SUMMARY

Decisions in labour law

In the Netherlands, there is no specialized court for labour law. It is the cantonal court that has jurisdiction in labour law cases, though labour law is by no means the only field of law the cantonal court has jurisdiction in. Handling much more diverse cases than labour law cases alone, the cantonal court also deals with all other civil actions up to € 25,000 on account of article 93 of the Dutch Code of Civil Procedure C.C.P. (*93 Rv*), as well as with credit transactions as defined under the Dutch Consumer Credit Act, cases regarding contracts on commercial agencies, hire purchase, consumer sales, and lease and rental contracts (all irrespective of the value of the claims involved). Moreover, the cantonal court rules on matters of both general and special guardianship as well as the so-called Mulder cases, which involve summary offences.

Having worked relatively undisturbed as an independent sub-district court for a century and a half, the cantonal court was merged with the district court in January 2002, to continue its tasks as the cantonal section of this court. The judges of the former cantonal courts still carry out the same tasks they used to have before this organizational change, but they no longer carry the specific title of 'cantonal judge'. The cantonal judge has thus become a district court judge, appointed especially to rule in the cases as defined under article 93 C.C.P. to belong to cantonal jurisdiction.

As of January 1st, 2013, another organizational change has taken place, in which there is no more room for the traditional sections within the district courts. Along with all other separate sections of the district court, the cantonal section of the district court ceased to be as a result of this change. Although, as the Recitals on the Organization and Management of the Courts Act state, it was the legislator's intention to permanently maintain the position of the cantonal section within the legal structure of the courts' organization, in fact cantonal jurisdiction as an independent entity within the judiciary has come gradually to its end within the last decade or so. It is unclear what this will imply in the long run for the cantonal judge and the actions on which he, at least until now, has held exclusive jurisdiction.

The purpose of this thesis is not to deal with all the areas of the law on which the cantonal judge delivers judgment, but especially to focus on labour law cases and how they are dealt with. Labour law adjudication before was seldom able to boast much interest in the Netherlands; this thesis aims at changing that.

Criteria

In the light of the abovementioned rather rigorous changes in the courts' organization, and taking into consideration both the frequency and importance of the problems that labour law deals with, this thesis aims to tackle the question of how labour law adjudication in the Netherlands might best be modelled. For this purpose, five criteria have been construed on the basis of both the function of labour law and the special characteristics of labour conflicts.

The most important functions of labour law are, first and foremost, checks and balances in employment relationships, more specifically protection against the hazards of the working process and compensation for the inequality of economic positions of employer and employee respectively. Examples of the traditional protection principle are still to be found in the elaborate legislation and regulations on working conditions. In book 7, title 10 of the Dutch Civil Code, where most labour law is recorded, the extensive applicability of principles of coercive law, from which no deviation is allowed, law from which may not be deviated unless by a collective agreement in which parties are represented by their unions ("three quarters coercive law"), and semi coercive or semi permissive law, from which deviations are possible only in case parties have agreed so by written contract, intervenes in the liberty of individual parties to enter into a contract as they see fit. These restrictions are meant to result in the restoration of balance on an individual level. Characteristic of Dutch labour law is the influence of the actual setting of the employment relationship on the legal level, the fact that labour benefits and conditions on the individual level often are agreed upon in collective agreements, and the applicability of open norms and standards, to be applied in specific cases with their specific circumstances as the court sees fit. These thus make an important contribution to the development of labour case law and eventually legislation.

Conflicts in labour law cases usually involve unequal litigants and more often than not involve strong personal stakes. They are part of a specific sort of labour relationship and almost invariably demand a speedy solution.

These characteristics and functions can be translated into the following criteria.

1. In labour law cases, the court should specifically take into account the inequality of the litigants (balancing inequality);
2. The court should be both insightful and knowledgeable when it comes to labour relationships (specialized knowledge);
3. Regarding court proceedings, the court should avoid any barriers that might promote the inequality of litigants (easy access);
4. Up-tempo progress in the proceedings is of importance, though without losing out on meticulousness (speed);
5. The presiding judge must be proficient in leading the proceedings, having both communicative skills and the skills to lead the session efficiently. Partly on account of the first criterion, he should play an active and inquisitive role. Such an active procedural proficiency should be enabled under the actual procedural law (procedural proficiency and communicative attitude).

