

Responsible editor : Michel Flamée

Agenda

16 January 2014 (12:00-14:00)

CEPANI40 lunch debate with Mr. Charles Price on the topic of "Arbitration - Vive la différence"

17 January 2014

Joint Conference CEPANI -VIAC

20 February 2014

Annual CEPANI seminar on the topic of "Arbitration and Confidentiality" (the presentations will be held in Dutch and French)

27 February 2014

CEPANI40 lunch debate with Prof. Hakim Boularbah on the topic of "L'arbitre conciliateur: possibilités, limites et précautions"

11 March 2014

CEPANI40 studienamiddag "Arbitrage in de praktijk" in samenwerking met de Vlaamse Conferentie bij de balie te Antwerpen

20 March 2014

Après-midi d'étude du CEPANI40 sur "L'arbitrage en pratique" en collaboration avec la Conférence du Jeune Barreau de Nivelles

For more information on our upcoming activities, please consult our website:

www.cepani.be

News

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[CEPANI launches its new website](#)
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- [Report of the 59th session of UNCITRAL Working Group II \("Arbitration and Conciliation"\): preparation of a convention on transparency in Treaty-based Investor-State arbitration \(Vienna, 16-20 September 2013\) \(by Herman Verbist\)](#)

Legislation, Doctrine & Jurisprudence

- [References](#)

Varia

- [AAA-ICC-ICSID 30th Colloquium on International Arbitration \(6 December 2013, Paris\)](#)
- [UGent studienamiddag m.b.t. "De nieuwe arbitragewet: essentiële bepalingen en hun praktische werking" \(12 december 2013, Gent\)](#)

NEWS

CEPANI lanceert haar nieuwe website

CEPANI lanceert in november haar gloednieuwe website. Wie surft naar www.cepani.be zal meteen de volledig vernieuwde lay-out en navigatie opmerken. Beide zijn zodanig opgesteld dat bezoekers op een overzichtelijke manier door de verschillende pagina's kunnen navigeren. We presenteren u bovendien met enige trots de nieuwe, frissere huisstijl van CEPANI, die u vanaf nu ook zult kunnen terugvinden in onze correspondentie, onze brochures en de nieuwe digitale mogelijkheden die we u voortaan willen aanbieden. Zo kunt u CEPANI nu reeds terugvinden op LinkedIn ('CEPANI npo') en Twitter ('@CEPANI_npo') en binnenkort ook op andere sociale media, waarlangs we u op de hoogte willen houden van het reilen en zeilen bij CEPANI. Kortom, CEPANI wil u een website en een service bieden die bij de tijd is.

Wat is nieuw?

Onze nieuwe site is moderner en vooral overzichtelijker. We hebben een zoekfunctie toegevoegd waarmee u de volledige site kunt doorzoeken op basis van trefwoorden, om u zo nóg sneller en efficiënter de informatie te bieden die u zoekt.

De website wordt ook interactiever gemaakt. Zo zullen CEPANI leden voortaan toegang hebben tot een inlogzone, waar zij hun eigen gebruikersprofiel kunnen beheren. Meer informatie hierover wordt via een aparte e-mail naar alle leden verstuurd.

Handig is ook de vernieuwde activiteitenkalender, langs dewelke u rechtstreeks kunt inschrijven voor CEPANI's verschillende evenementen. Voorts is CEPANI dankzij de digitale contactformulieren nu nog eenvoudiger bereikbaar voor al uw vragen en opmerkingen.

En er volgt nog meer. Zo komt binnenkort nog een complete catalogus van de bibliotheek van CEPANI online. Via een krachtige zoekmachine zult u snel en eenvoudig kunnen vinden wat u zoekt en dadelijk online een afspraak kunnen plannen met het Secretariaat op een tijdstip van uw keuze.

Wij horen ook graag uw mening!

Natuurlijk is er altijd nog ruimte voor verbetering. Heeft u vragen, opmerkingen of suggesties naar aanleiding van onze nieuwe website, dan horen wij deze graag via info@cepani.be.



