ISSN : 1875-4120
Issue : (Provisional)
Published : September 2025

This article will be published in a future issue of TDM (2026). Check website for final publication date for correct reference.

This article may not be the final version and should be considered as a draft article.

Transnational Dispute Management
www.transnational-dispute-management.com

Arbitration in Belgium
by T. Cole

Arbitration in Belgium

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1. The Interviews

The interviews on which this report is based were performed as part of a research project funded by the United Kingdom's Economic and Social Research Council. Interviews were performed in 47 countries, including 127 cities and 1,086 interviewees. Further information on the project is available on the project website (https://commercialarbitrationineurope.wordpress.com).

Nine interviews were performed in Belgium, involving 21 participants, with eight interviews performed in Brussels on 18-19 October 2023, and one interview performed in Antwerp on 20 October 2023. All interviews were performed by the author. Interviews were recorded and then professionally transcribed. Interviewees were identified through a combination of legal guides (WhosWhoLegal, Chambers, Legal500), recommendations, and internet research. A list of interviewees who have chosen to be publicly identified is available on the project website.

Interviews lasted approximately 90 minutes and were semi-structured, drawing from a list of topics but guided by the discussion as it evolved. In addition to this discussion, during the interviews participants were asked to name three "leaders" of arbitration in Belgium (domestic or international) and three "leaders" of arbitration internationally (whether or not Belgian), and to discuss what characteristics qualified them as "leaders". Finally, interviewees were also asked to respond to up to three hypothetical situations, describing how they believed the situation should be addressed, with each situation being altered by the interviewer as discussion progressed.

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[1] Reader in Arbitration and Investment Law, University of Leicester; Arbitrator, Independent (non-U.S. cases) and JAMS (U.S. cases). This article incorporates an experiment in the use of a Large Language Model (Claude by Anthropic) to assist in drafting – which comes through at times in some awkward and unimaginative phrasing. Each interview was coded by the author, and then notes drafted. Claude was then used, through an extended process of experimentation, to produce an initial draft of the article based on the author's notes. This process included an extended period of prompt refinement, along with the production of multiple drafts. Claude was never given access to the interview transcriptions, but only to the author's notes, to ensure that the draft produced would reflect the author's judgements of which points from the interviews should be discussed, and that the draft would reflect the author's judgements and evaluations. Nonetheless, the draft article produced was then reviewed and substantially rewritten, both to eliminate hallucinations and to ensure that the text of the article accurately reflected the author's views.

The methodological approach adopted employed semi-structured interviews, drawing from established topics while allowing organic discussion development. This flexible structure, reflecting established qualitative research practices in socio-legal studies,[2] enabled exploration of emerging themes while maintaining systematic data collection. The multi-faceted interview protocol yielded rich qualitative data regarding not only market structures and practices but also professional values, decision-making frameworks, and cultural dynamics within the Belgian arbitration community. The semi-structured interview format proved particularly valuable in understanding Belgium's distinctive position within the European arbitration landscape, revealing nuanced perspectives on institutional development, linguistic dynamics, and market aspirations that purely quantitative approaches might have overlooked.

2. The Arbitration Market

Belgium's arbitration market presents an interesting mixture of unrealised potential and persistent structural limitations. Despite possessing numerous theoretical advantages, such as a central European location, multilingual capabilities, status as the de facto capital of the European Union, and a modernised legal framework, Belgium has not achieved the arbitration hub status to which it appears to aspire. This gap between potential and reality emerged as a central theme throughout the interviews, revealing dynamics that both support and constrain market development.

The contemporary Belgian arbitration market is fundamentally characterised by its limited scale. Interviewees consistently emphasised that dedicated arbitration departments remain rare within Belgian law firms, with arbitration instead being incorporated into broader dispute resolution practices. Indeed, even boutique dispute resolution firms were described as needing to combine arbitration with litigation to maintain financial viability. In terms of individual practices, only a small minority of practitioners are able to focus exclusively on arbitration, a reality directly attributed to Belgium's lack of "hub" status comparable to Paris, London, or Geneva. This structural limitation creates a self-reinforcing cycle: insufficient arbitration volume prevents specialisation, which in turn may limit Belgium's attractiveness as an arbitration destination.

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[2] Surabi Gupta and William S., "The Highs and Lows of Interviewing Legal Elites", 21 International Journal of Qualitative Methods 1, 2 (2022) ("Semi-structured interviews have the advantage of following a broad protocol and the flexibility of following new lines of inquiry based on the responses of interviewees. Hence, the interview has been a key method for data collection for elites in different fields. Interviews can also be conversational and an opportunity for elites to step back and reflect on their actions, behaviors, and policies, which when conducted well can create an environment conducive to generating novel and revelatory data that is difficult to capture through other research methods.") (citations omitted).

As described by interviewees, Belgium's small geographic size creates an interesting market dynamic in which transactions of reasonable value almost inevitably possess cross-border elements. This structural internationalisation of Belgian commerce theoretically favours arbitration, yet cost considerations create powerful countervailing pressures. Small and medium-sized enterprises (SMEs), which constitute the backbone of the Belgian economy, were described by interviewees as often perceiving arbitration as prohibitively expensive compared to subsidised court proceedings.

Indeed, some interviewees reported experiencing (and recommending) the strategic deployment of arbitration clauses as claim-deterrent mechanisms, on the basis that counterparties would be unlikely to bear arbitration costs, and so would be less likely to commence a claim. While potentially sensible in the context of a cost-sensitive arbitration market, such an approach to arbitration also risks contributing to negative perceptions among Belgian businesses otherwise unfamiliar with arbitration's potential benefits.

Geographic concentration dominates the Belgian arbitration landscape, with Brussels serving as the seat for 79% of cases commenced in 2024 at CEPANI,[3] Belgium's leading arbitral institution, the remaining cases being seated in other Belgian cities.[4] This capital city dominance reflects Brussels' dual role as Belgium's economic centre and as the seat of European Union institutions. Antwerp was acknowledged by interviewees to be the secondary arbitration centre, although minor in comparison with Brussels.

Sectoral variations in arbitration adoption also reveal notable patterns. Interviewees confirmed that the financial sector maintains a strong preference for court litigation, contrasting markedly with accounting firms, which were described as adopting arbitration clauses as a standard element of contracts. These accounting-related disputes, typically involving smaller amounts, were said to play an important developmental role in Belgian arbitration, generating a steady stream of smaller arbitrations that provided crucial early appointments for emerging arbitrators.

