LCIA
Arbitration and ADR worldwide

# 2020 ANNUAL CASEWORK REPORT

# ABOUT THE LCIA

The London Court of International Arbitration (LCIA) is one of the world's leading international institutions for commercial dispute resolution.

The LCIA provides efficient, flexible and impartial administration of arbitration and other alternative dispute resolution proceedings, regardless of location and under any system of law.

The LCIA administers arbitrations pursuant to the LCIA Arbitration Rules (LCIA Rules), which are universally applicable and suitable for all types of arbitrable disputes. In addition, the LCIA regularly acts as appointing authority and administers arbitrations conducted pursuant to the United Nations Commission on International Trade Law Arbitration Rules (UNCITRAL Rules). The LCIA also provides other services such as fundholding, and other Alternative Dispute Resolution (ADR) services including mediation, expert determination and adjudication.

The LCIA provides access to the most eminent and experienced arbitrators, mediators and experts, with diverse backgrounds, from a variety of jurisdictions, and with a wide range of expertise. The LCIA's dispute resolution services are available to all contracting parties, with no membership requirements.

In order to ensure cost-effective services, the LCIA's administrative charges and the fees charged by the arbitrators it appoints are not based on the value of the dispute. Instead, a fixed registration fee is payable with the Request for Arbitration, and the arbitrators and LCIA apply hourly rates for services.

In addition to its dispute administration services, the LCIA conducts a worldwide program of conferences, seminars, and other events of interest to the arbitration and ADR community, with some 2,300 members hailing from over 89 countries. The LCIA also sponsors the Young International Arbitration Group (YIAG), a group for members of the arbitration community aged 40 or younger, with nearly 11,000 members hailing from 147 countries.



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# EXECUTIVE SUMMARY

- As well as providing statistics on the LCIA's caseload in 2020, this report also includes a section on the impact the COVID-19 pandemic has had at the LCIA on the administration of cases. Aside from more hearings taking place virtually, the LCIA has seen the pandemic impact disputes, logistics and practicalities throughout the duration of the arbitral process, affecting all participants in arbitrations, as well as the LCIA staff.
- The LCIA launched updated arbitration and mediation rules taking effect on 1 October 2020, with the COVID-19 pandemic proving to be a catalyst in accelerating provisions concerning electronic communication, virtual hearings, and electronic awards and signatures.
- The LCIA had an exceptional year in 2020, receiving 444 referrals, including 407 arbitrations pursuant to the LCIA Rules, both of which are an all-time high. The absence of significantly large numbers of related cases, potentially inflating the number of referrals, demonstrates a robust caseload, while the long-term growth shows a doubling of arbitrations pursuant to the LCIA Rules over the last ten years.
- The LCIA continues to provide fundholding services, receiving 25 new referrals in 2020, reflecting a decreasing trend.
- The top three industry sectors dominating the LCIA's caseload remain stable in 2020, with energy and resources, transport and commodities, and banking and finance sectors between them representing 68% of all arbitrations pursuant to the LCIA Rules. The other referrals come from a wide variety of industry sectors.
- The four most-common types of agreements seen in arbitrations pursuant to the LCIA Rules remained consistent in 2020, with were sale of goods agreements, services agreements, shareholders', share purchase, and joint venture agreements, and loan or other loan facility agreements, together making up 81% of all agreements.
- 2020 saw a sharp rise in the percentage of disputed contracts that were entered into within two years of the arbitration commencing, in arbitrations under the LCIA Rules, a likely knock-on impact of the COVID-19 pandemic.



