EXHIBIT 1.B

MORNINGSIDE
Getting Ideas Right.

TRANSLATION CERTIFICATION

Date: August 10, 2021

To whom it may concern:

This is to certify that the attached translation is an accurate representation of the documents received by this office. The translation was completed from:

- Dutch

To:

- English

The documents are designated as:

- Rapport dit is een advocaat - oktober 2013 - 5.3 - 5.5
- Rechtersregelingen in het burgerlijk (proces)recht (Burgerlijk Proces &amp Praktijk nr. II), 7.5.2
- WvSv A.L. MelaiM.S. Groenhuijsen e.a

Eugene Li, Project Manager in this company, attests to the following:

“To the best of my knowledge, the aforementioned documents are a true, full and accurate translation of the specified documents.”

Signature of Eugene Li

7.5.2.2 Jurisdiction

K. Teuben, date 12/02/2004

Date
12/02/2004
Author
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Field(s)
Civil procedure (V)

As has already been noted, the way in which judges deal with previous rulings also provides clues as to the significance of precedents in a particular legal system. Case law, especially that of the Supreme Court, shows an interesting development in this regard.
In his inaugural lecture from 1950, Drion also stated that "the precedents are kept silent, although everyone knows that they are very much alive",[1] meaning that earlier judgments were never explicitly referred to in case law, although these - as is generally known - in many cases were decisive for later decisions. This picture was broadly confirmed in a preliminary advice by Jessurun d'Oliveira in 1973,[2] although he did make some explicit references to precedents, especially in the lower courts.[3]
This situation has now changed considerably. An important turning point is formed by the Bull Calf judgment from 1980,[4] in which the Supreme Court for the first time “switched” in so many words and with motivation. Since then, the Supreme Court has increasingly – and in recent years structurally – referred to (its own) precedents, both in cases in which the Supreme Court adheres to its previous case law and when it deviates from it.[5]
The recognition of legal formation by the (supreme) court, which has already been discussed in the previous section, has also been expressed in court decisions. For example, the Supreme Court nowadays regularly speaks of the “legislative task of the judge” [6] and indicates why a certain decision does or does not exceed the limits of that task.[7] In other respects, too, the Supreme Court in particular is increasingly using formulations that imply recognition of the fact that new legal rules are (or can be) formed in the judiciary.[8] An example of this is the judgment in Chan-a-Hung/Maalsté,[9] in which the 50% and 100% rules "developed in the case law of the Supreme Court" for the interpretation of the own fault of cyclists and pedestrians in the event of liability of a motorist, are systematically listed.[10] When the Supreme Court lays down a new legal rule in a ruling, it sometimes even provides for a transitional arrangement.[11] For example, in the Boon/Van Loon judgment,[12] in which, contrary to previous case law, it was considered possible to set off pension rights in the division of a dissolved matrimonial community of property, retroactive effect was excluded from this decision for divisions that had already taken place in the past. In its judgment of January 17, 2003, the Supreme Court determined, in view of the lack of clarity and delay that had arisen in the drafting of the implementing legislation for the EC Service Regulation, that it was possible to rectify the resulting omissions in service, not only in the present case but in all cases in which a summons on the basis of art. 63 paragraph 1 Rv (Dutch Code of Civil Procedure) was served.[13]
The development outlined here in the way in which the Supreme Court deals with its previous rulings already gives an indication for the presence of a certain attachment to those statements. This is further confirmed by the way in which the Supreme Court uses the option to settle certain cassation complaints with an abbreviated statement of reasons (art. 81 - formerly art. 101a - RO): this appears to take place in particular in cases where the relevant legal question has already been answered (several times) by the Supreme Court.[14] Finally, it can be pointed out that, since the above-mentioned Bull Calf judgment, the Supreme Court in general provides an explicit and extensive statement of reasons why it “is switching”.[15] Notwithstanding the fact that the Supreme Court thus considers derogation from previous case law to be possible, adherence to this is apparently the rule. This means nothing more than that the Supreme Court is in principle bound by its own precedents.
The attitude of the lower courts towards judgments of the Supreme Court (and of other higher courts) is more difficult to map, since judgments of subdistrict court judges, district courts and courts of appeal are published much less frequently. Nevertheless, some (cautious) conclusions can be drawn from the studies that have been conducted into precedent-bound relationships in these “vertical” relationships.[16]
It appears that rulings of the Supreme Court are fairly generally followed in lower courts, either by explicit reference to them or by adopting the legal rule laid down in a judgment of the Supreme Court. Whether this is also the case with regard to decisions of appeal judges is uncertain: explicit references by judges of first instance to a decision of

