Contents

Editorial
170
National Grid Indus and Its Aftermath
Henk van Arendonk

Articles
172
The Interaction between the Interpretation of Article 24 OECD MC and the Non-discrimination Standard Developed by the CJEU
Niels Bammens

187
Dutch/German Cross-Border VAT Grouping
Herman van Kesteren, Madeleine Merlck & Christian Sternberg

197
The 3D I Case: Useful Clarification from the Court on the Boundaries of the EU Merger Directive
Pierpaolo Rossi-Maccanico

202
The European Cross-Border Conversion from a Dutch Tax and Legal Perspective
Gabriel van Gelder
The European Cross-Border Conversion from a Dutch Tax and Legal Perspective

Gabriël van Gelder

In the Vale-case the European Court of Justice ruled that under European law a cross-border conversion – a transfer of the registered office plus a change in the applicable law of legal persons – is permitted. Such cross-border conversion is an item that has been on the agenda of the European Commission since a long time. At present, Dutch civil law does not offer the possibility to change the legal form of a Dutch legal person into a foreign legal form. However, based on the Vale judgment such conversion should be possible. In this article the Vale judgment is discussed in the broader context of conversion and transferring the legal seat of a company to another jurisdiction. The author discusses the Dutch civil law and tax aspects of such conversion in this article.

1 Introduction

On 12 July 2012 the European Court of Justice (‘ECJ’) rendered its judgment in the Vale-case.1 In this judgment the ECJ ruled that under European law a cross-border conversion – a transfer of the registered office plus a change in the applicable law of legal persons – is permitted. The ECJ’s Vale judgment is in line with several judgments concerning the possibilities of relocating a company across borders.2 The Vale judgment confirms the principles put forward by the ECJ in the Cartesio judgment.3 This article addresses the Vale judgment in more detail and the status of a cross-border conversion, in particular the Dutch tax and legal aspects of such a conversion.

2 European Court of Justice: Case Law

In the Cartesio case the ECJ ruled, in short, that a company could not transfer its actual registered office to another Member State while being governed by the law of legal persons (the legal framework) of the country of its incorporation.4 At the same time, the ECJ ruled that a conversion of the law of a particular state governing a legal person into the law of another state governing the legal person must be possible under the Treaty on the Functioning of the European Union (‘TFEU’), insofar as the country’s rights of entry permit this, and there may, in principle, not be any obstacles.5

In the Vale judgment the question was put to the ECJ as to whether a receiving Member State may raise an impediment for a cross-border transfer of a registered office which is subject to a change in the applicable law of legal persons.6 In the case of this transfer of registered office, Vale Costruzioni Srl wanted to change its lex societatis (law of legal persons) from Italian law to Hungarian law and convert itself from a company governed by Italian law of legal persons into a company governed by Hungarian law of legal persons. On 3 February 2006 Vale Costruzioni Srl applied to the Italian commercial register to cancel its registration.7 On 19 January 2007 Vale Epitési applied to the commercial court in Budapest to register with it, in which respect Vale Costruzioni Srl was regarded as legal predecessor. This application was rejected by the local chamber of commerce and it was also rejected by the regional Court of Appeal on the grounds that a company incorporated and registered in Italy could not transfer its registered office to Hungary and cannot have itself registered in the commercial register in the requested form.8 The ECJ ruled that sections 49 and 54 of the TFEU must be interpreted such that they oppose national legislation which, although it prescribed that companies may be converted on the basis of national law, does not in a general manner permit a company that is governed under the laws of another Member State to be converted into a company governed by national law by incorporating such company.9

---

1 Mr Gabriël C.F van Gelder is a lawyer and tax adviser at DLA Piper in Amsterdam.

©2013 Kluwer Law International BV, The Netherlands
The fact that Member States might not yet have rules for cross-border conversions is of little concern to the ECJ. According to the ECJ, this cannot constitute an excuse to limit the freedom of establishment. The ECJ has stated that, in the absence of rules governing cross-border conversions, Member State must apply the rules applicable to domestic conversions as much as possible.

The problems concerning cross-border conversion are the consequence of the civil law differences between the internal affairs doctrine and the actual registered office doctrine.