- Eighty-six percent of parties in arbitrations administered pursuant to the LCIA Rules were from countries other than the United Kingdom, demonstrating the continued international nature of the LCIA's caseload.
- Fewer arbitrations administered pursuant to the LCIA Rules of very low value were seen in 2020, along with a higher number of claims for large sums of relief.
- 2020 saw a continuing trend of more non-UK seats and choices of law, and a greater link between choice of seat and law in arbitrations administered pursuant to the LCIA Rules.
- There is a consistent, long-term pattern of a relatively-even split between three-member tribunals and sole arbitrators in arbitrations pursuant to the LCIA Rules, with three-member tribunals in place in 52% of arbitrations and sole arbitrators in 48% of arbitrations in 2020.
- Parties continue to rely on the LCIA Court to select arbitrators, reflecting a long-term pattern for the continued involvement of the LCIA Court in one of its key roles in arbitrations pursuant to the LCIA Rules.
- The proportion of British arbitrators appointed in arbitrations pursuant to the LCIA Rules was higher in 2020 than 2019, despite the lower number of British parties and a decrease in the prevalence of English seat and English law, with the majority of the appointments of British arbitrators (65%) from party or co-arbitrator nominations, and just over a third being appointments of arbitrators selected by the LCIA Court.
- 2020 saw the parties and co-arbitrators contributing to increasing gender diversity in tribunals, with the overall percentage of female arbitrators appointments reaching a high of 33% in arbitrations pursuant to the LCIA Rules, a growth from 29% in 2019. The LCIA Court continued to maintain its high rate of appointments of female arbitrators, appointing female arbitrators in 45% of its appointments in arbitrations pursuant to the LCIA Rules.
- The LCIA Court, parties and co-arbitrators selected fewer arbitrators who had not previously been appointed in an LCIA arbitration.
- Where the LCIA Court is selecting arbitrators, there is a conscientious endeavour to appoint different arbitrators as frequently as possible, which is reflected in the recurrently-high percentage of arbitrators appointed only once in the same calendar year in arbitrations administered pursuant to the LCIA Rules (62% in 2020 and 60% in 2019).
- There were more tribunal secretaries appointed in 2020 than in 2019, as well as more tribunal secretaries assisting sole arbitrators than previously.
- The number of challenges continues to remain low (six in arbitrations administered pursuant to the LCIA Rules), with the percentage of challenges as a proportion of arbitrations commenced pursuant to the LCIA Rules in 2020 being less than 1.5%.
- There has been an increase in multi-agreement and multi-party arbitrations pursuant to the LCIA Rules.
- Parties to arbitrations pursuant to the LCIA Rules made fewer joinder applications in 2020 compared with 2019, continuing a downward trend over the last three years.
- Parties to arbitrations pursuant to the LCIA Rules made more applications for consolidation than in 2020. In addition, in some cases parties involved the new consolidation provisions in the 2020 LCIA Rules which allow consolidation under broader circumstances.
- There was an increase in the number of applications pursuant to Article 9 of the LCIA Rules for both expedited appointment of the tribunal and the appointment of an emergency arbitrator in 2020 compared with 2019, with the LCIA Court appointing three emergency arbitrators last year.

# COVID-19

The COVID-19 pandemic has been a **catalyst** for wide-ranging changes to the conduct of arbitration. While providing reliable quantitative information is difficult, we have sought to identify examples illustrating the wide range and the significant impact of the changes encountered.

The first signal was a request for an extension to submit documents in early **February 2020**, when a party based in Shanghai invoked the restrictions imposed in the city to curb infections as a basis for a request for an extension. Within five weeks of this first request from Shanghai, every user of LCIA services was impacted by restrictions, LCIA staff began working from home just before the UK Government imposed lockdown measures, and the spread of COVID-19 was declared a global pandemic.

This request for an extension of time was the first of many to extend deadlines and timetables, postpone hearings, or stay proceedings altogether.

The **closure of national courts** or the suspension of court proceedings impacted the progress of cases, for example in situations where the progress of the case was dependent on the outcome of court proceedings. Notably, in another case, an urgent application to prevent a party from commencing court proceedings became moot when the relevant court announced its suspension of procedures two days later.

Illness and the need to isolate have obviously resulted in delays. The sudden imposition of lockdown impacted **logistics and practicalities** from the beginning to the end of proceedings: representatives and arbitrators advised that they were unable to access arbitral materials in their offices, or to receive documents by post, until such time when government guidance allowed a return to the office. This delayed submissions throughout the arbitral process, from appointing tribunals to finalising awards. Candidate arbitrators were unable to or were delayed in checking for conflicts and providing disclosures, slowing down the appointment process. An illustration of the impact at the other end of the procedural timeline was an award which was delayed when the arbitrator could not access materials needed to complete a draft award.