Construction disputes, a staple of arbitration in many jurisdictions, were described by interviewees as having a more variable role in Belgian arbitration. Some interviewees reported regular involvement in larger international construction arbitrations, including disputes arising in central Africa, but others described a much more limited domestic construction market, with court litigation remaining standard in domestic construction contracts. Construction has been recognised as a potential area of development for Belgian arbitration, with CEPANI even launching a dedicated

[3] The Belgian Centre for Arbitration and Mediation, https://cepani.be/ (last visited 31 July 2025).
[4] CEPANI, Annual Report 2024, *available at* https://cepani.be/about/cepani/annual-reports/2024/statistical-survey-2024 (last visited 31 July 2025).

construction-focused service,[5] but it was acknowledged that while some development has occurred, reticence on the part of construction industry actors to adopt arbitration remains strong.[6] The primary sources of this reticence were described as being a combination of a simple unfamiliarity with arbitration by construction industry actors and a concern on the part of those actors about the ability of arbitration to successfully address the multi-party nature of many construction disputes, along with a lesser concern about the tightness of connections between arbitration practitioners.

The diamond industry in Antwerp operates perhaps Belgium's most sophisticated sector-specific arbitration framework.[7] Both the Antwerp Diamond Bourse, which primarily focuses on polished diamonds, and the Antwerp Diamantkring, which focuses on rough diamonds, adopt a two-stage dispute resolution process, incorporating mandatory mediation by members of the respective Board of Directors, followed by arbitration administered in accordance with internationally-recognised diamond industry practices.[8] However, interviewees confirmed that these arbitration systems remain essentially closed to outsiders, operating independently of mainstream arbitration with minimal cross-pollination of practices or practitioners.

Perhaps the most distinctive aspect of the Belgian arbitration market is the international market for appointment of Belgian arbitrators. The "French-speaking but not French" positioning of leading Belgian arbitration practitioners was described as creating a consistent demand for Belgian arbitrators in disputes involving French parties, particularly when institutional rules or neutrality concerns require non-French arbitrators. Leading Belgian arbitrators were described as deriving substantial portions of their caseloads from Paris-seated arbitrations, effectively participating in the French market while maintaining independence from it. This linguistic/cultural arbitrage has created sustainable arbitrator appointment opportunities for leading Belgian arbitrators, particularly within the ICC system, where chair nationality must differ from party nationalities.[9] Interestingly, this dynamic does not replicate with English-

[5] https://cepani.be/services/c-build

[6] Perhaps consistent with the description of ongoing resistance to the use of arbitration in domestic construction disputes, while the CEPANI C-Build website has a section dedicated to "Arbitral Awards in past cases", it currently reads only "We're working hard to bring you more information here. Stay tuned!" (last visited 22 July 2025).

[7] On diamond arbitration more broadly, see Lisa Bernstein, "Opting Out of the Legal System: Extralegal Contractual Relations in the Diamond Industry", 21 Journal of Legal Studies 115 (1992) and Barak D. Richman, "How Community Institutions Create Economic Advantage: Jewish Diamond Merchants in New York", 31 Law & Social Inquiry 383 (2006). On current challenges to the "trust-based" arbitration system used in the diamond industry globally, see Barak D. Richman, "An Autopsy of Cooperation: Diamond Dealers and the Limits of Trust-Based Exchange", 9 Journal of Legal Analysis 247 (2017).

[8] *See generally*, "Dispute resolution system" at https://www.diamondbourseantwerp.com/what-we-do-at-the-antwerp-diamond-bourse/ (last visited 31 July 2025); "Dispute resolution system" at https://diamantkring.be/membership/ (last visited 31 July 2025).

[9] ICC Rules of Arbitration (2021), Article 13(5) ("Where the Court is to appoint the sole arbitrator or the president of the arbitral tribunal, such sole arbitrator or president of the arbitral tribunal shall be of a nationality other than those of the parties. However, in suitable circumstances and provided that none of

language arbitrations centred in London, despite the standard fluency of Belgian arbitration practitioners in English, arguably reflecting the greater insularity of the London arbitration market compared with that of Paris, as well as the impact of the common/civil law distinction.

The BeNeLux Arbitration and ADR Group represents Belgium's most ambitious recent effort to enhance its arbitration market position. Formalised through a September 2022 cooperation agreement between CEPANI, the Netherlands Arbitration Institute (NAI), the Chamber of Commerce of the Grand Duchy of Luxembourg, the Dutch Arbitration Association, and the Luxembourg Arbitration Association,[10] this initiative envisions harmonised arbitration legislation across the region, joint marketing efforts, and potentially a specialised regional arbitration court. However, while this initiative was consistently highlighted by interviewees as a positive development, many also expressed scepticism about the likelihood of meaningful progress, particularly tied to what was seen as a lower level of interest from the Netherlands. In essence, the Dutch arbitration market was acknowledged to be significantly stronger than either the Belgian or Luxembourgish markets, leading to questions about the more limited benefits to Dutch practitioners of such a unified regional approach. Consistent with this concern, the author was unable to find evidence of significant progress in this initiative since the first collaborative conference in 2023, including no indication that a second Chair of the Group has been appointed (the first Chair's term finishing in 2024), and no evidence of a second joint conference in 2025 (the Cooperation Agreement contemplating a joint event every two years).

The persistence of ad hoc arbitration, particularly in insurance disputes, is a further notable aspect of the Belgian arbitration market, suggesting that total Belgian arbitration activity may be higher than institutional statistics alone indicate. However, this being said, the confidentiality that standardly accompanies ad hoc arbitration limits its contribution to building Belgium's reputation as an arbitration destination.

Belgium's arbitration market is arguably positioned for continued incremental growth, albeit without a likely transformative breakthrough. The market demonstrates characteristics typical of what might be called a "middle-income trap": too developed to compete on cost alone, but lacking the critical mass to challenge established centres on the basis of reputation and expertise. Belgium's response thus far has involved strategic adaptation rather than direct competition, with practitioners carving out specific niches leveraging linguistic abilities and sectoral specialisation. Whether these strategies can overcome structural constraints to allow Belgium to achieve

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the parties objects within the time limit fixed by the Secretariat, the sole arbitrator or the president of the arbitral tribunal may be chosen from a country of which any of the parties is a national.").