The thesis aims at researching in which form and manner the criteria as defined may serve as a standard in organizing labour law adjudication and procedures. They serve as a standard measure in describing labour law history, the comparison of different national systems of labour law, the description of labour law in the Netherlands and procedural law in labour law cases.

History
When looking at the history of cantonal adjudication, one can distinguish six consecutive stages of development.

During the *first stage*, from 1838 until 1909, the cantonal judge developed from a successor of the French *juge de paix* (justice of the peace) into a fully-fledged member of the judiciary.

Up till 1877, a cantonal judge need not have a law degree, but from 1877 on, he did. This gave the office of cantonal judge the necessary quality, and from that time onwards the cantonal judge was appointed for life, like all other judges.

The coming into force of the Labour Agreement Act in 1909 (*Wet op de Arbeidsovereenkomst*) marked the start of the *second stage* in labour law. The authority of the cantonal judge was broadened, and from that moment on, he was the appointed authority to view cases "related to labour agreements", irrespective of the value of the claims involved.

In the twentieth century, the fifties and part of the sixties make out the *third stage*, showing what may be considered something of a dip in labour law development. Opinions on how the cantonal judge functioned in this period are more critical than not–the cantonal judge was reported to lack the expertise necessary to perform up to scratch, and the total lead time of a procedure before the court would be unacceptably long, according to the critics. The main criticism however involved the enormous social gap between the court and the working class, which resulted in the fact that judges seemed to be totally unaware of actual working conditions. Subsequently, proposals were made to introduce lay members into the courts, so as to create mixed chambers consisting of both appointed professional judges and laymen with knowledge at a more practical level. But in spite of the amount of discontent, these proposals never resulted in any actual changes of the law.

Starting off in the sixties, our *fourth stage* witnessed a period of major social change, which obviously had its impact on the way the judiciary was organized as it had on the rest of society. Both the judge as such as well as the organization of the judiciary were subject to discussion. A State Committee on Judiciary Revision, known as the Van Zeben State Committee, was installed in 1976. In 1978, the Committee's temporal suggestion was to examine the possibility to integrate the cantonal court into the district court. In their 1984 final conclusion, according to the Van Zeben State

Committee, this integration was deemed definitely expedient. The Government followed this advice in bill number 24 651.[1]

Fearing that integration would result in losing the acknowledged benefits of specialized cantonal rulings, the cantonal judges were dead against the proposals. Due to these and other doubts and second thoughts on the integration of the courts as proposed, the Leemhuis Committee, officially the Advisory Committee on Equipment and Organization of the Magistracy, was installed to advise on the development of modernizing the judiciary.

In their final report of 1998, *Present Time Justice (Rechtspraak bij de tijd)*, the committee proposed a greater emphasis on the organizational, rather than the more traditional magisterial aspect of the issue at stake. According to the committee, the courts were in need of, amongst other things, a more distinct and powerful management. An organizational merger of cantonal and district courts could well fit into this notion. The chosen format of an organizational merger rather than the integration of cantonal court into district court was the obvious compromise that was needed to raise the support of those directly involved, or, to be more specific, the support of cantonal judges.

In 1998, building on the Leemhuis Committee's report, the Roadmap to Modernization of the Judiciary saw the light, suggesting the installation of cantonal sections within the district courts that would thus organizationally form a unity with the district courts. The fact that the section model of the courts actually came into being is the direct result of this decision to introduce such a system of integrated management. Such a system requires a certain minimal scale to be able to function at all, and the cantonal courts, as they were, were in fact too small to meet this requirement.