Lancement du nouveau site web du CEPANI

Durant le mois de novembre le CEPANI lancera son tout nouveau site web. En surfant sur www.cepani.be vous pourrez immédiatement remarquer la nouvelle mise en page du site et la navigation complètement renouvelée et simplifiée. Désormais vous pouvez naviguer facilement à travers les différentes pages. Nous sommes également fiers de vous présenter le nouveau style du CEPANI, que vous retrouverez aussi dans notre correspondance, nos brochures et les nouvelles possibilités numériques que nous voulons vous offrir dès à présent. Ainsi, vous pouvez déjà nous retrouver sur LinkedIn ('CEPANI npo') et Twitter ('@CEPANI_npo') et bientôt sur encore d'autres réseaux sociaux, à travers lesquels nous souhaitons vous tenir informés de l'actualité du CEPANI. Le CEPANI tient à vous offrir un site web et un service actualisé et de qualité.

Concrètement

Notre nouveau site web est plus moderne et surtout plus clair. Dans un souci d'efficacité et de rapidité, nous avons ajouté une fonction de recherche qui vous permet d'effectuer une recherche par mots-clés à travers tout le site web.

Le site est également plus interactif. Ainsi, les membres du CEPANI auront accès à une zone de connexion où ils peuvent gérer leur profil utilisateur. Plus d'information concernant le profil sera envoyée à chaque membre par courriel.

Autre changement majeur: le calendrier des activités. Vous pouvez directement vous inscrire aux événements du CEPANI via le calendrier. En outre, grâce aux formulaires de contact numériques, le CEPANI est encore plus facilement accessible pour toutes vos questions et vos éventuelles remarques ou commentaires.

Enfin, il y aura d'ici peu un catalogue complet de la bibliothèque du CEPANI disponible en ligne. Grâce à un puissant moteur de recherche vous y trouverez rapidement et de manière simple la documentation que vous recherchez. Vous pourrez également prendre rendez-vous en ligne avec le Secrétariat pour venir consulter notre bibliothèque.

Faites nous part de votre opinion!

Nous sommes à votre écoute si vous avez des questions, commentaires et/ ou suggestions quant à notre nouveau site web. N'hésitez pas à nous en faire part via info@cepani.be.



CEPANI launches its new website

In November CEPANI launches its brand new website. Whoever surfs to

www.cepani.be will immediately notice the fully revised lay-out and navigation. Both have been designed so as to allow visitors to easily navigate through the different pages and sections of the website. We are also proud to present you CEPANI's new fresh corporate design, which you will also find back in our correspondence, our brochures and new digital possibilities. You can already find CEPANI on LinkedIn ('CEPANI npo') and Twitter ('@CEPANI_npo') and soon we will be able to keep you informed on CEPANI's activities through even more social media. In short, CEPANI wants to offer you an up to date website and service.

What is new?

Our new website is more modern and especially more accessible. We have added a search engine through which you can scan the entire website based on keywords to allow you to retrieve the information you are looking for even quicker and more efficiently.

The website is also more interactive. For example, CEPANI members will have access to a separate log-in zone where they can manage their personal profiles. More information will be sent to all members by separate emails.

Useful as well is the renewed activity calendar, via which you can enroll directly for all of CEPANI's events. Furthermore, CEPANI can now be contacted even more easily for all your questions and comments thanks to our digital contact forms.

And more will follow. Soon a complete catalogue of the CEPANI library will be put online. Through a powerful search engine, you will be able to search easily for what you need, and make an appointment online with the Secretariat at the time most convenient to you.

We like to hear your opinion too!

Of course there is always room for improvement. All questions, comments or suggestions in relation to our new website can be sent to info@cepani.be.



