



the global voice of  
the legal profession\*

IBA ARBITRATION COMMITTEE

# Arbitration Guide

# BELGIUM

— UPDATED NOVEMBER 2025 —

Pascal Hollander

Partner, Hollander Vermeire Dispute Resolution  
(Brussels)

Lecturer, International Arbitration,  
University of Brussels (ULB)

[pascal.hollander@hvdr.law](mailto:pascal.hollander@hvdr.law)

Maarten Draye

Member of the Brussels Bar

Guest Lecturer, International Arbitration  
KU Leuven

[maarten.draye@drayelaw.com](mailto:maarten.draye@drayelaw.com)

# Table of Contents

I.	Background	3
II.	Arbitration Laws	4
III.	Arbitration Agreements	5
IV.	Arbitrability and Jurisdiction	7
V.	Selection of Arbitrators	8
VI.	Interim Measures and Emergency Arbitration	10
VII.	Disclosure/Discovery	12
VIII.	Confidentiality	13
IX.	Evidence and Hearings	13
X.	Awards	16
XI.	Costs	18
XII.	Challenges to Awards	19
XIII.	Arbitrator Liability	21
XIV.	Recognition and Enforcement of Awards	22
XV.	Sovereign Immunity	24
XVI.	Investment Treaty Arbitration	25
XVII.	Resources	25
XVIII.	Trends and Developments	26

# I. Background

## (i) How prevalent is the use of arbitration in your jurisdiction? What are seen as the principal advantages and disadvantages of arbitration?

While the majority of disputes in Belgium are decided by state courts, arbitration is an increasingly popular method of dispute resolution, especially in international business relationships.

Generally, the perceived advantages of arbitration compared to Belgian court litigation are speed, confidentiality, flexibility of the proceedings and specialisation of the arbitrators. At the same time, especially among small and mid-sized enterprises, costs are sometimes perceived as a concern. Hence, at the domestic level, arbitration is sometimes seen as a dispute resolution method more suitable for larger companies. At the international level, the neutrality of international arbitral tribunals and the use of an easily understandable language (generally English) make arbitration a popular method of dispute resolution, regardless of the size of the parties.

## (ii) Is most arbitration institutional or ad hoc? Domestic or international? Which institutions and/or rules are most commonly used?

No statistics are available on ad hoc arbitration in Belgium. Most institutional arbitrations in Belgium take place under the rules of CEPANI, the oldest and largest Belgian arbitration and mediation centre, located in Brussels, followed by arbitrations under the rules of international arbitration institutions, such as the ICC. There are also regional or industry-focused arbitral institutions. Among the cases handled by Cepani, roughly 50 per cent are purely domestic, with the remainder often involving one non-Belgian party. Arbitration proceedings are conducted in Dutch, French and English. In the vast majority of the cases, the seat of the arbitration is Brussels.

## (iii) What types of disputes are typically arbitrated?

Most disputes under Cepani rules relate to cooperation/services agreements, transfers of shares, post-mergers and acquisitions, commercial contracts (distribution, agency, franchising) and construction.

## (iv) How long do arbitral proceedings usually last in your country?

CEPANI reports an average duration between the constitution of the arbitral tribunal and the final arbitral award of approximately 13-14 months.

## (v) Are there any restrictions on whether foreign nationals can act as counsel or arbitrators in arbitrations in your jurisdiction?

No statutory restrictions limit whether foreign nationals may act as arbitrators in Belgium. Moreover, the conditions imposed on attorneys to act before Belgian courts are not applicable to arbitration. Parties are therefore free to select the counsel of their choice, regardless of their nationality and admission to a bar association or law society.

## II. Arbitration Laws

**(i) What law governs arbitration proceedings with their seat in your jurisdiction? Is the law the same for domestic and international arbitrations? Is the national arbitration law based on the UNCITRAL Model Law?**

The Belgian law on arbitration (BLA) is included as Part VI in the Belgian Judicial Code (*Code judiciaire / Gerechtelijk Wetboek*) (BJC) and ranges from Article 1676 to 1722 BJC.

In 2013, Belgium entirely reformed its arbitration law and adopted the UNCITRAL Model Law with a number of additions. The BLA entered into force on 1 September 2013. In the *travaux préparatoires*, the Belgian legislator explained this change to reflect its desire to create an efficient arbitration-friendly legal framework. Under the same spirit, the BLA was fine-tuned on 30 December 2016 through the implementation of a few minor changes and corrections. In 2024, the legislation was updated again on a number of technical points, to further improve efficiency and respond to recent developments.

The BLA applies indistinctively to both domestic and international arbitrations with seat in Belgium, unless the parties have expressly or by implication excluded its application in a valid manner. However, parties cannot exclude the application of mandatory provisions of the BLA, a number of which are expressly listed in Article 1676, § 8 BJC.

**(ii) Is there a distinction in your arbitration law between domestic and international arbitration? If so, what are the main differences?**

The BLA does not draw a distinction between domestic and international arbitration and generally applies to all arbitrations with seat in Belgium alike.

A few exceptions, however, apply. For example, when none of the parties to an arbitration seated in Belgium is a Belgian national or resident, or a legal person with registered office or a branch office in Belgium, the parties may exclude the possibility to set aside the award in the arbitration agreement or by a later agreement. Furthermore, slightly different rules apply in situations where Belgian courts are seized in support of arbitration proceedings seated outside Belgium.

**(iii) What international treaties relating to arbitration have been adopted (eg New York Convention, Geneva Convention, Washington Convention, Panama Convention)?**

Belgium adopted the 1958 New York Convention subject to the reciprocity reservation (ie Belgium will only apply the Convention to the recognition and enforcement of awards made in the territory of another contracting State). Belgium also adopted the European Convention on International Commercial Arbitration of 1961, as well as the ICSID Convention of 1966.

**(iv) Is there any rule in your domestic arbitration law that provides the arbitral tribunal with guidance as to which substantive law to apply to the merits of the dispute?**

The arbitral tribunal shall decide the dispute in accordance with the rules of law, unless the parties have provided otherwise (Article 1710 BJC).

Where a choice of law has been made, the arbitral tribunal must apply the law chosen by the parties. Unless provided otherwise, any reference to the law of a State is deemed to refer directly to the substantive law of that State, with exclusion of its conflict-of-law rules (Article 1710, § 1 BJC).

If no choice is made, the arbitral tribunal must apply the law determined by the rules of law which it considers applicable. (Article 1710, § 2 BJC).

Arbitrators must apply rules of law and may only decide *ex aequo et bono* if they have been authorised to do so through an express agreement between the parties. (Article 1710, § 3 BJC).

Finally, in all cases, arbitral tribunals must decide contractual disputes in accordance with the contract, taking into account relevant trade usages in case the dispute is between commercial parties (Article 1710, § 4 BJC).

### III. Arbitration Agreements

**(i) Are there any legal requirements relating to the form and content of an arbitration agreement? What provisions are required for an arbitration agreement to be binding and enforceable? Are there additional recommended provisions?**

The BLA puts forward few requirements for the validity of an arbitration agreement.

In terms of substance, like any agreement under Belgian law, an arbitration agreement must have a valid object and cause and requires valid consent by parties having the capacity to contract. The key substantive requirement for an arbitration agreement under Belgian law is that it must express the intention of the parties to submit their dispute to a final resolution of their dispute through arbitration (Article 1681 BJC). All existing or future disputes involving an economic interest — or if not, which are capable of being settled — may be submitted to arbitration. Limited exceptions to this general rule can be found in specific legislation (Article 1676 BJC). While parties may refer a broad range of disputes to arbitration, the arbitration agreement must relate to a defined relationship. A blanket referral to arbitration is therefore invalid.

Parties are further free to decide whether they want to include additional procedural issues in their arbitration agreement. It is generally recommended to at least include a choice for institutional or ad hoc arbitration; the place of arbitration; a method for the appointment of arbitrators; and for the language of the arbitration. It is important to note that an arbitration agreement whereby one of the parties is given a preferential position regarding the appointment of the arbitrator(s) is invalid. This is no longer stated expressly in the BLA, but follows indirectly from the general equal treatment requirement in Article 1699 BJC.

Finally, the BLA does not put forward any formal requirements for arbitration agreements. Accordingly, unlike the New York Convention, Belgian law does not require an arbitration agreement to be in writing to be valid. The burden to prove the existence of the arbitration agreement lies on the party seeking to rely on such agreement. This burden may be satisfied, not only by a written and signed document, but by any other means that can establish a binding agreement to arbitrate between the parties, including an exchange of documents, letters, e-mails or other forms of electronic communication.

**(ii) What is the approach of courts towards the enforcement of agreements to arbitrate? Are there particular circumstances when an arbitration agreement will not be enforced?**

Belgian courts generally have a pro-enforcement approach as soon as the intention of the parties to arbitrate is apparent. When a dispute falls within the scope of an arbitration agreement, the court must declare itself without jurisdiction at the request of either party, unless the arbitration agreement is not valid or has ceased to exist (Article 1682, § 1 BJC). A defendant must raise its objection to the state court's jurisdiction in *limine litis*, that is, during the first submissions and prior to any defence on the merits. A failure to raise this objection in a timely fashion will be considered a waiver of the arbitration agreement.

