

NCC and Class actions

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Who are we?

The Netherlands Commercial Court (NCC District Court and NCC Court of Appeal) is well positioned to swiftly and effectively resolve international business disputes. Under the proposed legislation, the NCC District Court and NCC Court of Appeal will be based in Amsterdam at the Palace of Justice, which is also home to the Amsterdam Court of Appeal. The NCC District Court and the NCC Court of Appeal will use Dutch procedure, which is highly regarded for its pragmatic approach and efficient operation. All work will be in English. eNCC, an electronic communication system, will be a web portal with secure access through the NCC site (www.ncc.gov.nl), allowing Dutch counsel to initiate an action, check the status and scheduled next steps, and submit and download documents. This gives the NCC the tools to communicate effectively and provide swift and firm guidance throughout the process. NCC can also play a role in class actions. This fact sheet provides more information on this subject.

Quick fact sheet on class actions in the Netherlands

- Three ways to initiate a class action in the ordinary courts
 - a) a foundation or association focusing on similar interests issues an initiating document
 - typically to establish liability
 - not for money damages, but proposed legislation would allow money damages
 - low court fees charged to the foundation or association (€ 600)
 - b) individual claimants issue a single initiating document
 - liability or monetary damages
 - court fees charged for each claimant (€ 300 - € 700)
 - cases may be divided and dealt with individually
 - c) litigation vehicles initiate the proceedings
 - liability or money damages
 - individual claimants assign their claims to the vehicle
 - low court fees charged to the litigation vehicle (€ 600 - € 4000).

How can NCC get involved?

- Class actions
 - a) the ordinary Amsterdam courts have jurisdiction under a Convention or Regulation, such as
 - a party's domicile
 - the place where the harmful event occurred
 - a choice-of-court clause
 - b) special NCC requirements

- civil or commercial matter within the autonomy of the parties and not subject to special jurisdiction
- international dispute
- express agreement for the proceedings to be in English before the NCC
- Class settlements
 - a) an in-court settlement before the NCC can be declared enforceable inter partes
 - b) enforceable outside of the Netherlands under Conventions and EU Regulations
 - c) out-of-court settlements: application to the NCC Court of Appeal for a declaration that the settlement is universally binding (including third parties who don't opt out)
 - the Netherlands may be the first and only EU jurisdiction that offers a procedure for settlements to be declared universally binding - general NCC rules above apply
 - settlement connected to the Netherlands (e.g., party's domicile or implementation in the jurisdiction)
 - enforceable throughout the EU if declared universally binding.

Costs

NCC charges low, upfront fixed court fees, ranging from € 15.000 to € 20.000 per party. Absent agreement, the unsuccessful party is typically responsible for lawyers' fees that are assessed on the basis of fixed rates ranging from €1,000-€12,000 for each act of process.

Need to know more?

If you have any questions, please contact us at

NCC@rechtspraak.nl

Or visit our website www.ncc.gov.nl

NCC@rechtspraak.nl

www.ncc.gov.nl

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