



Editors in chief: Guillaume Croisant, François Cuvelier, Juliana Iancu and Sander Van Loock

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AGENDA

17 February 2022	CEPANI Lunch debate on Third Party Funding
6-10 March 2022	The royal economic mission to the UK [postponed to 9-12 May 2022]
10 March 2022 (17:00 – 18:30)	CEPANI40-Fieldfisher Seminar “Arbitration in Post M&A Disputes”
22 April 2022	Joint CEPANI-NAI Colloquium: the CEPANI and NAI Approach towards Topical Trends in Arbitration
2-4 June 2022	Co-Chairs' Circle global conference organised by CEPANI40 in Brussels: Legitimacy <i>in and of</i> Arbitration

REPORT

- » CEPANI 2021 STATISTICAL REPORT (BY EMMA VAN CAMPENHOUT AND CAMILLE LIBERT)
- » REPORT ON THE 2ND EDITION OF CEPANI40 WEBINAR “MEET THE EXPERTS!” (BY CHARLOTTE PEIFFER)

NEWS

NEWS FROM OUR PARTNERS

REPORT

CEPANI 2021 STATISTICAL REPORT



Emma Van Campenhout
Secretary General, CEPANI



Camille Libert
Counsel, CEPANI

Introduction

This yearly report provides a statistical overview of CEPANI arbitration in 2021 and its 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 and the seat of the arbitration, the constitution of Arbitral Tribunals, the specificities of the appointed Arbitrators, the average duration of CEPANI arbitration procedures and more.

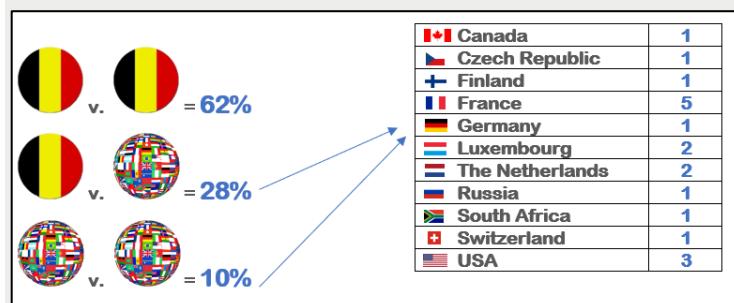
The 2021 statistics show no impact of the still ongoing COVID-19 pandemic. On the contrary, CEPANI arbitration procedures were completed in shorter period of time in comparison with the previous years. This was the case for both classic and expedited arbitration procedures.

Furthermore, the general trend of internationalisation has continued its pace; this reflects in the origin of the Parties, the language of the arbitration and the nationality of the appointed Arbitrators.

More striking is the amount in dispute that is generally overall higher than in 2020. Over a third of the CEPANI arbitration procedures involved cases over one million euros.

Finally, CEPANI continues its commitment to ensure that each case is handled with the requested efficiency, rapidity, and efficacy, and in accordance with the specific needs of the Parties.

Origin of the Parties



In 2021, 62% of the cases were introduced between Belgian Parties, 28% involved at least one Belgian and one international Party, and 10% of the cases involved only international Parties.

Compared to 2020, procedures involving only Belgian Parties have slightly increased, procedures involving at least one Belgian and one international Party have decreased by 10%, while on the other hand procedures involving exclusively international Parties have increased by 5%.

Language of the arbitral proceedings

DUTCH
24%

FRENCH
45%

ENGLISH
31%

In 2021, the language of the cases remained the same compared to 2020.

Indeed, 45% of the cases were introduced in French, 24% in Dutch and 31% in English.

Place of the arbitration



90%



10%

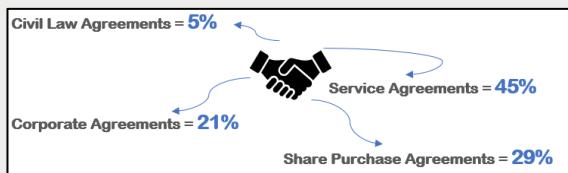


Brussels as place of arbitration is a steady trend.