The organizational merger of the cantonal and district court on January 1st, 2002, thus introduced the *fifth stage*. Although the independent cantonal courts ceased to be, article 47 of the Judiciary Act (*47 Wet RO*) guaranteed the installation of a cantonal section in every district court. At that point in time, little changed for the actual courts and actual judges appointed to rule in all those cases as defined under article 93 C.C.P., as they were used to, including labour law cases. All existing venues of cantonal courts stayed in business, albeit renamed as sub-district venues of the district courts in the Ordinance on Sub-district Venues (*Besluit nevenvestigings- en nevenzittingsplaatsen*). Moreover, existing cantonal judges were guaranteed to keep their former tasks and duties in the Zeist Covenant (*Convenant van Zeist*), and remained entitled to carry the *title* of cantonal judge, as laid down under article 48, clause 1 of the Judiciary Act (*48-1 Wet RO*). However, the *rank* of cantonal judge was effectively lost as a result of the organizational changes made.

1 Amendment to the Judiciary Act (*Wet op de rechterlijke organisatie*), the Code of Civil Procedure (*Wetboek van Burgerlijke Rechtsvordering*), the Code of Penal Procedure (*Wetboek van Strafvordering*) and other codes and acts regarding the integration of cantonal courts and district courts (the second phase in revising the organization of the courts).

Whether it was the lobby of cantonal judges that at the time tipped the scale in favour of a final choice for preserving the position of the cantonal judge and cantonal adjudication, or the legislator's genuine conviction of the importance of preserving both, is rather the question. Reserving judgment on the legislator's motives, it might well be the case that, from the very beginning, a transitory situation was created specifically to raise the necessary support of the existing cantonal magistrates, with the ultimate goal to institute the more drastic and fundamental changes once the cantonal judiciary had got used to the idea of transition and had finally lost their separate identity.

This is what actually happened in the *sixth* and (for the time being) last *stage*, which we entered into on January 1st, 2013, when the Act on the Revision of the Judiciary Map (*Wet herziening gerechtelijke kaart*) came into force. In this act, the organizational model of sections within the district courts has been abolished and, along with that, the obligation to install within each district court a separate cantonal section.

Cantonal adjudication in the 21st century and the modernization of court organization
The sixth stage did not start off just like that. As prescribed by law, the results of the previous organizational merger of cantonal courts and district courts were evaluated after a five-year period by the Deetman Committee (the Committee on Evaluation of the Modernization of Court Organization), that presented their final report on December 11th, 2006, concluding that, for the greater part, present-time organization of the judiciary indeed met present-day demands. The cantonal courts had succeeded in preserving their former advantages within the structure of the district courts, as a result of which it was now deemed advisable to broaden the field of cases handled by the cantonal section with an extra category, as well as to raise the limit of the civil actions the former cantonal court dealt with up to € 25,000 (under the Code of Civil Procedure at that time, it was only € 5,000). Three years after this broadening of cantonal competency, the legal obligation for each district court to harbour a cantonal section was to be cancelled. From then on, procedural law would guarantee the availability of cantonal adjudication within each district court in the long term.

As it was not quite clear to those involved how the raising of the limit of competency to € 25,000 should in fact take shape, on May 16th, 2007, an Advisory Committee Cantonal Adjudication and Differentiation of Work Streams was installed, named after its president the Hofhuis Committee. This committee stated a clear preference for combining the said raising of the limit of competency with cancelling the obligation to install a cantonal section.

Independent of the evaluation as prescribed by law, cantonal judges, as united in their national consultation group of cantonal judges LOK, had done their own research into the question at hand, taking especially into account the previous experience with the new organization of both judges and their staff, as well as partners and professional stakeholders in the judicial process.

BOK, the working group created by LOK for the special purpose of looking into the results of the merger of cantonal and district courts, specifically aimed at mapping the

various aspects of cantonal adjudication, as well as initiating a debate on its future, through their research within and outside the cantonal sections.

As a result of their research on the cantonal section of the district court (the former cantonal court) and the district court's civil branch (called the civil section of the district court as of January 1st, 2002), the working group found noticeable differences in internal culture. According to the working group, these differences were caused mainly by specific characteristics of the cantonal section, such as the fact that the influx of cases was equally divided between all cantonal judges, based on the presumption that all judges involved were equally capable of handling all sorts of cantonal cases, and the fact that the diversity of both cases as well as litigants, who would often take their case before the court without the professional assistance of a lawyer, as the law permits doing so in cantonal cases, requires especially good social skills on the part of the cantonal judge, who always rules as a single judge. One of the strong points of cantonal adjudication then was the fact that all cantonal judges were particularly experienced and capable of a very high level of direct communication with the litigants before them, according to the working group BOK, who concluded that cantonal adjudication as a separate entity had thus proven its worth. It is no surprise that the working group subsequently made the recommendation to extend the competency of the cantonal judge.

