

Verzoekschrift of dagvaardingsprocedure?

1. "uitgesproken op verzoek..." → het is een verzoekschriftprocedure als het in de wet is aangegeven, zie art. 261 Rv. (voorbeeld: art. 1:150 Rv) gesloten systeem!
 - a. Welke rechter; woonplaats van de **verzoeker**. Eindigt met beschikking
2. Anders is het een dagvaardingsprocedure ex. art. 78 Rv.
 - a. Woonplaats van de **gedaagde**. Eindigt met vonnis.

Verkeerde rechtsingang, zie art. 69 Rv.

Absolute competentie (hiërarchisch)

1. Eerste aanleg + burgerlijke zaak → in beginsel rechtbank (42 RQ)
2. Gerechtshoven; 60 RQ.
3. Hoge Raad; cassatie; 78 RQ.

Sectorcompetentie

1. Kantonrechter; art. 93 e.v. Rv (lees dit artikel van sub d naar sub a) jo. 47 RQ.
 - a. Waardevordering; sub a; tot 25.000 euro
 - b. Aardvorderingen (sub c; huur, consumentenkoop, arbeidscontracten)
2. Anders sector civiel bij de rechtbank.

NB: soms is hier sprake van lex specialis. Let op gelaagde structuur Rv.

Relatieve competentie (welke plaats): zie hierboven; woonplaats verzoeker/gedaagde. Zie hierbij art. 99 lid 1 Rv; in beginsel woonplaats gedaagde.

- Zie hierbij het schema in het werkboek.
- Verkeerd; 110 lid 1 Rv; pech, maar <25.000 euro ambtshalve doorverwijzen!
- Een forumkeuzebeding kan zijn toegestaan, zie hierbij 108 Rv. Onderdeel AV? Dan kan het onredelijk bezwarend zijn.

Internationale bevoegdheid

- A. Art. 1 Rv. Deze verwijst door naar art. 1 EEX Vo II.
 - a. Burgerlijke en handelszaken (niet P&F recht).
 - b. Hoofdnregel rechtsmacht in art. 4 EEX → woonplaats **gedaagde**
- B. Maar: is de NLse rechter **exclusief bevoegd**?
 - a. Art. 5 EEX: doorverwijzing naar afd. 2 e.v. van de verordening.
 - b. Alternatieve gronden voor rechtsmacht bijv. in art. 7 EEX; vbt uit ovk of uit OD; dan plaats van het land waar het schadetoebrengende feit zich heeft voorgedaan.

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S Ben Porath



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