In 2021, 90% of the cases had chosen Brussels as seat of their arbitration and only 10% of the cases had their seat in another city, which were mainly located elsewhere in Belgium except for Luxembourg.

In comparison to 2020, 86% of the cases had Brussels as seat of arbitration, while 14% of the cases had their seat in another city.

Nature of the dispute



In 2021, only 5% of the cases concerned general issues of civil law; 45% related to a service agreement; 29% related to a share purchase agreement; and 21% related to a corporate dispute.

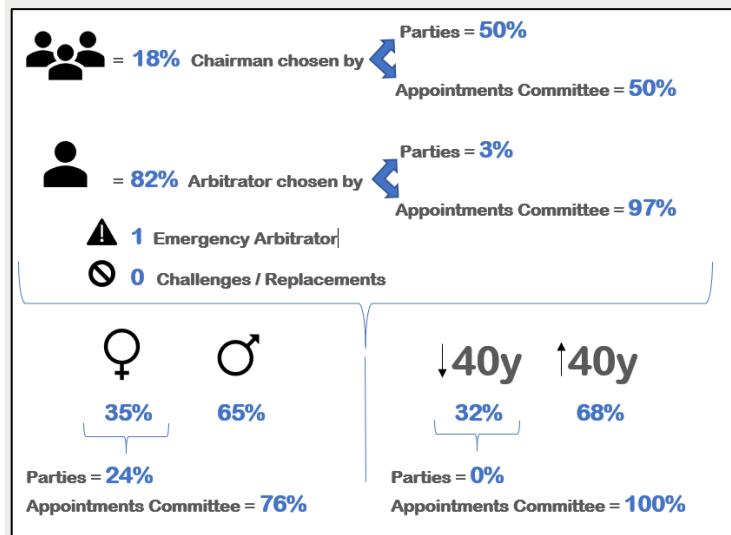
In comparison to 2020, corporate disputes have decreased with 9%, while share purchase-agreement related disputes increased with 7% and service agreement related disputes increased with 21% (!).

Amount in dispute

< € 100.000,00 →	35%
€ 100.000,00 – € 200.000,00 →	5%
€ 200.000,00 – 500.000,00 →	16%
€ 500.000,00 – 1.000.000,00 →	11%
€ 1.000.000,00 – 10.000.000,00 →	22%
> € 10.000.000,00 →	11%

From the above, it is clear that expedited proceedings (< € 100.000,00) have been very successful (35% of the cases), while cases over one million euros have also increased (33% of the CEPANI cases compared to 25% in 2020).

Arbitral Tribunal □



The majority, i.e. 82%, of the Arbitral Tribunals were composed of a Sole Arbitrator. 18% of the Tribunals were composed of three Arbitrators.

In comparison to 2020, 65% of Sole Arbitrators were appointed.

This evolution marks an important change compared to the previous years where a majority of the Arbitral Tribunals were composed of three Arbitrators.

Women in arbitration

In 2021, 35% of the Arbitrators appointed by CEPANI were women, 76% of which were appointed by the CEPANI Appointments Committee and 24% directly by the Parties. This is a very positive change in favor of ‘Diversity and Inclusion in Arbitration’.

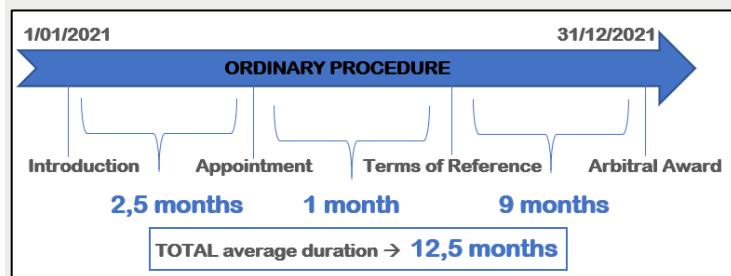
In 2019 only 10% of women Arbitrators were appointed and in 2020 15% of the appointed Arbitrators were women.

Youngsters in arbitration

In 2021, 32% of the Arbitrators appointed by CEPANI were below 40 years old.