Report on the CEPANI40 seminar on "The New 2013 CEPANI Arbitration Rules"



**By Maxime BERLINGIN,
Lawyer at the Brussels bar (NautaDutilh)
Teaching assistant at Saint-Louis University - Brussels**

On 1 January 2013 the new 2013 CEPANI Arbitration Rules came into force. CEPANI40 organised a seminar on these new arbitration rules on Thursday 24 October 2013. The panel comprised a number of members of the CEPANI working group who had worked on redrafting the arbitration rules and who made presentations on six selected subjects.

CEPANI's president, Prof. Michel Flamée, welcomed the participants and outlined the innovations in the new CEPANI Arbitration Rules before handing the floor over to the speakers.

Mr. Pascal Hollander started the discussion with a presentation on the increased efficiency of CEPANI arbitration. He first explained that efficiency has always been one of the main reasons for directing parties to this form of dispute resolution, but that efficiency has been given a further boost under the new rules. This was made possible through five improvements, which Mr. Hollander elaborated on during his presentation, namely by:

1. clarifying possible doubts in the reader's mind when perusing the old rules, particularly as regards CEPANI's role, the application of the *mandatus ad litem* to arbitration and the confidential nature of arbitration proceedings;
2. accelerating the resolution of the dispute through a number of changes allowing for efficient, and hence speedier, administration of cases, in accordance with the duty imposed on the arbitral tribunal and the parties to act in a timely manner;

3. reducing procedural difficulties and pitfalls thanks to new provisions on complex proceedings, the organization of a case management conference and the explicit possibility of correcting and interpreting the award;

4. limiting guerrilla tactics by imposing a general obligation on the parties to act *bona fide* and prohibiting tactics or actions aimed at delaying the proceedings;

5. strengthening the flexibility of the arbitral tribunal.

Mr. Herman Verbist subsequently dwelt on the new emergency arbitration provisions laid down in the new CEPANI rules. Mr. Verbist emphasized that this inclusion in the new rules is in line with a more general trend initiated in 1990 by the ICC Pre-Arbitral Referee Rules. He then gave a detailed run-through of the procedural rules allowing interim and conservatory measures prior to the constitution of the arbitral tribunal. The presentation ended with a few brief words on some provisions of the new Belgian Arbitration Act in relation to this matter.

Mr. Charles Price's presentation started off with a questioning observation that, although everyone agrees that arbitration is confidential, no one has a clear idea of what such confidentiality covers. Article 25 of the new CEPANI rules now at least sets a clear principle consisting of a general rule accompanied by two exceptions. Mr. Price examined the different possible situations covered by this provision and the duties of the arbitrators, parties and parties' counsel in all those situations.

After the coffee break, Mr. Didier Matray examined the complex matter of multiparty / multicontract arbitration. Mr. Matray outlined all the multiparty arbitration situations covered by the new CEPANI rules, *i.e.* multiple parties (Art. 9), multiple contracts (Art. 10), joinder and intervention (Art. 11) and consolidation (Art. 13). He concluded by endorsing the efficiency the new CEPANI rules seek to attain, notably by means of the provisions on multiparty arbitration.

The final presentation was given by Mr. Jean-Pierre Fierens on the subject of intervention by the state courts in the framework of arbitration proceedings. He emphasized that intervention of the state courts continues to be essential in many respects to ensure the efficacy of arbitration. Mr. Fierens then invited the participants to read the provisions of the new Belgian Arbitration Act by juxtaposing them with the new CEPANI rules in order to illustrate the various forms of intervention of state courts at each stage of an arbitration.

The seminar ended with a Q&A during which great interest was expressed in how the multiparty arbitration provisions would be applied, upon which the speakers and participants retired for cocktails.