3 INTERNAL AFFAIRS DOCTRINE VERSUS ACTUAL REGISTERED OFFICE DOCTRINE

International law of legal persons provides two systems to determine which corporate law applies to a legal person: the internal affairs doctrine or the actual registered office doctrine.

3.1 Internal Affairs Doctrine

Under the internal affairs doctrine, a legal persons is governed by the laws of the jurisdiction of incorporation. The Netherlands applies this system. Given the fact that the country of incorporation is, in principle, the same country where the registered office is located, this doctrine is also referred to as the registered office doctrine. Under the internal affairs doctrine, a legal person incorporated under Dutch civil law always remains bound by the rules of book 2 of the Dutch Civil Code, irrespective of where the legal person has its actual registered office, effective management and/or management body. A legal person having its registered office in the Netherlands is governed by Dutch civil law.

3.2 Actual Registered Office Doctrine (Siège Réel)

Under the actual registered office doctrine, a legal person is governed by the law of the country where the legal person’s actual registered office is located. According to the actual registered office doctrine, the question of whether an entity has legal personality is subject to the law of the country where that entity is actually situated, i.e., where its management board is situated. Therefore, under this doctrine a legal person is governed by the law of legal persons of the country where the legal person’s actual registered office is situated. Luxembourg is among the countries that apply such a doctrine.

4 TRANSFER OF REGISTERED OFFICE AND CONVERSION OF A LEGAL PERSON

4.1 Transfer of Registered Office (Statutory Seat)

It is good to note that the term ‘transfer of registered office’ can sometimes lead to confusion. The author’s opinion is that two kinds of transfer of registered office can be distinguished, i.e.: the transfer of the actual registered office (the management board of a company) and the transfer of the registered office. In the first situation, the place of effective management will be transferred to another jurisdiction and it is often not required or possible to transfer the registered office to the other jurisdiction. In the second situation, the registered office shall be relocated to another jurisdiction. In principle, the internal affairs doctrine does not allow a legal person incorporated under a certain civil law to transfer its registered office.

4.2 Conversion

It is relevant to note that the conversion of a legal person’s legal form is different from the transfer of a legal person’s registered office to another Member State. A conversion is a legal concept whereby the legal form of a legal person changes in another legal form. In the case of a conversion the ‘legal jacket’ of a legal person (applicable governing law) changes. Whereas in the case of a transfer of registered office the ‘statutory seat’ of a legal person changes without this immediately leading to a change in the applicable law of legal. A case may, however, involve a combination of a conversion and a transfer of registered office, as a consequence of which there may be a certain degree of concurrence between both legal concepts. This is addressed in more detail in section 4.4.

4.3 Cross-Border Conversion

A cross-border conversion involves the law of legal persons of two jurisdictions, since the law of legal persons applicable to the legal person, also referred to as the right of exit is exchanged for the new law of legal

---

11 Article 10:118 Dutch Civil Code
13 Belgium, France, Greece, Italy, Austria, Portugal and Spain are also countries which apply the actual registered office doctrine, albeit not always in the same manner.
14 In Luxembourg a company is a resident taxpayer if: 1. the effective management is based in Luxembourg, or 2. the registered office is based in Luxembourg (Art. 159 of loi concernant l’impôt sur le revenu).
15 Transfer of the actual registered office often means the relocation of the company’s effective management.
16 Under the Dutch civil code it is not possible for a Dutch incorporated company to transfer its registered office to another jurisdiction.
persons after the cross-border conversion, also referred to as the right of entry. The first question that must be answered is whether the right of exit offers a legal person the possibility to convert itself across borders. Only after that, the question whether the jurisdiction of entry allows this can be answered. Luxembourg is a country which has a right of entry, as a consequence of which legal persons, if the right of exit so permits, can convert themselves into a Luxembourg legal person. A consequence of a cross-border conversion is that, in principle, the applicable law of legal persons will change (i.e., be converted), without interruption of the legal personality.