All of them were appointed by the CEPANI Appointments Committee, none of them directly by the Parties.

Average duration of the arbitral proceedings □



In 2021, an arbitration procedure administrated under the CEPANI Arbitration Rules lasted 12,5 months, calculated as follows:

Introduction to the constitution of the Arbitral Tribunal = 2,5 months.

The CEPANI Arbitration Rules provide for a one-month deadline for Parties to pay the advance on arbitration costs and the Appointments Committee shall only appoint the Arbitral Tribunal when the advance on arbitration costs has been paid in full.

The delay of 2,5 months in practice is due to delays regarding the payment of the advance on arbitration costs by the Parties.

Constitution of the Arbitral Tribunal to the Terms of Reference = 1 month.

The reviewed Arbitration Rules which entered into force as from January 1, 2020 provide for a one-month deadline. Clearly, Arbitrators - in collaboration with the Parties and their Counsel – have made every effort to meet this short deadline.

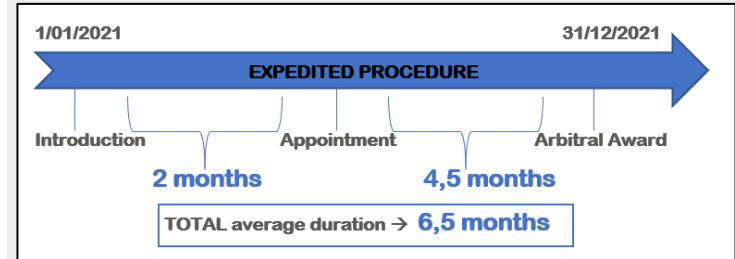
Terms of Reference to the Arbitral Award = 9 months.

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 also be present themselves. This may positively influence the time limits agreed upon.

The CEPANI Arbitration Rules grant the Arbitral Tribunal a deadline of six months to render its Arbitral Award as from the signature of the Terms of Reference. The average time limit of 9 months is due to the fact that, with the Parties’ consent, Arbitral Tribunals often establish Procedural Timetables exceeding – and thus extending – the six-month deadline provided for in the CEPANI Arbitration Rules.

In comparison with 2020, an arbitration proceeding lasted an average of 14 months.

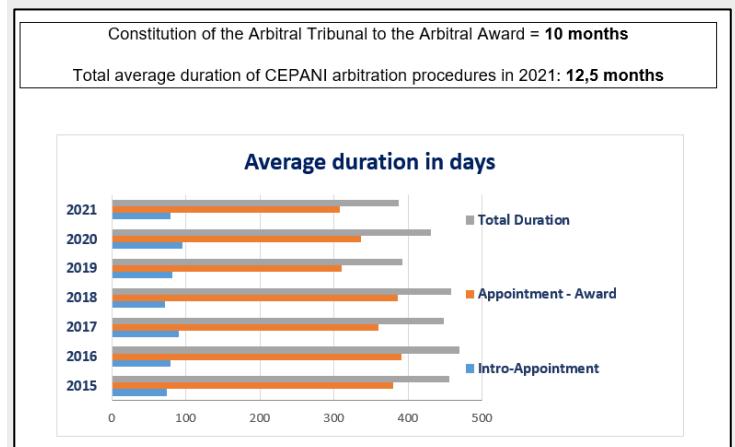


Following Article 29 of the CEPANI Arbitration Rules, the expedited procedure shall apply if the amount in dispute does not exceed the amount of € 100.000,00 or if the Parties so agree.

In the context of an expedited procedure there are no Terms of Reference.

Moreover, the deadline granted to the Tribunal to make the Arbitral Award is 4 months as of the date of the establishment of the Procedural Timetable.

In 2021, an expedited proceeding under the CEPANI Rules lasted 6,5 months.





Charlotte Peiffer
Associate
Linklaters, Brussels



MEET THE EXPERTS !

Episode 2



Almost one year after the success of the first edition in February 2021, CEPANI40 hosted, on Wednesday 19 January 2022, the second edition of the webinar "*Meet the experts!*".

