

The background of the slide is a photograph of a grand, ornate interior space, likely a historical building or a grand hall. The ceiling is a large, domed structure with intricate, colorful frescoes and decorative panels. A large, multi-tiered chandelier with numerous glowing white lights hangs from the center of the ceiling. The walls are also decorated with classical architectural elements, including columns and statues. The overall atmosphere is one of elegance and historical significance.

Norwegian Arbitration Day

Fast track arbitration – efficiency vs. due process

16.01.2020

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SCHJØDT

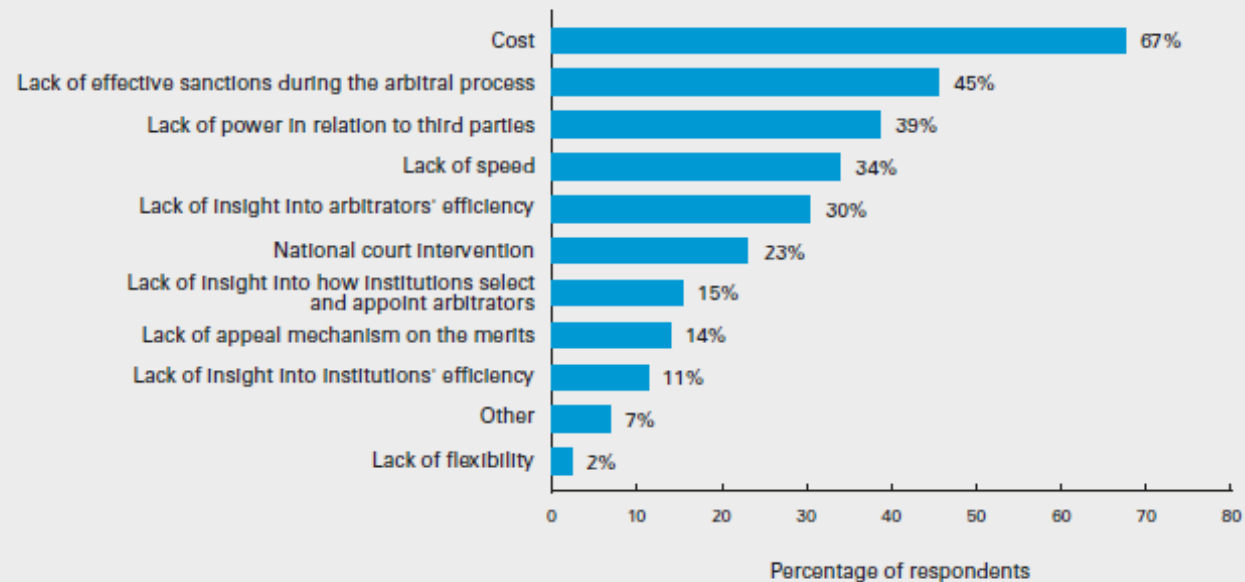
- I. Why are arbitral institutions adopting fast track rules?
- II. Presentation of a three key characteristics of fast track arbitration and how they are dealt with in different sets of rules: How is the balancing act (efficiency vs. due process) carried out?

