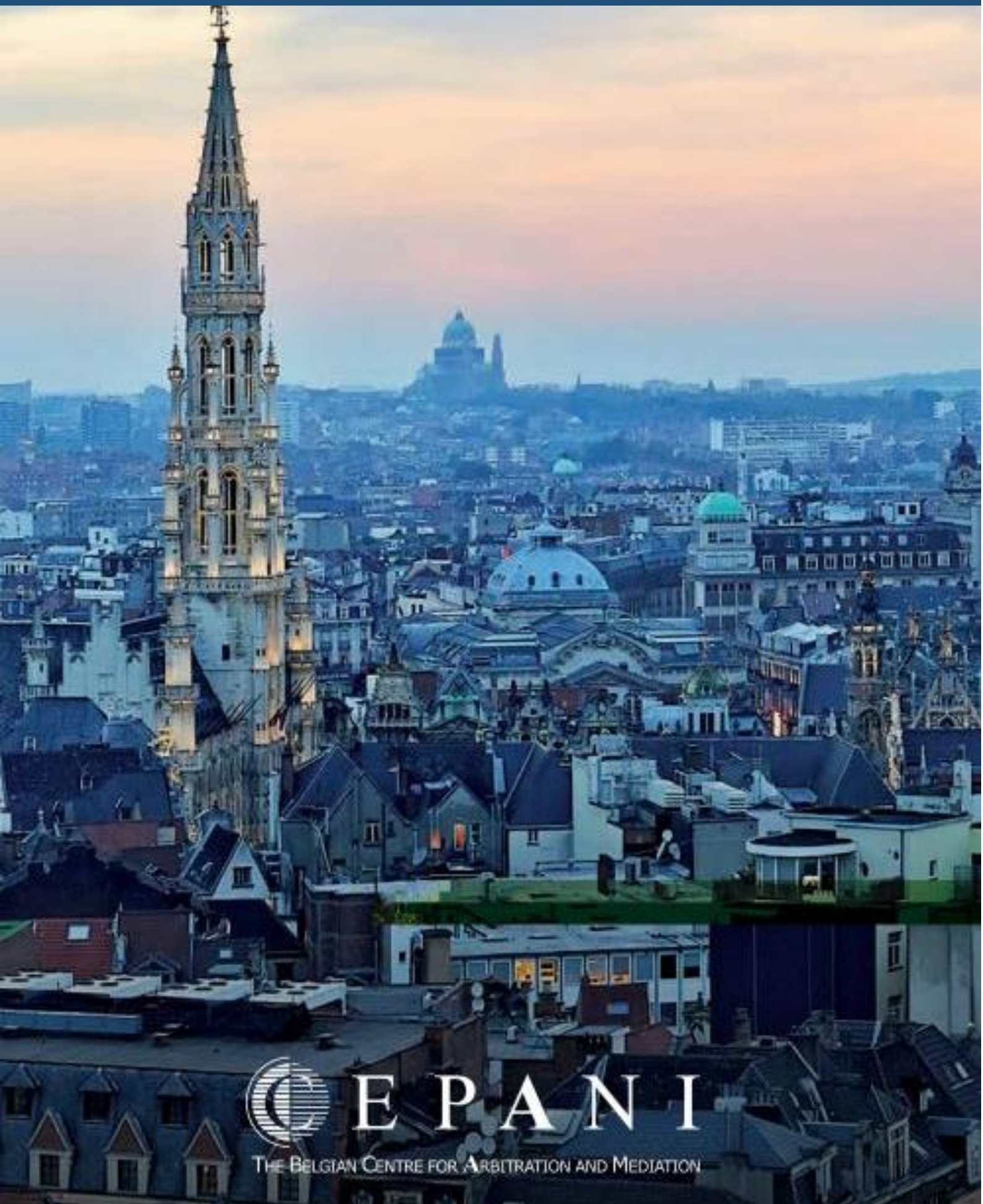


ARBITRATION TIMELINE



CEPANI

THE BELGIAN CENTRE FOR ARBITRATION AND MEDIATION

INTRODUCTION

The purpose of the CEPANI Arbitration Timeline is twofold. First, the document is meant to provide parties to CEPANI arbitral proceedings and their counsel with an indicative timeline based on the 2013 CEPANI Arbitration Rules.