The event was moderated by CEPANI40 Co-Chairs, **Sophie Goldman** (Partner, Tossens Goldman Gonse) and **Sigrid Van Rompaey** (Partner, Matray, Matray & Hallet). The goal of the exercise remains the same: offering young practitioners a unique opportunity to ask questions to seasoned arbitrators.

This webinar, attended by around 50 enthusiast participants, was organised in the form of a practical and interactive Q&A with a panel of four international renowned experts:

- **Hakim Boularbah** (Partner, head of the Belgian litigation & risk management practice group, Loyens & Loeff, Brussels);
- **Elena Gutierrez García de Cortázar** (Partner, MGC Arbitration, Paris);
- **Anna Masser** (Partner, head of arbitration in Germany, Allen & Overy, Frankfurt); and
- **Roland Ziadé** (Partner, global head of international arbitration, Linklaters, Paris).

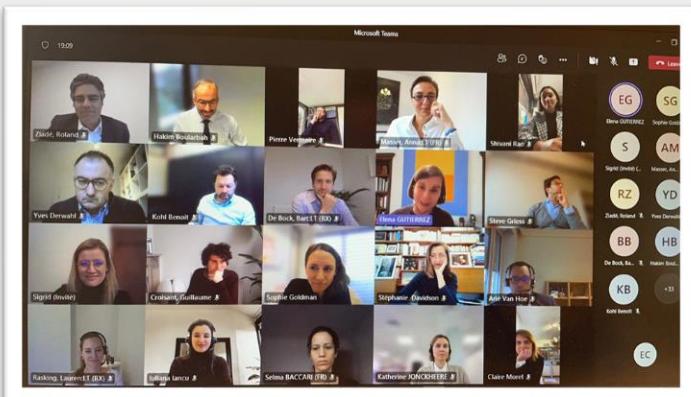
All participants were invited to ask two questions to the panel ahead of the session. During the discussion, moderated by Sophie Goldman and Sigrid Van Rompaey, the experts answered these practical questions and shared their personal experience and expertise. The discussions revolved around several main topics, including:

- the arbitration proceedings as such (e.g., issues of abuse of process or confidentiality);
- the scope of the arbitration clause and specific provisions (e.g. applicable law and the use of languages, the latter one being always a topic of great interest for Belgian lawyers as a participant rightly pointed out!);
- the decisions taken on the merits and on costs;
- the organisation of virtual hearings and video conferences;
- the enforcement of awards;
- the non-participation of a party to the arbitration proceedings;
- the use of artificial intelligence in arbitration;
- the issue of diversity in arbitration.
- Etc.

The experts finally shared a few practical tips & tricks for the first appointments as an arbitrator, such as:

- joining a firm where there are leading arbitrators (to benefit from their experience and be appointed as tribunal secretary);
- never ever answering an email in a bad mood;
- exercising authority with a smile;
- being aware that one will always have to do the extra mile;
- (over) preparing well;
- thoroughly reviewing the applicable rules;
- thinking ahead;
- reading the submissions promptly;
- keeping your calm;
- maintaining a distance from any potential incident and avoiding taking things personally.

Already looking forward to the third edition!



NEWS

» BESPREKING VAN “GUIDE TO THE CEPANI ARBITRATION RULES”

De CEPANI arbitration rules uit 2013 werden in 2020 aangepast en gemoderniseerd. Voor de 2013 Rules was er een commentaar van Dirk De Meulemeester en Herman Verbist ; voor 2020 ontbrak die nog. Daar is nu verandering in gekomen met de “Guide to the CEPANI Arbitration Rules” van Benoît Allemeersch, Olivier Caprasse, Dirk De Meulemeester, Benoît Kohl en Emma Van Campenhoudt.

De Guide to the CEPANI arbitration rules is logisch en helder gestructureerd volgens een artikelsgewijze commentaar van de Rules. Per artikel worden eerst de inhoudelijke en formele verschillen tussen de huidige en de vorige versie besproken, zodat de wijzigingen meteen duidelijk zijn. Dan volgt een grondige analyse van het artikel.