[10] Cooperation Agreement, available at https://cepani.be/files/corporate-agreements/benelux-cooperation-agreement-106451366_1.pdf (last visited 30 July 2025).

genuine hub status remains an open question, but they reflect a market that, while limited, remains dynamic and ambitious.

3. The Arbitration Community

The Belgian arbitration community presents a remarkable study in successful community building within structural market constraints. Despite relatively modest case volumes and an overwhelming geographic concentration of arbitration practitioners in Brussels, interviewees consistently described a vibrant, cohesive community centred on CEPANI that demonstrates an unusual openness and collaborative spirit.

CEPANI's role as community anchor was described by interviewees as extending far beyond case administration to encompass social coordination, professional development, and identity formation. Unlike jurisdictions in which arbitral institutions maintain arm's-length relationships with practitioners, CEPANI has cultivated an active and cohesive arbitration community, with practitioners united not merely by shared technical knowledge but by common values, mutual engagement, and collective enterprise.

Geographic concentration in Brussels reinforces community cohesion, facilitating informal interactions beyond structured events, although also potentially excluding regional practitioners. Antwerp was described as having a secondary cluster of arbitration practitioners, but without cohesion into a local “community”, Antwerp-based practitioners instead travelling to Brussels for arbitration events. This Brussels-centricity parallels patterns in other small European jurisdictions where capital cities dominate arbitration practice, but while this geographic concentration can support community creation, it can also limit arbitration's penetration beyond the capital region.

CEPANI-40 was regularly highlighted by interviewees as a particularly active and collegial part of the broader Belgian arbitration community. This contrasts substantially with what was described as a degree of senior practitioner disengagement, given the need for a primarily international focus to sustain an active arbitrator practice. While on one level this generational dynamic is healthy, avoiding zero-sum competition between generations while creating natural mentorship opportunities, it also reflects a self-image of Belgian arbitration practice in which practice within Belgium itself is primarily viewed as a stepping-stone to a more prestigious and lucrative practice abroad. This self-image then helps place a limit on the development of the Belgian arbitration community, as senior practitioners gradually remove themselves from “local” engagement in order to focus abroad, depriving the

Belgium community of the active leadership of some of Belgium's top arbitration specialists.

The community's remarkable openness distinguishes Belgian arbitration culture from more hierarchical or protectionist jurisdictions, arguably reflecting broader cultural factors including Belgian modesty, consensus-building traditions, and an international outlook.[11] Multiple interviewees emphasised this openness as a defining characteristic of the Belgian arbitration community, stating that that despite the limited arbitration caseload in Belgium, there were few efforts at protectionism by those already in the field, but instead a genuine commitment to engaging people with arbitration.

Unsurprisingly, given the international nature of much arbitration work in Belgium, interviewees also described active engagement with broader European arbitration networks. Paris Arbitration Week emerged as the most important foreign networking destination, reflecting linguistic affinities and market realities. However, Belgian practitioners described themselves as "Belgians in Paris" rather than integrated Parisian arbitration community members, reflecting the distinctiveness crucial for their "French-speaking but not French" arbitrator appointment opportunities. This strategic distance-keeping illustrates how professional communities navigate cooperation-competition tensions in interconnected markets.

An absence of sharp distinctions between domestic and international practitioners in Belgium is also notable. Unlike larger jurisdictions in which distinct practice communities can be found, interviewees confirmed that Belgian practitioners typically combine international and domestic work by necessity, given the limited availability of arbitration work in Belgium. This practice integration reduces status hierarchies and encourages knowledge sharing across experience levels. Interviewees emphasised that there are some individuals who focus only on international work,

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[11] It was notable during the interviews how consistently interviewees would refer to Belgium's small size and more limited global importance when discussing Belgium's potential in international arbitration. More generally, see Francis Heylighen, "Belgium: society, character and culture: An essay on the Belgian identity" (2017), *available at* https://www.academia.edu/22638133/Belgium_Society_Character_and_Culture_An_essay_on_the_Belgian_Identity (last visited 1/8/2025) ("The many contacts with various cultures made Belgians tolerant and flexible. On the other hand, the many foreign rules, the skepticism towards government and authority, the internal linguistic split, and the fact that the country was too small to engage in internationally ambitious enterprises (Belgium's only colony, the present Congo, was in fact donated by its king Leopold II, who had privately colonized it), have led to a relative lack of national pride and self-confidence. Belgium may well be one of the least nationalistic countries in the world. On the positive side this leads to modesty, to openness to external influences and to unwillingness to engage in offensive actions, or even to engage in war at all unless it is purely defensive. On the negative side, it means that opportunities are missed because one does not dare to take an initiative, on the assumption that the country is not big or powerful enough to start an ambitious project, or to do something better than the others. Belgians may be one of the few nationals who will criticize their country, rather than make publicity for it, among people from other countries.")

creating a degree of separation between those individuals and the broader community that engages with both international and domestic work, but these internationally-focused practitioners were not described as a distinct and separate group, rather only an identifiable part of the broader community.

Language also creates notable community dynamics within Belgium's arbitration world, with CEPANI praised for successfully bridging linguistic communities, and providing what was described as a rare professional interaction space for French and Dutch speakers. Nonetheless, the greater importance of French than Dutch in arbitration practice in Belgium may create informal advantages for francophone practitioners in community leadership positions, making fluent French a career development requirement to a degree that is not the case with fluent Dutch. However, the adoption of English as a neutral working language in many firms and in many arbitration proceedings helps mitigate such linguistic divisions.

Social events play crucial community-building roles beyond professional networking, and CEPANI was highlighted as the primary focus of such events, allowing for informal interaction that deepens relationships beyond transactional exchanges. CEPANI working groups on specialised topics were seen as providing an important additional platform, combining an opportunity to contribute to Belgian arbitration's development while also demonstrating individual expertise to others in the field.

The ICC's limited community-building role in Belgium contrasts sharply with CEPANI's centrality. Despite the ICC's importance for case flow, particularly for larger international disputes, it has not created a parallel community structure to the community focused on CEPANI. The absence of an "ICC community" alongside the CEPANI community prevents the fragmentation found in some jurisdictions in which institutional loyalties divide practitioners. This unified community structure may reflect Belgium's small market size, which cannot sustain multiple parallel communities, and practitioners' strategic decisions to concentrate community-building efforts where they yield greatest return.