Second, as time efficiency is an essential feature of arbitration, the brochure provides information to the parties on how to effectively facilitate each step of the proceedings.

The time periods concerning the first three steps of the procedure are calculated based on a starting point 'X'. It is important to note that this point will only be reached once the CEPANI Secretariat has received both the Request for Arbitration including the annexes thereto as well as the payment of the registration costs.

The time periods concerning the last four steps in the proceedings are calculated based on starting point 'Y', *i.e.* the appointment of the Arbitral Tribunal. Before this appointment can take place, however, the parties are required to fully pay the advance on arbitration costs. The CEPANI Secretariat requests the parties to pay this advance within one month of the date of the commencement of the proceedings.

Please note that the time periods are purely indicative and actual periods may vary depending on various factors, such as the complexity of the case, the degree of cooperation from the parties, the need for experts or witnesses, etc.

Filing of the Request
for Arbitration

X

Filing of the Answer
to the Request for
Arbitration

X + 30

Filing of the written
observations on the
counterclaim

X + 60

Appointment of the
Arbitral Tribunal *

Y

Filing of the Terms
of Reference

Y + 60

Drawing up the
Procedural
Timetable

Y + 60

Rendering of the
Award

Y + 240

* Upon payment of the
arbitration costs

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FILING OF THE REQUEST FOR ARBITRATION

CEPANI arbitration proceedings are initiated by submitting a Request for Arbitration to the CEPANI Secretariat. The date on which the CEPANI Secretariat receives the Request for Arbitration including the annexes thereto as well as the payment of the registration costs (as determined in Schedule I of the CEPANI Arbitration Rules), shall be deemed to be the date of commencement of the arbitral proceedings.

The Request for Arbitration must include the information listed in Article 3 of the CEPANI Arbitration Rules, and must contain in annex copies of all relevant agreements, more specifically the arbitration agreement, and any other important exhibits. A model Request for Arbitration can be found on the CEPANI website¹.

Providing the Claimant with general recommendations on the drafting of a Request for Arbitration in a form that accelerates the proceedings is a delicate matter, considering the strategic importance of this initial document.

The Claimant may choose to submit a very detailed Request in which the relevant facts are clearly stated, the legal grounds relied upon are explained and the claims are specifically, clearly and succinctly set out and substantiated with evidence provided in the exhibits. Such a Request for Arbitration will require more time to draft. Therefore, the Claimant should consider whether it is in its interest or not, considering possible settlement negotiations, to submit such a detailed Request. If the arbitration proceedings do continue, however, such a Request will undoubtedly save the Claimant time when presenting its case at the stage of the written Memoranda.

Alternatively, the Claimant may choose to draft a very short Request containing nothing more than the minimum requirements set out in the CEPANI Arbitration Rules. This option is undoubtedly a faster and more cost-effective way to initiate arbitration proceedings. It may, however, lead to multiple rounds of written

¹ <http://www.cepani.be/en/arbitration/model-documents/disputes-%E2%82%AC-25-000-0>

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Memoranda later in the proceedings. It may also make it more difficult for the Respondent to formulate an appropriate answer and/or counterclaim. Thoroughly defining all the issues surrounding the dispute may also be harder.

It is recommended that the Claimant make an early analysis of the nature of the dispute and consider the costs and benefits of the strategic choices listed above. Obviously there is a vast middle ground between the two extremes.

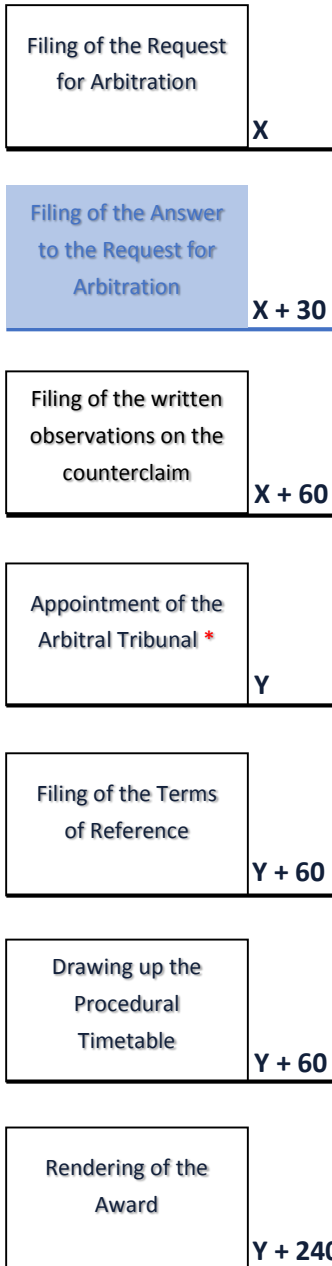
FILING OF THE ANSWER TO THE REQUEST FOR ARBITRATION