I. WHY FAST TRACK?

BACKGROUND

- Dissatisfaction with arbitration regime
 - Level of cost
 - Lack of speed

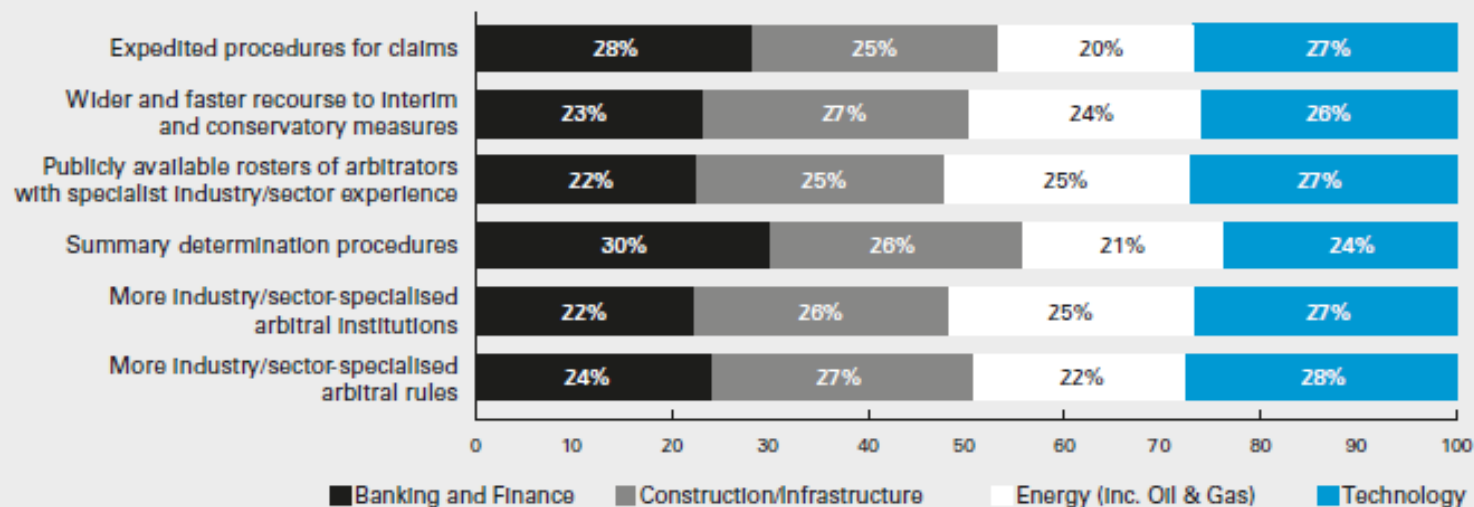
Chart 4: What are the three worst characteristics of international arbitration?



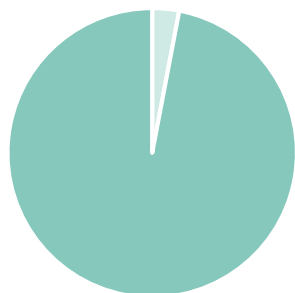
EXISTENCE AND USE OF FAST TRACK

- «Trend» in arbitration
- Statistics indicate a growing interest from users (chart)
- But; are fast track rules applied in practice?

Chart 33: Which of the following improvements and innovations would make international arbitration more suitable for resolving cross-border disputes in these industries and sectors?

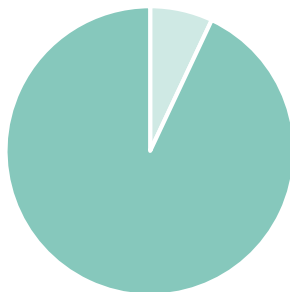


NUMBERS FROM THE NORDICS



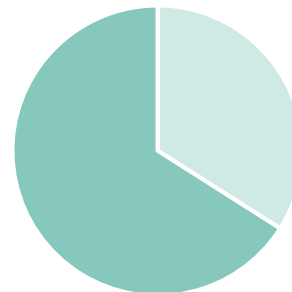
FAI

2018: 2/62 (3%)
2017: 7/63 (9%)
2016: 5/55 (8%)



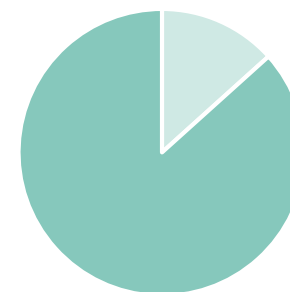
DIA

2018: 9/121 (7%)
2017: 3/103 (3%)
2016: 12/135 (9%)



SCC

2018: 52/152 (34%)
2017: 72/200 (36%)
2016: 55/199 (28%)



OCC

2019: 2/13 (15%)

II. KEY CHARACTERISTICS OF FAST TRACK ARBITRATION

REDUCED NUMBER OF ARBITRATORS

- Usually just one arbitrator
- Advantages/challenges (efficiency vs. due process)
- NOMA:
 - Sole arbitrator as default rule («unless otherwise agreed»)
 - Appointment mechanisms – party autonomy combined with strict deadlines

SHORTER DEADLINES

- Different approaches:
 - Deadlines for key procedural steps
 - Deadline for overall duration
 - Often a combination of the two
- Advantages/challenges (efficiency vs. due process)
- NOMA:
 - Award (summary form) shall be rendered within six months
 - Shorter deadlines for appointing arbitrator
 - Shorter deadlines for filing written submissions (max two each)

LIMITATION ON HEARINGS

- Different approaches:
 - Oral hearing, but limited in time / to a specific purpose
 - Documents only
- Advantages/challenges (efficiency vs. due process)
- NOMA:
 - No oral hearing
 - «unless otherwise agreed ...»
 - Arbitral tribunal may decide upon request by a party that a limited oral hearing shall be held

Thank you!
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