Ambitions to build a broader regional community through the BeNeLux Arbitration and ADR Group reveal both aspirations and limitations. While younger practitioners were described as actively engaged in cross-border community-building, more senior practitioners were seen as less enthusiastic, suggesting generational differences in perceiving market boundaries. The more limited engagement of Dutch practitioners, as described above, arguably reflects a rational calculation: why share a stronger market position with smaller neighbours?

Ultimately, despite the challenges that come from having a small arbitration market, the Belgian arbitration community's cohesiveness and openness, combined with CEPANI's committed engagement and even leadership, suggest reasons to be optimistic. While a successful community may not be enough to guarantee arbitration work, the community's greatest achievement may be creating a collective identity and sense of purpose that transcends individual success, fostering a collaborative rather than purely competitive professional culture in a small market. Overall, the Belgian experience demonstrates that smaller markets can sustain vibrant professional communities through institutional leadership, practitioner commitment, and strategic positioning within broader international networks.

4. Arbitration Institutions

Belgium's institutional arbitration landscape centres overwhelmingly on CEPANI, the role of which was described by interviewees as extending far beyond case administration to encompass community building, thought leadership, and international promotion of Belgian arbitration. CEPANI's transformation over the past decade represents one of Belgian arbitration's most significant success stories. Founded in 1969, the institution was described by interviewees as languishing for decades in the ICC's shadow, focused on administering modest caseloads primarily involving smaller domestic disputes. Interviewees identified the pivotal transformation as commencing around 2013-2014, coinciding with both the 2013 adoption of Belgium’s current UNCITRAL Model Law-based national arbitration law, and strategic leadership changes at CEPANI itself. Emma Van Campenhoudt's elevation to Deputy Secretary General in 2014 (later Secretary General) was described as central to institutional modernisation efforts that fundamentally repositioned CEPANI within Belgium's arbitration landscape. Van Campenhoudt, who has now been at CEPANI in different capacities for over 20 years, was repeatedly praised by interviewees as a driving force behind CEPANI's modernisation and internationalisation efforts.

CEPANI’s caseload composition reveals a persistent Belgian focus, with 58% of cases commenced in 2024 involving two Belgian parties, and the remaining 42% involving one Belgian and one foreign party.[12] In turn, case sizes remain relatively modest, with 32% being expedited proceedings with a value of €100,000 or less, and only 5% having a value of over €10,000,000.

However, despite this limited caseload, CEPANI's institutional innovations demonstrate a sophisticated understanding of contemporary arbitration trends. The 2020 rules revision introduced award scrutiny procedures modelled on ICC practice, enhancing quality control and award enforceability, although this review was described by interviewees as less extensive/intrusive than is characteristic of the ICC. In turn, the explicit incorporation of diversity and inclusion considerations into arbitrator

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[12] CEPANI statistical survey 2024, *available at* https://cepani.be/about/cepani/annual-reports/2024/statistical-survey-2024 (last visited 1 August 2024).

appointment procedures places CEPANI among the leading arbitral institutions globally in this area. Fast-track procedures for disputes under €100,000, administered by sole arbitrators with three-month deadlines, address cost and efficiency concerns particularly affecting SMEs, a dominant feature in the Belgian economy. These initiatives position CEPANI not merely as case administrator but as responsive to the market and an active community builder.

CEPANI's role as community anchor emerged as remarkably strong throughout the interviews. The institution was consistently described by interviewees as the de facto centre of Belgium's arbitration community, organising conferences, training programmes, and networking events. CEPANI-40, the young practitioners' group, was described as maintaining a particular vibrancy, creating pipeline development for future arbitration leaders, while multiple CEPANI working groups tackle specialised issues from construction arbitration to diversity, providing platforms for practitioner engagement.

The institution's relationship with the business community reveals both achievements and persistent challenges. As described above, accounting firms emerged as an unexpected market, standardising CEPANI arbitration clauses in contracts and generating steady streams of smaller cases ideal for newer arbitrators. However, broader business community penetration was described as remaining limited. As one prominent example, one interviewee highlighted that many Belgian general counsel remained unaware that CEPANI administers English-language arbitrations until recently, rather than only French or Dutch-language arbitrations, suggesting persistent marketing and communication challenges.

However, despite CEPANI’s undisputed centrality to Belgian arbitration, the ICC was described by interviewees as maintaining its overwhelming dominance in Belgium's international arbitration market. Interviewees stated that Belgian parties involved in substantial cross-border disputes still default to ICC arbitration, particularly for cases exceeding a few million euros, as one interviewee characterised the informal threshold. The ICC's local presence through ICC Belgium, and its integration with broader International Chamber of Commerce activities, reinforces this market position. Moreover, Paris’s proximity, just over an hour by high-speed train from Brussels, makes ICC arbitration logistically convenient for Belgian parties while offering prestige and deeper arbitrator pools, as well as comfort for foreign parties unwilling to use a Belgian institution when arbitrating with a Belgian party.

Yet interviewees described the ICC-CEPANI relationship as having evolved over the past decade from subordination to complementarity. The institutions now co-organise events, and practitioner overlap is extensive, with five of the members of CEPANI's Board of Directors also serving on ICC Belgium's 13-member Commission on Arbitration and ADR. More broadly, interviewees described arbitration practitioners in

Belgium as standardly engaging in networking through both CEPANI and the ICC, rather than two separate communities existing. In terms of caseloads, interviewees described the two institutions as increasingly occupying different market segments, rather than competing directly: CEPANI for domestic and smaller international disputes, the ICC for larger cases. This segmentation appears stable, despite some evidence of an increased comfort with taking larger cases to CEPANI.

Nonetheless, while CEPANI and the ICC are indisputably the core institutions in Belgian arbitration, interviewees highlighted that practitioners interested in international arbitration also actively maintain connections with other foreign institutions. The Netherlands Arbitration Institute (NAI), the Vienna International Arbitral Centre (VIAC), and the German Arbitration Institute (DIS) were particularly highlighted in this respect. Arguably reflecting the more insular nature of the Swiss arbitration community, interviewees did not emphasise active efforts to develop connections within Switzerland, despite Geneva being mentioned as a common alternative seat to Paris for arbitrations involving one Belgian and one foreign party.

