IMPACT OF TIME IN THE RECENT EC REGULATIONS ON INTERNATIONAL CIVIL PROCEDURE

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1. INTRODUCTION

Certainly the relationship between time and law is a central item, particularly in civil procedure, since civil litigation constitutes a sequence of acts towards a specific goal. Civil procedure can only be conceived in terms of time. However, the speed at which the interests of individuals in civil litigation are taken care of, depends on

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the efficiency of the administration of justice. The running of time is here decided by powers other than the persons concerned. This is why the time factor in civil procedure is being explored with a growing intensity. The relevance of time in civil procedure is diverse. First of all, there is the ever lasting tendency to speed up litigation and enforcement of judgments, recently still increasing under the influence of the due process principle, more in particular the notion within a reasonable time in Article 6 European Convention on Human Rights. Legislators, courts and the litigants themselves participate in this endeavour, by various means. On the other hand, there is a range of more technical problems. One of them is the question of sanctions: should respect for time limits be enforced and if yes, by what kind of means and by what degree of rigour? Another technical question, especially for legislators, is the need to conceive time periods clearly and consequently, in days, weeks, months or years. Finally, we need rules for the computation of time for the purposes of civil procedure: when do time limits or delays start to run and when do they expire? These different aspects of the impact of time on civil litigation are to a certain extent interrelated. Efficiency and speed in civil litigation are quite often a matter of respecting or enforcing merely technical rules.

Specific rules in domestic law for international civil litigation are, with a few exceptions, relatively young. A good illustration of this late waking up of national legislators in Europe is the recent insertion of specific rules on jurisdiction of national courts in civil and commercial matters in the Dutch Code of Civil Procedure. However, rules for international civil legislation were developed by the Hague Conference for Private International Law already at the end of the 19th century and modernised several times since then. A special position in this respect have the well known and very successful Hague Conventions on the Service of Documents of 1965 and on the Taking of Evidence Abroad of 1970. As we will see more in detail below, the nature of the Hague Conference as an organisation with a world wide action radius limited the possibilities to insert in the above-mentioned Hague Conventions on civil procedure strict rules aiming at speeding up civil litigation or concerning technical questions relating to the impact of time. Also at the European level there still is, as we will see, a tendency to leave technical questions relating to time to domestic law.

A new stage in the development of international procedural law started in Europe in the framework of the EEC, later the EC, with the entry into force, in 1973, of the

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