

## **STAKEHOLDER SURVEYS**

*The aim of the surveys is to obtain information from relevant stakeholders regarding their education & training, experience, and opinions related to ADR methods*

***The information is to be further used to identify the needs of stakeholders and to take concrete further steps for the promotion of ADR methods***

## **STAKEHOLDER SURVEYS**

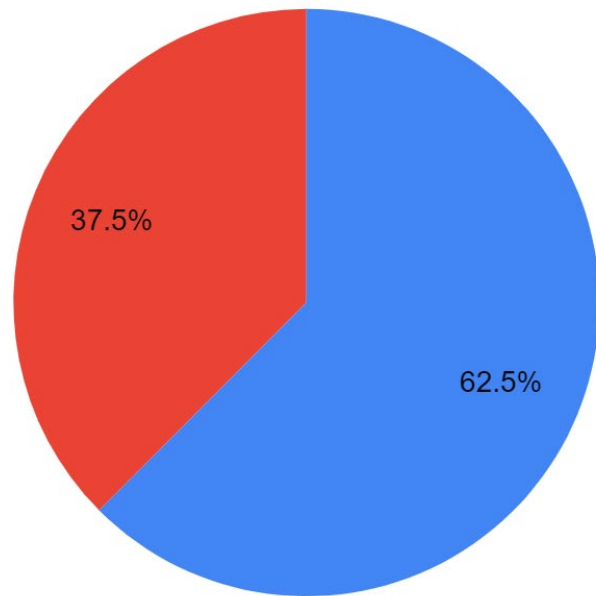
*The survey was distributed to the following stakeholders:*

- Arbitrators listed at the Permanent Court of Arbitration attached to the Economic Chamber of North Macedonia***
- Practitioners (lawyers)***
- Mediators listed at the Chamber of Mediators of the Republic of North Macedonia***
- Judges from basic civil courts in Republic of North Macedonia***
- Courts***
- The Academy for Judges & Public Prosecutors***
- The Coordination Body for Monitoring Arbitration Proceedings Arising from International Treaties***

# SURVEY (PRELIMINARY) RESULTS: ARBITRATORS

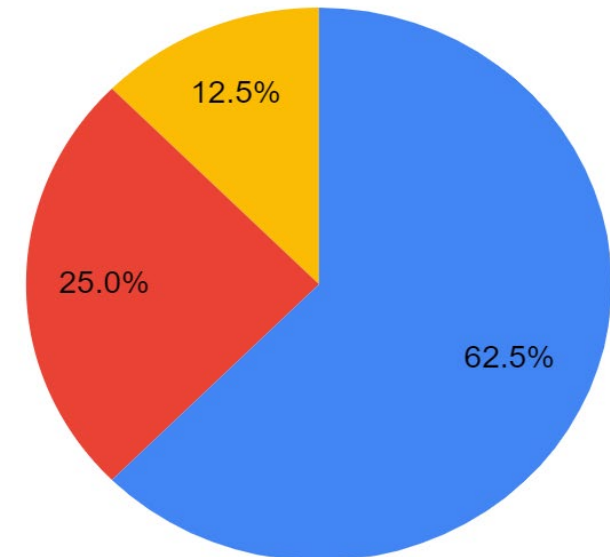
In how many international arbitration cases (seated in Republic of North Macedonia) have you been involved as an arbitrator?

- None so far
- 3-5



In how many international arbitration cases (not seated in Republic of North Macedonia) have you been involved as an arbitrator?

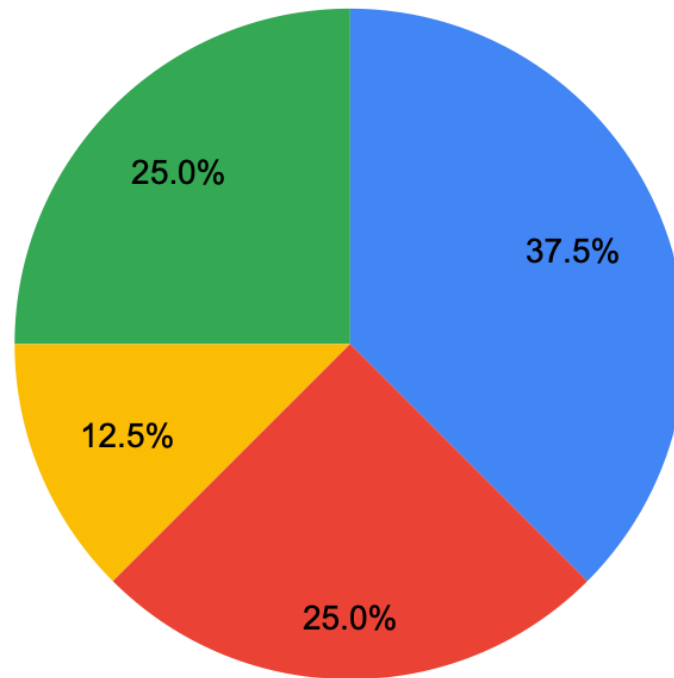
- None so far
- 3-5
- 1-3



# SURVEY (PRELIMINARY) RESULTS: ARBITRATORS

In how many domestic arbitration cases (seated in Republic of North Macedonia) have you been involved as an arbitrator?

- 1-3
- None so far
- 10+
- 5-10

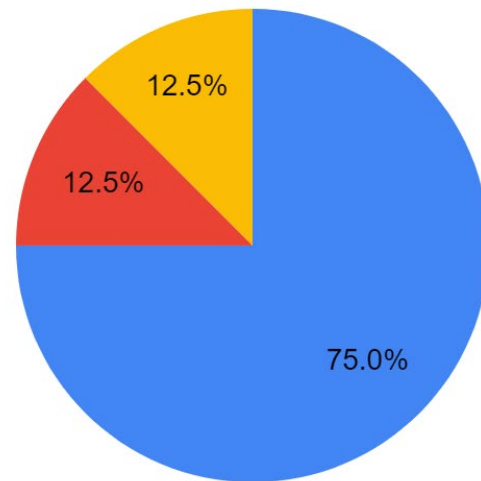


**None of the respondents has been involved as an arbitrator in an ad hoc arbitration, seated in the Republic of North Macedonia.**

# SURVEY (PRELIMINARY) RESULTS: ARBITRATORS

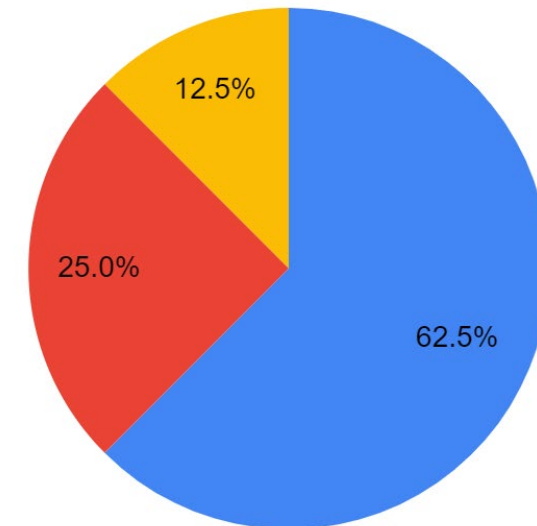
In your perspective, is the judiciary system in the Republic of North Macedonia supportive of international commercial arbitration (is the judiciary “pro arbitration” in relation to anti arbitration injunctions, enforcement of interim measures, recognition and enforcement of foreign arbitral awards or annulment of arbitral awards)?

- Partially
- Yes
- No



Can you rate the level of support of the judiciary system in the Republic of North Macedonia for international commercial arbitration (on a scale of 1(low) to 5 (high))?

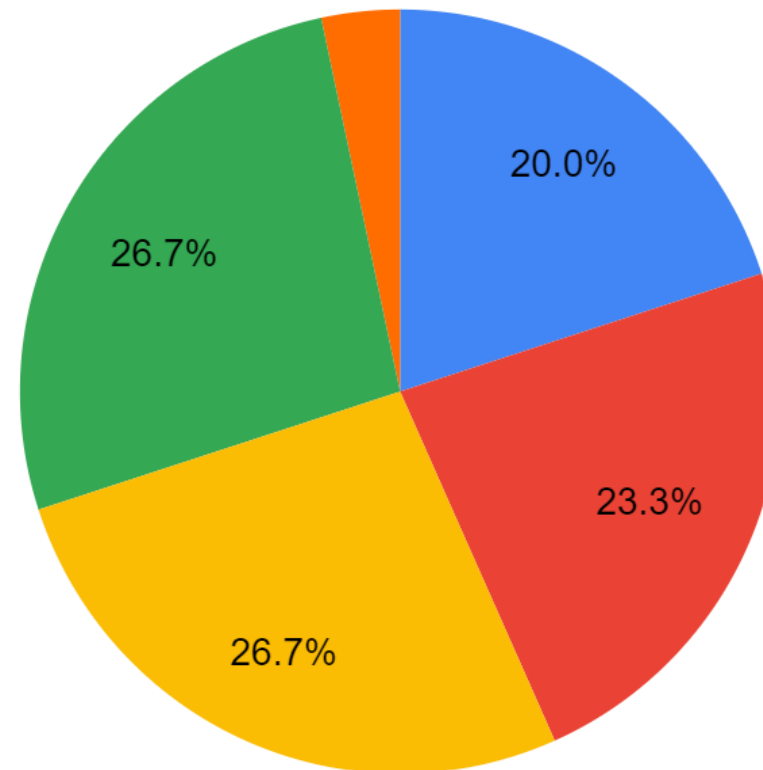
- 3
- 2
- 1



# SURVEY (PRELIMINARY) RESULTS: ARBITRATORS

In your perspective, what are the main advantages of arbitration practice in the Republic of North Macedonia?