As described above, specialised arbitration systems also operate in parallel to mainstream commercial arbitration in Belgium. Antwerp's diamond bourses maintain sophisticated arbitration systems with deep historical roots, handling disputes through procedures integrated with global diamond trade practices. These remain essentially closed to outsiders but demonstrate arbitration's potential for sectoral specialisation. Maritime arbitration, despite Antwerp's major port status, was described as having largely migrated to London, with local practitioners lamenting the inclusion of London arbitration clauses in standard shipping documentation. Insurance arbitration was reported to be a consistent area of practice, but as standardly occurring *ad hoc*.

It can reasonably be expected that CEPANI will likely continue incremental internationalisation while maintaining its domestic focus, with the ICC likely to retain its dominance in high-value international disputes. The BeNeLux Arbitration and ADR Group, as discussed above, may yet yield modest cooperation gains between the regional institutions, although there are currently no indications that it will result in fundamental cross-institutional integration. Ultimately, Belgium's institutional arbitration framework, like its broader arbitration market, exhibits professionalism and ambition constrained by structural limitations that institutional innovation alone cannot overcome.

5. Arbitration Procedure

Belgian arbitration procedure embodies an interesting synthesis of civil law traditions, international best practices, and pragmatic adaptations to local market realities. The procedural landscape reveals deep tensions between a formalistic civil law heritage and flexible international arbitration norms, and between party autonomy and arbitrator activism. These tensions play out differently across domestic and international arbitrations, creating a differentiated procedural ecosystem.

The historical evolution from court-mimicking procedures in 1990s domestic arbitrations to today's often more flexible practices illustrates Belgian arbitration's modernisation trajectory. Interviewees who practiced in earlier decades described domestic arbitrations that essentially replicated court procedures, including multiple hearings replicating litigation's measured pace.

Contemporary Belgian arbitration practice, on the other hand, demonstrates significantly greater procedural sophistication, though variations persist based on counsel and arbitrator backgrounds. International arbitrations seated in Belgium were described by interviewees as typically following standard international procedural conventions, including the use of significant document production and witness examination, despite their rarity in Belgian courts. Domestic arbitrations, by contrast, were described as showing greater diversity: counsel or arbitrators experienced in international arbitration may introduce international procedures even in purely domestic cases, while counsel or arbitrators without that familiarity will often default to court-like procedures. As one notable example, interviewees highlighted that a successful party in Belgian litigation cannot claim the full cost of attorneys' fees, but is instead limited to amounts specified by law.[13] Interviewees noted that in domestic arbitration it was common for a successful party to only request this limited recovery available in court, despite an award of full attorneys' fees being permissible in arbitration.

This arbitration experience gap, with the resulting unawareness of the procedural opportunities that arbitration offers, can create a dilemma for Belgian arbitrators, who must balance respect for the principle that the parties must present their own case with respect for their professional obligation to ensure the procedural fairness of the arbitration. Some interviewees acknowledged that as arbitrators they may actively ask parties whether, for example, they intend to request document production, rather than wait for it to be requested – while others commented that as opposing counsel it was frustrating to have an arbitrator do this, as it deprived them of an advantage, even though they acknowledged the reasonableness of it being done in the interest of fairness.

However, perhaps the most significant element of Belgian arbitration procedure that was discussed in the interviews was the use of tribunal secretaries, which is approached in a particularly liberal manner in Belgium. Indeed, interviewees described

[13] Hakim Boularbah & Isabelle Berger, "Snapshot: litigation funding costs and insurance in Belgium", *available at* https://www.lexology.com/library/detail.aspx?g=371f98a3-4dcb-4953-936d-e3c8bfbc87df (last visited 1 August 2025).

the use of secretaries as a practice that was not only standard, but to some degree expected, and as so accepted that explicit disclosure by an arbitrator that a secretary was being used was not necessarily required. As put in one interview, when appointing a senior partner at a law firm as an arbitrator, it is simply understood by the parties that one or more associates will perform the work of a secretary, and explicit disclosure is not expected.

At a more substantive level, multiple interviewees described extensive secretary involvement as completely normalised and expected in Belgian arbitration, including substantive award drafting under arbitrator supervision. The Belgian Supreme Court's explicit acceptance in 2023 of drafting delegation in arbitration, distinguishing it from impermissible substantive decision-making delegation, provided legal confirmation of the acceptability of this practice, while nonetheless leaving the ethical boundaries of such delegation somewhat murky.[14] While the involvement of secretaries in substantive award drafting is often a controversial one, one interviewee suggested that Belgium's liberal approach fundamentally reflects a civil law conceptualisation of awards as merely formalising predetermined decisions, in contrast to a common law approach to award writing in which the goal may be to lay out the arbitrators' reasoning in detail. From this perspective, it was argued, as long as it is the arbitrators, not the secretary, who decide the outcomes during deliberations, then subsequent award drafting becomes a matter of technical implementation of that decision, and is suitable for delegation.

The relationship between settlement facilitation and adjudication presents another notable feature of Belgian arbitration. While emphasising that arbitrators would not themselves become involved in settlement discussions, multiple interviewees emphasised Belgian arbitrators' willingness to encourage settlement, including by actively creating settlement opportunities by signalling preliminary views or by suggesting procedural windows for discussions to take place. This settlement orientation was described as culturally Belgian rather than legally mandated, reflecting consensus-building traditions and a pragmatic dispute resolution focus.

Finally, the use of dissenting opinions provoked surprisingly strong negative reactions from several interviewees, with some opposing even noting disagreement in an award without a separate dissent. While this opposition was not universal among interviewees, it directly reflects Belgian judicial traditions, in which courts issue unanimous judgments and individual opinions are seen as inconsistent with the secrecy of deliberations.[15]

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[14] Emek İnşaat Şti and WTE Wassertechnik v European Commission, Court of Cassation, C.21.0548.F/1 (2023).

[15] Rosa Raffaelli, Dissenting opinions in the Supreme Courts of the Member States (2012), at 2.1.1 ("The Belgian judicial system is inspired by the principle of the secrecy of deliberations, which is interpreted as

6. Arbitration Law

Prior to 2013, Belgium's arbitration law was based on the 1966 European Convention providing a Uniform Law on Arbitration, Belgium being the only State to have done so. Interviewees consistently commented negatively on this law, stating that it included provisions that entangled parties in court proceedings for 6-7 years. Finally, in 2013, after substantial lobbying by Belgium's arbitration practitioners, Belgium adopted new legislation based on the UNCITRAL Model Law.