As indicated above, an arbitration agreement that gives a preferential position to one party for the constitution of the arbitral tribunal is invalid and will not be enforced. Furthermore, an arbitration agreement may not be enforceable if it is irreparably pathological, or when an arbitration agreement is invoked where the dispute that has arisen is not arbitrable under Belgian law.

**(iii) Are multi-tier clauses (eg arbitration clauses that require negotiation, mediation and/or adjudication as steps before an arbitration can be commenced) common? Are they enforceable? If so, what are the consequences of commencing an arbitration in disregard of such a provision? Lack of jurisdiction? Non-arbitrability? Other?**

Multi-tier clauses are valid under Belgian law and do occur in practice.

If a clause containing an unequivocal obligation for the parties to take recourse to mediation prior to starting arbitration proceedings is raised before an arbitral tribunal, it must suspend the examination of the case at the request of a party (Article 1725, § 2 BJC). Such request must be raised *in limine litis* (i.e. at the outset of the proceedings, prior to any defence on the merits) in order to be valid. The case may be resumed as soon as any party gives notification that the mediation has failed.

**(iv) What are the requirements for a valid multi-party arbitration agreement?**

The BLA does not contain any specific requirements for multi-party arbitration agreements. Like bilateral arbitration agreements, a multi-party arbitration agreement must express the intention of all parties to submit disputes to arbitration.

Specific attention is required where the arbitration agreement contains a method to appoint the arbitral tribunal. In multi-party arbitrations, the rule that no party may have a preferential position to appoint members of the arbitral tribunal must be observed vis-à-vis all parties. Particular concerns in this connection may arise where multiple respondents would have different interests and could not jointly agree on an arbitrator, where the claimant(s) did get to appoint their arbitrator. One solution is to provide that in such case an appointing authority, for example an arbitral institution, shall appoint all members of the arbitral tribunal.

**(v) Is an agreement conferring on one of the parties a unilateral right to arbitrate enforceable?**

Under Belgian law, a hybrid clause through which the contracting parties gave to one or more parties the choice on jurisdiction once a dispute arises, is, in principle, valid. Once a party has validly exercised its choice for arbitration in accordance with the agreement, such choice becomes final and binding on all parties. In that case, the parties will be bound to submit their dispute to arbitration, provided of course that the arbitration clause itself is valid.

**(vi) May arbitration agreements bind non-signatories? If so, under what circumstances?**

Pursuant to Article 1165 (Old) of the Belgian Civil Code (BCC), agreements only bind the signatories to the agreement and cannot be extended to third parties. This general rule applies equally to arbitration agreements. An extension of the arbitration agreement to non-signatories may, however, be possible under several legal theories such as consent by conduct, assignment of contract, subrogation and legal succession of parties.

**(vii) How do the courts in the jurisdiction determine the law governing the arbitration agreement?**

Belgian courts will first look whether the parties have chosen a law to apply to the arbitration agreement.

In application of the rule of separability of the arbitration agreement, the parties may first expressly choose a law to govern the arbitration agreement separately (possibly differing from the law applicable to underlying contract).

Alternatively, depending on the wording and/or the circumstances of the case, a general choice-of-law clause in the contract of which the arbitration clause forms part may be interpreted to extend to the arbitration clause (thus constituting a direct choice), or be interpreted to constitute an implicit choice of the law governing the arbitration clause.

Where no choice is made, Belgian courts will apply the law of the place of arbitration (see Article 1717, § 3, a), i. BJC and Article 1721, § 1, a), i. BJC).

**(viii) Do courts in your jurisdiction distinguish between the seat (or legal place) of the arbitration and the venue of meetings/hearings?**

The BLA expressly distinguishes between the seat of arbitration and the venue of hearings and meetings (Article 1701 BJC).

Without prejudice to the determined place of arbitration and unless the parties have agreed otherwise, the arbitral tribunal may hold hearings and meetings at any place it deems appropriate, provided it has consulted the parties on the matter (Article 1701, § 2 BJC).

The place (or seat) of arbitration is a legal concept, which inter alia determines the applicability of the BLA (Article 1676, §§ 6 and 7 BJC) and the jurisdiction of the Belgian courts (Article 1680 BJC) as a supporting court ('juge d'appui') or for the annulment of an award.

**(ix) Are blockchain- and NFT-related disputes arbitrable in your jurisdiction?**

As discussed below, Article 1676 BJC operates a broad double criterion of arbitrability, allowing for arbitration of most commercial disputes, unless there is a legal exception. There is no statutory provision excluding the arbitrability of blockchain and/or NFT-related disputes from arbitration.

Consequently, provided that a dispute arising from blockchain and/or NFTs falls within the scope of the general arbitrability criteria, they may be submitted to arbitration under Belgian law.

**(x) Are there circumstances in which courts find that a valid arbitration agreement has become inoperable?**

Only in exceptional circumstances can a valid arbitration agreement become inoperable. For example, when the parties refer the dispute to a non-existent arbitral institution, when it cannot be ascertained whether the parties intended to refer the dispute to arbitration or court proceedings, when the parties named an arbitrator in their agreement who cannot serve in the proceedings, or when the parties agree on such strict conditions for the appointment of an arbitrator that no suitable person can be identified.

However, since the Belgian legislator's policy is to favour arbitration to the extent possible, Belgian courts generally endeavour to uphold arbitration agreements when the intention of the parties to arbitrate can be clearly ascertained, despite the existence of ambiguities regarding certain modalities of the agreement.

## **IV. Arbitrability and Jurisdiction**

**(i) Are there types of disputes that may not be arbitrated? Who decides – courts or arbitrators – whether a matter is capable of being submitted to arbitration? Is the lack of arbitrability a matter of jurisdiction or admissibility?**

Pursuant to Article 1676 BJC, unless any restrictions exist in specific legislation, any dispute involving an economic interest may be submitted to arbitration. Disputes not involving an economic interest may be submitted to arbitration if they are available for settlement.

Under this definition, most commercial disputes are arbitrable, with the exclusion of certain particular issues reserved by specific laws to fall under the exclusive competence of courts.

It is worth noting that the Belgian Supreme Court in 2023 reversed its long-standing jurisprudence limiting the arbitrability of disputes relating to the termination of exclusive distribution agreements. Moreover, the general nature of the Supreme Court leads to the expectation that its holding will apply mutatis mutandis to disputes about commercial agency agreements carried out in Belgium. It can therefore be expected that, going forward, Belgian courts will uphold

arbitration clauses in both exclusive distribution and commercial agency agreements carried out in Belgium, regardless of the law chosen by the parties to govern their contract.

Specific legislation restricting the arbitrability of disputes can be found with regard to, for example, labour law, disputes involving consumers and certain insurance contracts.

The issue of arbitrability is generally considered an issue of jurisdiction and will therefore in principle be assessed by arbitral tribunals as part of the *competence-competence* principle set out in Article 1690, § 1 BJC. State courts may, however, have to assess arbitrability when a dispute falls within the scope of an arbitration agreement, either when dealing with a defence of denial of jurisdiction or at the enforcement stage or when an application to set aside is made.

Finally, unless excluded by specific laws, public legal entities may enter into arbitration agreements only if the object is to resolve a contractual dispute. The right for public entities to conclude arbitration agreements may, however, be extended by law or royal decree (Article 1676, § 2 BJC).

**(ii) What is the procedure for disputes over jurisdiction if court proceedings are initiated despite an arbitration agreement? Do local laws provide time limits for making jurisdictional objections? Do parties waive their right to arbitrate by participating in court proceedings?**

When a dispute falls within the scope of an arbitration agreement, a court must declare itself without jurisdiction at the request of either party (Article 1682, § 1 BJC).

Such an objection to jurisdiction must be raised *in limine litis*, that is, in the first submissions and prior to any defence on the merits of the case and will, in principle, be decided by the court as a preliminary matter (thus before the merits of the dispute are reviewed).

Provided that such an objection is timely raised, the participation of a party in court proceedings is not considered a waiver of a right to arbitrate. Furthermore, the fact that proceedings concerning the validity and/or enforcement of an arbitration agreement are initiated before a State court does not prevent the commencement and/or continuation of arbitration proceedings (Article 1682, § 2 BJC).

Finally, it is worth noting that the BLA does not contain a rule that gives arbitral tribunals priority to decide on jurisdiction. If a parallel application is brought before a Belgian state court, the court will therefore address its jurisdiction if an arbitration exception is raised.

**(iii) Can arbitrators decide on their own jurisdiction? Is the principle of competence-competence applicable in your jurisdiction? If yes, what is the nature and intrusiveness of the control (if any) exercised by courts on the tribunal's jurisdiction?**

The BLA confirms the *competence-competence* principle. Pursuant to Article 1690, § 1 BJC, the arbitral tribunal may rule on its own jurisdiction and examine, for this purpose, the existence and validity of the arbitration agreement.

A decision by which the arbitral tribunal assumes jurisdiction may only be contested together with a decision on the merits (Article 1690, § 4, first sentence BJC) through an application for setting aside (Article 1717, § 3, a), i. BJC).

A party may also apply to set aside an award by which the arbitral tribunal declares that it does not have jurisdiction (Article 1717, § 3, a), i. BJC).

## V. Selection of Arbitrators

**(i) How are arbitrators selected? Do courts play a role?**

The BLA gives prevalence to party autonomy, both in selecting the number of arbitrators and their method of appointment (Article 1684, § 1 and Article 1685, § 2 BJC).

