

Issue 2017.2 Nederlands Internationaal Privaatrecht

The second issue of 2017 of the Dutch Journal on Private international Law, Nederlands Internationaal Privaatrecht, includes papers on the Commission's proposal to amend the Posting of Workers Directive, the establishment of the Netherlands Commercial Court and the enforcement of foreign judgments in Nigeria.

Aukje van Hoek, 'Editorial: Online shopping en detachering van werknemers - twee hoofdpijndossier op de grens van IPR en interne markt', p. 175-177.

Fieke van Overbeeke, 'The Commission's proposal to amend the Posting of Workers Directive and private international law implications', p. 178-194.

This article discusses the Commission's proposal to amend the Posting of Workers Directive (PWD), launched on 8 March 2016. One amendment in particular will be highlighted: the insertion of a type of conflict-of-laws rule, determining from when the law of the host Member State would be fully applicable to the posted worker, namely after the posting lasted for two years. This would lead to a pre-determined qualification of Article 8 section 2 Rome I Regulation in posting of workers cases that are covered by the PWD. This has clear private international law implications, which will be discussed thoroughly. Yet, before entering into these aspects the interaction between the PWD and Rome I will be discussed. Uncertainty still exists on this matter, which makes it important to map this first. This results in an article divided into two parts: 1. Elaborating on the general conflict-of-law rules of the PWD and Rome I and their interaction; 2. Analysing the Commission's proposal from a private international law point of view by giving three private international law comments, some final remarks and assessing whether this proposal has implications for the formerly discussed interaction between the two conflict-of-law instruments.

Serge Vlaar, 'IPR-aspecten van het NCC-wetsvoorstel', p. 195-204. (in Dutch, the English abstract reads:)

For the last twenty years, London has already had an international commercial court and this court has been very successful in attracting cases from the European continent. In order to reduce this outflow various European countries have created international commercial courts of their own and the Netherlands is on the verge of doing so. This new court will be a court for large international cases, conducting proceedings in English. The draft law necessary for the functioning of this court has been published for consultation and includes a few interesting topics regarding private international law. This contribution intends to describe these topics and the new court in general.

Abubakri Yekini, 'Foreign judgments in Nigerian courts in the last decade: a dawn of liberalization', p. 205-403

Nigeria has largely been governed by military dictators since it gained independence from Great Britain in 1960. Sustained democratic transition is a recent phenomenon and that, possibly, account for the recent increase in foreign direct investment, international trade and trade in services between Nigeria and its trading partners such as the European Union, China and the US. The surge in international trade has caused an increase in transnational litigation and requests for the enforcement of foreign judgments in Nigeria. An assessment of reported cases reveals that the majority of these cases were decided roughly between 2005 and 2015. There is a need to evaluate the Nigerian regime for enforcement of foreign judgments, with a particular focus on judicial opinions and legislative policy in this area. The article seeks to achieve this by analyzing the two relevant statutes on judgment enforcement and judicial precedents over the last decade. The article finds that while reciprocity appears to be the policy behind the relevant statutes, the courts have adopted a liberal and pragmatic approach towards recognition and enforcement of foreign judgments. The article therefore concludes that while the liberal approach of the Nigerian Supreme Court is a welcome development, it needs to be supported by clear, consistent, and robust judicial reasoning. This will set a clear agenda for lawmakers tasked with aligning the relevant statutes with already established judicial approach and, above all, will make it easier to offer legal advice to foreign investors.