Legislative stability since 2013 indicates satisfaction with the reformed framework, with minor technical amendments in 2024 addressing practical issues identified through implementation experience without altering fundamental principles, and interviewees themselves expressing no desire for significant reforms. As mentioned previously, the regional coordination contemplated by the BeNeLux Arbitration and ADR Group incorporates the possibility of uniform legislation for arbitrations seated in Belgium, Luxembourg and the Netherlands, but there are currently no indications that this idea has substantively progressed.

However, while Belgium's arbitration law appears to be working satisfactorily, recent legislative developments reveal ongoing challenges in maintaining an arbitration-friendly framework amid broader commercial law reforms. Interviewees specifically highlighted the 2020 adoption of a law addressing abusive clauses in commercial contracts in this respect. While this law has not yet been applied to arbitration clauses, interviewees noted that arbitration clauses were one of the examples given of a potentially abusive clause when the legislation was being discussed. They stated that as a result, they had to warn clients of the possibility, still uncertain, that if they insert an arbitration clause in their contract it may subsequently be determined by a court to be unenforceable as abusive.

More broadly, while Belgium's legal framework no longer represents a significant obstacle to arbitration market development, the limited market in which Belgian arbitration practitioners still operate confirms that market growth ultimately also depends on economic factors beyond legislative optimisation.

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also prohibiting the publication of individual opinions. The Court of Cassation has recognized that the secrecy of deliberations is a principle of Belgian law and recently confirmed that judges are bound to preserve it. Moreover, the Court held that any violation of such secret, including by publishing the individual views of the judges on the decision to be taken, is punishable in accordance with art. 458 of the criminal code. Although the oath that Belgian judges take does not explicitly mention the secrecy of deliberations, the courts, including the Constitutional Court, strictly follow the principle: separate opinions are never published.").

7. Courts and Arbitration

Belgium's legal system demonstrates a notable duality: progressive legislative reforms aimed at supporting arbitration coexist with severe systemic inefficiencies that paradoxically both encourage arbitration use and arguably undermine confidence in the overall dispute resolution system.

Belgium has among Europe's most severe judicial backlogs, with the Brussels Court of Appeal particularly afflicted by delays, estimated by interviewees as requiring 5-7 years for commercial appeals. These systemic delays have become so substantial and consistent that they were determined by the European Court of Human Rights to constitute a breach of Article 6(1) of the European Convention on Human Rights, the right to a fair hearing within a reasonable time.[16] While protracted court proceedings theoretically enhance arbitration's speed advantage, making arbitration more attractive, interviewees acknowledged that parties sometimes strategically choose litigation precisely to exploit these delays, particularly when cash flow considerations favour postponing any binding judgment.

However, these delays were described as differential across Belgium, with Brussels experiencing the largest backlog in commercial cases given its centrality to the Belgian economy. By contrast, the delay at Antwerp's courts was said to be only one year, with other non-Brussels courts having similar relatively minor delays. One interviewee located outside Brussels commented that they had begun to observe a degree of forum-shopping by Brussels-based parties, who have agreed to bring their disputes to a court outside Brussels solely to avoid delays.

On a more positive note, interviewees commented that the 2013 legislative reforms discussed in the previous section had also instituted an important change in the handling by Belgian courts of arbitration-related proceedings, which are all now handled in the six Courts of First Instance that share seats with Courts of Appeal (i.e, Brussels (French-speaking and Dutch-speaking sections), Ghent, Antwerp, Liège, and Mons).[17] Moreover, within those Courts, which are composed of multiple chambers, arbitration matters are delegated to a specific chamber.[18] This centralisation is intended to develop specialised judicial expertise in arbitration matters, and interviewees consistently praised this reform's impact, noting that explaining basic arbitration concepts to judges is no longer necessary, even outside Brussels.

At a more specific level, repeated mention was made of Caroline Verbruggen's presence on the Brussels Court of Appeal. Having spent a number of years working in

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[16] Van den Kerkhof v. Belgium (Case 13630/19).

[17] Maxime Berlingin & Esther Lanotte, "Belgium", *available at* https://delosdr.org/wp-content/uploads/2019/11/Delos-GAP-2nd-edn-Belgium.pdf (last visited 1 August 2025).

[18] *Id.*

arbitration before her judicial appointment, Verbruggen has continued to maintain an active connection with the Belgian arbitration community, to the extent of having co-edited CEPANI's journal, *b-Arbitra, the Belgian journal for arbitration*[19] until January 2025. However, while the benefits are clear of having arbitration expertise on the Court of Appeal, as well as of regular interaction between judges and the arbitration community, interviewees acknowledged that she remains exceptional, and most Belgian judges maintain a strict separation from the arbitration community to avoid apparent conflicts of interest.

Belgium's unusual incorporation of lay judges into commercial courts alongside regular judges[20] nonetheless creates additional opportunities for interaction with judges and for incorporation of arbitration expertise into judicial decisions. While lay judges are standardly drawn from the business community, interviewees reported arbitrators also sometimes performing this role. This practice not only increases the connection between the judiciary and the arbitration community, but can also help familiarise the business community with non-professional adjudicators, potentially reducing resistance to arbitrator decision-making.

Perhaps unsurprisingly given the preceding, interviewees reported no tradition in Belgium of practicing or retired judges serving as arbitrators. On the one hand, the absence of such a practice potentially benefits the procedural development of arbitration in Belgium, facilitating the procedural separation of arbitration from litigation, as judges will often manage an arbitration as though it was just litigation outside a courtroom, and parties often appoint active/retired judges precisely to ensure that they receive the litigation-style process with which they are familiar. However, it also limits cross-fertilisation of expertise between judicial and arbitral communities, removing an opportunity for judges to gain greater familiarity with arbitration and to have a personal stake in its ongoing success.