4.4 Concurrence of Cross-Border Conversion and Transfer of Registered Office

A cross-border conversion may coincide with a transfer of an actual registered office, but this is not necessarily the case. A cross-border conversion may also take place if a legal person converts itself into a foreign legal form without transferring the actual registered office, provided that the right of entry of the other jurisdiction permits this. If the right of entry of the country in question imposes the condition that the actual registered office must be situated in that country, then a cross-border conversion combined with a transfer of registered office will have to take place. A country’s right of entry can impose certain conditions that must be met in order to qualify as a legal person of that country, since a country having an actual registered office system does, in principle, not acknowledge a legal person if its actual registered office is not situated in the same country. In this case it means that in addition to a conversion into a legal form of the jurisdiction, the actual registered office must also be situated in that jurisdiction. Conversely, a transfer of the actual registered office does not necessarily lead to a conversion of the legal form of a legal person.

4.5 European Developments

The cross-border transfer of the registered office is an item that has been on the agenda of the European Commission since a long time. In its final report of 4 November 2002, the High-Level Group of Company Law Experts recommended that the European Commission should urgently consider adopting a proposal for a Directive on the transfer of the registered office. It also suggested that certain aspects of the transfer of the de facto head office should be clarified. In May 2003, the European Commission issued a plan to move forward regarding modernizing company law in Europe.\(^{17}\) In this plan the European Commission intends to present a proposal for a 14th Company Law Directive on the transfer of the seat from one Member State to another. In February 2004, the European Commission launched an online consultation on the outline of the planned proposal for a Directive on the right of limited companies to transfer their registered office from one Member State to another.\(^{18}\) In December 2007, the European Commission published an impact assessment on the proposal for this 14th Company Law Directive.\(^{19}\) This document presents the pros and cons of possible policy actions, also including an evaluation of the consequences of not undertaking any regulatory action in this field. The impact assessment has been validated by the European Commission’s Impact Assessment Board. Having weighed the arguments advanced, the European Commission has decided there is no need for action at EU level on this issue. DG Internal Market and Services has therefore in December 2007 stopped work in this area. However, in January 2013, the European Commission started a consultation regarding cross-border transfer of registered offices within the EU.\(^{20}\) The purpose of the consultation is to get more in-depth information on the costs currently faced by companies transferring their registered offices abroad and on the range of benefits that could be brought by the EU action on the cross-border transfer of them.\(^{20}\) The question is whether such consultation will result in any new developments, as in the past various public consultations were already performed regarding this topic without clear outcome. Until now there is no directive on the transfer of the registered office and / or the cross-border conversion.

5 DUTCH CIVIL ASPECTS REGARDING CROSS-BORDER CONVERSION

5.1 Transfer of Registered Office

Section 2:66(3) of the Dutch Civil Code states that the registered office of a public limited liability company (N.V.) must be situated in the Netherlands.\(^{21}\) Thus, a Dutch legal person cannot have its registered office outside the Netherlands. Only in certain situations, for example an imminent war situation, it is possible to transfer the registered office of a legal person from the Netherlands to another jurisdiction. On the other hand, a transfer of the actual registered office from the

---


\(^{19}\) http://ec.europa.eu/internal_market/company/seat-transfer/index.xlsx_en.htm#consultation2012


\(^{21}\) Article 2:117(3) of the Dutch Civil Code applies for private public companies (B.V.)
Netherlands to another jurisdiction is possible. A legal person incorporated under the laws of the Netherlands that intends to transfer its actual registered office (place of effective management) to, for example, Luxembourg can do so under Dutch company law. Under the internal affairs doctrine, the legal person continues to be an entity incorporated under Dutch law and will continue to be subject to the rules of Book 2 of the Dutch Civil Code, regardless of the place where the company conducts its principal activities, the place where the management board holds its meetings and the place where shareholders’ meetings are held.

5.2 Conversion

For Dutch civil law purposes, conversions are governed by section 2:18 of the Dutch Civil Code, which states that a legal person may convert itself into another legal form with due observance of paragraphs of section 2:18 of the Dutch Civil Code. To make it clear that the legal form will be changed, the term ‘change in legal form’ is also used.22

Pursuant to section 2:18 of the Dutch Civil Code, a conversion takes place if three conditions are met: (1) a resolution to convert, (2) a resolution to amend the articles of association and (3) notarial deed of conversion embodying the new articles. A conversion is a legal concept whereby the legal form of a legal person changes without assets being transferred from a Dutch civil law perspective.