De nadruk van dit werk ligt op de praktische aspecten en knowhow om een CEPANI arbitrage te voeren. Gezien de CEPANI-arbitrages zowel nationaal als internationaal zijn, bevat deze studie bewust geen verwijzing naar Belgisch of ander recht. Evenmin zal u verwijzingen naar rechtspraak en rechtsleer aantreffen. Het is door en door een werk voor de praktijk.

Zeer nuttig is de Note from the Secretariat bij elk artikel. Hiermee voorziet the secretariat zeer duidelijke tips en tricks voor de arbitrage-advocaat, met aanduiding wat deze in de gaten moet houden voor een goed beheer van het dossier en procedure. Telkens vindt de lezer op het einde van de artikelsgewijze analyse wat de praktijk is van het secretariaat aangaande de kwestieuze regel en behoedt zij aldus de advocaat voor fouten.

Het boek is een absolute must have voor elke partij die een CEPANI arbitrage voert, de arbiter, de ervaren rot in het vak, dan wel voor novice. Het boek draagt bij tot een verhoging van de kwaliteit van de CEPANI arbitrage procedures en voegt zich bij de reeds uitgebreide bibliotheek van de CEPANI publicaties.

Felicitaties aan de auteurs van dit werk.

English abstract

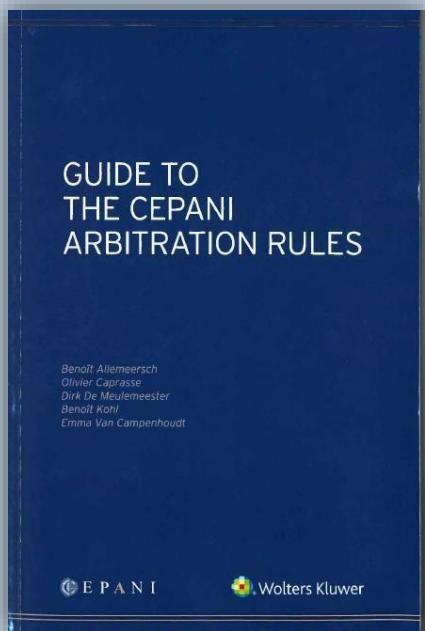
The “Guide to the CEPANI Arbitration Rules” offers arbitration users all the necessary information and explanations on the CEPANI Arbitration Rules, updated as recently as July 1, 2020. The Guide contains a commentary on each article of the 2020 Rules, whereby attention is given to the difference between the 2020 and 2013 Rules. The Guide also contains practical hands-on information, essential tips & tricks and guidelines from the Secretariat. It's a must have for each practitioner of CEPANI Arbitration.

Résumé francophone

Le « Guide to the CEPANI Arbitration Rules » offre aux utilisateurs de l'arbitrage toutes les informations et explications nécessaires sur le règlement d'arbitrage du CEPANI, mis à jour le 1^{er} juillet 2020. Le Guide contient un commentaire sur chaque article du Règlement 2020, une attention particulière ayant été accordée à la différence entre le Règlement 2020 et le Règlement 2013. Le Guide contient également des informations pratiques, des conseils et astuces essentiels de la part du secrétariat. C'est un must have pour tout praticien de l'arbitrage du CEPANI.



Marco Schoups
Partner, Schoups
Member of CEPANI Board of Directors



» CEPANI DIVERSITY AND INCLUSION SURVEY

CEPANI President Benoît Kohl has set up a Diversity and Inclusion Working Group with a view to chart the current diversity status at CEPANI and suggest ways to improve diversity and inclusion at CEPANI as an organisation.

One of the initiatives taken by the Working Group is to carry out a survey with the wider CEPANI community in order to better understand and measure the ways in which diversity and inclusion is perceived. The idea is also to grasp which are your expectations and aspirations in this regard. Your participation is crucial to help CEPANI properly understand your views and/or concerns. On behalf of the Working Group, I would be very grateful if you were to spare a few minutes to respond to this survey.

Your participation is of course confidential and will not take any longer than 5 to 10 minutes of your time. To start the survey, please click [here](#):

If you have any questions in this regard, please feel free to reach out to me, Werner Eyskens or Sophie Goldman, Co-Chairs of the Diversity and Inclusion Working Group.



