

Editors in chief: Maxime Berlingin, Maarten Draye, Sophie Goldman and Sigrid Van Rompaey



## AGENDA

19/20 FEBRUARY 2018

(00:00 – 00:00)

[Brussels Pre-Moot](#)

24 MARCH 2018

(17:00 – 19:00)

[Joint CEPANI40 - LYDIAN networking drink at the occasion of the Vis Moot](#)

7 JUNE 2018

(14:00 – 19:00)

[Assemblée Générale/ Algemene Vergadering/ General Assembly](#)

## REPORTS

- » [THE STATE OF THE INSTITUTE – A WORD FROM THE CEPANI PRESIDENT](#)
- » [REPORT ON THE CEPANI LUNCH DEBATE ON “SECURITY FOR COSTS” \(25 JANUARY 2018\)](#)
- » [REPORT ON CEPANI STATISTICS FOR 2017](#)

### THE STATE OF THE INSTITUTE – A WORD FROM THE CEPANI PRESIDENT



Dirk De Meulemeester  
CEPANI President

I would like to start off this year's first newsletter by wishing you all a healthy and prosperous 2018. I am more than pleased to announce that CEPANI is doing well and that new projects have been and will be set up to ensure that future perspectives look just as bright.

As most of you are already aware of, since 1 September 2017, the Secretariat is headed by its new Secretary-general Emma Van Campenhoudt and the CEPANI40 has two new co-chairs, Sophie Goldman and Sigrid Van Rompaey. As from that same date, two new Vice-presidents were added, Maud Piers and, former Secretary-general, Philippe Lambrecht, next to Didier Matray and Dirk Van Gerven who will continue their roles as Vice-presidents.

For the year to come, CEPANI's main focus will consist in broadening and varying its level of communication regarding arbitration. The foundations for this were laid in 2017. In 2018, we hope to reap the benefits of this hard work. You will soon be able to discover the first results thereof on the CEPANI website and through social media, or even hear about it during our colloquia. We are very grateful for the professional support CEPANI received from some

of our esteemed Members of the Board and would like to thank them for their relentless commitment to CEPANI.

Alongside our usual day-to-day activities, we have also commenced the preparations for the 50th anniversary of CEPANI. The festivities will be held mid-November 2019. During the two years to come, we will also be working on revising the CEPANI Arbitration Rules. The new Arbitration Rules will come into force by the 1st of January 2020. In order to work in the most efficient way possible, small task forces were entrusted with the task of preparing these important projects. I seize this opportunity to thank the members for the tremendous amount of work they do.

As we maintain a steady course on all ongoing projects, time and resources are efficiently used to look for and to create new opportunities where the involvement of CEPANI could be beneficial. CEPANI will concentrate on other actors in the Belgian ADR-landscape in hope of clearing the skies and look for

collaborations with those who meet the standards of integrity. In addition, CEPANI will approach different legal professions who's needs with regard to ADR require a specific approach.

Lastly, I would also like to, in the name of CEPANI, welcome the initiative of Minister of Justice Koen Geens regarding the Brussels International Business Court. This initiative adds to the efforts of CEPANI and those of the Belgian government to promote Belgium and Brussels as a place for arbitration and a neutral forum to litigate international commercial disputes in general. We look forward to seeing what the future brings for this initiative.

I wish you a wonderful new year filled with abundance, joy, and memorable moments. May 2018 be a great year for you all.

#### REPORT ON THE CEPANI LUNCH DEBATE ON "SECURITY FOR COSTS" (BRUSSELS, 25 JANUARY 2018)



Gaetano Jannone  
Senior associate  
Strelia, Brussels

On 25 January 2018, CEPANI 40 organised a lunch conference during which renowned arbitration practitioner (and CEPANI member) Dr. Michaël Bühler of Jones Day in Paris shared his thoughts on security for costs in arbitration.

Where a claimant is or threatens to become insolvent or otherwise unable to cover the likely (share of) the respondent's arbitration and legal costs in case of dismissal of the claim, the respondent may try and request that the claimant would provide security for the costs of arbitration to be allocated by the tribunal in its final award.



Dr. Bühler pointed out that, unlike most arbitration rules, the CEPANI rules actually contain some language on security for costs, and makes the application for such security subject to the requesting party having paid its share of the advance for the costs of arbitration.

In some instances, as an alternative to not paying one's share of the advance on costs, requesting security for costs could therefore be a powerful weapon to cross the claimant's case. This will be even more so in jurisdictions (such as England and Wales) in which the arbitration act provides that failing to comply with an order of the tribunal (e.g. on providing security), may lead to a dismissal of the claim, as opposed to a mere stay of proceedings.

The CEPANI Rules also clarify what is generally admitted, *i.e.* that a measure ordering security for costs must be seen as an interim measure. Dr. Bühler, however, explained that an interim measure on security for costs should be assessed in the light of conditions slightly different than those applying to other interim measures. One of these conditions being a preliminary assessment of the strength of the claimant's claim, this explains – among other things – why arbitral tribunals are reluctant to grant security for costs, especially in situations in which the alleged impecuniosity of the claimant is not a new element.