5.3 Cross-Border Conversion

At present, section 2:18 of the Dutch Civil Code does not offer the possibility to change the legal form of a Dutch legal person into a foreign legal form, except for a conversion of a public limited liability company (N.V.) into a Societas Europaea (SE).23 Given that the ECJ in the Vale judgment has ruled that a Member State that having a conversion system cannot reserve this system for companies that are governed by the laws of that Member State, this system must also be open to cross-border conversions.24 In concrete terms this means that, based on the Vale judgment, a Dutch legal person can convert its legal form into a legal person under the laws of an EU/EEA Member State, but also that an EU/EEA legal person can be converted into a Dutch legal person.25

At present, a legislative proposal, drafted by the commission on corporate law (Commissie Vennootschapsrechts),26 is in the making to bring the legislation in line with recent case law of the ECJ. Until such legal basis comes into force, cross-border conversions should be possible based on the freedom of establishment and the judgments of the ECJ, although the question is whether this is desirable.27 By means of a legislative proposal ‘Amendment to Book 2 of the Dutch Civil Code in connection with the introduction of a scheme for cross-border conversion of capital companies’ the commission of legal persons wants to prescribe the preconditions that must be met before a conversion can take place.28 The Exploratory Memorandum furthermore states that in the absence of a European scheme there is a need for a national scheme.29 The outbound conversion of a Dutch company into a capital company under the laws of another EU/EEA Member State is governed by Dutch law until the moment of the conversion. The inbound conversion of a foreign capital company into a Dutch company in primarily governed by the laws of the country of departure. That law should determine whether the legal person in question may undergo a cross-border conversion.

One of the problems that arise in the case of a cross-border conversion is that the corporate seat of the company must be situated in the Netherlands.30 A resolution to transfer the corporate seat of a company incorporated under Dutch law to a location outside the Netherlands is null and void under prevailing law (section 2:14 DCC).31 Under prevailing law, a company

22 B. Snijder-Kuipers, Omszet ing als rechtswijziging (Kluwer 2013), p. 2.
26 Advisory commission to the Dutch Ministry of Justice and Security.
28 It is not yet an officially published legislative proposal, but it can be found on http://www.rijksoverheid.nl/documenten-en-publicaties/kamerstukken/2012/01/12/wetsvoorstel-grensoverschrijdende-omzetting-van-kapitaalvennootschappen.html.
29 The European Parliament has called the European Commission to put forward a directive proposal because legal certainty is served when it is clear under which conditions a cross-border conversion is possible (decision of 2 Feb. 2012, 2011/2046 (INL)) Report with recommendations on a 14th company law directive on the cross-border transfer of company seats, 9 Jan. 2012 (2011/2046(INI) and European Parliament resolution of 2 Feb. 2012 with recommendations to the Commission on a 14th company law directive on the cross-border transfer of company seats (2011/2046(INI)).
30 For the NV section 2:66 para. 3 Dutch Civil Code applies and for the BV section 2:177 para. 3 Dutch Civil Code applies.
31 There are two very specific exceptions to this rule which are governed by the Voluntary Transfer of Registered Offices (Third Countries) Act and the Place of Establishment of Legal Persons and Institutions (Transfer by the Authorities) Kingdom Act.
must be dissolved and its assets liquidated in order to transfer the corporate seat of Dutch company to another company. From a tax perspective, this leads to a final tax settlement under section 15d of the Dutch Corporate Income Tax Act 1969. This is discussed in more detail below.

6 Dutch tax issues

6.1 Dutch Corporate Income Tax

6.1.1 Final Corporate Income Tax Settlement

Section 28a of the Dutch Corporate Income Tax Act 1969 governs the taxation of the conversion of a legal person under section 2.18 of the Dutch Civil Code. As stated previously in section 5.2, a legal person is not dissolved from a civil law perspective in the case of a conversion. However, from a Dutch tax perspective, although the company maintains its legal personality, the converted legal person is deemed to have been liquidated.

