Court of Conciliation and Arbitration

OSCE Organization for Security and Co-operation in Europe

Who we are

The Court of Conciliation and Arbitration provides mechanisms for the peaceful settlement of disputes between States. The Court was established by the Convention on Conciliation and Arbitration within the OSCE, adopted in 1992 in Stockholm.

This Convention that laid the foundation of the Court of Conciliation and Arbitration within the OSCE was an important step by States in strengthening their commitment to the peaceful settlement of disputes between States as articulated in principle V of the Helsinki Final Act (1975).

The Convention entered into force in 1994 and has been ratified so far by 34 OSCE participating States. The Court is based in Geneva, Switzerland, and operates as an independent institution functioning in accordance with OSCE principles.

Structure

The Court is composed of two categories of members appointed by the States parties, in line with the Court's two different procedures: conciliation and arbitration. Each of these members may serve a term of six years, which can be renewed.

Each State party appoints two conciliators who are entered into the Court's list of conciliators. They may be entrusted, by the parties to a dispute, to act in a conciliation procedure. Each State party also appoints one arbitrator and an alternate who are registered on the list of arbitrators. They may serve in an arbitral tribunal, if and when such a tribunal is set up.

According to the terms of the Convention, these members are highly experienced experts, and are committed to carry out their functions in an independent and impartial manner.

The members elect the Court's President as well as a Bureau composed of two conciliators and two arbitrators, complemented by alternates, for a period of six years. The Bureau plays an important role as the Court's executive body and maintains regular contacts with its States parties and the OSCE community, defines the Court's outreach activities, liaises with legal fora and represents the Court in its external relations.

Emmanuel Decaux, who was elected in November 2019, holds the Court presidency. He was preceded by Christian Tomuschat (2013-2019) and Robert Badinter (1995-2013).

Facts and figures

States parties:

Albania, Armenia, Austria, Belarus, Bosnia and Herzegovina, Croatia, Cyprus, Denmark, Finland, France, Germany, Greece, Hungary, Italy, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Moldova, Monaco, Montenegro, North Macedonia, Norway, Poland, Portugal, Romania, San Marino, Slovenia, Sweden, Switzerland, Tajikistan, Ukraine, Uzbekistan

Budget:

The Court has an annual budget of **95,000 Swiss francs** (around 90,000 euros), which is funded by the **34 States parties.**

Activities:

The Court is yet to hear a case but stands ready to convene and adjudicate on a dispute once brought by a State. In the meantime, the Bureau of the Court and its President liaise with OSCE institutions to highlight conciliation and arbitration as effective ways of conflict resolution.

Outreach:

The Court's outreach activities focus on the international community and academia. It organizes presentations sessions and colloquia dealing with conciliation in international law. The Court's research has been published by leading editors. The latest book "Flexibility in International Dispute Settlement - Conciliation Revisited", edited by Christian Tomuschat and Marcelo Kohen, was released in July 2020. Furthermore, the Court strives to offer efficient communication tools stressing the advantages of the flexible procedures it provides to settle disputes peacefully. These tools are available on the Court's website: osce.org/cca.

How we work on conciliation

The Court offers two, complementary, tracks for dispute settlement: conciliation and arbitration.

These mechanisms can be activated unilaterally by any State party to the Convention for a dispute between it and one or more other States parties. The procedures are open to OSCE participating States that have not ratified the Convention, on the basis of a bilateral or multilateral agreement between the States concerned.

The States parties may use either the conciliation or arbitration procedures to settle a dispute, or both successively.

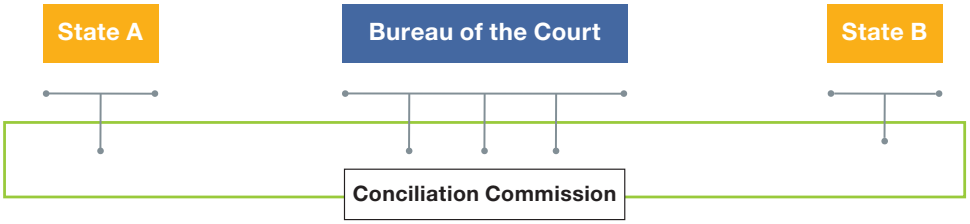
Conciliation

The purpose of conciliation is to bring together, in a confidential procedure, the points of view of the parties to a dispute, in clarifying their positions and to propose a solution to the dispute, which the States are then free to accept or to reject. This process is entrusted to a conciliation commission.