Emma Van Campenhoudt
Secretary General, CEPANI



» CEPANI40–FIELDFISHER JOINT EVENT ON "ARBITRATION IN POST-M&A DISPUTES"

10 March 2022; 17.00-18.30

The event will take place in person at Fieldfisher Brussels Office

(L'Arsenal, Boulevard Louis Schmidtlaan 29 box 15, B-1040, Brussels)

Arbitration has become a prominent alternative to litigation for the resolution of corporate disputes arising from M&A deals.

During this seminar, Koen Van den Broeck, Maxime Berlingin, Alexandra Underwood and Marily Paralika will discuss the following topics:

- Procedural issues that may arise in M&A arbitrations;
- The advantages of using arbitration to resolve M&A disputes;
- Damage valuation;
- Interim measures requested in M&A arbitrations; and
- Special issues in connection with warranty and indemnity insurance.

Join us for an evening of insightful presentations, interactive discussions and networking!

The seminar will be held from 17:00 to 18:30 with a cocktail reception to follow.

Please RSVP to the event [here!](#)



NEWS FROM OUR PARTNERS

» IBJE

L’Institut des juristes d’entreprise a élu un nouveau Conseil et une nouvelle Présidente

Els Steen a été élue comme nouvelle Présidente de l’Institut des juristes d’entreprise (IJE) par un Conseil récemment renouvelé, où siègent vingt membres pour un mandat de trois ans (2022-2024). Avec le Conseil, la nouvelle Présidente souhaite contribuer à ce que la profession de juriste d’entreprise obtienne la visibilité, la valorisation et le respect qu’elle mérite.

Els Steen, qui succède à Marc Beyens, occupera la présidence du Conseil nouvellement constitué de l’IJE. Ce Conseil reflète la diversité de la profession et de l’Institut, avec 20 juristes d’entreprise de différents secteurs ayant chacun une expérience unique. Leur élection montre le dynamisme et les multiples facettes de la profession, dont l’exercice requiert une bonne capacité d’adaptation afin d’avoir de l’impact au sein de l’entreprise, et de la société. Leur élection montre également l’ambition de consolider les ponts avec le monde politique et académique, et avec d’autres organisations professionnelles, belges ou internationales, accroissant par ce biais la visibilité de la profession de juriste d’entreprise.

Els Steen a entamé sa carrière au Barreau d’Anvers. En 2004 elle décide de rejoindre le groupe Delhaize comme juriste d’entreprise, où elle se familiarise avec les tenants et aboutissants de ce secteur en continual mouvement. Sur le plan juridique, elle se construit une expérience diversifiée entourée d’une équipe de collègues juristes d’entreprise. En 2012, elle devient Vice-President Legal Affairs chez Delhaize Belgique et rejoint en 2016 la maison mère Ahold Delhaize, où elle occupe actuellement, depuis 2021, le poste de CLO (Chief Legal Officer) Europe et Indonésie. Lors du mandat précédent du Conseil de l’IJE, Els Steen occupait la fonction de Vice-Présidente au sein du Comité Exécutif (ExCo). Elle est également membre du Comité Exécutif de l’European Company Lawyers Association (ECLA).

Les vingt juristes d’entreprise élus comme membres du Conseil sont : **Filip Beyers** (Proviron), **Véronique Boveroux** (ULiège), **Christine Declercq** (Synegrid), **Pierre-François Delneste** (Proximus), **Nicolas Istan** (Novartis), **Julie Loffet** (Sogepa), **Delphine Melkebeke** (Puratos), **Els Ponnet** (BNP Paribas Fortis), **Sybille Pringot** (Engie), **Cristina Rossi** (Coca-Cola Services), **Donovan Sheppard** (Carrier), **Els Steen** (Ahold Delhaize), **Fanny Storms** (Mithra Pharmaceuticals), **Tatyana Thys** (Proximus), **Dominique Trimpont** (ING Belgium), **Emma Van Campenhoudt** (CEPANI), **Herman Van Hecke** (KBC Groep), **Hugo Vanneuville** (ISS Facility Services BelLux), **Ellen Vantomme** (Positive Thinking Company) et **Sarah Wijns** (Terumo).