The summer of 2009 saw the bill on the Act on the Evaluation of Modernizing the Judiciary. In this bill, the competency limit was raised to € 25,000, while both consumer credit cases and consumer purchase cases were added to the categories of cases for the cantonal judge to rule on, and a change was made in the Judiciary Act (*Wet RO*) to have article 47 determine that the management of the district court would from then on create both single-judge chambers with as well as chambers with panels of judges to deal with and rule on cantonal cases.

Both Houses of Parliament (the Dutch *Tweede Kamer*, in function somewhat resembling the British House of Commons, and *Eerste Kamer*, comparable to the House of Lords) had many critical questions and remarks in processing this bill, questions more in particular about the abolishment of the obligation for the district courts to install separate cantonal sections. The Act was passed eventually, but, due to this debate in parliament, without a number of its components, amongst which the abolishment of separate cantonal sections within the district courts. As said, this abolishment happened only later, when the Act on the Revision of the Judiciary Map came into force on January 1st, 2013.

A vision on adjudication

On January 1st, 2002, along with the new articles of the Judiciary Act (Wet RO) which caused the organizational merger of cantonal and district courts, the act on the Judiciary Council (*Raad voor de rechtspraak*) came into force. The new system of integral management created a need to arrange and coordinate at the national level. In view of the constitutionally independent position of the magistracy, it obviously would not be proper for a central body of the Ministry of Justice to take on this task, for which reason the task was appointed to the thus newly installed Judiciary Council. Since the coming into force of this act, the future of cantonal adjudication is

determined jointly by the management of the separate courts, the Judiciary Council and the Ministry of Justice (*de minister van Veiligheid en Justitie*).

In consultation with the management of the separate courts, the Judiciary Council once every four years publishes a Judiciary Agenda on the way they aspire to fulfill their mission. A year-to-year planning is made based on this Agenda. The Judiciary Agenda may be characterized as the Council's manifesto, in which goals are defined and general directions to achieve those goals are given. More than anything else, the yearly plans define the emphasis on certain goals and directions within the total organization of the courts. Neither the Agendas, nor the Yearly Planning, pay any separate attention to labour law adjudication.

Comparative law

The chapter on comparative law constitutes an attempt to assess which courts and institutions of the different countries of the European Union (EU) deal with the adjudication of conflicts between employers and employees.

As it appears, the EU shows a very diverse picture, in which separate lines can still be discerned.

Only four countries have within their courts separate specialized chambers for labour law; half of all EU countries have separate labour law courts. Most of these specialized courts are equipped to rule on both individual and class actions.

In some countries, besides the labour law courts, general courts are competent to rule on labour law cases as well. In Scandinavia it is the labour law court that rules on class actions, whereas individual cases appear before the general civil court. In Portugal and Slovenia, a general court may rule on labour law cases if there is no specialized court available for logistical reasons.

In ten of the EU countries, including the Netherlands, it is the general civil court that rules on labour law cases. Five of these ten countries have at their disposal a separate administrative institution that may give an opinion before the case is taken to the actual courts. The Netherlands, for example, have the possibility of a provisional check on the lawfulness of any proposed dismissal at the UWV administrative body. Both Greece and Italy pay special attention to labour law procedures, in spite of the fact that these are handled by the general civil courts. In Greece, there is a separate labour law conflict procedure whereas in Italy cases in the field of both labour law and social security law are handled by a specialized court.

Effectively, only Bulgaria, Romania and the Czech Republic altogether lack both procedures as well as courts or institutions specially equipped for labour law conflicts on any judicial or extra judicial level.