Within one month of the date of the commencement of the CEPANI arbitration proceedings, the Respondent must file with the CEPANI Secretariat its Answer to the Request for Arbitration.

The Answer to the Request for Arbitration must include the information listed in Article 4 of the CEPANI Arbitration Rules, and must contain in annex copies of all relevant exhibits.

Just as for the Claimant, several strategic options are open to the Respondent when drafting its Answer to the Request for Arbitration. The Respondent may choose to file a short Answer containing the minimum requirements set out in the CEPANI Arbitration Rules, or it may opt for a very detailed and elaborate Answer that may render subsequent multiple rounds of written Memoranda unnecessary, or it may go for anything in between these two extremes. The Respondent must examine the pros and cons of these options, *i.a.* in light of the one month time limit specified by the CEPANI Arbitration Rules for the filing of the Answer.

These strategic choices also apply to any counterclaim the Respondent wishes to file. If there are any substantial procedural objections, such as a challenge of the jurisdiction of the Arbitral Tribunal, the Respondent may elect to concentrate in its Answer on these issues rather than on the merits of the case.



* Upon payment of the arbitration costs

FILING OF THE WRITTEN OBSERVATIONS ON THE COUNTERCLAIM

In the event the Respondent has submitted a counterclaim, the Claimant may submit written observations on said counterclaim within one month of the date of the filing of the Answer to the Request for Arbitration.

The written observations on the counterclaim should adhere to the same format as the Request for Arbitration. The same strategic choices as for the Request for Arbitration must be made. At this stage, a reassessment of the case may be necessary, given that the Respondent has set out its defense, counterclaims and exhibits.

In light of any possible new information, the likelihood of a settlement may have increased or decreased.

Filing of the Request for Arbitration
X

Filing of the Answer to the Request for Arbitration
X + 30

Filing of the written observations on the counterclaim
X + 60

Appointment of the Arbitral Tribunal *
Y

Filing of the Terms of Reference
Y + 60

Drawing up the Procedural Timetable
Y + 60

Rendering of the Award
Y + 240

* Upon payment of the arbitration costs

Filing of the written observations on counterclaim

APPOINTMENT OF THE ARBITRAL TRIBUNAL

Once the advance on arbitration costs has been fully paid, the Arbitral Tribunal will be appointed. It is important that this advance be paid within one month of the date of the commencement of the proceedings, as requested by the CEPANI Secretariat.

If the parties have opted for a sole arbitrator, this arbitrator will normally be appointed by the Appointments Committee or by the CEPANI President. If, however, the parties have themselves agreed on the choice of arbitrator, the appointment is merely subject to confirmation by the Appointments Committee or by the CEPANI President (Article 15.2 of the CEPANI Arbitration Rules).

If the parties have foreseen three arbitrators, the Claimant and the Respondent must each nominate an arbitrator, respectively in the Request for Arbitration and the Answer to the Request for Arbitration. The third arbitrator, who will act as chair, will be appointed by the Appointments Committee or by the CEPANI President, unless the parties have agreed otherwise.

When nominating an arbitrator, whether it be a sole arbitrator by mutual consent or a party appointed arbitrator, it will positively influence the efficiency of the proceedings to nominate a person with a certain degree of expertise in the field to which the dispute relates. In addition, nominating an arbitrator familiar with arbitral proceedings, specifically arbitrations governed by the CEPANI Arbitration Rules, is also advisable.