According to section 28a of the Dutch Corporate Income Tax Act Wet 1969, the assets are deemed to have been distributed to the persons entitled to a share in the profits, who are subsequently deemed to have contributed them to another legal person. The deemed liquidation, distribution and contribution do not apply to the conversion of a private limited liability company into a public limited liability company, a public limited liability company into a private limited liability company, a foundation into an association, or an association into a foundation.

The question is whether section 28a of the Dutch Corporate Income Tax Act 1969 also applies to cross-border conversions. Given the fact that cross-border conversions are not regulated in section 2.18 of the Dutch Civil Code, and section 28a of the Dutch Corporate Income Tax Act 1969 explicitly refers to the conversions which are possible pursuant to section 2.18 of the Dutch Civil Code, it seems that nothing is provided for by law regarding cross-border conversions and the Dutch tax treatment of such conversions.

However, based on a Decree from the State Secretary of Finance it seems that a cross-border conversion can, under certain circumstances, benefit from an exemption from Dutch exit taxes. This will be further discussed in section 6.3 below.

As a consequence, under section 15d in conjunction with section 15c in the Dutch Corporate Income Tax Act 1969, tax must be paid on any profits and hidden reserves realized. There have been some recent developments regarding these final settlements. The ECJ handed down a judgment regarding the Dutch final settlement and the compatibility with EC law. According to the ECJ, a final settlement is suitable to safeguard the division of the power of taxation between the Member States concerned and it does not violate section 49 of the TFEU.

Following the ECJ judgment in the National Grid Indus-case, the Dutch legislator issued new legislation to be in line with the outcome of this case.

The Act on deferral of exit taxation (Wet uitstel van betaling exitheffingen) concerns the application of a final settlement or exit tax in the event that the registered office (normally the place where the effective management is conducted) of a Dutch company is relocated to another EU jurisdiction. Furthermore, the Act on deferral of exit taxation contains provisions regarding (cross-border) mergers and demergers. In the case of a legal merger, company merger or a demerger a situation may arise in which an asset is transferred abroad in connection with such legal merger, company merger or a demerger. The taxpayers have three possibilities under this Act:

(i) pay the tax due the moment it migrates to another EU/EEA-jurisdiction,
(ii) pay the tax due the moment the asset is no longer in the hand of the taxpayer or (iii) pay the tax due in 10 equal annual instalments. During the legislative process, the Dutch State Secretary of Finance confirmed that in the situation of a cross-border conversion a taxpayer can benefit from this Act.

6.1.2 Legal Incorporation Fiction

Another topic that comes across with the cross-border conversion is the legal fiction of section 2(4) of the Dutch Corporate Income Tax Act 1969; a company incorporated under Dutch civil law (such as a B.V.) is deemed to be a Dutch tax resident entity for corporate income tax purposes.

When introducing the legal fiction of section 2(4) of the Dutch Corporate Income Tax Act 1969, the cross-border conversion was an unknown legal concept. The question thereof is whether a legal entity incorporated under Dutch law still qualifies as a legal person organized under Dutch law after a conversion? In other words: once incorporated under Dutch civil law, always incorporated under Dutch civil law even if the company is converted into another foreign legal company? It is

35 ECJ 29 Nov 2011, no. C-371/10, National Grid Indus BV v Inspecteur van de Belastingdienst Rijnmond.
36 Wet uitstel van betaling exitheffingen no. 33.262. (Act on deferral of exit taxation). This act has been adopted on 7 May 2013 by the Upper House of the Dutch parliament and has a retroactive effect as to 29 Nov 2011.
37 The taxpayer must provide sufficient collateral for the unpaid exit tax and interest will be charged until the entire amount of the exit tax has been paid.
38 NV, Kamerstukken 2012/13 no. 33.262 no. 5, Wijziging van de Invorderingswet 1990 (Wet uitstel van betaling exitheffingen).
not entirely clear whether the legal fiction of section 2(4) of the Dutch Corporate Income Tax Act 1969 applies once a Dutch company has been converted into a foreign legal form. From a Dutch civil law perspective, the prevailing doctrine seems to be that the Netherlands must withdraw to recognize such converted entity as a Dutch incorporated entity because there is no longer a corporate law connecting factor for the Netherlands to consider a converted legal person a Dutch legal person. It is arguable that as a result of the cross-border conversion into a foreign legal form and the transfer of the actual registered office, the company is no longer incorporated under Dutch law and that therefore section 2(4) Corporate Income Tax Act 1969 no longer applies.