Les nouveaux Vice-Présidents de l’IJE sont **Nicolas Istan** et **Herman Van Hecke**. Les secrétaires sont **Donovan Sheppard** et **Sarah Wijns**. Le Trésorier est **Hugo Vanneuville**. Ces cinq personnes forment, avec la Présidente, le Comité Exécutif (ExCo).



Het Instituut voor bedrijfsjuristen verkiest een nieuwe Raad en Voorzitter

Els Steen werd verkozen als nieuwe Voorzitter van het Instituut voor bedrijfsjuristen (IBJ) door de recent vernieuwde Raad waarin twintig raadsleden voor een termijn van 3 jaar (2022-2024) zetelen. De kersverse Voorzitter wil er met de Raad over waken dat het beroep van bedrijfsjurist de zichtbaarheid, waardering en respect krijgt dat het verdient.

Els Steen zal, als opvolger van Marc Beyens, de nieuw samengestelde Raad van het IBJ voorzitten. Deze Raad weerspiegelt de diversiteit van het beroep en het Instituut met 20 bedrijfsjuristen uit verschillende sectoren, elk met hun eigen unieke ervaring. Hun verkiezing toont aan hoe veelzijdig en dynamisch het beroep is, waarbij een hoog aanpassingsvermogen cruciaal is om succesvol te zijn in het vak en gepaste impact te hebben binnen de onderneming en de maatschappij. Hun verkiezing toont ook de ambitie om verder bruggen te slaan tussen de politieke en academische wereld en naar andere (internationale) beroepsorganisaties om de zichtbaarheid van het beroep te versterken.

Els Steen startte haar carrière aan de Antwerpse balie. Vervolgens ging ze in 2004 als bedrijfsjurist aan de slag bij Delhaize Groep waar ze het reilen en zeilen van deze snel veranderende sector leerde kennen. Op juridisch vlak bouwde ze een rijke all-round ervaring op, omringd door een team van bedrijfsjuristen. In 2012 werd ze Vice-President Legal Affairs bij Delhaize Belgium en stapte vervolgens in 2016 over naar Ahold Delhaize waar ze momenteel, sinds 2021, de functie van CLO (Chief Legal Officer) Europa en Indonesië op zich neemt.

Tijdens het vorige mandaat van de Raad van het IBJ nam Els Steen binnen het Uitvoerend Comité (ExCo) de functie van Ondervoorzitter op. Ze is ook lid van het Uitvoerend Comité van de European Company Lawyers' Association (ECLA).

De 20 als raadslid verkozen bedrijfsjuristen zijn: **Filip Beyers** (Proviron), **Véronique Boveroux** (ULiège), **Christine Declercq** (Synegrid), **Pierre-François Delneste** (Proximus), **Nicolas Istan** (Novartis), **Julie Loffet** (Sogeca), **Delphine Melkebeke** (Puratos), **Els Ponnet** (BNP Paribas Fortis), **Sybille Pringot** (Engie), **Cristina Rossi** (Coca-Cola Services), **Donovan Sheppard** (Carrier), **Els Steen** (Ahold Delhaize), **Fanny Storms** (Mithra Pharmaceuticals), **Tatyana Thys** (Proximus), **Dominique Trimpont** (ING Belgium), **Emma Van Campenhoudt** (CEPANI), **Herman Van Hecke** (KBC Groep), **Hugo Vanneuville** (ISS Facility Services BeLux), **Ellen Vantomme** (Positive Thinking Company) en **Sarah Wijns** (Terumo).

De nieuwe **Ondervoorzitters** van het IBJ zijn **Nicolas Istan** en **Herman Van Hecke**. De Secretarissen zijn **Donovan Sheppard** en **Sarah Wijns**. De **Penningmeester** is **Hugo Vanneuville**. Deze 5 personen vormen samen met de Voorzitter **het Uitvoerend Comité (ExCo)**.