Parties may agree on the number of arbitrators, provided this is an odd number. There may be a sole arbitrator. Where an even number of arbitrators is provided for, an additional arbitrator shall be appointed by operation of law. Failing a determination of the number of arbitrators, the number of arbitrators shall be three (Article 1684 BJC).

Parties may further agree on a method to appoint the arbitral tribunal, either directly or by reference to the rules of an arbitral institution. As indicated above, such method may not give a preferential treatment to a party.

Courts may only play a role if no method has been agreed, or if the agreed method does not allow to validly secure the appointment of an arbitral tribunal. This may be the case where the agreed method is inoperable or blocked, for example where a party, an arbitrator or an appointing authority fails to act (Article 1680, § 1 and Article 1685, §§ 3 and 4 BJC). In this case, a party may turn to the president of the court of first instance for support. The president of the court must have due regard to any party agreement on arbitrator qualifications (Article 1685, § 5 BJC).

The decision by the president to appoint an arbitrator is not subject to any recourse. As an exception to the general exclusion of any recourse against the president of the court's decisions under the BLA, a decision rejecting a request to appoint an arbitrator may be appealed before the Court of Appeal (Article 1680, § 1 BJC).

## **(ii) What are the requirements in your jurisdiction as to disclosure of conflicts? Do courts play a role in challenges and what is the procedure?**

Arbitrators must be impartial and independent. Arbitrators have a statutory duty to disclose any circumstances likely to give rise to justifiable doubts as to their independence or impartiality. This is an ongoing duty, requiring an arbitrator to make additional disclosures of such circumstances at any time between the time of his or her appointment and the end of the arbitral proceedings (Article 1686, § 1 BJC). The BLA does not include any guidelines on which specific situations require disclosure. It is generally considered that the arbitrator's failure to disclose a specific circumstances does not, in and of itself, constitute a ground for challenge.

In CEPANI arbitrations, some guidance can be found in the 'Rules of Good Conduct for Procedures Organized by CEPANI', which are added as Schedule II to the CEPANI Rules (hereafter 'CEPANI Rules of Good Conduct'). However, these rules do not contain an extensive list of guidelines for specific situations. In international arbitrations, arbitrators will therefore often refer to the detailed lists contained in the IBA Guidelines on Conflicts of Interest in International Arbitration for guidance. These Guidelines have equally been used as non-binding guidance by Belgian courts.

A party may challenge an arbitrator when justifiable doubts as to his or her impartiality or independence exist, or if the arbitrator does not have the qualifications agreed upon by the parties. When a party has appointed, or participated in the appointment of an arbitrator, a challenge is only possible for reasons of which a party becomes aware after the appointment has been made (Article 1686, § 2 BJC).

Parties may agree on a challenge procedure (1687, § 1 BJC). In practice, this is generally done by reference to institutional arbitration rules, which generally provide for a challenge mechanism.

Failing an agreed challenge procedure, the parties may turn to the president of the competent court of first instance (Article 1680, § 2 and 1687, § 2 BJC). The BLA provides for a two-tier procedure: within 15 days of becoming aware of a circumstance giving rise to justifiable doubts, a party must notify a statement setting out the reasons for its challenge to the arbitrator. If an arbitrator does not resign within ten days after receiving such notification, the challenging party may turn to the president of the court of first instance, again within ten days. Pending a decision by the president of the court, the arbitral tribunal may continue the arbitration proceedings and make an award (Article 1687 BJC). The decision of the president of the court is not subject to any recourse (cf Article 1680, § 2 BJC).

In case of a resignation, failure to act or a successful challenge, the arbitrator shall be replaced in accordance with the rules governing his appointment (Article 1689, § 1 BJC). Again, the president of the court of first instance may be turned to for subsidiary support (Article 1680, § 1 and 1689, § 2 BJC). If the arbitrator who has resigned, failed to act, or was successfully challenged, was named in the arbitration agreement, the agreement shall in this case terminate by operation of law, unless the parties have provided or agree otherwise.

**(iii) Are there limitations on who may serve as an arbitrator? Do arbitrators have ethical duties? If so, what is their source and generally what are they?**

Any person above the age of 18 who is capable of entering into an agreement; is not under the supervision of a legal administrator; and has full voting rights may act as an arbitrator. The BLA does not contain any requirements or limitations with regard to education, nationality, experience or residence. Parties are free to agree on such requirements and may furthermore agree to exclude certain categories of persons. This includes the right to restrict or exclude nationalities (Article 1685, § 1 BJC).

The BLA prescribes a number of duties for arbitrators, such as the obligation for an arbitrator to complete his mission once accepted (Article 1685, § 7 BJC), the duty to be impartial and independent and the ongoing duty to disclose any circumstances that may give reasonable doubts as to such independence and impartiality (Article 1686, § 1 BJC). Further, the arbitral tribunal is the guardian of due process and must ensure the fair and equal treatment of the parties (Article 1699 BJC). However, no specific set of ethical rules for arbitrators exists. Nonetheless, a number of such ethical rules have been identified in legal doctrine: in addition to the obligations above, the arbitrator must make himself available and act with diligence, respect the confidentiality of the proceedings and make every effort to render an enforceable award.

Specific ethical rules may, moreover, be imposed by arbitration institutions. In CEPANI arbitrations, for example, arbitrators must commit to act in line with the CEPANI Rules of Good Conduct. These rules impose on arbitrators the duty to regularly inform the Cepani Secretariat of the progress of the arbitration; to immediately inform the Secretariat of any issues that could call into question his independence or impartiality; to refrain from acting as a representative or agent for the party which has appointed him or undertake any further bilateral contacts with this party or its counsel during the course of the arbitration; to show utmost impartiality during the proceedings, especially when asking questions or suggesting an amicable settlement; to proceed with diligence in rendering the award; and to treat the arbitration proceedings as strictly confidential.

**(iv) Are there specific rules or codes of conduct concerning conflicts of interest for arbitrators? Are the IBA Guidelines on Conflicts of Interest in International Arbitration followed?**

The BLA requires arbitrators to be impartial and independent and imposes on them an ongoing duty to disclose circumstances likely to raise justifiable doubt as to his or her impartiality and independence (Article 1686, § 1 BJC), but the BLA does not contain any specific rules or codes of conduct regarding conflicts of interest. In CEPANI arbitrations, the CEPANI Rules of Good Conduct contain some general guidelines and require arbitrators to communicate any potential issue to the Cepani Secretariat. However, these rules do not contain any specific guidelines either.

In practice, in international arbitration proceedings seated in Belgium, arbitrators will tend to refer to the specific lists set out in the IBA Guidelines on Conflicts of Interest in International Arbitration for guidance.

## **VI. Interim Measures and Emergency Arbitration**

**(i) Can arbitrators issue interim measures or other forms of preliminary relief? What types of interim measures can arbitrators issue? Is there a requirement as to the form of the tribunal's decision (order or award)? Are interim measures issued by arbitrators enforceable in courts?**

Unless the parties have agreed otherwise, arbitral tribunals have the power to order the interim or protective measures they deem necessary. Similar to courts, arbitrators can order three sorts of interim measures: preliminary measures of investigation, preliminary measures aimed at a temporary arrangement of the situation between the parties and (in case of urgency) interim relief. Arbitral tribunals may not, however, order the attachment of goods (Article 1691 BJC).

Parties may agree to exclude or limit the possibility for arbitrators to decide on interim or protective measures.

Arbitral tribunals finally decide or render interlocutory decisions by means of one or several awards (Article 1713, § 1 BJC). The BLA does not put forward any requirements of form for interim or conservatory measures, which may therefore be issued under the form of either an award or a procedural order.

Arbitral awards may be enforced as such. Furthermore, regardless of the seat of the arbitration, Belgian courts enforce interim or conservatory measures issued as procedural orders, under generally the same conditions as arbitral awards. The Court may, however, require appropriate security (Article 1696 BJC). Enforcement of interim or conservatory measures may only be refused on the grounds listed in Article 1697 BJC, which mirror the grounds for refusal of enforcement of arbitral awards discussed below.

To increase the chance of voluntary compliance, arbitrators may order a party to pay a penalty (*'astreinte'*/*'dwangsom'*) in case of non-compliance with an injunction (Article 1713, § 7 BJC and Articles 1385 bis through octies BJC). Arbitral tribunals may in any case draw the consequences they deem appropriate from a party's refusal to comply with its decision on interim measures, regardless of the form in which this decision was taken.

**(ii) Will courts grant provisional relief in support of arbitrations? If so, under what circumstances? May such measures be ordered after the constitution of the arbitral tribunal? Will any court ordered provisional relief remain in force following the constitution of the arbitral tribunal?**

The competent courts of first instance may grant provisional relief in support of arbitration proceedings, regardless of whether such arbitration is seated in Belgium or abroad. The court has the same powers as it does in relation to state court proceedings, but shall take into account the 'specific features' of arbitration (Article 1698 BJC).

An application for interim measures from the courts is not considered a waiver of arbitration (Article 1683 BJC).

Accordingly, with the exception of the possibility to order attachments or hear ex parte applications, the power of courts and tribunals to order interim or conservatory measures run parallel. While parties may restrict the powers of tribunals (Article 1691 BJC), they may not restrict the court of first instance's powers.