Note: The Dutch, French and English versions of the new 2013 CEPANI Rules of Arbitration can be downloaded on the CEPANI website www.cepani.be. More information on this subject can be found in the various doctrine articles published up to date, among which:

- M. DAL, "Le nouveau règlement d'arbitrage du CEPANI", *JT* 2013, p. 349-352
- D. DEMEULEMEESTER en H. VERBIST, *Arbitrage in de praktijk – Op basis van het CEPANI-arbitragereglement van 1 januari 2013 en met verwijzingen naar Deel VI van het Gerechtelijk Wetboek*, Brussel, Bruylant, juli 2013, 550p.
- L. DEMEYERE, "De terugverwijzing van de arbitrale uitspraak in het nieuwe CEPANI arbitragereglement" in CEPANI Newsletter 73, maart 2013, www.cepani.be
- P. HOLLANDER, "Commentaire des articles 23 ("Instruction de la cause") et 38 ("Disposition supplétive") du nouveau Règlement d'arbitrage du CEPANI" in CEPANI Newsletter 74, avril 2013, www.cepani.be
- P. HOLLANDER, "The CEPANI 2013 Arbitration Rules", *Paris Journal of*

International Arbitration 2012/1, p. 213-242

- C. PRICE, "Limitation of liability for arbitrators and CEPANI in the new 2013 CEPANI Rules of Arbitration" in CEPANI Newsletter 72, February 2013, www.cepani.be
- G. KEUTGEN, "Le nouveau règlement d'arbitrage du centre belge d'arbitrage et de médiation (CEPANI)", *Revue de droit international et comparé* 2013, p. 99
- G. KEUTGEN, "Le nouveau règlement d'arbitrage du CEPANI / Het nieuwe CEPANI arbitragereglement", in CEPANI Newsletter 70, december 2012, www.cepani.be
- D. MATRAY et G. MATRAY, "Le nouveau règlement d'arbitrage du centre belge d'arbitrage et de médiation (CEPANI)", *b-Arbitra* 2013/1, p. 45-100
- D. MATRAY, "Le nouveau règlement du CEPANI et l'arbitrage qui concerne plus de deux parties ou plus d'un contrat / Het nieuwe CEPANI reglement en arbitrage met meer dan twee partijen of meer dan één overeenkomst" in CEPANI Newsletter 75, mai 2013, www.cepani.be
- D. VAN GERVEN, "Arbitrage: meer dan ooit een alternatief voor de rechtbank (het nieuwe CEPANI arbitragereglement)", *Ad Rem* 2013/2, p. 26-27
- H. VERBIST, "The emergency arbitrator provisions in the New 2013 CEPANI Rules of Arbitration" in CEPANI Newsletter 71, January 2013, www.cepani.be
- H. VERBIST, "New CEPANI Rules of Arbitration in force as from 1 January 2013", *Tijdschrift@ipr.be* 2012/4, p. 51-60
- H. VERBIST, "New Belgian Arbitration Law of 24 June 2013 and New CEPANI Arbitration Rules of 1 January 2013", *Journal of International Arbitration* 2013/5, p. 597-618



Report of the 59th session of UNCITRAL working group II ("arbitration and conciliation"): preparation of a convention on transparency in Treaty-based Investor-State arbitration (Vienna, 16-20 September 2013)

**By Dr. Herman VERBIST,
Lawyer at the Ghent and Brussels bars (Everest attorneys)**



The 59th session of UNCITRAL Working Group II (Arbitration and Conciliation) was held in Vienna from 16 to 20 September 2013. It was CEPANI's tenth session as "observer". The "members" and "observers" (of which Belgium) at the meeting in Vienna represented, respectively, 40 and 18 countries. Four intergovernmental organizations and 26 non-governmental organizations (of which CEPANI) were also represented. In total approximately 190 persons attended this session. The session of the Working Group was chaired by Mr. Salim Moollan, an arbitration specialist from Mauritius, who also chaired the Working Group which elaborated the 2013 UNCITRAL Rules on Transparency in Treaty-based Investor-State Arbitration.

Given that the new 2013 UNCITRAL Transparency Rules will only be applicable to existing treaties on an "opt-in" basis, the Commission of UNCITRAL agreed in July 2013 to entrust the Working Group with "the task of preparing a convention on the application of the Rules on Transparency in Treaty-based Investor State Arbitration to existing investment treaties, taking into account that the aim of the convention was to give those States that wished to make the rules on transparency applicable to their existing treaties an efficient mechanism to do so, without creating any expectation that other States would use the mechanism offered by the convention" (Report of the Commission of UNCITRAL, 46th session,

ie a 8 2 ul 2013 / 8/1 21 par. 12 .