**Practical obstacles** were also felt acutely in making funds available such as for deposits. The closure of banks impeded bank transfers, especially where foreign currency payments had to be made. Inadequate Internet connection made it difficult for some to work from home, at least initially. The impact of these obstacles varied greatly over different jurisdictions, impacting different individuals differently.

In all areas, users initially envisaged the need for **temporary alternative procedures**. For example, parties and arbitrators agreed that all documentation could be submitted electronically "for now", and that awards could be sent and signed electronically until such time a physical copy could be sent and received. As the pandemic continued, users had to come to grips with the need for more-permanent alternative arrangements; the realisation that we were in it for the long haul contributed to the willingness to update the Rules, explicitly accommodating electronic communication and the like.

Certainly at first, there was reluctance to embrace **virtual hearings**, particularly those involving the hearing of witnesses, and initially users sought to postpone until such time that physical hearings could take place again. An important factor when setting up virtual hearings was the struggle to accommodate participants in different **time zones**, and generally hearing days are shorter. The cost impact of virtual hearings is mixed, with some hearings shortened, and others fragmented into different segments potentially jeopardising the efficiency of the hearings. Less travel results in savings, but this is in part offset by additional correspondence, discussions, and conferences required to discuss alternative arrangements. Jostled timetables also resulted in the resignation of some arbitrators, as all of their cases were reshuffled and, subsequently, they became unavailable in the context of these new timetables.

Participants still prefer to meet in person if possible, with teams of legal representatives or the members of the tribunal meeting in person to attend an otherwise virtual hearing. Hybrid and in person hearings have required larger meeting spaces to facilitate social distancing, as well as **protocols** such as the Seoul Protocol to prescribe technical and organisational guidelines. A particular issue of concern in this context has been the need to ensure an appropriate environment for the hearing of witnesses. Virtual hearings have been scheduled to take place over more days than in "pre-COVID times" to test platforms in advance and allow for technical failures, as well as to accommodate different time zones.

Paradoxically, the use of virtual hearing facilities has allowed some cases to proceed where in the past this would not have been possible, such as the case in which an arbitrator was injured and unable to travel. The pandemic has also resulted in greater willingness to proceed on a documents-only basis, avoiding the need for a lengthy hearing, thus enhancing the **efficiency of proceedings**.

In addition to the impact on the nature of proceedings, the **COVID-19 pandemic has triggered many disputes**. It is important to note that it is not always apparent on the basis of the documents received by the LCIA as the administrating institution whether the pandemic was the stated and/or ultimate trigger for a dispute. In addition, the ripple effect of this pandemic has reached every sector of the world economy and society making it difficult to assess whether "but for" the pandemic a dispute would have arisen.

Examples of cases that were explicitly stated to be triggered by the COVID-19 pandemic include those involving entertainment or sporting events that were unable to proceed as a result of lockdown. Other examples include commodity cases where delivery schedules and the price of commodities were directly impacted by the pandemic. A common thread amongst these cases has been the discussion of the scope and impact of ***force majeure*** clauses.

Sectors which appear to be impacted significantly (even if the initial documentation does not refer to the impact of the pandemic explicitly) include the **aviation and shipping** industries.

Another indicator illustrating the **impact of the pandemic** is the "lag time" of new disputes. The LCIA records the time lag between the dates agreements were entered into and when actual disputes arise. Almost half of all disputes filed in 2020 arose out of agreements entered into between 2018 and 2020, much higher than the percentage of disputes arising within the two years previous in 2019 and 2018. The spike in 2020 corresponds with the descriptions of the disputes that mention the pandemic in the Requests for Arbitration.

Engagement with the LCIA encompasses not only dispute resolution services, but includes also the participation in events. The **LCIA event program** was obviously also impacted by the pandemic. The LCIA Rules (2014) were adopted for the 27th Willem C Vis International Commercial Arbitration Moot, an event drawing thousands of students and arbitrators, which took place from 3 to 9 April 2020. This was converted into a virtual gathering within a few weeks' notice – the first of many virtual events organised by and in cooperation with the LCIA. On Tuesday 12 May 2020, the LCIA hosted the first in a series of webinars, entitled "The Pathology of Arbitration Proceedings – What Longer-Term Effects and Solutions Will This Crisis Yield?". The LCIA's flagship European Users' Council Symposia at Tylney Hall was converted into a series of interactive 'Tylney on Zoom' webinars, enabling large numbers of participants to attend from all over the world.