6.2 Dutch Dividend Withholding Tax

6.2.1 Does the Cross-Border Conversion Result in a Taxable Event?

In the case of a domestic conversion, a legal person is deemed to have been liquidated pursuant to section 28a(1)(a) in conjunction with paragraph (2) Corporate Income Tax Act 1969. In principle, this results in dividend withholding tax being levied pursuant to section 3(1)(b) Dividend Withholding Tax Act 1965. Due to the fact that the cross-border conversion does not result in a taxable proceed within the meaning of section 3 Dividend Withholding Tax Act 1965 or as a result of liquidating dividend based on a legal fiction and section 28a Corporate Income Tax Act 1969 does not apply to cross-border conversions, it seems that a cross-border conversion does not result in a taxable event for the purposes of the Dividend Withholding Tax Act.

6.2.2 Does the Dividend Withholding Tax Act 1965 Apply to the Converted Legal Person after a Cross-Border Conversion?

The subsequent question is whether the Netherlands may levy withholding tax on dividends paid once an entity incorporated under Dutch law has been converted into a foreign legal person whose actual registered office is also situated outside the Netherlands. In section 1(3) of the Dividend Withholding Tax Act 1965 a legal fiction is included stating that a company incorporated under Dutch civil law (such as a B.V.) is deemed to be a Dutch tax resident entity for Dutch dividend withholding tax purposes.

The provisions of section 1(3) Dividend Withholding Tax Act 1965 were incorporated into the law to prevent a situation from arising where the transfer of a company’s place of business for tax purposes would result in the levy of dividend withholding tax on non-distributed profits impossible. The legislature’s intention is to be able to levy dividend withholding tax on dividends distributed after a company has transferred its effective management. The question is whether section 1(3) Dividend Withholding Tax Act 1965 still applies to companies incorporated under Dutch law which become foreign legal entities after a cross-border conversion. Is a converted Dutch legal person still regarded as a legal person incorporated under Dutch law? Can this line be followed in respect of the Dividend Withholding Tax Act 1965? As stated previously in section 6.1.2, it is arguable that this fiction would be going too far to confront a Dutch private limited liability company that has been converted into a foreign legal person and which is also no longer based in the Netherlands with dividend withholding tax.

6.3 Decree State Secretary of Finance

In April 2011, the State Secretary of Finance issued an updated decree on the tax consequences of a conversion and the application of section 28a of the Dutch Corporate Income Tax Act 1969. In this decree it is the first time that reference is made to cross-border conversions. It is mentioned that there is no specific tax legislation concerning a cross-border conversion and that on a case-by-case basis the Dutch tax consequences need to be considered, whereby the civil law aspects of the conversion of the foreign jurisdiction will be taken into account.

In the event that the cross-border conversion will not result in the termination of the existence of the taxpayer, then such conversion should not result in any taxable event, according to the decree. Since it is not clear what is mentioned with ‘termination of the existence of the taxpayer’, this undertaking is quite vague. The cross-border conversion as itself does not result in the termination of the legal person from a Dutch civil law perspective. The legal form of the legal person changes into another legal form, but the company / enterprise itself does not terminate its existence.

7 Conclusion

A Dutch incorporated entity can convert its legal form into the legal form of another jurisdiction. Although, such cross-border conversion cannot be done on the basis of section 2:18 of the Dutch Civil Code, it is possible to do this on the basis of sections 49 and 54 of the TFEU and ECJ’s judgment in the Vale-case. From a Dutch civil law perspective such cross-border conversion is merely a change of the legal form of the company and as such does not result in the termination of
of the existence of the entity. In the event such cross-border conversion concur with the transfer of the actual registered office (place of effective management) of the company, such conversion shall result in an exit tax on the hidden reserves and goodwill present at the Dutch company. In section 28a of the Dutch Corporate Income Tax Act 1969 certain tax aspects of the conversion are dealt with. Since this section does not apply to cross-border conversion, nothing has been arranged for a cross-border conversion from a Dutch tax perspective. However, based on a Decree of the State Secretary of Finance a cross-border conversion shall, under certain circumstances, not result in an exit tax. Since the conditions to be met are vague, it is doubtful whether this Decree will provide taxpayers sufficient certainty on the tax consequences of a cross-border conversion together with a transfer of the actual registered office to another jurisdiction. In the event that an exit tax will be levied, the taxpayer could benefit from the Act on deferral of exit taxation, which gives the taxpayer the possibility to defer the exit tax.
**Author Guide**