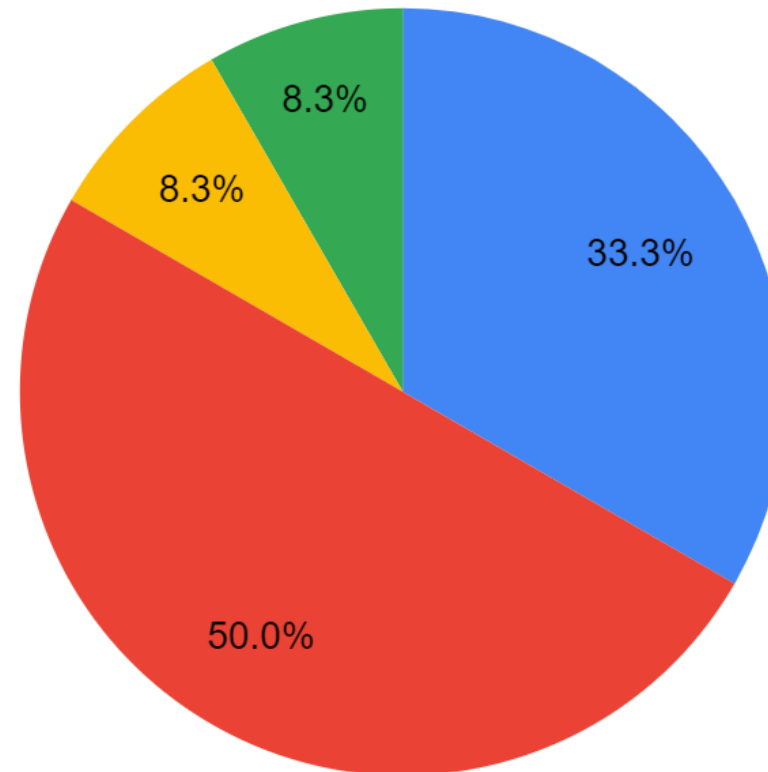
- Speed of the arbitration proceedings
- Confidentiality of the arbitration proceedings
- Greater flexibility of the arbitration proceedings
- The possibility to appoint an arbitrator with greater experience in relation to the subject matter of the dispute.
- Other (lower costs)



# SURVEY (PRELIMINARY) RESULTS: ARBITRATORS

In your perspective, what are the main disadvantages of arbitration practice in the Republic of North Macedonia?

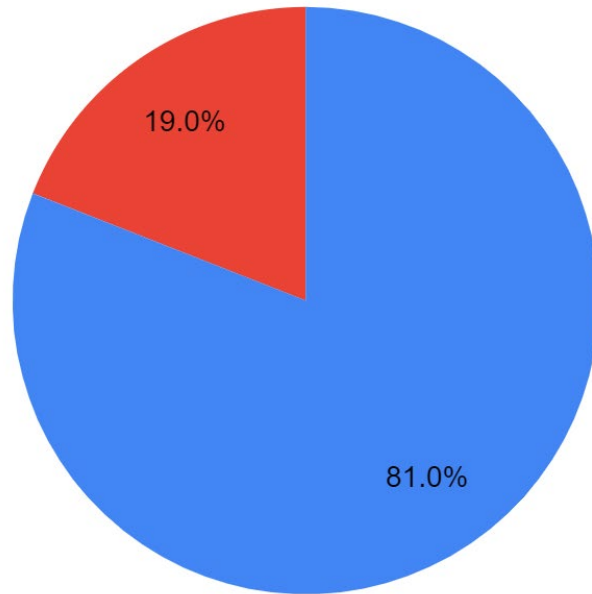
- Finality of the award (forfeiting the right of an appeal)
- Limited powers of the arbitrators
- Other (low level of awareness for arbitration and drafting of pathological clauses)
- Cost of the arbitration proceedings



# SURVEY (PRELIMINARY) RESULTS: LAWYERS

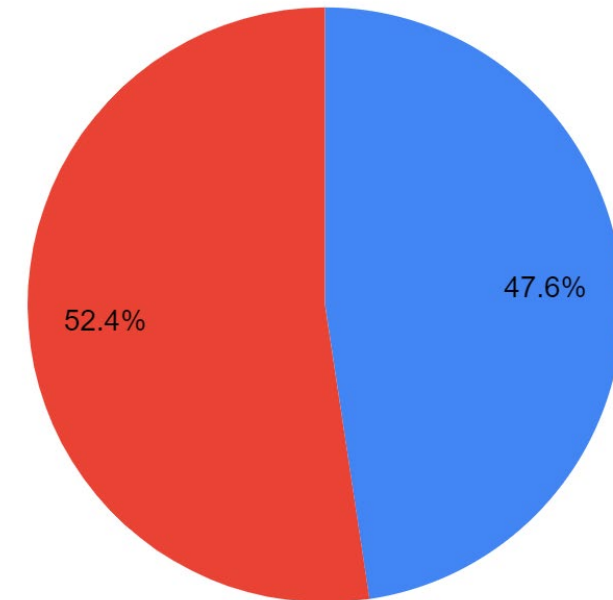
Do you consider arbitration to be a viable alternative for the resolution of commercial disputes?

- Yes
- No



In the Republic of North Macedonia, do you prefer arbitration as a method for the resolution of commercial disputes over court litigation?

- Yes
- No

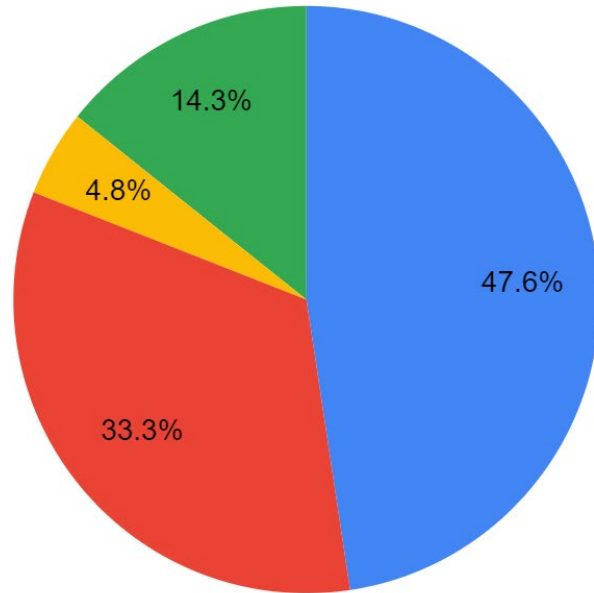




# SURVEY (PRELIMINARY) RESULTS: LAWYERS

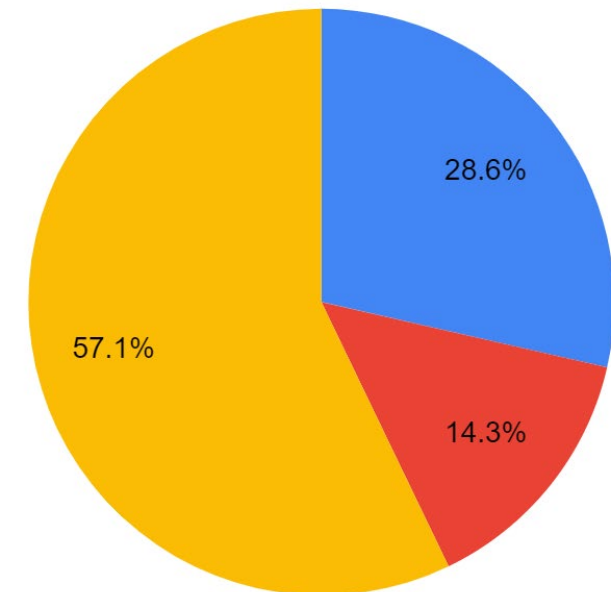
In how many international commercial arbitration cases have you been involved as a counsel in the last 5 years?

- 1-3
- None so far
- 7-10
- 4-6



In how many domestic commercial arbitration cases have you been involved as a counsel in the last 5 years?