Practical reasons may at times be decisive to choosing this or that organizational option–for example, in a number of countries, larger courts do have labour law chambers, whereas the smaller ones do not. Moreover, a civil chamber may well be a labour law chamber in disguise, as is the case in Italy, where such chambers do in fact function as labour law chambers, but may not carry this name on account of sensitivities from the past.

Even where preliminary procedures do exist, these are often obligatory, or (except in specific situations) litigants are compelled to seek solutions to their conflicts outside the judiciary. Almost invariantly, representatives of both employers' and employees' organizations are part of the intermediary institutions. Apparently, it is expected that their contribution to the discussion will bring the solution to any labour conflict closer at hand, maybe because of the supposedly mitigating influence of the notion that their involvement will bring about a balanced conclusion to the case from both the separate perspectives of employer and employee respectively.

It is rather the question how these facts should be rated, and what it means exactly for a country (not) to have chosen to have a specialized labour law court.

In many countries, in one way or the other, there is some special attention for the necessity to compensate for the inequality of economic positions of employer versus employee. This becomes clear from the roles of the unions in deciding on labour law conflicts, for instance, or in the absence of the court's obligation in such cases to show judicial passiveness traditional to adversarial systems of law, thus enabling direct interrogation by the court. Specific forms of this notion of *balancing inequality* are to be found as well–in Lithuania, for example, an employee cannot be made subject to court proceedings without his consent, and in Austria one may ask the court to decide on specific labour law problems anonymously.

As for *specialized knowledge*, engaging the social partners in decisions on labour law disputes is an obvious way for the court to gain more insight in and knowledge of labour relationships. In more than half of the EU countries, representatives of employers and employees alike are involved in one way or the other in the institutions that decide on labour law disputes.

The absence of the obligation to have a lawyer represent the litigants, as well as keeping legal fees such as court duties at the lowest possible level, the lack of any risk of rulings on compensation of the other party's legal costs, and the lack of superfluous formalities make for *easy access* in the legal proceedings. Sixteen EU countries in fact meet the easy access criterion.

Speed is connected with the time limits both litigants and the court should adhere to within the course of the proceedings. Several countries pay explicit attention to progression of labour law proceedings, mostly in the shape of short time limits within which documents should be lodged or final decisions should be made.

Based on the sources available for the purpose of this research, which supplied little information on the particular subject, no relevant conclusions are to be drawn on *procedural proficiency and communicative attitude* of the courts in the various EU countries, unfortunately.

The most important conclusion, then, is that in almost every country of the EU, labour law adjudication has its own separate place within the judiciary. The Netherlands are the only country in Western Europe in which decisions on labour law conflicts are made by the general civil courts. When we look at the extent to which the separate criteria for labour law adjudication are observed, it may be concluded, with all

necessary reservations, that many EU countries attain a very acceptable level of quality in labour law adjudication.

Furthermore, the presence of a separate labour law court or labour law chamber noticeably does not automatically imply that all criteria for labour law adjudication are actually met. In other words, there are more ways than one to ensure the necessary standards–a separate court is certainly one of them, but not the only one. More important than any formal setting is specific attention for the special characteristics of labour law conflicts and the consequent way of their adjudication.

Labour law adjudication in the Netherlands

In the Netherlands, the cantonal judge acts as labour law adjudicator of first instance.

Until January 1st, 2002, the cantonal judge was a judge at the sub-district or cantonal court, whereas from that date onwards until January 1st, 2013, he was an officer of the district court as a judge in its cantonal section. The accepted opinion and ruling practice in the Netherlands has always been that any judge should be a generalist practitioner of the law, being fully proficient in at least two separate fields, or rather, in the context of the district courts, sections of law. Until January 1st, 2002, this did not apply to cantonal judges, however, and even after the organizational change which resulted in the merger of cantonal and district court, for those cantonal judges who were established at the time, nothing much changed. However, for any cantonal judge appointed after January 1st, 2002, this is quite another matter–those judges are appointed as civil judges, and can be assigned as cantonal judges when undertaking cantonal cases.

As of 1 January 2013, ever since the Act on the Revision of the Judiciary Map came into force, the obligation to install a cantonal section within each district court has been cancelled. As of that date, it is left to the management of the various district courts how to organize the adjudication of cantonal cases – those cases that, based on article 93 of the Dutch Code for Civil Procedure (*93 Rv*), belong to the competence of the cantonal court. At the start of 2013, cantonal cases and judges alike in fact are still there.