Court ordered provisional relief ordered prior to the constitution of the arbitral tribunal will in principle remain in force following the constitution of the arbitral tribunal. If the facts on which such provisional relief has been ordered have changed, a party may, however, always apply to the arbitral tribunal (or, in light of the circumstances, the court) for new provisional relief or a modification of the measures imposed.

**(iii) To what extent may courts grant evidentiary assistance/provisional relief in support of the arbitration? Do such measures require the tribunal's consent if the latter is in place?**

The BLA provides the parties with an opportunity to seek support of the president of the court of first instance for obtaining 'all necessary measures for the taking of evidence' (Article 1680, § 4 and 1708 BJC). Such measures may include measures to preserve evidence, to obtain the right to visit a site, to order a (third) party to produce documents, etc. The president's decision is not subject to any recourse.

When the arbitral tribunal has been constituted, this recourse requires prior approval from the arbitral tribunal (Article 1708 BJC). The tribunal, may deny such approval if it is of the opinion that the intended measures are inadmissible or irrelevant for the ongoing proceedings, may subject its approval to conditions, and may impose a time limit for such an application. The tribunal is, moreover, not required to suspend the proceedings pending a ruling of the president of the court.

One important exception applies, which is, however, rare in practice. In case of a dispute regarding the forgery of authentic instruments (*'acte authentique'*/*'authentieke akte'*), the tribunal must give the parties the opportunity to bring the dispute before the competent court of first instance. The arbitral tribunal may impose a time limit (Article 1680, § 5 and Article 1700, § 5 BJC). In this case, the arbitration is suspended by operation of law until the date on which the ruling of the court of first instance is notified by one of the parties. The court of first instance decides in first and last instance.

**(iv) Are decisions by emergency arbitrators enforceable in your country?**

The BLA does not distinguish between interim and protective measures taken by an emergency arbitrator or an arbitral tribunal. It is generally considered that interim and conservatory measures under Article 1691 BJC, whether taken by an arbitral tribunal or an emergency arbitrator, are enforceable under Articles 1696 and 1697 of the BJC. This applies both to measures taken in (emergency) arbitration procedures with seat in Belgium and abroad.

**(v) What is the approach in your country to anti-suit injunctions or injunctions by arbitrators preventing parties from initiating litigation proceedings?**

Belgian law is silent on the issue of anti-suit injunctions. It is, however, generally considered that anti-suit injunctions are not available before Belgian courts, as this would contravene public policy.

Moreover, when injunctions impact the judicial systems of other EU Member States, the issue is governed by EU legislation. Under the Brussels I Recast Regulations, Belgian state courts may not issue anti-suit injunctions in support of arbitration proceedings when it would impede a party from initiating or continuing court proceedings in another EU Member State and vice versa.

Finally, Belgian courts will likely not uphold an anti-suit injunction issued by an arbitral tribunal that would prevent a party from acting before Belgian courts.

**(vi) Do courts provide assistance in aid of foreign-seated arbitrations, including for disclosure of documents?**

Article 1708 BJC allows the parties to an arbitration, with the leave of the arbitral tribunal, to ask the President of the competent Court of First Instance to order '*all necessary measures for the taking of evidence*'. This provision applies to both domestic and foreign-seated arbitrations (Article 1676, § 8 BJC). Such measures may include an order for the disclosure of documents.

## VII. Disclosure/Discovery

**(i) What is the general approach to disclosure or discovery in arbitration? What types of disclosure/discovery are typically permitted?**

'American-style discovery' does not exist in proceedings before Belgian courts and is considered to be inappropriate in arbitration proceedings by the unanimous Belgian doctrine.

Disclosure of documents is possible in litigation before the Belgian courts, albeit under very strict conditions and limited to a specific document only. The same restrictions do not apply to arbitration. Arbitral tribunals may order the production of documents according to the terms they deem appropriate and impose a penalty ('*dwangsom*'/'*astreinte*') in case of non-compliance (Article 1700, §4 BJC). This includes the possibility to order defined categories of documents, which is not available in proceedings before Belgian state courts. In cases with an international element, the IBA Rules on the Taking of Evidence often serve as guidance for matters of document production.

Given their lack of *imperium*, arbitral tribunals cannot order production of documents by third parties. As discussed above, parties may in that case seek support of the president of the competent court of instance (Article 1708 BJC).

**(ii) What, if any, limits are there on the permissible scope of disclosure or discovery?**

If the parties have not agreed to the scope of disclosure or discovery, this will be determined by the arbitral tribunal after consulting the parties (Article 1700, § 4 BJC).

The possibility for parties to agree or arbitrators to decide on a system for disclosure or discovery is not subject to particular limitations. It is, however, unanimously agreed in Belgian doctrine that US-style discovery is not appropriate in arbitration proceedings, unless parties expressly agree.

**(iii) Are there special rules for handling electronically stored information?**

The BLA does not contain any special rules or guidance for handling electronically stored information. Parties, and absent any agreement between them, arbitrators, have full discretion to decide how to deal with electronically stored information. However, like any data storage, data stored electronically or otherwise in relation to arbitration proceedings may fall within the scope of the EU's General Data Protection Regulation ('GDPR').

## VIII. Confidentiality

**(i) Are arbitrations confidential? What are the rules regarding confidentiality?**

The BLA does not contain any rules on the confidentiality of arbitration proceedings. The confidentiality of arbitration proceedings is left to party autonomy.

Arbitrations under CEPANI Rules are confidential unless there is a legal obligation to disclose or the parties have agreed otherwise (Article 26 CEPANI Rules 2023). These Rules further stipulate that arbitration hearings are not open to the public and that arbitral awards will not be published without prior consent of the parties. Finally, arbitrators are bound to confidentiality under the CEPANI Rules of Good Conduct.

Many institutional rules, however, do not contain such a provision. Absent any institutional provision to this effect, parties wishing to ensure the confidentiality of the arbitration proceedings and/or the information disclosed during such proceedings, must include a confidentiality clause in their (arbitration) agreement, or request the arbitral tribunal to include a confidentiality rule in the terms of reference or a procedural order.

**(ii) Are there any provisions in your arbitration law as to the arbitral tribunal's power to protect trade secrets and confidential information?**

The BLA does not contain any specific provisions on trade secrets and confidential information. Such issues may, however, be addressed by the parties in their agreement or be the object of statutory provisions in the law applicable to the contract and/or the parties. Absent any specific agreement between the parties and subject to any requirements under other the applicable laws, the arbitral tribunal has the power to decide on issues relating to trade secrets and confidentiality of information as part of its general power to conduct the proceedings in Article 1700, § 2 BJC.

**(iii) Are there any provisions in your arbitration law as to rules of privilege?**

While the BLA itself does not contain any specific provisions on privilege of information, certain information may be privileged under the applicable law pursuant to rules of professional secrecy: for example, under Belgian law, members of certain professions (such as doctors, physicians, pharmacists and attorneys) may not disclose information obtained through their profession. A violation of this secrecy may give rise to criminal penalties.

## IX. Evidence and Hearings

**(i) Is it common that parties and arbitral tribunals adopt the IBA Rules on the Taking of Evidence in International Arbitration to govern arbitration proceedings? If so, are the Rules generally adopted as such or does the tribunal retain discretion to depart from them?**

The IBA Rules on the Taking of Evidence are well known amongst arbitration practitioners and arbitrators in Belgium. No prevailing practice exists, however, with regard to their application. These Rules may be adopted as binding, but are more

often referred to as a source for guidance. Even when the Rules are not adopted or explicitly referred to, arbitral tribunals sometimes seek guidance from the IBA Rules as a codification of ‘rules of best practice in international arbitration’.

**(ii) Are there any limits to arbitral tribunals’ discretion to govern the hearings?**

Pursuant to Article 1705, § 1 BJC, the Arbitral Tribunal is required to organise a hearing where a party requests to be heard.

Beyond this, Article 1700, § 2 BJC confers the discretion on the arbitral tribunal to set the procedural rules when no agreement between the parties exists. The parties and, absent agreement, the arbitral tribunal are free to organise the arbitral procedure as they see fit, within the limits imposed by the general principles of equality between the parties, the right of defence and the right to a fair trial (Article 1699 BJC). This includes the possibility to organise the hearing remotely or in a hybrid manner (Article 1705, § 1 BJC).

**(iii) How is witness testimony presented? Is the use of witness statements with cross examination common? Are oral direct examinations common? Do arbitrators question witnesses?**

The BLA does not contain any rules on witness testimony and, more generally, allows parties and arbitrators maximum flexibility in the organisation of the taking of evidence in arbitral proceedings, including the way in which witness testimony is presented (Article 1700, § 4 BJC).

Witness evidence in commercial disputes in Belgian state courts is not common, and generally limited to written affidavits. Oral hearing of witnesses before Belgian state courts is rare in practice. Furthermore, cross examination does not exist, as witnesses are questioned by the court rather than parties’ counsel.

The use of witnesses is, however, becoming increasingly common in arbitral proceedings involving Belgian parties. In line with international arbitration practice, the appearance of witnesses will usually consist of a written phase, whereby the party wishing to rely on a witness will submit a written testimony alongside its written submissions first, in order to allow the opposing party but also the arbitral tribunal to assess whether oral testimony would be necessary. On its own motion or at the request of the other party, the arbitral tribunal may subsequently order that the witness will be heard during a witness hearing. Generally, such witness hearings will combine elements of both common and civil law traditions: while parties’ counsel will be given the opportunity to direct and cross-examine the witness, the hearing is administered by the arbitral tribunal, which may intervene and ask its own questions.