#### CEPANI STATISTICS FOR 2017



In keeping with a long standing yearly tradition, CEPANI published its yearly statistical report for 2017.

This report provides a statistical overview of CEPANI arbitration in 2017 and the evolution in comparison with past years.

In this report, you will find information about proceedings administered by CEPANI such as the origin of the parties, the language, the constitution of arbitral tribunals, women in arbitration and more.

The 2017 statistics show that, regarding the geographical origin of the parties, the challenges of arbitrators, or the average duration of proceedings, the trends mostly remain the same as in 2016.

However, other parameters such as language, nature of the dispute and constitution of the Arbitral Tribunal have evolved slightly in 2017 as compared to 2016.

# NEWS

## » NEW CEPANI RULES!

[New CEPANI ADR Rules](#) and [new CEPANI Rules for domain name dispute resolution](#) are in force as from January 1st, 2018. They are available in English, Dutch and French.

## » OHADA ADOPTS NEW ACTS ON MEDIATION AND ARBITRATION

At its meeting held on 23 and 24 November 2017 in Conakry (Guinea), the OHADA Council of Ministers adopted three texts on alternative dispute resolution: [The Uniform Act on Mediation](#), [the New Uniform Act on the Law of Arbitration](#) and [the Revised Rules of Arbitration](#)

## » CEPANI 40 EVENT DURING THE VIS MOOT IN VIENNA

The 25th edition of Willem C. Vis International Commercial Arbitration Moot will take place from 23 March to 29 March 2018 in Vienna. The traditional CEPANI 40 networking drink (co-hosted by Lydian) will be held on Saturday 24 March 2018 from 5 to 7 PM at Planter's Club. For more information and registration, [see here](#).

## » SALES ON CEPANI BOOKS!

!! 50% SALES AND MORE on the CEPANI Books Collections!! Please find the purchase form [here](#). Complete it and send it back to the Secretariat by email: [info@cepani.be](mailto:info@cepani.be)

## » CEPANI MEMBERS ARE INVITED TO TAKE PART TO A SURVEY ON LEGAL REASONING IN COMMERCIAL DISPUTES

Those with experience serving as arbitrators or judges in national or international commercial disputes are invited to complete an anonymous electronic survey that is part of an international empirical research project entitled "*Survey on Legal Reasoning in Commercial Disputes*" (IRB #2010449C). The survey is being conducted by Professor S.I. Strong, a specialist in international and comparative dispute resolution and a senior faculty member at the Center for the Study of Dispute Resolution at the University of Missouri School of Law (see <http://law.missouri.edu/faculty/directory/strong.html>).

The research is the first large-scale, international empirical study to focus on the process of legal reasoning and is intended to improve our understanding of how judges and arbitrators resolve complex commercial disputes in both national and international settings by exploring potential differences between (1) judicial and arbitral decision-making; (2) national and international decision-making; and (3) common law and civil law decision-making. The study will not only help parties make more informed choices about where and how to resolve their legal disputes, it will also assist arbitrators and judges in carrying out their duties by improving counsel's understanding about how to best to craft and present legal arguments and submissions.

If you have experience as an arbitrator or judge in commercial disputes and would like to participate in this survey, please click [this link](#) or paste this e-address into your browser <https://www.surveymonkey.com/r/commercial-dispute-strong>. The survey should take approximately twenty minutes to complete and participation is entirely anonymous. The survey will remain open until 11:59 p.m. Central Daylight Time (CDT) on May 1, 2018.

If you have any questions about this project, you can contact Professor Strong at +1-573-882-2465 or [strongsi@missouri.edu](mailto:strongsi@missouri.edu). If you have any questions about your rights as a research subject, you can call the University of Missouri Campus Institutional Review Board at +1-573-882-9585.

» **ICCA 2018 SYDNEY WILL ADDRESS “EVOLUTION AND ADAPTATION: THE FUTURE OF INTERNATIONAL ARBITRATION”**

ICCA 2018 Sydney released the preliminary programme for the 24th ICCA Congress to be held in Sydney, Australia from 15 to 18 April 2018. The theme for the 24th ICCA Congress is “Evolution and Adaptation: The Future of International Arbitration”

This theme has been chosen to highlight arbitration as a “living” organism which has proven adaptable in the past to new substantive and practical challenges, and that today – under attack from various quarters – will need to demonstrate its adaptability again. Under this theme, a range of programs will be developed to address the evolving needs of users (both commercial and investor-State), the impact of the rapidly changing face of technology on the practice of arbitration, the expectations of the public, and the convergence or divergence of legal traditions and cultures.

For more information, click [here](#)

## VARIA

- » The [third Annual Conference of the Belgian Chapter of the CEA : "The present and near future of new technologies in arbitration"](#) will be held in Brussels on 23rd February 2018
- » The [2<sup>nd</sup> ICC European Conference on international arbitration](#) will be held on 9th April 2018 during the [Paris arbitration week](#). It will be followed by a an [ICC advanced training on “Drafting enforceable awards”](#), which will take place on 11th April 2018.
- » The [third Global Conference of the Co-Chairs’ Circle](#) (“the CCC Conference”) will be held in Rome on Friday 18 and Saturday 19 May 2018.

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