM, p. 338-345. The English abstract reads:

Both private international law and human rights instruments may affect parental and children's rights in cross-border situations, yet reference to both types of instrument is seldom made in Dutch legal decisions regarding parental responsibilities. Accordingly, the aim of this article is foremost to explore the relationship between both types of instruments in cases other than child abduction cases on the basis of an analysis of (Dutch) case-law, since the entry into force of the 1996 Convention on the International Protection of Children (1st of May 2011) and under reference to developments in case-law of the European Court of Human Rights (ECtHR) with regard to Article 8 ECHR. It is ventured that courts should have greater regard for the human rights dimension underpinning private international law decisions, especially in cases where tension arises between the law of the state of the child's present and former habitual residence. At the same time, the classic focus of the ECtHR on the accountability of national states sometimes falls short of taking into account the progress made in the field of cross-border co-operation in the ambit of the 1996 Hague Convention, especially in the area of cross-border contact arrangements.