**(iv) Are there any rules on who can or cannot appear as a witness? Are there any mandatory rules on oath or affirmation?**

The BLA does not restrict who can appear as witnesses and allows parties and arbitrators to organise the taking of evidence – including witness evidence – in arbitral proceedings as they see fit. The arbitral tribunal will thereby decide the weight to give to the evidence brought forward (Article 1700, § 3 and 4 BJC).

Witnesses do not take an oath or affirmation (Article 1700, § 4 BJC). In practice, however, arbitral tribunals with seat in Belgium will nonetheless often underscore the importance of giving truthful testimony.

**(v) Are there any differences between the testimony of a witness specially connected with one of the parties (eg legal representative, director or employee) and the testimony of unrelated witnesses?**

The BLA does not draw a distinction between different types of witnesses and leaves it up to the arbitral tribunal to decide the weight to give to the evidence brought forward (Article 1700, § 3 BJC).

**(vi) How is expert testimony presented? Are there any formal requirements regarding independence and/or impartiality of expert witnesses?**

The BLA confirms the possibility to hear experts during a hearing (Article 1707, § 3 BJC), but does further not regulate the intervention by party-appointed experts. Accordingly, it is up to the parties and arbitrators to organise whether and under which conditions expert testimony should be organised (Article 1700, §§ 1 and 2 BJC). The BLA therefore does not contain any formal requirements regarding a party-appointed expert witness independence and impartiality. However, as part of its discretion to assess the weight of evidence (Article 1700, § 3 BJC), arbitral tribunals will typically assess the independence and impartiality of the expert witness before giving weight to his or her testimony.

**(vii) Is it common that arbitral tribunals appoint experts beside those that may have been appointed by the parties? How is the evidence provided by the expert appointed by the arbitral tribunal considered in comparison with the evidence provided by party-appointed experts? Are there any requirements in your jurisdiction that experts be selected from a particular list?**

Absent any contrary agreement between the parties, the arbitral tribunal may appoint its own experts, either at its own motion or at the request of a party (Article 1707 BJC). The tribunal should consult the parties on the need to appoint an expert and the modalities of the expert's mission. The arbitral tribunal is not under any obligation to select an expert from a particular list.

The arbitral tribunal is further not bound by the findings and opinions of the expert it appointed. As is the case for evidence brought forward by party-appointed experts, the arbitrators have the discretion to assess the weight and importance of the evidence.

Tribunal appointed experts may be challenged based on the same procedure and on the same grounds as arbitrators (i.e. lack of impartiality or independence, lack of qualifications agreed upon by the parties) (Articles 1686, 1687 and 1707, § 4 BJC).

**(viii) Is witness conferencing ('hot-tubbing') used? If so, how is it typically handled?**

Witness conferencing is allowed, as parties and arbitrators have the discretion to organise expert testimony as they see fit (Article 1700, §§ 1 and 2 BJC) and the possibility to hold an expert hearing is expressly confirmed by the BLA (Article 1707, §§ 2 and 3 BJC).

No typical practice for the hearing of expert witnesses exists in Belgium.

**(ix) Are there any rules or requirements in your jurisdiction as to the use of arbitral secretaries? Is the use of arbitral secretaries common?**

The arbitral tribunal may appoint an arbitral secretary provided that (i) the parties agree to such appointment and (ii) that no decision-making power is delegated to the arbitral secretary.

Specific requirements may be imposed by institutional arbitration rules. Such requirements include inter alia the tribunal secretary's disclosure duties, the form of consent, issues of remuneration and acceptable tasks. In 2025, CEPANI revised its guidelines on the use of arbitral secretaries, which are available on its website.

The use of arbitral secretaries is not widespread in smaller or domestic cases. In international arbitrations, however, their use is becoming increasingly common, especially in complex cases.

**(x) Are there any ethical codes or other professional standards applicable to counsel and arbitrators conducting proceedings in your jurisdiction?**

There is no ethical code or a set of ethical standards specifically applicable to counsel involved in arbitration proceedings in Belgium. However, Belgian lawyers are bound by their bar rules, also when participating in arbitration proceedings, regardless of whether these are seated in Belgium or abroad.

Depending on their bar registration, Belgian lawyers are subject to the ethical rules of either the Order of Flemish Bars or of the Order of the French speaking and German speaking Bars. Additionally, the Code of Conduct for European Lawyers may also be relevant. It is worth noting that Article 7.18 of the Ethical Rules of the Order of French Speaking and German Bars, provides for an exception to the restrictions on lawyer-witness contact for contractual methods of dispute resolution, such as arbitration. The Order of Flemish bars abolished such restrictions altogether in 2020.

There is neither a general code of ethics nor a specific set of professional standards for arbitrators in Belgium. The BLA has some provisions related to the independence and impartiality of arbitrators (Article 1686 BJC) and their duty to treat the parties fairly and equally (Article 1699 BJC). Moreover, such rules may be imposed by arbitral institutions. For example, the CEPANI Rules of Good Conduct include some requirements relating to communications to the Secretariat, independence and impartiality and due diligence.

Finally, like other professions, lawyers and persons acting as arbitrator are subject to general legal obligations in relation to data protection, anti-money laundering, etc.

**(xi) Have arbitral institutions in your jurisdiction implemented rules empowering arbitral tribunals to exclude counsel based on conflicts of interest or other reasons?**

The CEPANI Rules do not include an express provision granting an arbitral tribunal the power to exclude counsel based on conflicts of interest or other reasons.

**(xii) Has your jurisdiction adopted any rules with regard to remote hearings and have there been any court decisions on same?**

In 2024, the Belgian legislator codified the practice of remote hearings in arbitration, which increased during the Covid-19 pandemic.

Accordingly, the arbitral tribunal has the power to decide whether to hold the hearing in person, remotely or a combination of both, after consulting the parties (Article 1705, § 1 BJC). This includes the possibility to hold the hearing remotely over the objection of a party.

## **X. Awards**

**(i) Are there formal requirements for an award to be valid? Are there any limitations on the types of permissible relief?**

An arbitral award must be rendered with an absolute majority of votes. The award must be made in writing and signed by the arbitrators, or at least by a majority of them. If an arbitrator is unable or unwilling to sign, that fact must be recorded in the award. The reasons for the award must be stated, even where arbitrators act as *amiables compositeurs*. The parties may not discharge the arbitrators of this obligation. In addition to the decision, the award must contain the name and address of the arbitrator(s) and the parties as well as a description of the object of the dispute. The award must be dated and it must mention the seat of the arbitration (Article 1713 BJC).

An arbitral tribunal with seat in Belgium may issue the arbitral award on paper, in electronic format, or both, unless a party opposes to the issuance in electronic form (Article 1717, § 3 BJC). To be valid, an award rendered in electronic form must be signed through a qualified electronic signature in the meaning of the EU's eIDAS-regulation.

Unless the parties have agreed on any limitations, arbitral tribunals may order the same relief as state judges, with some limited exceptions such as on disputes on forgery of authentic instruments (Article 1700, § 5 BJC). Arbitral tribunals have the power to impose a penalty ('astreinte' / 'dwangsom') in accordance with the general provisions of Articles 1385 bis to octies BJC (Article 1713, § 7 BJC). This is a predetermined amount which the non-complying party has to pay for each occasion or for the duration of its failure to comply with an order by the arbitral tribunal. Such penalties may, however, not be imposed to ensure compliance with decisions ordering payment of sums of money. Difficulties in enforcing the

penalty against a party located in Belgium fall within the power of the judge of attachments, which is a special division of the court of first instance.

**(ii) Can arbitrators award punitive or exemplary damages? Can they award interest? Compound interest?**

Under Belgian law, the question of which type of damages and interest can be awarded is considered to be an issue of substantive law. Hence, no specific provisions regarding this issue are included in the BLA.

Under Belgian (substantive) law, damages are aimed at the reparation of harm incurred by a party. Punitive or exemplary damages are unlawful and not enforceable under Belgian law.

In order to ensure full compensation, courts or arbitral tribunals may award interest. Compound interest is possible under certain conditions (cf. Article 1154 (Old) BCC)).

**(iii) Are interim or partial awards enforceable?**

Awards may be enforced when they have the authority of *res judicata*. Pursuant to Article 1719, § 2 BJC, this is the case when the award can no longer be contested before the arbitrators and has duly been notified. Interim awards or partial awards that meet the abovementioned criteria are enforceable.

**(iv) Are arbitrators allowed to issue dissenting opinions to the award? What are the rules, if any, that apply to the form and content of dissenting opinions?**

The BLA is silent on the issue of dissenting opinions. Article 1713, § 3 BJC only provides that the award must mention when one of the arbitrators disagrees and refuses to sign. Moreover, the award may mention whether it was rendered by a majority or unanimously.

While no case law relating to the possibility of a dissenting opinion exists that confirms this view, it is considered that dissenting opinions are allowed under Belgian law, provided that the secrecy of the arbitral tribunal's deliberation is strictly observed.

**(v) Are awards by consent permitted? If so, under what circumstances? By what means other than an award can proceedings be terminated?**

The parties may settle their dispute at any time during the arbitral proceedings and request the arbitral tribunal to record such a settlement in a consent award, provided it does not violate public policy (Article 1712, § 1 BJC). A consent award is subject to the same formalities as any other award (Article 1712, § 2 and Article 1713 BJC).