8. Gender and Arbitration

Descriptions by interviewees of gender dynamics within Belgian arbitration reflect both significant progress and persistent structural inequalities, depicting a landscape in which formal equality coexists with substantive disparities, particularly at senior levels and in arbitrator appointments. Consistent with this, CEPANI's statistics on the gender of arbitrators in cases it administers reveals standard disparities despite CEPANI's active efforts to encourage gender parity, with only 23% of arbitrators

[19] She remains on the editorial committee.
[20] Julien Hislaire & Olivier Vanhulst, "Q&A: conducting litigation in Belgium", *available at* https://www.lexology.com/library/detail.aspx?g=469d1ac9-01c6-4ec0-bec4-424f18a17015 (last visited 1 August 2025) ("Cases before a business court are handled by chambers composed of three judges: one professional judge and two lay judges (usually business people).

appointed in 2024 in CEPANI-administered cases being female, and 79% of those being appointed by CEPANI itself.[21] This is despite Belgian law schools graduating more women than men for over two decades.[22]

A generational analysis of the interviews reveals notable disparities in gender experiences and perceptions. Younger female practitioners reported minimal gender-based obstacles, with no accounts offered of overt discrimination, although a consistent view was expressed that there was nonetheless still further work to be done. On the other hand, senior female practitioners provided significantly different narratives, recounting past decades in which female arbitration specialists faced systematic exclusion, client scepticism, and network marginalisation. Notably, these more senior interviewees also often described ongoing challenges with breaking into male-dominated networks: while achieving individual recognition, they reported persistent patterns of structural biases, such as receiving all-male arbitrator lists for chair appointment. As one senior female arbitrator observed, men still overwhelmingly dominate the higher ranks of Belgian law firms,[23] resulting in a dynamic in which male decision-makers often simply don't consider female arbitrators when discussing appointments.

Further field-specific structural obstacles were also highlighted, with appointment of female arbitrators described as particularly low in traditionally male sectors like energy, oil and gas. One practitioner focused on energy disputes noted that after 20 years' experience in the field they only recently had their first arbitration involving a female arbitrator. These biases in appointment patterns, even if not derived from conscious discrimination, create self-reinforcing cycles in which limited appointment opportunities restrict women's arbitrator experience, leading to future exclusion based on comparative inexperience.

CEPANI was consistently highlighted by interviewees as demonstrating proactive leadership on this issue, most notably through the explicit incorporation of diversity and inclusion considerations into arbitrator appointment procedures, formalised in CEPANI's rules.[24] Board composition was also highlighted, with 1 of 2 Vice Presidents being female, and 6 of 13 Board Members.[25] Interviewees consistently credited the leadership of CEPANI’s Secretary General, Emma Van Campenhoudt, as

[21] https://cepani.be/about/cepani/annual-reports/2024/statistical-survey-2024 (last visited 4 August 2025).
[22] https://youconnect.be/en/blog/navigating-partnership-paths-in-belgian-law-firms-a-look-at-gender-dynamics-2 (last visited 4 August 2025).
[23] One 2024 study reported that 81% of equity partners at Belgium’s leading law firms are men. *See* Diether Vandenbussche, Navigating partnership paths in Belgian law firms: a look at gender dynamics, *available at* https://youconnect.be/en/blog/navigating-partnership-paths-in-belgian-law-firms-a-look-at-gender-dynamics-2 (last visited 4 August 2025).
[24] CEPANI Arbitration Rules, Article 15(1).
[25] *See* https://cepani.be/about/cepani/our-structure/board-of-directors (last visited 4 August 2025).

central to this institutional stance, particularly with respect to active promotion of opportunities for younger female arbitrators through strategic appointments to smaller cases, providing crucial early experience building opportunities.

Belgian arbitration's gender trajectory appears cautiously positive, although requiring ongoing efforts. Institutional initiatives have provided supportive frameworks for advancement, but deeply embedded network effects, sectoral conservatism, and work-life balance challenges mean that gender equality will remain a long-term project requiring continuous advocacy and structural innovation. Still, Belgium's experience demonstrates that institutional leadership, transparent monitoring, and sustained commitment can drive meaningful change, even within arbitration's traditionally conservative culture.

9. Language and Arbitration

Belgium's complex linguistic landscape, encompassing Dutch, French, and German-speaking communities alongside widespread English proficiency, creates distinctive dynamics impacting arbitration practice and market development. This multilingual character represents both competitive advantage and persistent challenge, with language competencies influencing professional opportunities, institutional operations, and Belgium's positioning within international arbitration markets.

Belgium's constitutional framework establishing three linguistic communities creates the foundational context.[26] Approximately 60% of Belgium's population speaks Dutch (concentrated in Flanders), 40% speaks French (concentrated in Wallonia and Brussels), with a small German-speaking minority in eastern cantons.[27] Brussels maintains official bilingual status though French now predominates.[28] Given the

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[26] Belgian Constitution, Article 2 ("Belgium comprises three Communities: the Flemish Community, the French Community and the German-speaking Community.").
[27] The World Factbook, *available* at https://www.cia.gov/the-world-factbook/countries/belgium/factsheets/ (last visited 4 August 2025).
[28] *See, e.g.* Philippe Van Parijs, "Brussels bilingual? Brussels francophone? Both and neither!", The Brussels Times, 1 March 2016 ("[Brussels] has two official languages on an equal footing, Dutch and French. This means that all official documents must be published in both languages, that both languages can be spoken in the parliament of the Brussels Region and in the councils of its nineteen municipalities, and that all publicly funded schools must use either Dutch or French as the medium of instruction...Data on the linguistic competence of Brussels residents are available since shortly after Belgium's independence. What they show, between then and now, is a dramatic fall — from nearly 50% to practically nothing — in the proportion of Brusselers who know Dutch and no French. This is matched by a no less dramatic increase — from 20% to over two thirds — in the proportion of Brusselers who know French and no Dutch."). For a fascinating discussion of the historical background, *see* Harry van Velthoven, "The Process of Language Shift in Brussels: Historical Background and Mechanisms", in The Interdisciplinary Study of Urban Bilingualism in Brussels (Els Witte & Hugo Baetens Beardsmore eds.) at 15.

dominance of Brussels in Belgian arbitration, the dominance of French in Brussels unavoidably impacts Belgian arbitration, with interviewees acknowledging that while trilingualism is common, French and English were both essential for an arbitration practitioner, while Dutch was beneficial but not essential given the smaller arbitration caseload in Dutch.

This dynamic is directly reflected in CEPANI's case statistics, with CEPANI's 2024 case statistics stating that 50% of cases were administered in English, 25% in French, and 25% in Dutch, with German essentially absent.[29] These proportions reflect multiple dynamics: French's historical dominance in Belgian commercial law, English's ascendance as an international business lingua franca, and Dutch's relatively limited international utility despite its demographic importance in Belgium.