On 1 October 2020, the updates to the LCIA Arbitration and Mediation Rules (2020) came into effect, which include notably a number of changes reflecting the "new normal", including in particular the adoption of electronic communication as the default method, providing additional support for the use of virtual hearings and electronic signing of awards. A final illustration of the move towards virtual presentations was the delivery of the 35th Annual Freshfields Bruckhaus Deringer & Queen Mary University London Arbitration Lecture by the LCIA Director General, Prof. Dr. Jacomijn van Haersolte-van Hof.

At the time of writing, the pandemic is far from over and will continue to impact us all, to some extent, for years to come. This includes the number and type of cases as well as the conduct of arbitration. One element of comfort in the uncertainty the pandemic has brought is the willingness of users to adapt and adopt new techniques and styles of working, demonstrating the flexibility of arbitration and the **robustness of the system** of dispute resolution.

# 2020 RULES

2020 saw the launch of the LCIA's updated arbitration and mediation rules, both of which took effect on 1 October 2020. The COVID-19 pandemic accelerated updates to both sets of rules reflecting changes in recent good practice, most significantly a wholesale transfer to the primacy of electronic communication with the parties by the LCIA and the tribunal, in the form of email communication, providing for virtual hearings, and the use of electronic signatures and electronic awards.

Other key updates are:

- confirmation of tribunal powers to expedite proceedings, including the use of early determination;
- provisions allowing the parties to file composite Requests for Arbitration and Responses;
- broadening of LCIA Court and tribunal power to order consolidation and concurrent conduct of arbitrations; and
- explicit consideration of data protection and regulatory issues.

By the end of 2020, the LCIA was already seeing parties make use of the updated provisions, in particular filing composite Requests and Responses and requests for consolidation under broader circumstances than before.

From 1 October 2020 to 31 December 2020, claimants filed six composite Requests commencing 18 arbitrations and respondents filed two composite Responses in respect of five arbitrations. Filing a composite Request does not entitle a claimant to consolidation, although the arbitrations commenced by five of these six composite Requests were subsequently consolidated.

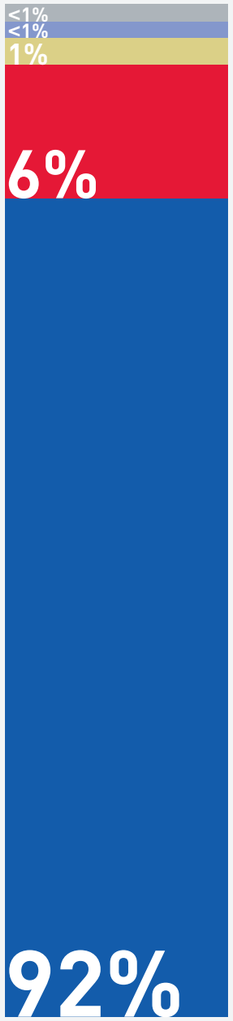
Requests for consolidation under the new provisions are detailed on page 24 of this report, along with all other consolidation requests pursuant to the LCIA Rules.

There were no formal applications for Early Determination made pursuant to Article 22.1(viii) of the Rules in 2020, but parties have started to utilise this provision and those applications will be reported in coming years.

# CASELOAD

The number of referrals to the LCIA reached an all-time high in 2020 at 444 referrals, surpassing the 2019 record. The 444 referrals include 407 arbitrations pursuant to the LCIA Rules, which is another record number and represents an 18% increase compared with last year. The long-term growth shows a doubling of arbitrations pursuant to the LCIA Rules over the last ten years.

The following chart shows a breakdown of the 444 referrals to the LCIA in 2020, while the following section gives more details about the make-up of these cases.