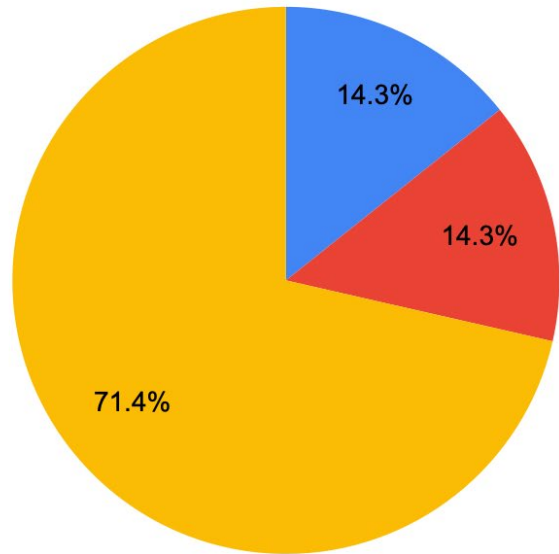
- 1-3
- 4-6
- None so far



# SURVEY (PRELIMINARY) RESULTS: LAWYERS

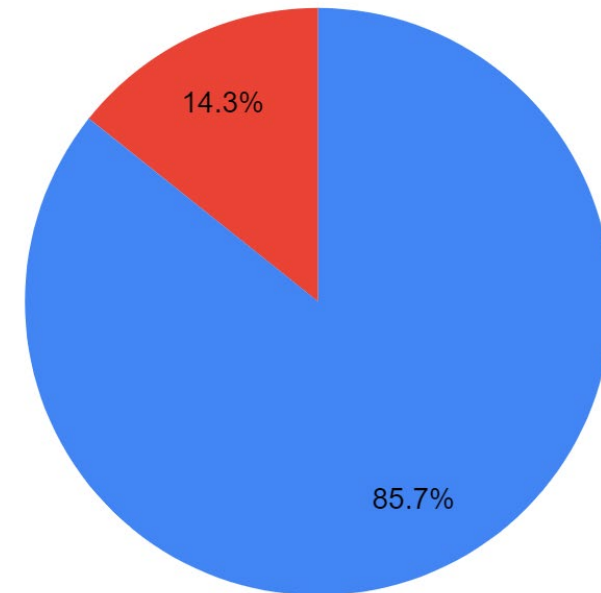
In how many investment arbitration cases have you been involved as a counsel in the last 5 years

- 4-6
- 1-3
- None so far



Have you been involved as a counsel, or arbitrator in an ad hoc arbitration, seated in the Republic of North Macedonia?

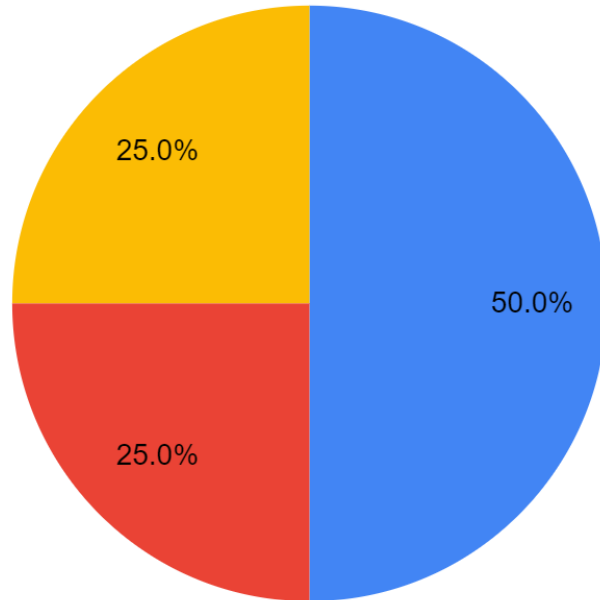
- No
- Yes, in 1-3 cases



# SURVEY (PRELIMINARY) RESULTS: LAWYERS

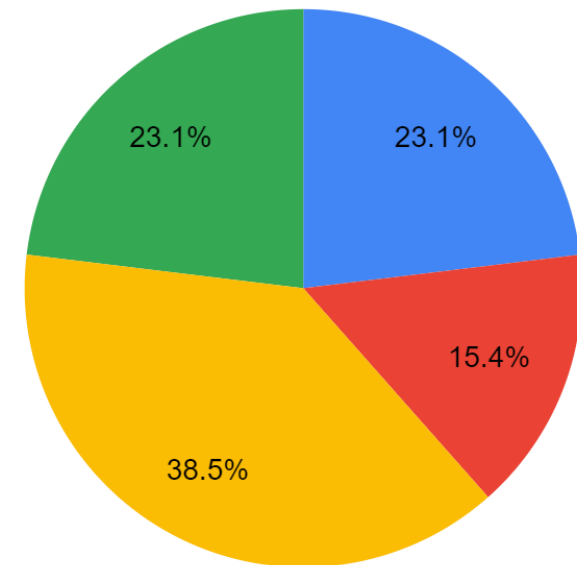
What were the types of disputes referred to arbitration seated in the Republic of North Macedonia in which you have participated?

- Debt collection
- Contract avoidance
- Compensation of damages



What was the subject matter of the disputes referred to arbitrations seated in the Republic of North Macedonia in which you have participated?

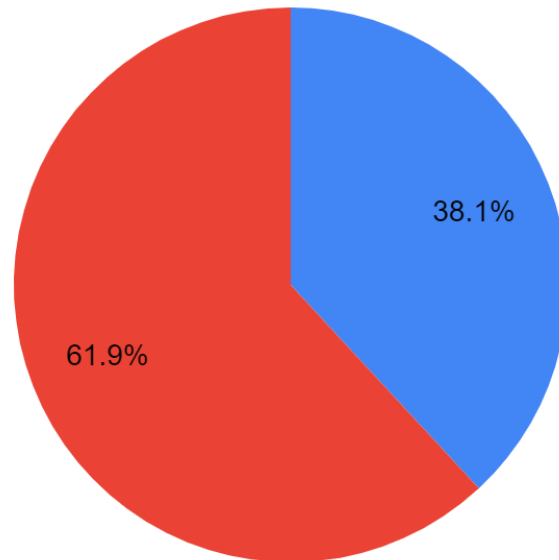
- Public procurement contracts
- Sale contracts
- Service agreements
- Construction contracts



# SURVEY (PRELIMINARY) RESULTS: LAWYERS

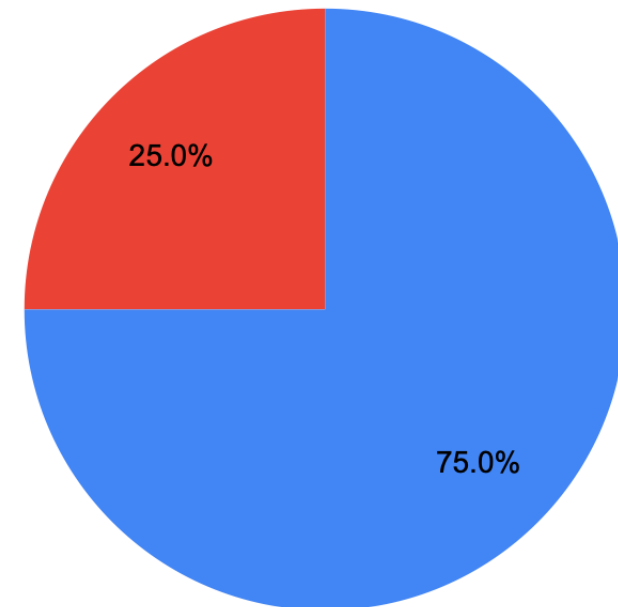
Have you ever been involved as counsel in a procedure for recognition and enforcement of an arbitral award in front of national courts in the Republic of North Macedonia?

- Yes, as a representative of the party seeking recognition and enforcement
- No



If your answer is YES, in how many cases have you been involved?

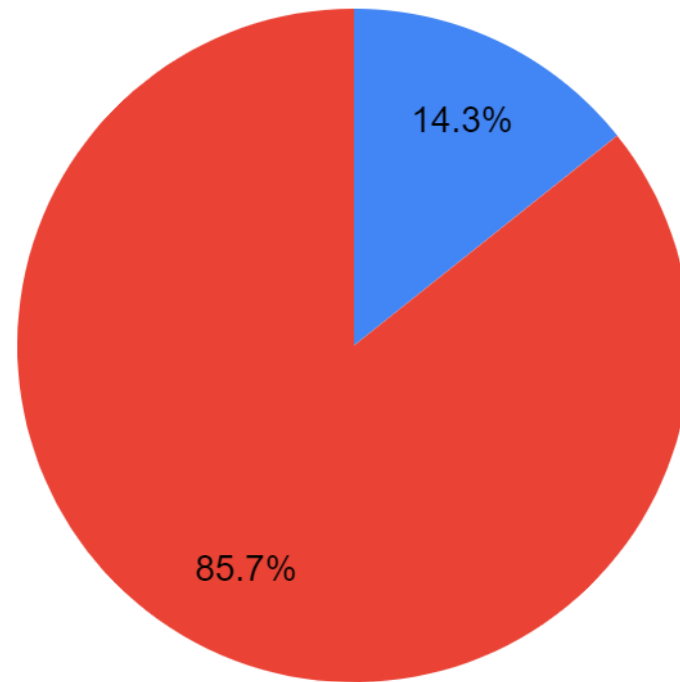
- 1-3
- 4-6



# SURVEY (PRELIMINARY) RESULTS: LAWYERS

Have you ever been involved as counsel in a procedure for the challenge of an arbitral agreement in front of national courts in the Republic of North Macedonia?