Preliminary to the Act on the Revision of the Judiciary Map, district courts have looked into the various possibilities as to how to distribute amongst their judges civil cases and cantonal cases respectively. Most district courts proceed in the creation of civil law teams as opposed to public law teams, which in turn are subdivided along the lines of specific fields of law or content. A separate labour law category did not turn out to be one of the chosen options, though.

Since neither the legislator nor the Judiciary Council developed such a system, the evident lack of a basic structural system to ensure clear choices in this respect causes the fact that assigning labour law cases to one specific team or another, or for that matter to one specific judge or another, thus solely depends on the choices made locally within the district courts. How these choices are made exactly is not made public, nor is it known if they are based on principles rather than practical motives.

There is therefore a strong argument to be made for labour law adjudication as a specialism in its own right, and to treat it accordingly.

In the Netherlands, in addition to the civil courts, two specialized labour law institutions are part of the total scope of labour law adjudication: UWV and CRvB. The former is the institution employers have to turn to in order to get permission to terminate a labour agreement by means of dismissal; the CRvB rules as supreme court on fields adjacent to labour law, namely social security law as well as the Civil Servants' Act and related regulations.

As the chapter on comparative law showed, the mere existence of a separate labour law court does not automatically imply that the criteria for labour law adjudication are met. This concurs with the conclusions on UWV and CRvB–whereas the CRvB as good as meets all five of the criteria, UWV meets only two out of five.

This may be explained by the fact that criteria such as balancing inequality, insight and specialized knowledge of labour law relationships and procedural proficiency come into their own in courts that are specialized in the particular field of law, whereas speed, easy access and an active and inquisitive attitude are very well possible without such specialization.

The next question of course is whether it is wise to leave the organization of specialized labour law adjudication to the management of the individual district courts. In its new form, article 47 of the Judiciary Act (*47 Wet RO*) prescribes for the management of the district courts to create *single judge chambers* for dealing with and ruling on cantonal cases. It is very well possible to connect to this obligation in order to secure specialized labour law adjudication. If a sufficient number of labour law cases is brought before the particular district court, it will be possible for a labour law chamber to be installed—a chamber that would then be able to work as a small (and maybe even independent) unity. Within such a unity, attention may be fully focused on labour law adjudication, taking into full account all relevant criteria.

It may be asked whether the sheer existence of such a possibility will in fact ensure labour law adjudication to indeed take root in the new constellation of court organization, in this way or another. At this moment in time, it is still unclear which role the management of district courts may play and are willing to play, as it is unclear how far the possibility for specialized judges to have some or any influence over this process extends. Due to the abolishment of the sectional structure of the district courts, former presidents of such sections no longer are members of the district court management and, consequently, an important way to exert any sectional influence is lost. Neither does the judiciary have any direct influence over who exactly sit in the Judiciary Council, as the members of this Council are not elected, but appointed by royal decree as proposed by the Ministry of Justice.

Procedural law in labour law cases

Rules of procedure that are specially tailored to the characteristics of labour law cases will undoubtedly enhance the implementation of the criteria for labour law adjudication. Research here involved the question if, and if so to what extent, there

indeed is sufficient scope within the procedural law as it stands for any of the five criteria.

The balancing of inequality obviously plays a role in labour law proceedings even without being expressly laid down in procedural rules. This, on the one hand, is the result of the modification of more general rules on evidence in the context of labour law, on the other of the attitude and judgment of the court. The judge who handles labour law cases may through his attitude more or less compensate for procedural inequality of litigants and moreover has the means to apply supplementary rules when it comes to the protection of employees in cases involving the end of employment relationships. In how far the balancing of inequality actually is a vital part of labour law proceedings depends mostly on the level in which the presiding judge actually makes use of the given possibilities within procedural law. A specialized court will know these possibilities best, and therefore will probably make the best use of them. Thus, a plea in favour of the balancing of procedural inequality is also a plea for a specialized labour law court.