[A] Aim of the Journal

EC Tax Review aims to provide up-to-date coverage of developments in Community tax law as it affects the Member States. In providing comprehensive and timely analyses, the articles enable readers to anticipate the effect of EU tax law on the regimes in the different countries.

[B] Contact Details

Manuscripts should be submitted to the editor, Ben Kiekebeld.

E-mail address: ben.kiekebeld@nl.ey.com

[C] Submission Guidelines

[1] Manuscripts should be submitted electronically, in MS Word format, via e-mail.

[2] Submitted manuscripts are understood to be final versions. They must not have been published or submitted for publication elsewhere.

[3] Articles should not exceed 12,000 words. For the Forum section, which includes short notes on recent topics, there is a maximum of 3,000 words, and the Editorial is about 1,500 words.

[4] Only articles in English will be considered for publication. Manuscripts should be written in standard English, while using ‘iz’ and ‘ization’ instead of ‘ise’ and ‘isation’. Preferred reference source is the Oxford English Dictionary. However, in case of quotations the original spelling should be maintained. In case the complete article is written by an American author, US spelling may also be used.

[5] The article should contain an abstract, a short summary of about 200 words. This abstract will also be added to the free search zone of the Kluwer Online database.

[6] A brief biographical note, including both the current affiliation of the author(s), should be provided in the first footnote of the manuscript.

[7] An article title should be concise, with a maximum of 70 characters.

[8] Special attention should be paid to quotations, footnotes, and references. All citations and quotations must be verified before submission of the manuscript. The accuracy of the contribution is the responsibility of the author. The journal has adopted the Association of Legal Writing Directors (ALWD) legal citation style to ensure uniformity. Citations should not appear in the text but in the footnotes. Footnotes should be numbered consecutively, using the footnote function in Word so that if any footnotes are added or deleted, the others are automatically renumbered.

[9] Tables should be self-explanatory and their content should not be repeated in the text. Do not tabulate unnecessarily. Tables should be numbered and should include concise titles.

[10] Heading levels should be clearly indicated.

For further information on style, see the House Style Guide on the website: www.kluwerlaw.com/ContactUs/

[D] Peer Review

The journal provides a process of double blind peer review for articles. At the author’s request or at request of the editorial board and with consent of the author, articles will be peer reviewed. The peer review form, mentioning the criteria, can be found on the journal home page on: www.kluwerlawonline.com

[E] Regular Review Process

[1] Before submitting to the publisher, manuscripts will be reviewed by the Editorial Board and may be returned to authors for revision.

[2] The editors reserve the right to make alterations as to style, punctuation, grammar etc.

[3] Authors receive PDF proofs for review, and need to return these within three days.

[F] Copyright

[1] Publication in the journal is subject to authors signing a ‘Consent to Publish and Transfer of Copyright’ form.

[2] The following rights remain reserved to the author: the right to make copies and distribute copies (including via e-mail) of the contribution for own personal use, including for own classroom teaching use and to research colleagues, for personal use by such colleagues, and the right to present the contribution at meetings or conferences and to distribute copies of the contribution to the delegates attending the meeting; the right to post the contribution on the author’s personal or institutional web site or server, provided acknowledgement is given to the original source of publication; for the author’s employer, if the contribution is a ‘work for hire’, made within the scope of the author’s employment, the right to use all or part of the contribution for other intra-company use (e.g. training), including by posting the contribution on secure, internal corporate intranets; and the right to use the contribution for his/her further career by including the contribution in other publications such as a dissertation and/or a collection of articles provided acknowledgement is given to the original source of publication.

[3] The author shall receive for the rights granted a fee of EUR 31.66 per page (in final layout), a free copy of the issue of the journal in which the article is published, plus a PDF file of his/her article.