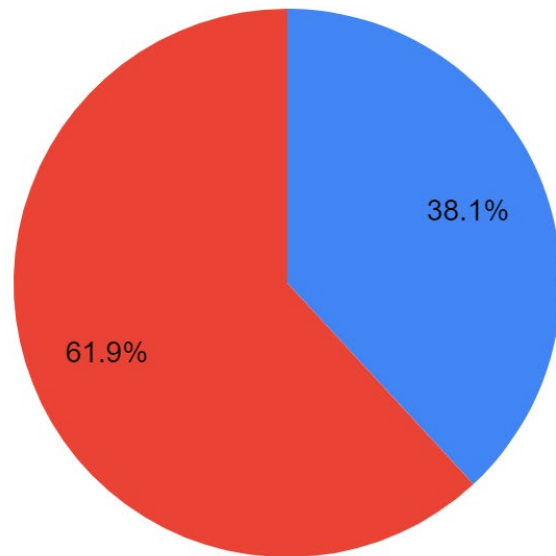
- Yes, as representative of the party objecting to the challenge to the arbitration agreement in 1-3 cases
- No



# SURVEY (PRELIMINARY) RESULTS: LAWYERS

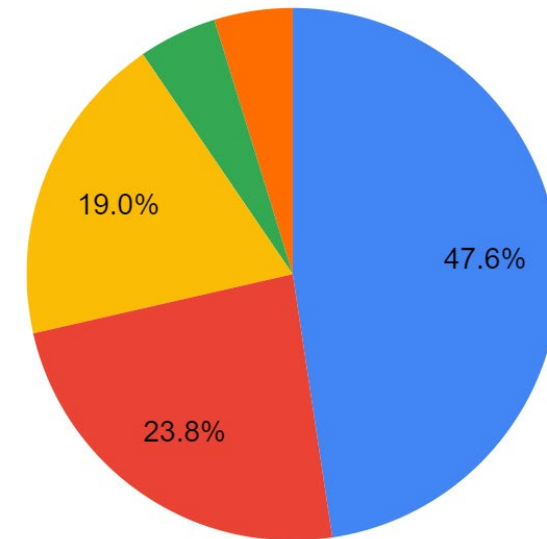
In your perspective, is the judiciary system in the Republic of North Macedonia supportive of international commercial arbitration (“pro arbitration”)?

- No
- Partially



Can you rate the level of support of the judiciary system in the Republic of North Macedonia for international commercial arbitration (on a scale of 1(low) to 5 (high))?

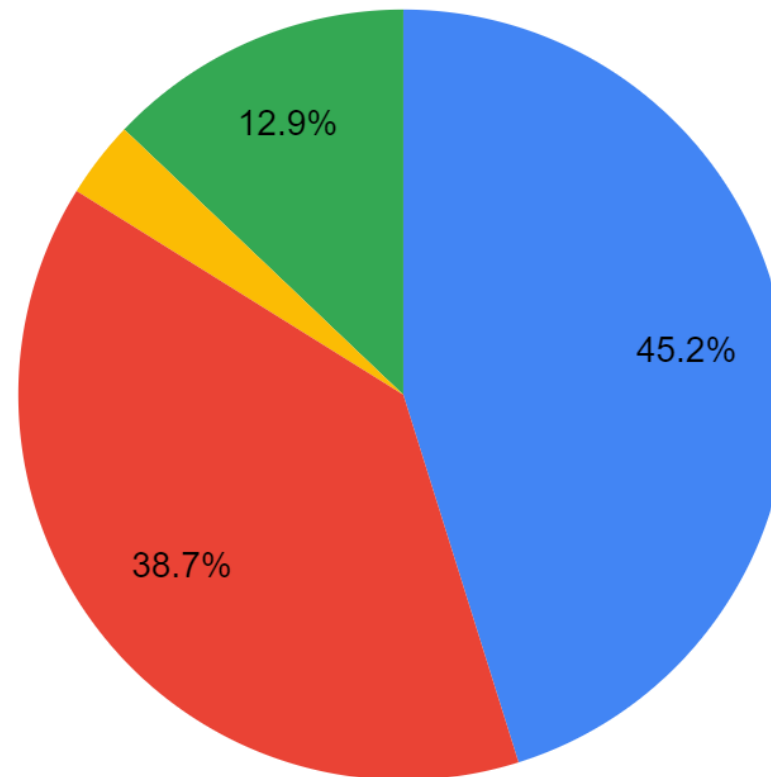
- 2
- 1
- 3
- 5
- 4



# SURVEY (PRELIMINARY) RESULTS: LAWYERS

In your perspective, what are the main advantages of arbitration practice in the Republic of North Macedonia?

- Speed of the arbitration proceedings
- The greater flexibility of the arbitration proceedings
- Confidentiality of the arbitration proceedings
- The possibility to appoint an arbitrator with greater experience in relation to the subject matter of the dispute.

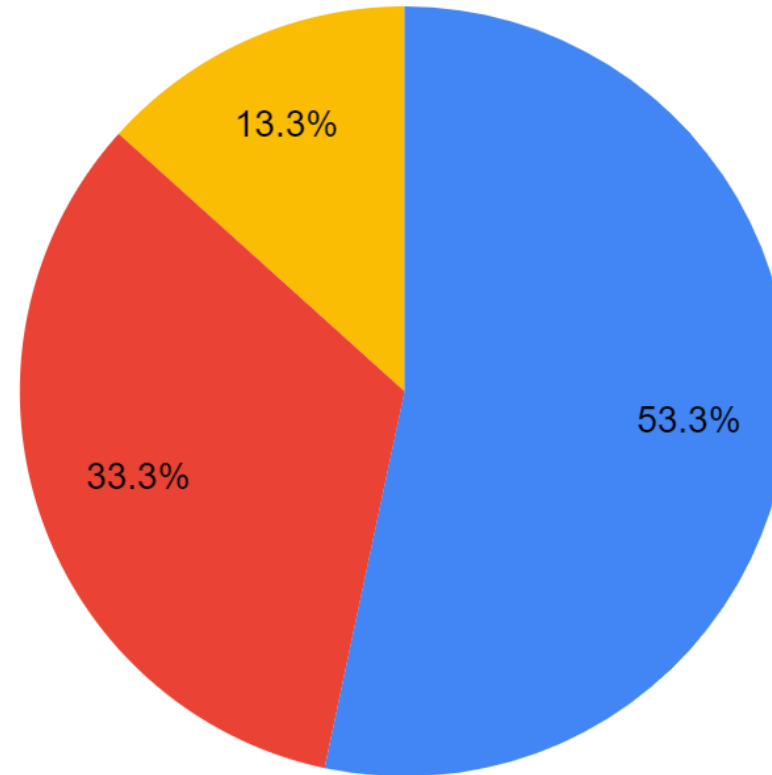




# SURVEY (PRELIMINARY) RESULTS: LAWYERS

In your perspective, what are the main disadvantages of arbitration practice in the Republic of North Macedonia?

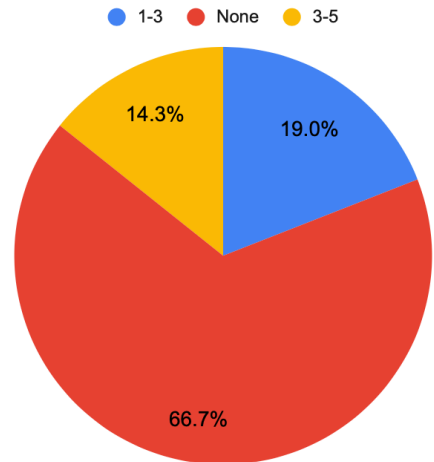
- Limited powers of the arbitrator (still having to refer to courts in some instances, including difficulties in composition of the arbitral tribunal, enforcement of interim measures, enforcement of an awards etc.)
- Cost of the arbitration proceedings
- Finality of the award (forfeiting the right of an appeal)





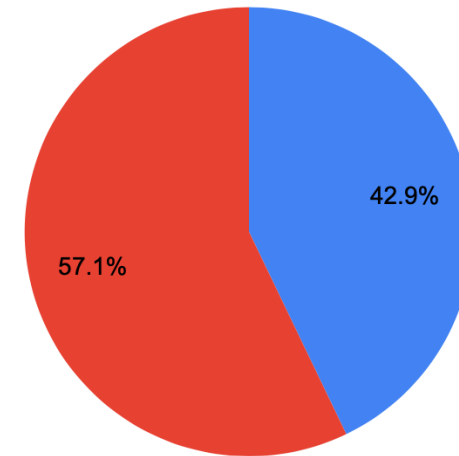
# SURVEY (PRELIMINARY) RESULTS: LAWYERS

In how many mediation procedures have you been involved as a representative (including mediation procedures in which no settlement was reached)?