Where the parties do not request for their settlement to be recorded in an award, the proceedings may be terminated by means of a termination order (Article 1714, § 2 BJC).

**(vi) What powers, if any, do arbitrators have to correct or interpret an award?**

Within one month following receipt of the award a party may request the arbitral tribunal to correct any clerical error, error in computation, typographical error or any error of a similar nature in the award. Within the same time limit, a party may equally request the arbitral tribunal to give an interpretation of a specific point or part of the award. In both cases, the request must be notified to the other party.

If the tribunal considers the request to be justified, it shall make the correction or give the interpretation within one month of receipt of the request. The tribunal's decision shall take the form of an award (Article 1715, § 1 BJC).

The tribunal may also, within one month of making the award, correct the award on its own initiative (Article 1715, § 2 BJC).

When it is no longer possible to bring together the arbitrators, the request for correction or interpretation of the award shall be made to the court of first instance. The arbitral tribunal must make such an additional award within two months following the request (Article 1715, § 6 BJC).

Finally, where the arbitral tribunal has omitted to decide on an issue in dispute (*infra petita*), a party may request the arbitral tribunal to make an additional award within one month following receipt of the award (Article 1715, § 3 BJC).

## **XI. Costs**

### **(i) Who bears the costs of arbitration? Is it always the unsuccessful party who bears the costs?**

The BLA does not contain any specific provision or standard for the allocation of arbitration costs.

The final decision on which party is to bear the costs of arbitration lies with the arbitral tribunal, taking into account any agreements by the parties in this connection (Art 1713, § 6 BJC). Unless the parties have agreed otherwise, the arbitral tribunal has the discretion to apply the allocation rule it considers most appropriate. In practice, the arbitral tribunal will often apply the ‘costs follow the event’ rule in some form, taking into account the (relative) success of the parties in the proceedings and such other elements it considers relevant for the allocation of costs (e.g., the behaviour of the parties during the proceedings).

### **(ii) What are the elements of costs that are typically awarded?**

Unless the parties agree otherwise, two types of costs may be awarded (Article 1713, § 6 BJC).

The first type of costs is ‘arbitration costs’ in the strict sense, consisting of the fees and expenses of the arbitrators and the administrative charges of the arbitration institution.

The second type are ‘party costs’, which include costs incurred by the parties in the course of the arbitration, such as defence costs (e.g., attorney fees, party expert fees and more recently also management and in-house costs of the parties themselves) as well as costs relating to the proceedings itself (e.g., translators, court reporters, and costs of the hearing venue). Defence costs will generally have to be demonstrated. It is generally considered that only reasonable costs are recoverable. This limitation is imposed by certain institutional arbitration rules.

### **(iii) Does the arbitral tribunal have jurisdiction to decide on its own costs and expenses? If not, who does?**

In principle, it is accepted that the arbitral tribunal decides on its own fees and expenses following consultation of the parties on the method of calculation. In institutional arbitrations, however, this power is restricted as the arbitrators’ fees are generally fixed by the institution by application of cost scales or schedules whereby fees are calculated on the basis of either the amount in dispute or on the basis of time spent.

### **(iv) Does the arbitral tribunal have discretion to apportion the costs between the parties? If so, on what basis?**

Absent any agreement between the parties, the tribunal has the discretion to apportion the costs of the arbitration between the parties, with application of the method it considers most appropriate (Article 1713, § 6 BJC).

### **(v) Do courts have the power to review the tribunal’s decision on costs? If so, under what conditions?**

The BLA does not provide for a specific procedure to challenge or appeal decisions on costs before state courts.

Like any other part of the award, the decision on costs may only be the object of an application to set aside on the grounds set out in Article 1717 BJC (e.g. where the fees of the arbitrators have not been set in accordance with an agreement between the parties or by reference to an institutional schedule).

## XII. Challenges to Awards

### (i) How may awards be challenged and on what grounds? Are there time limitations for challenging awards? What is the average duration of challenge proceedings? Do challenge proceedings stay any enforcement proceedings? If yes, is it possible nevertheless to obtain leave to enforce? Under what conditions?

Arbitral awards may be challenged before the competent court of first instance on the basis of the limited grounds and under the conditions set out in Article 1717 BJC. Such challenge may target the award as a whole or in part and requires that the issues in dispute can no longer be contested before the arbitrators.

Article 1717, § 3, a) BJC lists the grounds that must be raised by the challenging party. Pursuant to this provision, an arbitral award may be set aside if the challenging party demonstrates:

- i) The incapacity of a party to the arbitration agreement, invalidity of the agreement (where the arbitral tribunal assumed jurisdiction) or the validity of an arbitration agreement (where the tribunal declared itself without jurisdiction).
- ii) A violation of the rights of defence of the applicant;
- iii) That the dispute did not fall under the scope of the arbitration agreement;
- iv) That the arbitral award was not reasoned;
- v) An irregularity in the composition of the arbitral tribunal or in the arbitral procedure;
- vi) That the arbitral tribunal exceeded its powers;

Article 1717, § 3, b) further lists grounds that may also be raised *ex officio* by the court of first instance. This is the case where:

- i) The subject matter of the dispute is not capable of settlement by arbitration;
- ii) The award is contrary to public policy;
- iii) The award was obtained by fraud.

An application to set aside must be brought within three months of receipt of the award (Article 1717, § 4, a) BJC)).

There are four exceptions to this rule.

1. Where an application for an additional award, a correction or an interpretation is made, the three-month limitation period starts to run from the date of receipt of the decision by the arbitral tribunal on such application. This does not prevent a party from commencing setting aside proceedings against the original award earlier;
2. For arbitration proceedings seated in Belgium, Article 1717, § 7 BJC requires a party that objects to a decision granting leave of enforcement and wishes to – but has not yet filed an application to – set aside the arbitral award, to do so in the same proceedings. As both recourses are subject to different limitation periods (third party objections to *exequatur* decisions must be brought within one month of notification by bailiff (Article 1720, § 6 BJC)), the longer applicable limitation period applies;
3. For a challenge of the award based on fraud, the three-month period only starts to run upon the discovery of such fraud (Article 1717, § 4, b) BJC));
4. A partial award confirming jurisdiction may only be challenged together with an award on the merits (Article 1690, § 4 BJC).

Under the BLA, the setting aside of an arbitral award is the option of last resort. Article 1717 BJC contains various mechanisms to preserve the award if possible: certain grounds can only lead to annulment if they have had an impact on the award (Article 1717, § 3, a), ii. and v. BJC)); parties are estopped from relying on certain grounds which they have failed to raise during the arbitration proceedings without legitimate reason (Article 1717, § 5 BJC); the court of first

instance may remit the award to the arbitral tribunal if possible (Article 1717, § 6 BJC – see above); and where the part of the award affected by the ground for annulment can be separated from the rest of the award, only that part shall be annulled (Article 1717, § 2 BJC).

Setting aside proceedings are commenced by way of writ of summons or voluntary appearance by all parties before the court of first instance with territorial competence over the seat of the arbitration. The decision of the court of first instance is final, subject to limited recourse before the Supreme Court only (Article 1680, § 5 BJC). Proceedings before the court of first instance generally last between 12 and 18 months.

An action to set aside does not suspend the arbitration proceedings (in case the challenged award does not terminate the arbitrators' mandate), nor does it prevent the enforcement of the award. The enforcement proceedings may, however, be suspended pending the outcome of the setting aside proceedings (Article 1721, § 2/1 BJC).

**(ii) May the parties waive the right to challenge an arbitration award? If yes, what are the requirements for such an agreement to be valid?**

Parties may exclude or limit the right to apply for an arbitral award to be set aside if and only if none of the parties is either a Belgian national or resident, or a legal person with seat or branch in Belgium (Article 1718 BJC).

Any waiver of such rights must be included in an 'express statement' in the arbitration clause or an express later agreement. This requirement is interpreted strictly: a reference by the parties in the arbitration agreement or in the terms of reference to institutional arbitration rules providing for a general waiver of any right of recourse is therefore not sufficient.

Article 1718 BJC is of public policy. Agreements that exclude – or would have the effect of excluding – parties with a link to Belgium from bringing an application to set aside an award, are therefore null and void by operation of law.

**(iii) Can awards be appealed in your country? If so, what are the grounds for appeal? How many levels of appeal are there?**

An arbitral award cannot be appealed before state courts, which may only hear applications to set aside an award on the basis of the limited grounds enumerated in Article 1717 BJC.

An appeal before a second arbitral tribunal is possible only if the parties have expressly included this possibility in the arbitration agreement. In practice, this is rare, except in some industry-specific or domestic arbitrations.

Unless the parties agreed otherwise, such an appeal must be brought within one month of the notification of the award (Article 1716 BJC). The BLA does not restrict the grounds on which such an appeal can be brought.

**(iv) May courts remand an award to the tribunal? Under what conditions? What powers does the tribunal have in relation to an award so remanded?**

The BLA contains two mechanisms to ensure that the arbitration proceedings lead to an enforceable award by sending the award back to the original arbitral tribunal: additional awards and remittance of the award.

First, as discussed above, where the arbitral tribunal has omitted to decide on an issue in dispute (*infra petita*), a party may request the arbitral tribunal to make an additional award within one month following receipt of the award (Article 1715, § 3 BJC).