## ARBITRATIONS PURSUANT TO THE LCIA RULES

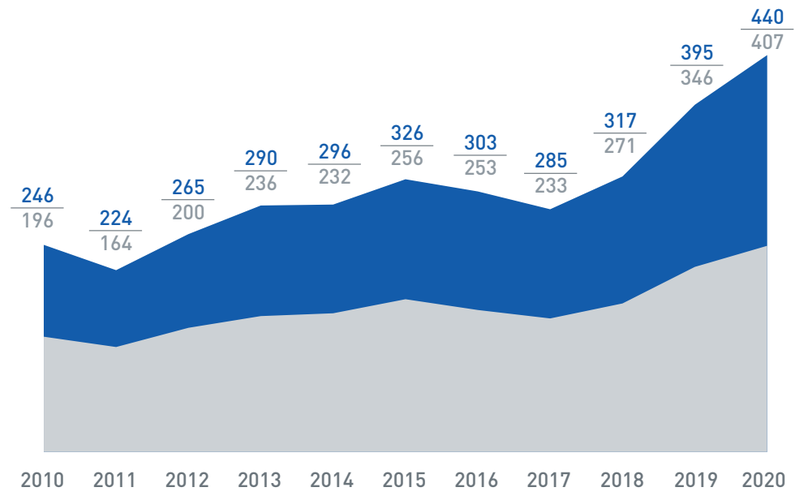
The LCIA received 407 referrals for arbitration fully administered by the LCIA pursuant to the LCIA Rules, accounting for 92% of referrals received in 2020. This is a record number and an increase of 18% on 2019 referrals pursuant to the LCIA Rules. Included in the 407 arbitrations are three cases pursuant to the LCIA-MIAC Rules and one case administered pursuant to the LCIA India Rules. The latter case is one in which the parties requested the arbitration be conducted pursuant to the LCIA India Rules but administered by the LCIA and applying the LCIA Schedule of Costs.

There was no significantly large number of related cases potentially inflating the number of referrals, demonstrating a genuinely robust caseload.

The largest group of related cases involved 16 cases and 64 parties. The claimant was identical in all cases and the respondents were related. These related cases are highlighted here as they impacted the figures in the report in particular relating to the type of agreements and the industry sectors.



### Arbitration referrals




The above chart shows doubling of referrals pursuant to the LCIA Rules over the last ten years, leading to an increase to 407 arbitrations in 2020.

## OTHER REFERRALS

In addition, the LCIA received two referrals pursuant to the UNCITRAL Rules where the parties agreed that the LCIA act as administrator, in one case in addition to having acted as appointing authority. In these arbitrations, the LCIA provided full administrative services.

The LCIA was requested to act as the appointing authority only in six ad hoc arbitrations, five of which were pursuant to the UNCITRAL Rules.

Furthermore, the LCIA provided fundholding services without additional involvement in 25 cases, pursuant to various rules, including the UNCITRAL Rules, the rules of the AIDA Reinsurance and Insurance and Arbitration Society of the UK, in London Maritime Arbitrators Association (LMAA) arbitrations, and in other ad hoc arbitrations.

In each section below, the report will provide information on arbitrations administered pursuant to the LCIA Rules, and followed by information on arbitrations administered by the LCIA pursuant to UNCITRAL Rules, arbitrations in which the LCIA acted as appointing authority only, and fundholding cases, to the extent that information is available.

In providing information about these additional categories of cases, it should be noted that the services provided by the LCIA in these cases are not necessarily comparable with services rendered in arbitrations pursuant to the LCIA Rules, and the level of involvement may differ. These differences also affect the terminology (such as the use of “nomination” versus “appointment” of arbitrators pursuant to the LCIA Rules, which has no equivalence in the UNCITRAL Rules). In addition, and related thereto, the LCIA holds less information about the UNCITRAL appointment arbitrations and fundholding cases. This report therefore provides as much information as possible, and where relevant, identifies dissimilarities where these may affect the interpretation of data contained in the report.

The LCIA also provided mediation services in three cases and appointed an adjudicator in one case. Information about these referrals is provided at the end of the report.

# INDUSTRY SECTORS AND AGREEMENTS

When recording industry sectors and agreements, the LCIA endeavours to find the most-appropriate classification to help identify the particular expertise needed for the selection of arbitrators.

For the purposes of this report, the cases are categorised by the dominant sector, that is, the sector that is most representative of the case, even though in practice disputes relate frequently to overlapping sectors.

To give users insight into the make-up of cases, the LCIA reports not only on industry sectors but also on types of agreements. As with assigning an industry sector to a case or to parties, a multi-dimensional nature is often also present in agreements. For the purposes of this report, agreements are recorded on the basis of the dominant characteristic.

