

ABSTRACT

Reflections on art. 73-75 CESL: A comparison of the rules on the determination of price of the CESL with the German Civil Code, § 315 BGB ss, the Dutch Civil Code, art. 7:4 BW, and the International Convention on the Sale of Goods, Art. 55, 56 CISG

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The articles 73-75 CESL provide a mechanism for the determination of the price in a cross border sales contract. Next to a unilateral determination by a party, the CESL offer a rule on the determination by a third party. When no decision can be reached a court or arbitral tribunal may replace the appointed third party by another person for the determination of the price.

The contribution will investigate in how far jurisprudence and commentaries concerning the German Civil Code (BGB), the Dutch Civil Code (BW) and the International Convention on the Sale of Goods (CISG) provide for similar or different solutions as offered in the CESL. The focus will lay on the questions

- a.) of what is exactly expected by third party determination,
- b.) what happens when the third party is in delay or incapable of determining the price,
- c.) under which circumstances and with which envisaged result the parties may invoke the help of a judge?