What is the outcome of the mediation procedures in which you were involved as a representative?

● No settlement was reached. ● I was not involved in a mediation procedure as a representative.

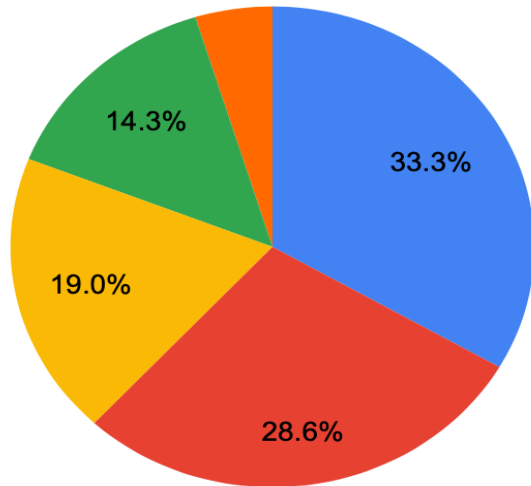


**None of the responders were involved in a mediation procedure as a representative in which a settlement was reached?**

# SURVEY (PRELIMINARY) RESULTS: LAWYERS

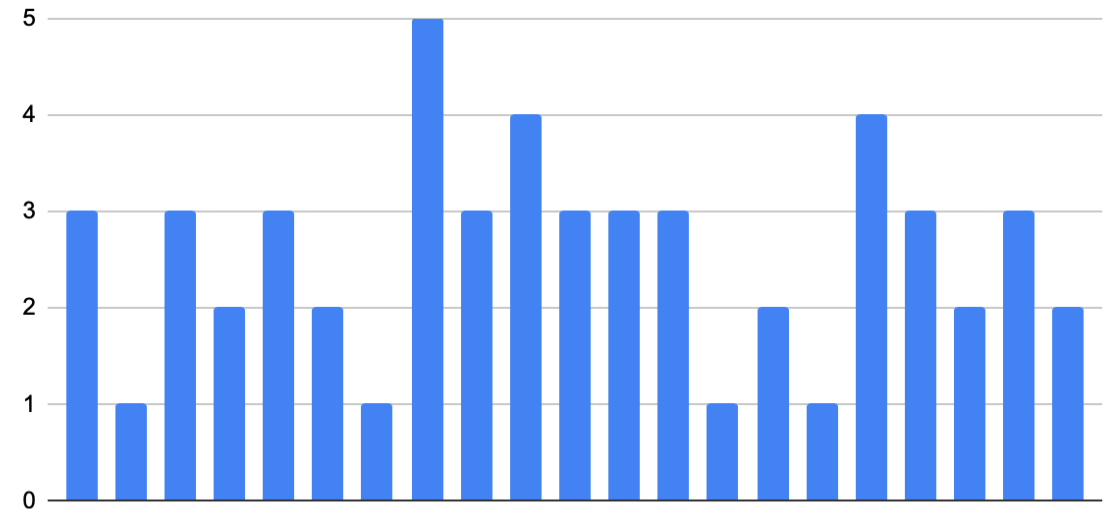
Were you involved in a court proceedings in which the court informs the parties they can resolve their dispute through mediation?

- No
- Yes, in 10+ proceedings
- Yes, in 1-3 proceedings
- Yes, in 3-5 proceedings
- Yes, in 5-10 proceedings



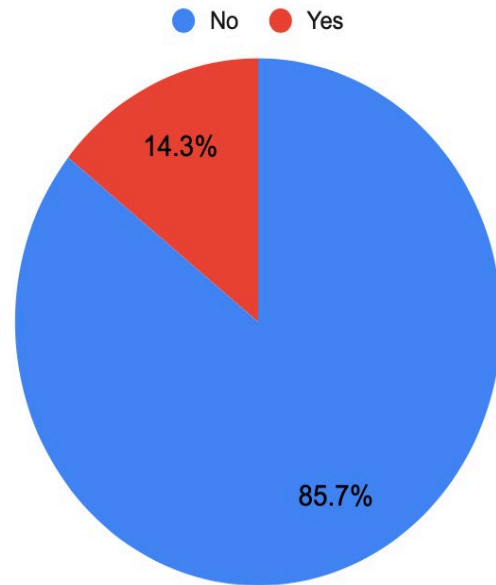
Please grade the level of support provided by the courts for mediation?

Scale 1-5 (1- very low, 5 - very high)

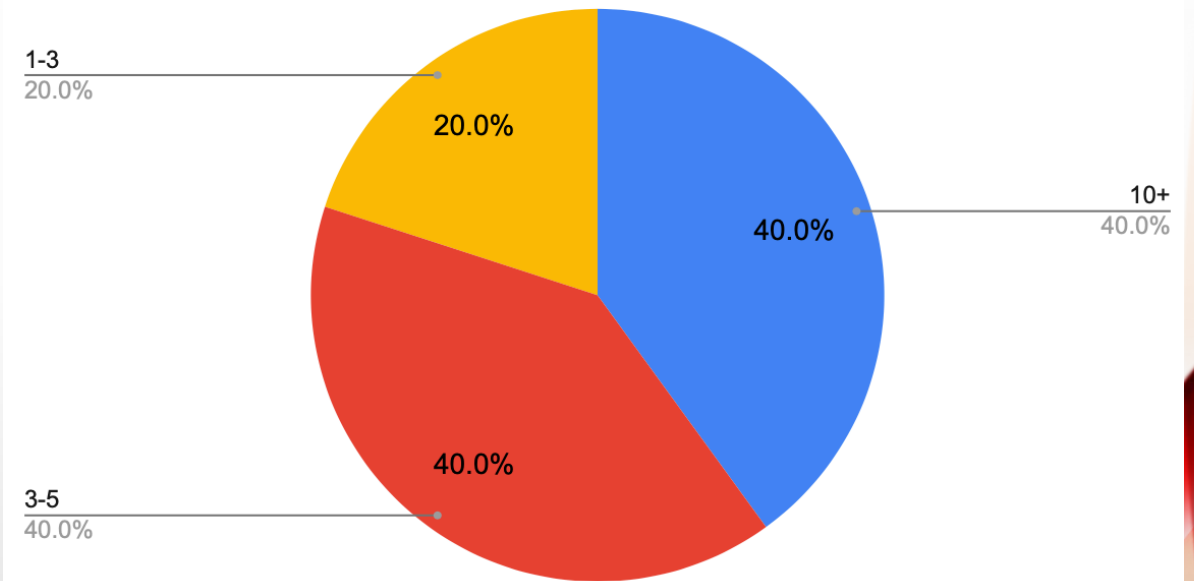


# SURVEY (PRELIMINARY) RESULTS: LAWYERS

Have you drafted an agreement in which the parties resorted to resolve their disputes through mediation?

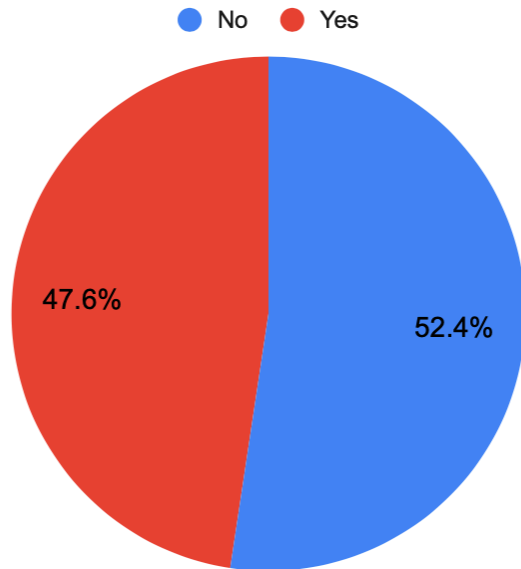


If yes, in how many agreements you drafted the parties resorted to resolve their disputes through mediation?

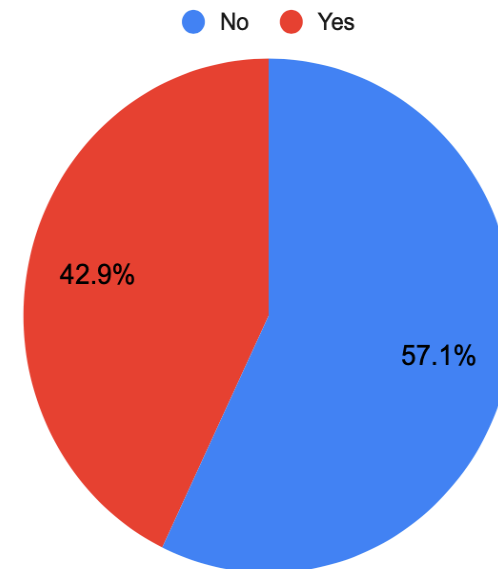


# SURVEY (PRELIMINARY) RESULTS: LAWYERS

Would you suggest mediation as a dispute resolution mechanism to your client?