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FILING OF THE TERMS OF REFERENCE

Within two months of its appointment, the Arbitral Tribunal must transmit the Terms of Reference to the CEPANI Secretariat. The Terms of Reference are an objective summary of the facts and issues of the case and the assertions and claims of all parties involved. This document will serve as the basis for the examination of the case by the Arbitral Tribunal. Furthermore, this document assists the parties in assessing at this early stage of the procedure the strengths and weaknesses of their positions, which may help them in early settlement negotiations.

Article 22.1 of the CEPANI Arbitration Rules explicitly states that the Terms of Reference may be drafted in the presence of the parties. Clearly delineating and defining the issues in dispute as well as the legal framework that will be used to evaluate these issues, will greatly improve the speed and efficiency of the proceedings.

The parties should carefully consider how many rounds of written Memoranda are necessary. This will depend on the nature of the Request for Arbitration and the Answer, as well as the nature and complexity of the case. If these documents are detailed and the issues have been clearly set out and discussed, multiple rounds of written Memoranda may be avoided, thus limiting the risk of needless reiterations or dilatory tactics. To limit such risks, the parties may also consider asking the Arbitral Tribunal to clearly define what issues should be focused on and which questions must not be discussed.

The parties must also consider the advantages or disadvantages of bifurcating certain issues and asking the Tribunal to render partial Awards. Asking the Tribunal for a decision on jurisdiction or on liability before further considering the dispute, may speed up the proceedings or facilitate a settlement. A potential disadvantage of bifurcation is that a party may file a motion for setting aside such partial Awards, which may undermine the further conduct of the arbitral proceedings.

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Drawing up the Procedural Timetable	Y + 60
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DRAWING UP THE PROCEDURAL TIMETABLE

When drawing up the Terms of Reference, or as soon as possible thereafter, the Arbitral Tribunal will organise a case management meeting between the Arbitral Tribunal and all parties involved in the proceedings. This meeting may take place in person or via telephone or video conference. After having consulted the parties, the Arbitral Tribunal will draw up in a separate document the Procedural Timetable.

It is recommended that the parties not only send their counsel to attend this meeting but that they be present themselves. This may positively influence the time limits agreed upon. In any case, the parties themselves are likely to have a better understanding of the history of the dispute and to be in a better position to estimate what time limits are realistic.

To ensure accelerated proceedings, it is crucial that the parties agree on appropriately short and realistic deadlines for submitting Memoranda and exhibits, organising the hearing(s), the closing of the debates and any other procedural steps deemed necessary, such as *e.g.* the production of documents or the hearing of witnesses. With regard to the rounds of written Memoranda, providing for simultaneous rather than sequential filings is likely to be more time-efficient.

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RENDERING OF THE AWARD

Within six months of the date of the Terms of Reference, the Arbitral Tribunal will render the Award (Article 28.1 CEPANI Arbitration Rules).

Over the course of these six months, the filing of the Memoranda, the organisation of hearings, the filing of post-hearing briefs, the closing of the debates and the examination of the case by the Arbitral Tribunal will take place.

It is self-evident that the parties' and Arbitral Tribunal's adherence to the deadlines agreed upon in the Procedural Timetable will favor a speedy conclusion of the proceedings.

As is the case for all other written submissions, it is important to keep the assertions and claims in the Memoranda specific and to the point. Overly lengthy documents with digressions about irrelevant factual circumstances or unimportant legal details should be avoided.

Oral hearings in the physical presence of all actors involved are commonly used in CEPANI arbitration proceedings. If, however, difficulties occur in organising such hearings, current technology provides many alternatives to physical examinations or hearings, such as phone or video conferencing, video depositions etc. These options may be worth exploring for an efficient conduct of the proceedings.

Parties should consider the added benefits of submitting post-hearing briefs, or the lack thereof. Such final submissions may be useful as a summary of what the parties consider the hearings to have proven, but they do of course add an additional step to the proceedings.

Once the Award has been rendered and provided that the arbitration costs have been fully paid, the CEPANI Secretariat will notify to each party, by registered letter or by courier service, an original copy of the Award signed by the members of the Arbitral Tribunal. An electronic copy of the Arbitral Award will also be sent to the parties by email.

If the place of arbitration is in Belgium and if one of the parties requests this, the Award will be filed at the registry of the Civil Court of the place of the arbitration within three months of the notification of the Award.

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