

RESPONSE BY THE NEDERLANDSE VERENIGING VOOR ZEE- EN VERVOERSRECHT (NVZV) (DUTCH MARITIME AND TRANSPORT LAW ASSOCIATION) TO THE CMI QUESTIONNAIRE DISTRIBUTED ON 18 OCTOBER 2013 WITH REGARD TO 'EXPANSION PROJECT JURISPRUDENCE ON MARITIME CONVENTIONS'

1. What is or what are the languages of the Maritime/Admiralty court decisions in your country?

Netherlands: Dutch

2. Which courts in your law system decide upon maritime matters?

Netherlands: The civil courts: *Rechtbank* (District Court), *Gerechtshof* (Court of Appeal) and *Hoge Raad* (Court of Cassation). The District Court of Rotterdam and the Court of Appeal of The Hague have distinct maritime and transport chambers/teams.

3. Do the courts, the judiciary, the department of justice or whatever public body post the decisions on a website? If so, what is the URL thereof?

Netherlands: Yes. The URL is <http://uitspraken.rechtspraak.nl/> which is part of the general website of the Dutch judiciary: www.rechtspraak.nl. Not all judgments are published on the website, however, but there is a policy to publish on the website all judgements which are found to be published later on in other sources (such as law reports published by commercial publishers).

4. If not on a website, is there any public (other than commercial publisher) source for these decisions?

Netherlands: No

5. Briefly outline the necessary steps/stages in order to obtain Maritime /Admiralty decisions on the selected site

Netherlands: The website www.rechtspraak.nl provides for a news service via a weekly email. The news service may be steered towards some broadly defined branches of the law (civil law, criminal law, administrative law etc.) but maritime and transport law is unfortunately not included as such. One may also search through the entire case law database on this website by means of any keyword, date or period, name of court, branch of law etc.

6. What is so available via the public authority website or other source: head notes, full text or both?

Netherlands: Full text and brief head notes of differing quality.

7. Please specify if the original text published by the Public Authority (head notes/abstracts or

full text) is available in the language the decision is rendered or any other language.

Netherlands: The full text and the head notes are published in Dutch only.

8. Is there or are there periodicals, law reviews of non public authority (commercial publishers, academic groups, law schools) publishing head notes and decisions? If so, please name them, and provide their contact details and/or URL.

Netherlands: Yes. Dutch case law on maritime law is published (in Dutch) in the monthly law reports *Schip en Schade* under the auspices of the NVZV (Dutch MLA), the Association of Dutch Shipowners and the Dutch Association of Insurers. *Schip en Schade* contains full text judgments with comprehensive head notes. It is published by Kluwer www.kluwer.nl/klantenservice. The board of editors is best contacted through sens@kluwer.nl or tvandervalk@akd.nl. Case law on maritime and transport law is also published in other, more general, law reports, but on a more erratic basis.

9. If the answer to 8 is affirmative, are these publications complementary to the sources of the public authority? (For example: the public authority only publishes the highest court's decisions, as opposed to the private sources which have a wider scope).

Netherlands: Yes, in the sense that *Schip en Schade* also appears to receive judgments for publication which are, at least initially, not published on www.rechtspraak.nl. Arbitral awards may also be published in *Schip en Schade*, whereas www.rechtspraak.nl only publishes court decisions. On the other hand, not all judgments on www.rechtspraak.nl are published in *Schip en Schade* as some judgments are not thought to be interesting enough for publication by the *Schip en Schade* board of editors.

10. Are any of the following protected by copyright under the laws of your country?

a. The head notes/abstracts of the decisions available via public authority sources (such as judiciary's website)?

Netherlands: Yes, it is presumed that the head notes/abstracts are protected by copyright, but this right is not exercised by the judiciary providing the head notes/abstracts.

b. The full text of the decisions available via public authority sources ?

Netherlands: No. Article 11 of the *Auteurswet* (Dutch Copyright Act) provides that no copyright subsists in laws, decrees or ordinances issued by public authorities, or in judicial or administrative decisions.

c. The head notes/abstracts of the commercial publications ?

Netherlands: Yes, the head notes/abstracts are protected by copyright of the original author and/or the commercial publisher.

d. The full text as published by the commercial publications ?

Netherlands: No. Article 11 of the *Auteurswet* (Dutch Copyright Act) provides that no copyright subsists in laws, decrees or ordinances issued by public authorities, or in judicial or administrative decisions. This does not change when they are published by a commercial publisher.