Do you consider mediation as a viable mechanism for dispute resolution?



# SURVEY (PRELIMINARY) RESULTS: LAWYERS

## Main Advantages of Mediation:

Mediation is a fair process for dispute resolution.	4 (19%)
Mediation is a flexible process for resolving a dispute, which offers more solutions than court proceedings.	9 (42.9%)
Mediation is a faster process for resolving a dispute, in comparison to court proceedings.	11 (52.4%)
Mediation is less costly process for resolving a dispute, in comparison to court proceedings.	10 (47.6%)
Mediation offers confidentiality of the process.	1 (4.8%)
Other	2 (9.5%)

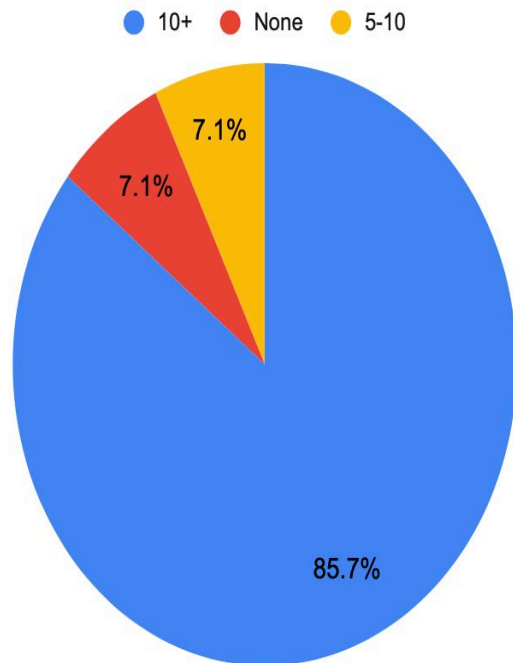
# SURVEY (PRELIMINARY) RESULTS: LAWYERS

## Main Disadvantages of Mediation:

Using services of an unskilled mediator might lead the parties to an unproductable solution.	10 (47.6%)
The resolution of the dispute is not guaranteed.	8 (38.1%)
An unsuccessfull attempt for resolution of the dispute through mediation makes the process a waste of efforts, time and money.	10 (47.6%)
The enforcement of mediation settlements is disputable.	5 (23.8%)
Other	1 (4.8%)

# SURVEY (PRELIMINARY) RESULTS: MEDIATORS

In how many mediation procedures were you involved as a mediator (including mediation procedures in which no settlement was reached)?



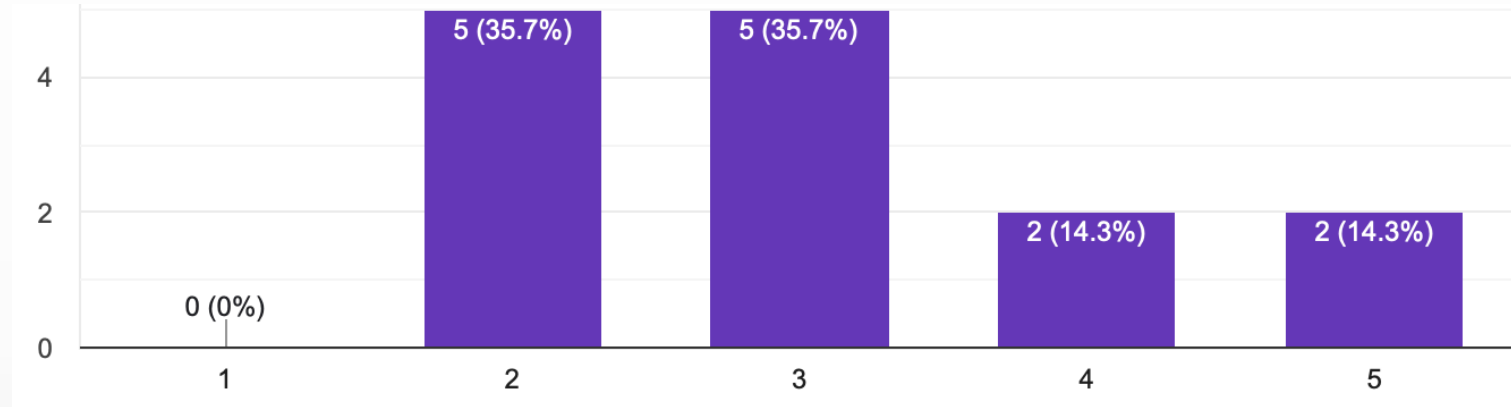
## Outcome:

No settlement was reached.	7 (53.8 %)
A settlement in the form of a written agreement was reached.	8 (61.5%)
A settlement in the form of a written agreement was reached, solemnized by a notary public.	7 (53.8 %)
A settlement was reached which was verified / confirmed by the court.	2 (15.4%)

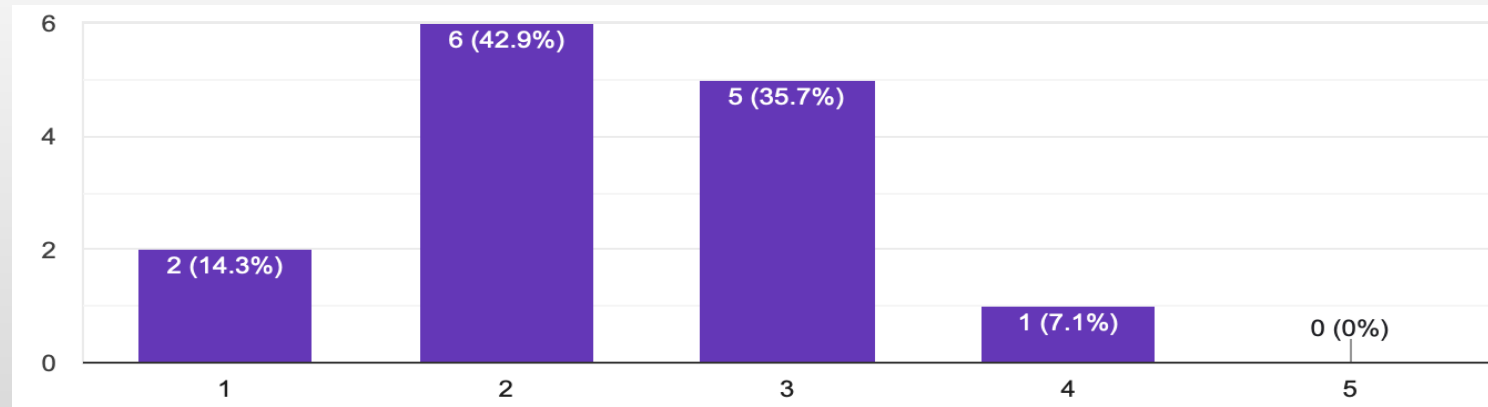


# SURVEY (PRELIMINARY) RESULTS: MEDIATORS

Responders' perception grades on the level of information and knowledge on the rules and its practical implementation for mediation of the judges.



Responders' perception grades on the level of information and knowledge on the rules and its practical implementation for mediation of the general public.





# SURVEY (PRELIMINARY) RESULTS: MEDIATORS

## Main Advantages of Mediation:

Mediation is a fair process for dispute resolution.	10 (71.4%)
Mediation is a flexible process for resolving a dispute, which offers more solutions than court proceedings.	12 (85.7%)
Mediation is a faster process for resolving a dispute, in comparison to court proceedings.	13 (92.9%)
Mediation is less costly process for resolving a dispute, in comparison to court proceedings.	13 (92.9%)
Mediation offers confidentiality of the process.	11 (78.6%)
Other	3 (21.4%)
<i>„Mediation is a tool for fighting corruption“</i> <i>„Mediation is a process in which parties may resolve more disputes in a single procedure“</i>	

# SURVEY (PRELIMINARY) RESULTS: MEDIATORS

## Main Disadvantages of Mediation:

Using services of an unskilled mediator might lead the parties to an unproductable solution.	4 (28.6%)
Resolution of the dispute is not guaranteed.	3 (21.4%)
An unsuccessfull attempt for resolution of the dispute through mediation makes the process a waste of efforts, time and money.	2 (14.3%)
The enforcement of mediation settlements is disputable.	1 (7.1%)
Other - „Promotion of mediation is insufficient” - „Lack of support and promotion by the stakeholders” - „Lack of awareness of the process on the side of the parties”	10 (71.4%)

# **SURVEY (PRELIMINARY) RESULTS: MEDIATORS**

## **IDEAS SHARED BY THE RESPONDERS FOR DEVELOPMENT OF THE LEGAL FRAMEWORK & PRACTICAL IMPLEMENTATION:**

„Mediation should be taught as a separate course (subject) at bachelor university level.“

„More trainings are needed for all the relevant stakeholders (business sector, judges, prosecutors, attorneys, state administration..)“