the same hierarchical level: here too reference is made only incidentally, while other courts seem to follow such precedents even less.[18]
All in all, it seems to me that the state of affairs in the case law can be broadly summarized as follows. In principle, the Supreme Court considers itself bound by its own previous decisions, but deviates from them if necessary (with reasons). Lower courts consider themselves, at least to a certain extent, bound by the decisions of higher courts, in particular those of the Supreme Court, but (sometimes) also those of their own appeal judge. The existence of any ties at a “horizontal” level, between the different judges of equal rank, cannot in any case be deduced from the case law.
It should also be noted that, strictly speaking, this does not answer the question on the basis of which judges in principle follow precedents in the cases described here. This can arise from the conviction that this should happen (in which case there is indeed the acceptance of a normative binding), but following precedents can also be based solely on the fact that the subsequent judge agrees with their content in any case.[19] Since it is usually not possible to establish why a judge agrees with previous case law,[20] it is not possible to draw any definite conclusions from the situation in the case law in this respect at least.

Footnotes
[1]
Drion 1950, p. 40.

[2]
Jessurun d'Oliveira 1973a, p. 42-13.

[3]
Jessurun d'Oliveira 1973a, p. 45-50.

[4]
Supreme Court March 7, 1980, *NJ* 1980, 353 with note G.J.S.

[5]
With regard to the period 1980-1983, see Kottenhagen 1986, p. 28-35 and with regard to the period 1987-1993 Struycken & Haazen 1993, p. 114-122 and p. 140-145. The latter authors in particular noted a strong increase in the number of explicit references by the Supreme Court (its own) previous case law.

[6]
First in Supreme Court October 12, 1984, N] 1985, 230 with note g.

[7]
See in detail Martens 2000; see also § 3.3.2.2.

[8]
For some examples see also Snijders 1995, p. 20-21; Haasen 2001, p. 64 (note 41).

[9]
Supreme Court May 4, 2001, N] 2002, 214 with note CJHB.

[10]
For similar 'overview rulings' of the criminal division, see e.g. Supreme Court 3 October 2000, *NJ* 2000, 721 with note JdH (overview of case law with regard to the consequences of exceeding the reasonable term in criminal cases); Supreme Court January 9, 2001, *NJ* 2001, 307 with note JdH (idem for confiscation cases) and Supreme Court 12 March 2002, *NJ* 2002.317 with note Sch (overview of case law with regard to the service requirements of art. 588 Civil Procedure Code).

[11]
See extensively Haazen 2001 on this “judicial transitional law”.

[12]
Supreme Court November 27, 1981, *NJ* 1982, 503 with note EAAL and WHH.

Supreme Court January 17, 2003, *NJ* 2003, 113 m.nt. PV.

[14]
See Pinckaers 1997, p. 212-213; Struycken & Haazen 1993, p. 116.

[15]
For a number of examples, see Struycken & Haazen 1993, p. 114-117; Frank 1994, p. 15-16.

[16]
cf. the case law studies of Jessurun d'Oliveira 1973a, p. 45-50; Cutters 1978, p. 23-27; Kottenhagen 1986, p. 35-50 and Struycken & Haazen 1993, p. 125-131.

[17]
cf. Struycken & Haazen 1993, p. 125-126; Kottenhagen 1986, p. 39-45. For a case in which a court expressly agrees with the case law of an appeal judge, see Court The Hague June 19, 2002, *NJkort* 2002, 60.

[18]
See Struycken & Haazen 1993, p. 126-128; Kottenhagen 1986, p. 44.

[19]
cf. Jessurun d'Oliveira 1973a, p. 50.

[20]
For some of the rare statements in which this was the case, see Jessurun d'Oliveira 1973a, p. 5 and p. 47.

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