

**SECRETARY TO THE ARBITRAL TRIBUNAL**

**1. Issue**

Some sole arbitrators and some arbitral tribunals wish to be assisted by a secretary.

At present, these secretaries are appointed on an ad hoc basis and their role and status is not always clearly defined.

With a view to ensuring legal certainty and consistency, CEPANI's Board of Directors has adopted the following guidelines, which apply to all arbitrators involved in CEPANI proceedings.

**2. Guidelines**

- 2.1. The secretary to the arbitral tribunal may only be appointed by the sole arbitrator or by a unanimous decision of the arbitral tribunal.

The secretary to the arbitral tribunal may only be appointed if the parties and/or their counsel give their express written agreement or confirm in writing that such agreement has been given.

- 2.2. The fees and expenses of the secretary to the arbitral tribunal shall be deducted from the fees paid to the chair of the arbitral tribunal, unless the parties expressly agree to bear these fees in addition to the fees paid to the arbitrators. In this case, the provision for the fees of the secretary to the arbitral tribunal shall be paid before the secretary is appointed.

- 2.3. Prior to appointing a secretary to the arbitral tribunal, the arbitral tribunal must draw up a specific and detailed description of the secretary's role.

This description shall be communicated, for information purposes, to the parties and to the CEPANI secretariat.

- 2.4. The secretary to the arbitral tribunal's primary tasks shall be as follows: making the material and organisational arrangements for arbitration hearings; taking the minutes of these hearings on behalf of the arbitral tribunal; conducting legal research on behalf of the arbitral tribunal; and preparing summaries of the cases.

- 2.5. The secretary to the arbitral tribunal is not an arbitrator. As such, he/she may not be involved in the deliberations of the arbitral tribunal or be entrusted with drafting the arbitral award.

Neither may he/she question the parties and/or their advisors during arbitration hearings unless they specifically authorise him/her to do so.

- 2.6. As the secretary to the arbitral tribunal is not an arbitrator, he/she shall not incur the liability of an arbitrator.

He/she shall act in accordance with the instructions issued by the arbitral tribunal.

These shall be communicated to him/her by the sole arbitrator or the chair of the arbitral tribunal.

- 2.7. Nevertheless, like any arbitrator, the secretary to the arbitral tribunal must show the utmost impartiality in all circumstances and must refrain from displaying any behaviour or attitude that could be interpreted as favouring one party's point of view.

- 2.8. The secretary to the arbitral tribunal must give the same guarantees of independence vis-à-vis the parties and their counsel as the arbitrator(s).

The secretary to the arbitral tribunal must sign a statement confirming his/her independence prior to being appointed.

Furthermore, if an event should subsequently occur that raises any doubts regarding this independence in the secretary's own mind or in the mind of the parties, the secretary must immediately report this to the arbitral tribunal that appointed him/her. The arbitral tribunal shall then decide whether the secretary is to be replaced. Any replacement shall be appointed in accordance with point 2.1.

The arbitral tribunal shall inform the CEPANI secretariat if the secretary to the arbitral tribunal is replaced.

- 2.9. The secretary to the arbitral tribunal shall have no contact with the parties and/or their representatives, unless explicitly instructed otherwise by the sole arbitrator or the chair of the arbitral tribunal. The secretary to the arbitral tribunal may not contact them on his/her own initiative.
- 2.10. The secretary to the arbitral tribunal shall maintain the confidentiality of every case that he/she handles within the framework of his/her assignment.