„A mandatory attempt for mediation should be prescribed by law for insurance disputes, consumer disputes, disputes for inheritance and for procedures following an objection to a notary public payment order.“

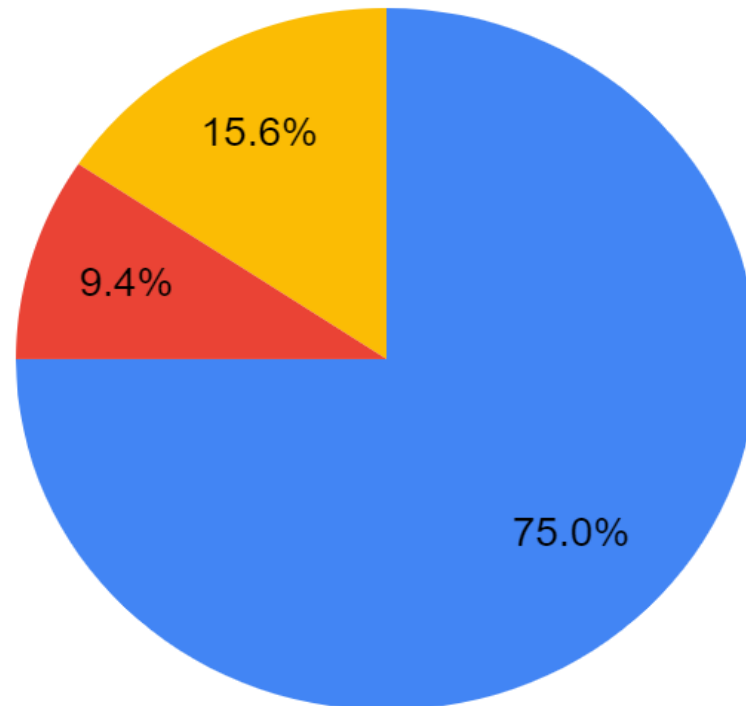
„Better promotion of mediation is needed.“

„When suggested mediation by the court, the parties should give a personal statement that they were informed of the suggestion by the court by their representatives and whether they would resort to mediation or no.“

# SURVEY (PRELIMINARY) RESULTS: JUDGES

Do you have formal education (university courses) in ADR?

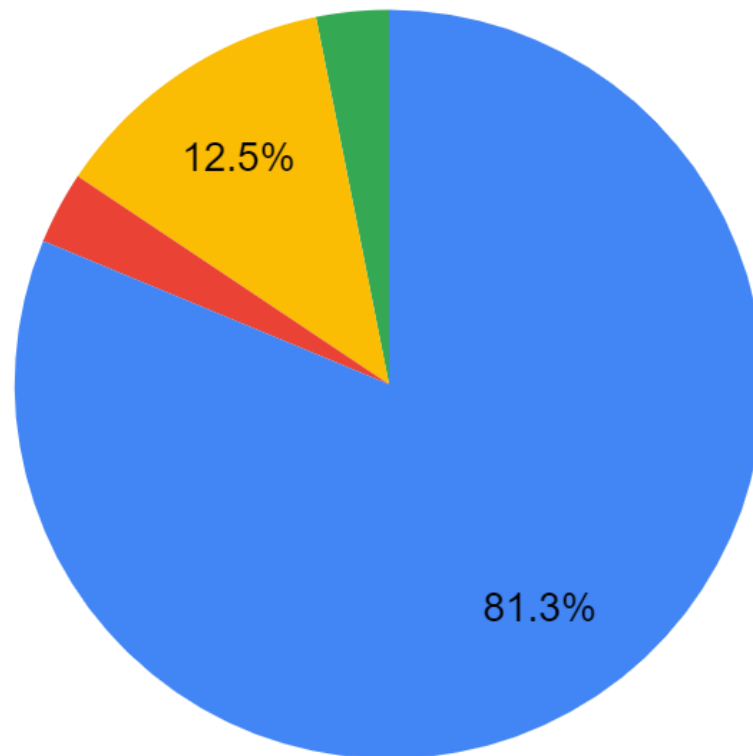
- No
- Yes, university courses at postgraduate level (master's program)
- Yes, university courses at undergraduate level (bachelor's program)



# SURVEY (PRELIMINARY) RESULTS: JUDGES

Do you have non-formal education/training in ADR?

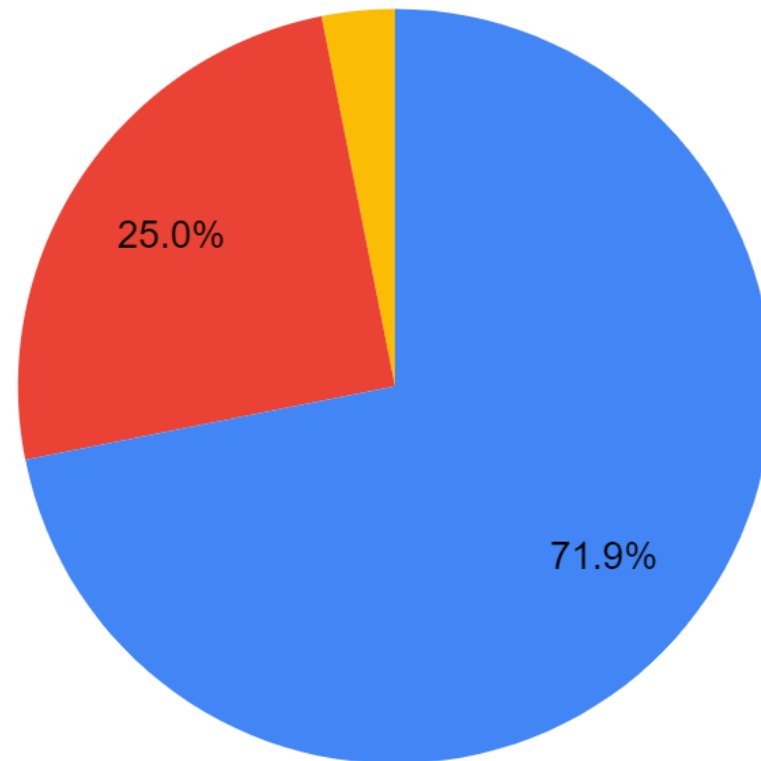
- Yes, training events organized by international institutions/organizations
- Other
- No
- Yes, training events organized by national institutions/organizations



# SURVEY (PRELIMINARY) RESULTS: JUDGES

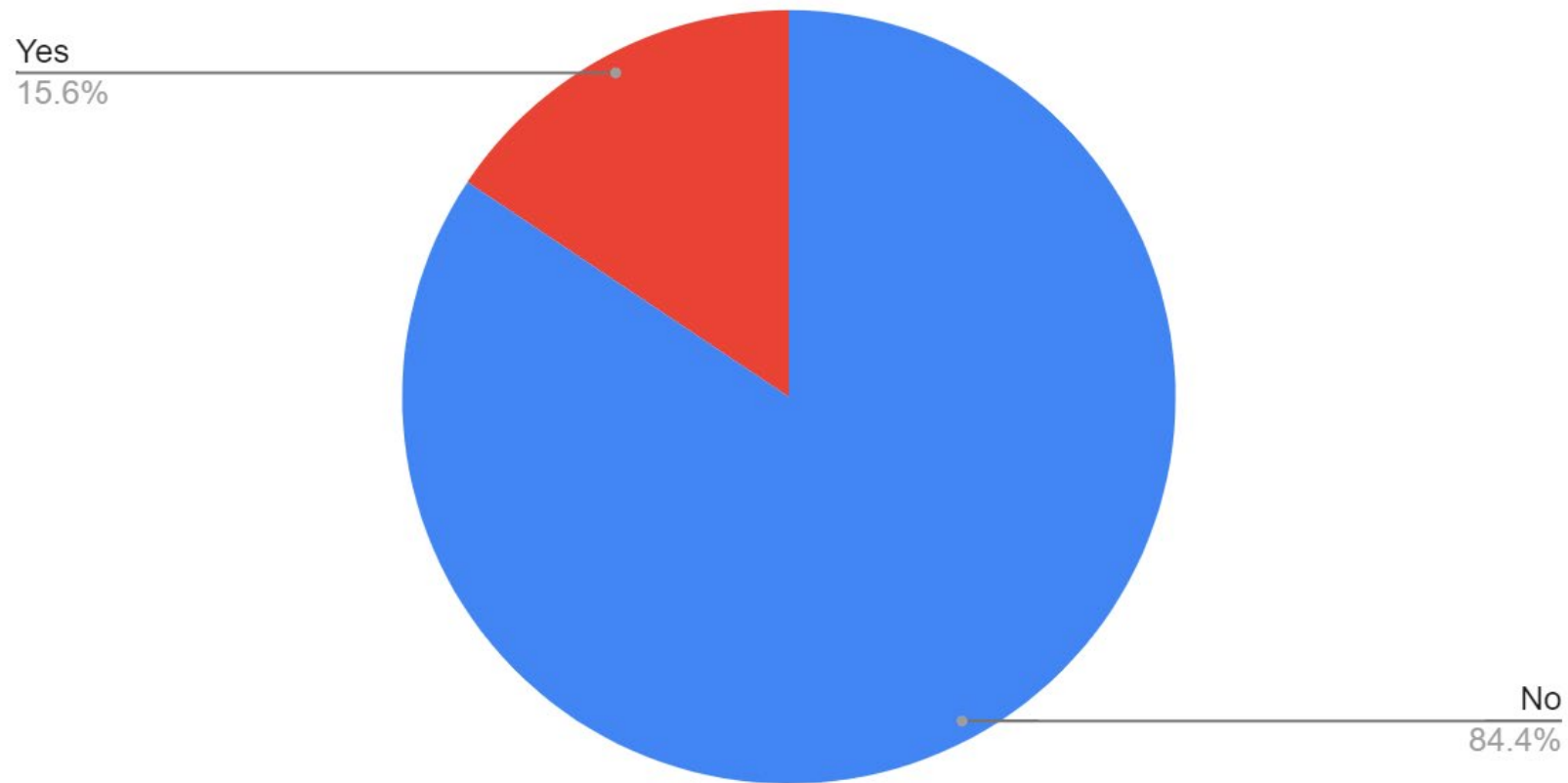
Have you ever decided on arbitration-related issues?