Second, when hearing an application to set aside an award, the court of first instance may, at its own initiative or at the request of a party, suspend the setting aside proceedings remit the arbitral award to the same arbitral tribunal with the opportunity to resume the arbitral proceedings or take any such actions as to eliminate the grounds for annulment (Article 1717, § 6 BJC)

By contrast, when upholding a request to set aside an award, the courts of first instance may neither modify the content of the decision rendered by the arbitral tribunal, nor refer the case back to the same or another arbitral tribunal after annulment. The effect of the setting aside of an award (or part thereof) is therefore that this (part of the) award is annulled and no longer exists. It is then up to the parties to decide on how to proceed. If the annulment does not affect

the validity of the arbitration agreement, either party may in principle commence new arbitral proceedings on the issues in respect of which the first award was set aside.

**(v) Is there a specialist arbitration court in your jurisdiction?**

With the aim of creating specialisation, the Belgian legislator centralised arbitration related disputes before six courts of first instance (located at the same place as the Belgian courts of appeal) (Article 1680, § 5 BJC). These courts decide in first and last instance, meaning that there is no full appeal. The only recourse available is to apply for nullity on limited procedural grounds before the Belgian Supreme Court (Article 1680, § 6 BJC).

**(vi) To what extent do courts in your jurisdiction allow arbitrators to amend and/or replace wrongly invoked law or the law not invoked by the parties (*iura novit arbiter*)? Could this be a basis to set aside the award?**

Belgian state courts are considered to know the law (*iura novit curia*), meaning that the law (including foreign law) must not be proven (Article 8.3 BCC). Belgian courts are therefore expected to research and apply the correct law to the facts brought forward by the parties, without being bound by the parties' legal qualifications. Against this background, and unless otherwise agreed by the parties, it is in principle acceptable for arbitral tribunals with seat in Belgium to determine the content of the applicable law as part of their judicial function (*iura novit arbiter*). Arbitral tribunals should, however, be mindful of their duties to guarantee due process (Article 1699 BJC) and consider at all times whether and when it is appropriate to seek the parties' input and/or reopen the debates.

This is especially true for the legal requalification of claims. Under certain conditions (e.g. respect of due process; respect of the boundaries of the dispute; and no change of the object of the claim), Belgian state courts may also requalify a party's claim. In principle, this requires the court to reopen the debates to allow the parties to take a position on the reclassification and avoid surprise decisions. However, the Belgian Supreme Court has accepted that a court may be released from the obligation to reopen the debates where it renders its decision on elements of which the parties could have expected that they be included in the court's decision and on which they have been able to present their case. While a similar approach has been accepted in relation to purely domestic arbitration proceedings, arbitral tribunals in cases with an international element should approach any requalification with appropriate restraint and should in principle always reopen the debates.

The arbitral tribunal's actions in relation to the determination of the contents of the law and/or requalification of claims could expose the award to setting aside, if they are considered to have violated a party's rights of defence on the basis of Article 1717, § 3, a), ii. BJC. However, pursuant to Article 1717, § 5 BJC, a party may not rely on this provision if, first, it was aware of the facts that compromised its ability to defend its rights during the arbitration and, second, it failed without legitimate reason to raise the issue timely before the arbitral tribunal. Furthermore, an award will not be set aside on this ground if it is established that the irregularity did not affect the outcome of the arbitral award.

## **XIII. Arbitrator Liability**

**(i) Does the arbitration law in your jurisdiction expressly provide for the immunity of arbitrators, experts, translators, interpreters and/or other participants in arbitration proceedings from civil liability in connection with their mandate? If so, are there exceptions to this immunity?**

The BLA does not contain express provisions on immunity for arbitrators, experts, translators, interpreters, and/or other participants in arbitration proceedings from civil liability in connection with their mandate.

In the past, however, Belgian courts have recognised that arbitrators enjoy immunity for actions relating to their judicial functions, similar to that of state judges.

In addition, any participant wishing to limit his or her civil liability may do so through an agreement. For certain actors, limitation of liability-clauses may be found in institutional rules (see e.g. Article 40 CEPANI Rules 2023). Alternatively, the

participant may include such clause in their agreement with the parties. Under the general provisions of Belgian contract law, actors in arbitration can, in principle, exonerate themselves from any liability, except for fraud and gross negligence. For actions relating to their judicial function, arbitrators may go further and validly limit their liability for all acts or omissions other than fraud.

**(ii) Does this immunity, if any, extend to criminal liability?**

No.

## **XIV. Recognition and Enforcement of Awards**

**(i) What is the process for the recognition and enforcement of awards? What are the grounds for opposing enforcement? Which is the competent court? Does such opposition stay the enforcement? If yes, is it possible nevertheless to obtain leave to enforce? Under what circumstances?**

Notwithstanding a few small differences, the BLA sets out a single system for the enforcement of arbitral awards, regardless of whether the awards were rendered by an arbitral tribunal in Belgium (domestic awards) or by an arbitral tribunal seated abroad (foreign awards).

The process of enforcement depends on whether an international convention applies.

Belgium has ratified the 1958 New York Convention with a reciprocity reservation (New York Convention). Moreover, it has adopted the ICSID Convention and the European Convention, which provide for an independent regime of enforcement. In addition, long standing bilateral conventions with France, the Netherlands, Germany, Switzerland and Austria contain provisions on the enforcement of arbitral awards. The enforcement in Belgium of arbitral awards rendered in these countries may give rise to complex legal questions and should be approached with caution, especially by the respondent party.

The enforcement in Belgium of foreign commercial arbitral awards is governed by the regime put forward by Articles III to V of the New York Convention, unless a party wishes to rely on a more favourable regime on the basis of Article VII(1) of the New York Convention. This allows a party to rely on a more favourable treaty regime (such as the bilateral treaties referred to above) or national law (such as the BLA).

The procedural rules to enforce arbitral awards under the BLA are set out in Articles 1719 and 1720 BJC. The grounds for refusal of enforcement are listed in Article 1721 BJC. They generally mirror the grounds for setting aside in Article 1717 BJC (see above).

Enforcement of an arbitral award under the regime of the BLA is only possible where the award is no longer open to appeal or review before arbitrators, or where the award has been declared provisionally enforceable notwithstanding any appeal by the first arbitral tribunal (Article 1719, § 2 BJC).

A party wishing to enforce an arbitral award, must apply *ex parte* to the competent court of first instance for recognition and leave of enforcement (*exequatur*). The applicant must elect domicile in the jurisdiction of the court (Article 1720, § 1/1 BJC). The requesting party must provide an original or certified copy of the arbitral award (Article 1720, § 4 BJC).

Applications for the enforcement of domestic awards must be brought before the court of first instance with territorial competence over the seat of arbitration. Applications for the enforcement of foreign awards must be brought before the court with territorial competence over the domicile or place of business of the respondent, or alternatively, the place of enforcement (Article 1720, § 2 BJC).

As the application is made *ex parte*, there are in principle no debates between the parties, unless the court of first instance uses its general power to call the award debtor. In practice, the court of first instance will therefore in principle grant an *exequatur* order unless there are obvious signs that an award or its enforcement is contrary to public policy, if the dispute was not capable of settlement by arbitration, or the award was obtained by fraud, which must be raised by the court *ex officio* (cf. Article 1721, § 1, b) BJC)).

In case the *exequatur* is rejected, the applicant may only file recourse before the Supreme Court (Article 1720, § 1/1 BJC).

An *exequatur* order is enforceable notwithstanding any recourse. Within one month following the notification of the *exequatur* order, the respondent may, however, file third party opposition ('*derdenverzet*' / '*tierce opposition*') against the *exequatur* order. This is a recourse before the court of first instance in accordance with Article 1022 and following. BJC, which is heard *inter partes*.

For domestic awards, it is important to note that a respondent who wishes to seek the setting aside of the award, but has not yet launched setting aside proceedings, must bring its setting aside request simultaneously and in the same procedure as the third party opposition (Article 1717, § 4 BJC).

As stated above, the grounds for refusal of enforcement generally mirror the grounds for annulment in Article 1717 BJC.

Two points are worth mentioning. First, while as a matter of Belgian public policy awards rendered by an arbitral tribunal with seat in Belgium must contain the reasons for the decision, awards rendered abroad may nonetheless be enforceable in Belgium if the foreign procedural rules applicable to the arbitration do not contain such obligation (Article 1721, § 1, a), iv. BJC).

Second, under the BLA regime, an arbitral award may in principle not be enforced if the award has been set aside or suspended at the seat of arbitration (Article 1721, § 1, a), vi. BJC) (see further below).

**(ii) If an *exequatur* is obtained, what is the procedure to be followed to enforce the award? Is the recourse to a court possible at that stage?**

The decision of the court of first instance granting *exequatur* to an arbitral award (whether domestic and foreign) must be notified to the other party. As discussed above, the latter party has one month from the date of notification to file a third party opposition against this decision before the court of first instance. The court of first instance's decision is final, and subject to limited recourse before the Supreme Court only (Article 1720, § 1/1 BJC). A recourse before the Supreme Court does not have a suspensive effect.

The court of first instance may order a stay of enforcement pending the review of the third-party opposition, or order that the enforcement will be conditional upon the constitution of a security (Article 1721, § 2/1 BJC).