Appointment of the Conciliators

Each party to the dispute appoints its conciliator from the Court's list of conciliators. If more than one State party is involved, each party can appoint several conciliators, as long as the parties each appoint the same number of conciliators.

The Bureau of the Court appoints another three conciliators, or more to obtain an uneven number of conciliators sitting in the Conciliation Commission.



The Conciliation Commission assists the parties in finding a settlement in accordance with international law and OSCE commitments.

Proceedings

- Confidential.
- The parties are consulted to determine the procedure and the location where the conciliation commission will be sitting.

Settlement

The parties reach a mutually acceptable settlement with the help of the Conciliation Commission during the proceedings.

The terms of the settlement are recorded in a summary of conclusions signed by their representatives and the members of the Conciliation Commission. The signing of the document concludes the proceedings.

Final Report of the Conciliation Commission

The Conciliation Commission draws up a final report with its proposals for the peaceful settlement of the dispute.

The final report of the Conciliation Commission is notified to the parties who have 30 days to decide whether they accept the proposed settlement.

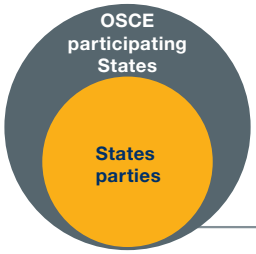
If a party to the dispute does not accept the proposed settlement, the other parties are no longer bound by their own acceptance thereof.

How we work on arbitration

Arbitration

In contrast to conciliation, the nature of inter-state arbitration is to adjudicate the dispute submitted to the Court with the authority of a final decision.

The arbitration procedure can be initiated by agreement between States parties or OSCE participating States. Alternatively, States parties may declare that they recognize as compulsory the jurisdiction of an arbitral tribunal which is subject to reciprocity. Such a declaration may be made for a unlimited period or a specified time.



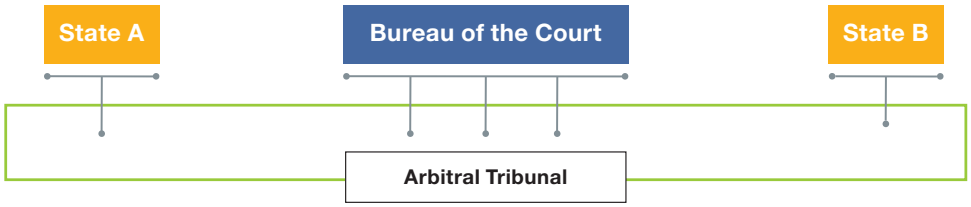
by agreement

Arbitral Tribunal

Appointment of the Arbitrators

The arbitrators appointed by the parties to the dispute become members of the Tribunal. If there is more than one State asserting the same interest in a dispute, they may collectively agree to appoint one single arbitrator.

The Bureau also appoints arbitrators, ensuring an uneven number of members on the Tribunal.



All the parties to the dispute have the right to be heard during the arbitration proceedings according to the principles of a fair trial.

The Arbitral Tribunal reaches its decision on a dispute in accordance with relevant international law.

Proceedings

- Proceedings consist of a written part and an oral part.
- The Arbitral Tribunal has the necessary fact-finding and investigative powers to carry out its tasks.
- Hearings are held in camera (in a private chamber).

Arbitral Award

- The award shall state the reasons on which it is based.
- The award of the Tribunal is binding on the parties.
- The award is final and not subject to appeal.

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Court of Conciliation and Arbitration within the OSCE
Avenue de France 23
CH-1202 Geneva
Switzerland

Office: +41 22 758 00 25
E-mail: info@oscecourt.org
www.osce.org/cca

OSCE Organization for Security and Co-operation in Europe