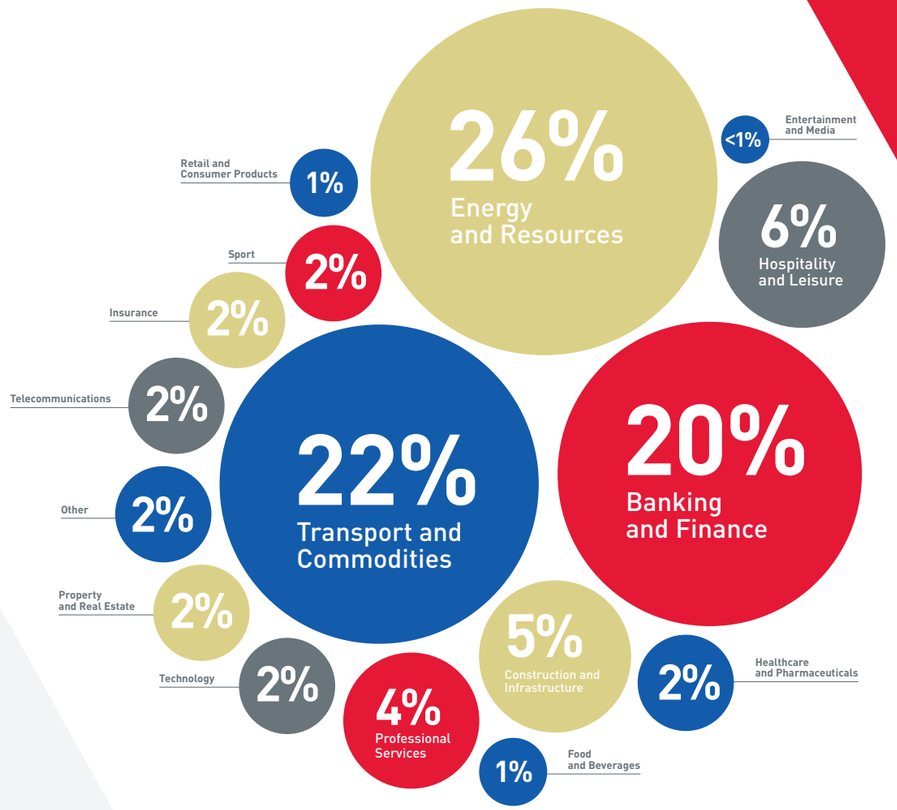
## INDUSTRY SECTORS

The top three industry sectors dominating the LCIA's caseload remain stable in 2020, with energy and resources, transport and commodities, and banking and finance sectors between them representing 68% of all cases, compared to 69% of cases in 2019. There has, however, been a change in the order of these three sectors compared to 2019.

As the chart on the next page details, the percentage of arbitrations in the energy and resources sector accounted for 26% of cases administered pursuant to the LCIA Rules (up from 22% in 2019). Likewise, the percentage of cases in the transport and commodities sector increased from 15% of cases in 2019 to 22% of cases in 2020. Rounding out the top three is banking and finance, which accounted for 20% of cases in 2020, compared to 32% in 2019. It should be noted that last year's figure in the banking and finance sector was impacted by a large group of 41 arbitrations which accounted for more than one third of the banking and finance cases in 2019. As anticipated, the LCIA did not receive a similarly-large group of cases of the same nature in 2020.

Following these three sectors are hospitality and leisure which rose from 1% in 2019 to 6% in 2020 as a result of the group of 16 related cases, along with construction and infrastructure and professional services, both of which remained steady at 5% and 4%, respectively.






As always, the make-up of industry sectors of claimants and respondents has mirrored generally the sectors of the disputes as a whole. Similar to 2019, the energy and resources sector had the highest number of parties, both as claimants and as respondents, which were almost equal at 28% and 29%, respectively. There was a greater prevalence of both claimants and respondents in the transport and commodities sector at 25% and 19% respectively, compared to 14% of claimants and 14% of respondents in the same sector in 2019.

The percentage of parties in the hospitality and leisure sector has been impacted by the 16 related cases identified above, with an increase from 1% in 2019 to 6% in 2020 for both claimants and respondents.