If such is not the case, the party seeking enforcement may proceed with the attachment of the other party's assets that are located anywhere in Belgium. The attachment will be notified by a bailiff and any attached assets will be sold to the benefit of the attaching creditor. Priority rules exist and recourse is possible against attachment measures.

**(iii) Are conservatory measures available pending enforcement of the award?**

Arbitral awards that are not yet enforceable provide a valid basis for proceeding with the conservatory attachment of the debtor's assets located in Belgium.

**(iv) What is the attitude of courts towards the enforcement of awards? What is the attitude of courts to the enforcement of foreign awards set aside by the courts at the place of arbitration?**

Belgian courts generally have a pro-enforcement attitude and will not reexamine the dispute in detail. The courts will nonetheless ensure *ex officio* that the award can no longer be contested before the arbitrators; that the award was made in accordance with public policy; that the issue in dispute was arbitrable; and that the award was not obtained by fraud.

Foreign awards set aside by the courts at the place of arbitration can in principle not be enforced in Belgium (cf. New York Convention Article V(1)(e) and Art. 1720, § 1, a), vi. BJC). It is, however, worth noting that pursuant to Article IX of the European Convention, a setting aside in one contracting state would only constitute a ground for the refusal of recognition or enforcement in another contracting state if this setting aside would be based on a number of specific grounds.

**(v) How long does enforcement typically take? Are there time limits for seeking the enforcement of an award?**

A decision granting the right of enforcement is usually issued within two to four weeks (not including possible recourse). An award must be enforced within ten years from notification (Article 1722 BJC).

## **XV. Sovereign Immunity**

**(i) Do state parties enjoy immunities in your jurisdiction? Under what conditions?**

In principle, assets belonging to the Belgian State and Belgian State entities cannot be attached, except when they feature on a list drawn up by the relevant entity (Article 1412 *bis* BJC). When no such list exists, or when the value of the assets on such list is insufficient, enforcement is possible against those assets that are manifestly not useful for the performance of the state entity's mission or for the continuity of the public service, regardless of whether such assets are part of the public or private domain.

Enforcement against assets belonging to foreign states is restricted by Articles 1412 *ter* (on enforcement against cultural goods), 1412 *quater* (on financial reserves) and 1412 *quinquies* (on assets belong to foreign states) BJC. Pursuant to Article 1412 *quinquies*, enforcement against assets belonging to foreign states requires the creditor to obtain prior leave from the judge of the attachments. Such leave is only possible in case of (i) express and specific consent to attachment of the goods; (ii) reservation or designation of the assets to satisfy the claim in question; or (iii) where it is established that the asset is located on the Belgian territory and is used or intended for use for 'other than non-commercial governmental purposes', with the further condition that such assets must relate to the entity against which the title underlying enforcement is directed.

Finally, Belgium has signed (but not yet ratified) the United Nations Convention on Jurisdictional Immunities of States and Their Property of 2 December 2004, which has, moreover, not yet entered into force.

**(ii) Are there any special rules that apply to the enforcement of an award against a state or state entity?**

The BLA does not contain any specific rules on enforcement against a State or State entities. Enforcement of arbitral awards against a State or State entities is governed by the same rules as enforcement of judgments. A State and State entities do not enjoy immunity from execution, but the assets against which can be enforced are limited (cf. above).

**(iii) Are there any requirements for arbitrations involving sovereign entities?**

Belgian public legal entities may enter into arbitration agreements only if the object is to resolve a contractual dispute. The right for public entities to conclude arbitration agreements may, however, be extended by law or royal decree (Article 1676, § 2 BJC).

The BLA does not impose further restrictions or requirements for arbitrations involving sovereign entities.

## XVI. Investment Treaty Arbitration

**(i) Is your country a party to the Washington Convention on the Settlement of Investment Disputes Between States and Nationals of Other States? Or other multilateral treaties on the protection of investments?**

Belgium is a party to the ICSID Convention, which entered into force on 26 September 1970. Belgium is also a party to the Energy Charter Treaty, which entered into force on 6 August 1998.

**(ii) Has your country entered into bilateral investment treaties with other countries?**

As of 1 November 2025, Belgium has (either alone or together with Luxemburg) signed BITs with 107 other countries. Some of these BITs have not, however, yet entered into force or have been terminated. An up-to-date list can be found at

<https://investmentpolicy.unctad.org/international-investment-agreements/countries/19/belgium>.

These BITs contain different dispute resolution clauses including arbitration under ICSID Rules, ICSID Additional Facility Rules and UNCITRAL Ad hoc Rules.

**(iii) Have there been any recent court decisions in your country in relation to intra-European investor-state arbitration?**

The award creditors in the *Micula* saga sought enforcement of their ICSID Award in Belgium (see e.g. *b-Arbitra* 2016/2). This gave rise to a request for a preliminary ruling from the Brussels Court of Appeal under Article 267 TFEU (see *b-Arbitra* 2020/2).

On 21 September 2022, the CJEU issued an order stating that – in light of the EU Commission’s prior finding that any payment under the *Micula v Romania* ICSID arbitral award would amount to illegal state aid under Article 107(1) TFEU and, thus, prohibited under EU law – an EU member state court ‘*is required to set aside the [Micula v Romania ICSID arbitral] award and may not in any case proceed with its enforcement in order to enable its beneficiaries to obtain the payment of damages which it awarded them*’ (Case C-333/19).

The award creditors withdrew the case from the Brussels Court of Appeal.

## XVII. Resources

**(i) What are the main treatises or reference materials that practitioners should consult to learn more about arbitration in your jurisdiction?**

The main treatises on the BLA are:

- *Arbitration in Belgium – A Practitioner’s Guide* by Niuscha Bassiri and Maarten Draye
- *L’arbitrage en droit belge et international. Tome 1: Le droit belge* by Guy Keutgen, Georges-Albert Da, Marc Dal, Gautier Matray.

CEPANI has published case books and maintains a scientific collection, with one to two titles being added every year.

*B-Arbitra - Belgian Review of Arbitration* is a Kluwer-published journal on arbitration in Belgium, which contains case law, case notes and articles in four languages (French, Dutch, English and German). It appears twice a year and is available online through Kluwer Arbitration.

**(ii) Are there major arbitration educational events or conferences held regularly in your jurisdiction? If so, what are they and when do they take place?**

CepAnI organises one or two colloquia on specific topics each year plus several lunch-conferences, and furthermore takes various initiatives in conjunction with universities or other interested parties. Also CEPANI40, an organisation operating under CEPANI that groups young arbitration practitioners, regularly organises lunch conferences and colloquia. Information on these events can be found at [www.cepani.be](http://www.cepani.be).

## XVIII. Trends and Developments

**(i) Do you think that arbitration has become a real alternative to court proceedings in your country?**

Arbitration is becoming increasingly popular as an alternative to court proceedings in Belgium, especially in international commercial contracts. As a result, the number of arbitrations taking place in Belgium or involving Belgian parties is increasing. This evolution also leads to an increase in the use of English as the language of arbitration in Belgium. In domestic commercial disputes, the vast majority of disputes are still brought before the courts, but as arbitration is becoming more known amongst potential users, the interest in the advantages of arbitration is growing. In certain specific sectors (eg, the travel sector, for which an arbitration commission exists), arbitration has become the norm.

With the adoption of the UNCITRAL Model Law with additions in 2013, and thanks to the further updates in 2016 and 2024, Belgium has a modern and arbitration friendly arbitration regime, which will likely also attract more international arbitrations in the future.

**(ii) What are the trends in relation to other ADR procedures, such as mediation?**

The Belgian law on mediation is set out in part VII of the BJC. Generally, mediation is more popular in family law and social disputes than in commercial matters, although there appears to be also an increased interest in commercial disputes.

**(iii) Are there any noteworthy recent developments in arbitration or ADR?**

The BLA was updated in 2024 on a number of specific technical points, including *inter alia* the inclusion of a provision on remote hearings and the introduction of the possibility to issue and enforce arbitral awards that are issued in electronic format.

**(iv) Are there any official plans to reform the arbitration laws and practice in your jurisdiction?**

An update of the BLA was made in 2024.

**(v) Are there any rules governing third-party funding in your jurisdiction? Is there an obligation to disclose the identity of any non-party who has an economic interest in the outcome of the proceedings, including any third party funder? Have there been any recent court decisions in your jurisdiction in relation to third-party funding?**

There is no specific regulation in relation to third-party funding. The use of third-party funding is generally permitted in Belgium, although it does not appear to be commonly used.

There is no express statutory obligation under Belgian law to disclose the identity of non-parties with an interest in the outcome of the proceedings. However, such an obligation may follow from the applicable arbitration rules.

**There is no published case law in Belgium in relation to third-party funding in arbitration.**

**(vi) Has your country implemented a sanctions regime? Do the courts in your jurisdiction consider international economic sanctions as part of their international public policy? Have there been any recent court decisions in your country in relation to the impact of sanctions on international arbitration proceedings?**

As a member of the United Nations and the European Union, Belgium has an obligation to enforce these sanctions regimes. EU-issued sanctions have a direct effect. Belgium also has a national sanctions regime.

There are no recent Belgian court decisions in relation to the impact of sanctions on international arbitration proceedings. Arbitration proceedings conducted without due compliance with applicable sanctions, risk exposing the resulting arbitral award to setting aside or refusal of enforcement in Belgium for violation of public policy.