Especially in ruling on cases relating to the Work Councils Act (*WOR*) and claims on collective action and admittance to collective agreements consultation, *insight* into the underlying *labour relationships* is an essential tool in the judicial toolbox.

It is the court itself that needs to have such knowledge, as previous experience has not demonstrated any real improvement in actual rulings through any input of social partners. This (again) points in the direction of specialized courts, in which specialized knowledge and proficiency can be acquired and sustained. The fact that meanwhile any lay contribution in administering justice in employee participation cases is deemed to be of minor importance only is demonstrated by the fact that cancellation of the obligatory involvement of the company committee is being seriously considered.

Seen in the light of the requirement for *easy access*, abandoning the legal obligation of procedural representation is a justified choice. The notion of stripping the law of as many formal requirements as possible, which lay at the basis of new civil procedural law, protects the interests of any litigant, and certainly of the litigant who goes to law without the aid of a lawyer. By way of protection against formal legal errors, this notion certainly is a positive one in the face of the procedural criteria.

Non-obligatory preliminary proceedings may enhance the criterion of easy access, if the litigant can indeed obtain an adequate ruling within the scope of such proceedings, without too much formal ado. On the other hand, obligatory preliminary proceedings tend to slow down the legal process, and thus create an extra barrier in seeking the aid of the courts. When medical issues are at stake, preliminary proceedings are typically indispensable. However, such proceedings as conducted at UWV stand in need of improvement. In comparison to proceedings at the civil courts, cantonal court proceedings show a more favourable picture when it comes to the costs involved for parties.

Particularly in the context of a current employment relationship, conflicts need to be dissolved rapidly in view of the evident wish to not let the relationship between parties deteriorate even further. *Speed* is of the essence as well when employment termination is the issue. Generally speaking, existing legal procedural rules and their effect give ample way to the cantonal court to rule on such a case with rapidity.

Considering the risk of a certain tension between the need of speed on the one hand and meticulousness on the other, it would be advisable to broaden the procedural possibilities to give preliminary evidence before proceedings on dismissal take place. Moreover, the initial writs to start off such proceedings should be prescribed to be uniform, so as to make possible for parties to bring before the court all different sorts of labour law conflicts in one go, instead of the present prescription of a summons for one sort of conflict and a petition for another, as a result of which parties at the moment are formally required to conduct two different kinds of proceedings on what essentially is one case.

Based on article 254 of the Dutch Code of Civil Procedure C.C.P. (*254 Rv*), in especially urgent labour law cases, any litigant has the choice of seeking the aid of either the judge of the cantonal court or the provisional judge of the civil court for provisional relief. There is no objective and logical reason to maintain these alternative options, or so it would seem to me, as in summary proceedings, though the ruling be *provisional*, it should be *thorough* nonetheless. It seems only logical in such a situation to appoint the court that would also rule on such matters when there is no special urgency involved.

To conclude

Once labour law adjudication is recognized as a specialized field and is treated as such within the court organization, it will be more able to meet the criteria of balancing inequality, special insight in and knowledge of labour law relationships and procedural proficiency, than when there is no such recognition. The criteria of easy access, speed and procedural attitude demand a set of procedural rules that give way to a more active and inquisitive court. Proposals to this end have been made, in relation to both court organization as well as procedural law.

As prescribed by law, the results of the Act on the Revision of the Judiciary Map will be evaluated in five years time. It is of the essence that within this evaluation not only the question of increased efficiency is addressed, but that special emphasis be laid on the consequences of changes made, as far the content of the actual judicial work is concerned.

For labour law adjudication, the fact that with the abolition of the section model, the cantonal section as such disappeared as well, may turn out to be of great consequence indeed. As of 1 January 2013, we will have to monitor *where* within the organization and *by whom* cantonal cases are dealt with, and to what extent the different categories of cantonal cases will be distinguished. If it turns out that the coming into force of the Act on the Revision of the Judiciary Map results in the disappearance of labour law adjudication into the greater whole, this must be reason for the legislator to take action. For, without specialized labour law adjudication, the Dutch judiciary palette lacks an essential colour indeed.