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References

Legislation

- Wet van 24 juni 2013 tot wijziging van het Besluit van het gerechtelijk Hof van Brussel betreffende de arbitrage beschi baar op <http://www.cepa.i.be/ / default.asp ? P d= 3>
- Wet van 24 juni 2013 modifieert de wet van 1993 betreffende de arbitrage dispo ibile sur <http://www.cepa.i.be/ / default.asp ?P d= 84>
- Wet van 24 juni 2013 amendementen tot de wet van 1993 betreffende de arbitrage dispo ibile sur <http://www.cepa.i.be/ / default.asp ? P d= 8>

Doctrine

Belgium

- J. VAN DER WEES, "Nieuwe Belgische Arbitragewet van 24 juni 2013", *TvA* 2013/3, p. 10
- J. VAN DER WEES, "Nieuwe Belgische Arbitragewet van 24 juni 2013", *TvA* 2013/3, p. 10
- M. PIERS en D. DE MEULEMEESTER, "Nieuwe arbitragewet – België is voortaan een 'UNCITRAL Modelwet'-land", *NJW* 2013, p. 726-736
- L. VAN DER WEES, "Alternatieve geschillenbeslechting voor conflicten met webwinkels in EU", *Computerrecht* 2013/3, p. 183
- H. VERBIST, "Wat brengt het nieuwe Belgische arbitragerecht", *Orde Express* jaargang 8, nr. 16
- H. VERBIST, "New Belgian Arbitration Law of 24 June 2013 and New CEPANI Arbitration Rules of 1 January 2013", *Journal of International Arbitration* 2013/5, p. 597-618
- J. VAN DER WEES, "Nieuwe Belgische Arbitragewet van 24 juni 2013", *TvA* 2013/3, p. 10

International

- K. COX, "Nederlands wetsvoorstel van 16 april 2013 tot modernisering van het arbitragerecht", *TvA* 2013/7, p. 674



Varia

AAA-ICC-ICSID 30th Colloquium on International Arbitration (6 December 2013, Paris)

Since 1983 the International Court of Arbitration of the International Chamber of Commerce and the International Centre for Settlement of Investment Disputes have co-hosted a series of joint colloquia to discuss various topics relating to international commercial arbitration. This year's 30th anniversary is hosted by the ICC in Paris. The seminar comprises various panels and roundtable discussions on topics such as the enforcement of arbitration agreements and awards through investment arbitration, interim measures and the role of the emergency arbitrator and the increasing role of the arbitrator and arbitrators to post-award lawsuits and awards. The full program and registration form are available online at <http://www.iccwbo.org/raii/gad/ve ts/ ll eve ts/ ve ts/2013/30th / / oit ollo uium o ter atio al rbitratio />.

UGent studienamiddag m.b.t. "De nieuwe arbitragewet: essentiële bepalingen en hun praktische werking" (12)

december 2013, Gent)

Op 12 december 2013 organiseert de faculteit Rechtsgeleerdheid van de Universiteit Gent een studie middag waarop de meest recente ontwikkelingen van de nieuwe Belgische Arbitragewet zullen worden belicht. Het sprekersbehaalde daartoe een selectie van nieuwe wetsbepalingen en geeft aan hoe deze praktische inslag hebben op het verloop van arbitrage op het Belgische gebied. De brede toelichting voor advocaten, bedrijfsjuristen, magistraten en academici die met arbitrage te maken hebben. Alle praktische informatie en het inschrijvingsformulier zijn beschikbaar op http://www.intersectia.be/docs/132422_20_intersectia_arbitragewet.pdf.



Comité de rédaction / Redactiecomité

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Prof. De Maesseneer publishes and/or edits contributions at its discretion.

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