However, the distinction between 50% of CEPANI's new 2024 cases proceeding in English, and 42% of its cases involving a foreign party is worth highlighting, particularly in light of the repeated statements by interviewees that a significant part of Belgium's international arbitration market involves French-language cases. What this reflects is that a significant number of domestic arbitrations also proceed in English, with interviewees explaining that English functions as a "neutral" language for disputes involving parties from different linguistic communities (Flemish/French), including when the underlying contract was itself in English, as was described to be relatively common. Similarly, several interviewees reported English as their firm's working language, adopted both to facilitate international work and as linguistically neutral ground between French and Dutch.

French also maintains a central importance, particularly for arbitrations involving African parties, where Belgium's colonial history and francophone networks create natural connections. The "French-speaking but not French" positioning described above also provides Belgian arbitrators with significant appointment opportunities in foreign arbitrations involving French parties, where neutrality concerns may preclude French arbitrators.

By contrast, Dutch occupies a more difficult position within Belgian arbitration. While Dutch-speakers constitute Belgium's demographic majority and Dutch-speaking Flanders drives much of Belgium's economic activity,[30] Dutch remains significantly less important in arbitration practice. Native Dutch-speaking interviewees acknowledged this reality, noting that monolingual Dutch speakers would face substantial career limitations in arbitration. Unlike French competency, which opens arbitrator

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[29] https://cepani.be/about/cepani/annual-reports/2024/statistical-survey-2024 (last visited 4 August 2024).

[30] Leo Cendrowicz, "How economics explains Belgium's rifts", 17 November 2017 ("With a population of 6.5 million, Flanders is about twice as big as Wallonia. It provides 58% of the national gross domestic product (GDP), compared to 23% for Wallonia. Eurostat figures show that while per capita GPD in Flanders is 121% of the EU average, in Wallonia it is 86%.").

appointment opportunities in France and francophone Africa, Dutch fluency provides limited advantages even in the Netherlands, where the domestic arbitration market favours local practitioners.

Multilingual capability emerged as a defining characteristic of successful Belgian arbitration practitioners, with practitioners typically commanding professional fluency in French, Dutch and English, regardless of native language. This trilingual competence becomes quadrilingual for some practitioners from German-speaking regions or similar backgrounds. Such linguistic versatility creates natural advantages in international disputes requiring document review across multiple languages or involving parties from different linguistic traditions, and interviewees highlighted this as one of Belgium's potential offerings as a seat for international arbitrations and as a marketing point for Belgian arbitrators.

10. Arbitration Education and Entry into Arbitration Practice

Interviewees described Belgian legal education's treatment of arbitration as remaining limited despite the recent development of Belgium's arbitration market, with arbitration now available as an elective in some LLM programmes, but rarely discussed more than briefly in undergraduate education. As a result, while most new Belgian lawyers were described as at least having some idea what arbitration is, their understanding rarely extends beyond that basic awareness.

As in many other jurisdictions, the Vis Moot was also mentioned by interviewees. However, while seen as a valuable experience, Belgian law schools have traditionally had only a limited engagement with the Vis, and perhaps as a consequence, its role in hiring decisions was described as relatively limited. It was an added extra for an applicant to have, but not something seen as necessary or decisive.

Taking an LLM abroad was seen as an important opportunity, although less important than in some other jurisdictions. As described by interviewees, possession of a foreign LLM is attractive for an applicant interested in working in arbitration, but it is not essential. Nonetheless, given the limited teaching of arbitration at undergraduate level, studying arbitration at LLM level, whether abroad or within Belgium, increases the applicant's attractiveness for an arbitration-related position. One interviewee also noted that admission to a competitive foreign LLM can assist an application by providing third party judgement of the applicant's promise – they were seen as promising enough to be admitted to that LLM, and the law firm can rely on that institution's judgement.

Perhaps most notable, however, was the consistency with which interviewees reported having studied at an LLM programme in the United States, rather than the

United Kingdom, with further discussions also highlighting a U.S. LLM as particularly desirable. This may simply reflect the particular individuals interviewed, and no explanation was offered for such a tendency, but it was a notable variation from similar discussions in most other jurisdictions, where the U.K. was the dominant destination for English-language LLM study.

Overall, the view expressed by interviewees was that the primary benefit of an LLM was not the specific education received, although as noted some arbitration education would be beneficial, or even for learning English, although that was seen as an important benefit. Rather, interviewees consistently highlighted the benefits gained from experiencing another country and culture, particularly for individuals interested in working in the internationalised environment of Belgian arbitration. Nonetheless, some concern was expressed at the impact of modern technology on this experience, as study abroad no longer means isolation from home and the need to enmesh yourself in a foreign culture and community. Instead, phones and computers mean that “home” is never far away.

11. Conclusion

The preceding discussion reveals an arbitration jurisdiction that has successfully evolved from arbitration backwater to respectable regional player, yet remains fundamentally challenged by scale, economics, and established centres' gravitational pull. The 2013 adoption of a Model Law-based national arbitration law ensured the existence of a modern arbitration framework; CEPANI has transformed from a minor institution largely subordinate to the ICC into a vibrant community centre with sufficient self-confidence to demonstrate institutional leadership, while also fostering genuine commitment and even affection from Belgian arbitration practitioners; judicial understanding of arbitration has reportedly improved dramatically through centralisation of arbitral cases, and interviewees appeared largely happy with the support to arbitration given by Belgian courts; Belgian arbitrators enjoy international recognition, particularly by leveraging their "French-speaking but not French" positioning; and Belgium’s arbitration community has an unusual openness and cohesion.

Yet despite such positive points, structural realities impose real constraints on ambitions for Belgium’s future development as an arbitral hub. Belgium's arbitration market is insufficient to support the specialised practices and deep arbitrator pools that characterise major arbitration centres; the centrality of SMEs to the Belgian economy and their consistent cost sensitivities and limited arbitration awareness limit the effectiveness of attempts to develop the domestic market; and while efforts at regional collaboration seem intuitively appealing, they appear to have run into the practical difficulties of coordinating collaboration between jurisdictions with differing need for such collaboration.

Belgium's arbitration future possibly lies not in what are arguably unrealistic hub aspirations but in niche excellence: a multilingual community capable of handling international disputes without extensive translation costs, populated with counsel and arbitrators well-versed in dispute resolution involving cultural differences, and without the conflict concerns that arise for arbitrators and counsel from larger jurisdictions. Belgium now possesses the legal infrastructure, institutional sophistication, and community cohesion necessary for continued growth. The challenge lies in developing momentum while accepting realistic limitations—not every country can become Paris, London, or Singapore, but sustainable regional excellence is not an undesirable goal.