● No ● Yes, in 1-3 cases ● Yes, in more than 6 cases



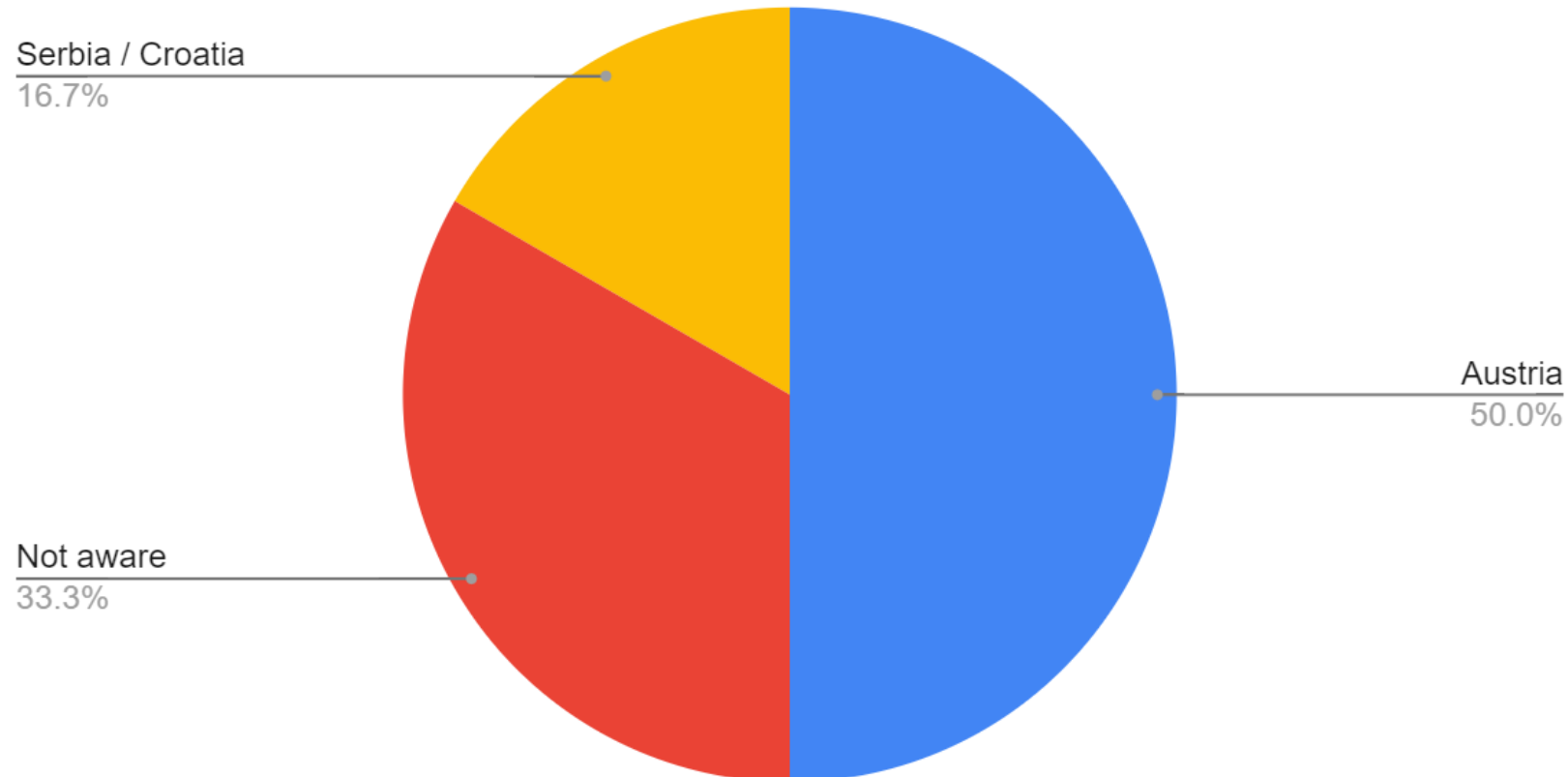
# SURVEY (PRELIMINARY) RESULTS: JUDGES

Have you ever participated as a judge in procedures for challenges of arbitral awards?



# SURVEY (PRELIMINARY) RESULTS: JUDGES ON RECOGNITION AND ENFORCEMENT OF ARBITRAL AWARDS

Where is most often located the seat of the arbitration for the arbitral awards for which recognition and enforcement were s...

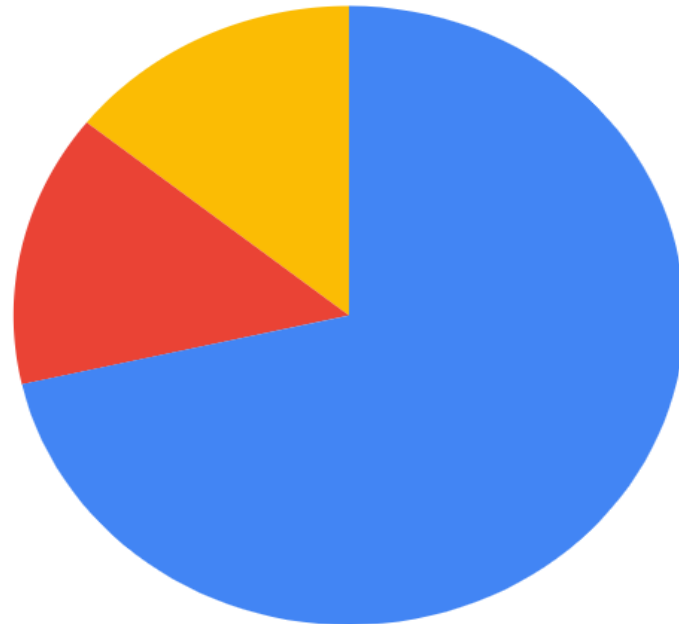




# SURVEY (PRELIMINARY) RESULTS: JUDGES ON RECOGNITION AND ENFORCEMENT OF ARBITRAL AWARDS

Count of On which grounds have the parties objected to the recognition and enforcement of the arbitral award in the last...

- The arbitral award violates the public policy of Republic of North Macedonia
- Lack of proper notice for appointment of arbitrator or arbitration proceedings/ inability to present its...
- Non- arbitrability of the subject matter of the dispute



# SURVEY (PRELIMINARY) RESULTS: JUDGES ON RECOGNITION AND ENFORCEMENT OF ARBITRAL AWARDS

In how many cases for recognition and enforcement of arbitral awards has the Civil Court in Skopje dealt with?

Year	2022	2021	2020	2019	2018
Number of cases	3	5	5	3	3

According to judges of the Civil Court in Skopje in all cases have the counter parties objected to the proposal for recognition of the arbitral award

According to judges of the Civil Court in Skopje in cases has the court recognized the arbitral award, rejecting the objection to the proposal for recognition

Other courts throughout the country have a maximum 1-2 cases for recognition and enforcement of arbitral awards annually

# SURVEY (PRELIMINARY) RESULTS: JUDGES ON RECOGNITION AND ENFORCEMENT OF ARBITRAL AWARDS

In how many cases for recognition and enforcement of foreign court judgements has the Civil Court in Skopje dealt with?

Year	2022	2021	2020	2019	2018
Number of cases	Around 150	Around 130	Around 120	Around 150	Around 130

According to judges of the Civil Court in Skopje in only around 5% of such cases have the counter parties objected to the proposal for recognition of the court judgement

According to judges of the Civil Court in Skopje usual duration of the court procedures for recognition of foreign judgement is up to 3 months

Other courts throughout the country have a maximum of around 30 cases for recognition and enforcement of foreign court judgments annually