Breaking from the pattern of parties' industries corresponding generally to the case industry sectors, the percentage of claimants in the banking and finance sector more than halved, from 22% of claimants in 2019 to 10% in 2020, while the percentage of respondents more than doubled from 6% in 2019 to 14% in 2020.

In contrast and as can be seen in the table below, the industry sectors of arbitrations administered pursuant to the UNCITRAL Rules, appointment only arbitrations and fundholding cases lack a clear pattern, partly due to there being few cases. It should be noted that the number of fundholding cases for which we have detailed information about the industry of the dispute is limited.

| Industry Sectors | Administered UNCITRAL Arbitrations | Appointment Arbitrations | Fundholding Cases |
|---|---|---|---|
| Energy and Resources | 1 | 3 | 7 |
| Banking and Finance | 1 | 1 | - |
| Food and Beverages | - | 1 | - |
| Hospitality and Leisure | - | 1 | - |
| Insurance | - | - | 5 |
| Construction and Infrastructure | - | - | 3 |
| Transport and Commodities | - | - | 1 |

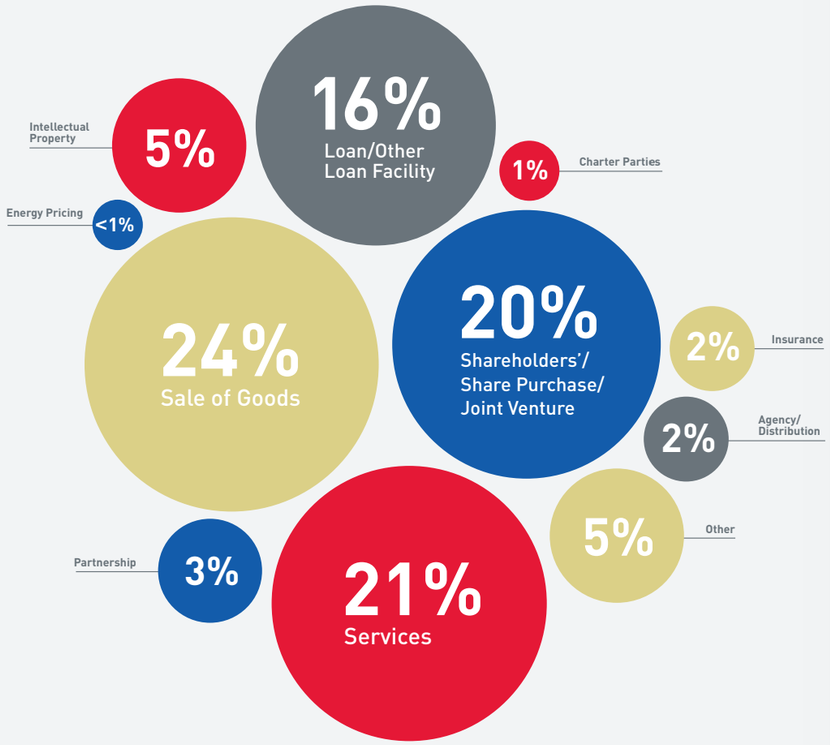
# AGREEMENT TYPES

The four most-common types of agreements seen in arbitrations pursuant to the LCIA Rules remained consistent in 2020. These are sale of goods agreements, services agreements, shareholders', share purchase and joint venture agreements, and loan or other facility agreements, together making up 81% of all agreements, the same percentage as in 2019. As with industry sectors, there has been a change in the order of these top four types of agreements.

As can be seen in the chart on the next page, the percentage of sale of goods contracts rose considerably from 18% in 2019 to 24% in 2020, shareholders', share purchase and joint venture agreements also rose significantly from 14% in 2019 to 20% in 2020, while services contracts increased from 19% to 21%.

Similar to the figures in relation to banking and finance, the spike in loan and facility agreements last year was not repeated this year due to a large group of related cases in 2019 involving loan agreements. In 2020, 16% of the agreements were loan or other facility agreements compared with 30% in 2019. By contrast, the percentage of intellectual property agreements grew from less than 1% to 5%, a corollary of the group of 16 related cases.

There was also an increase of lease and rental, construction-related, media rights and partnership agreements and one case relating to the trade of cryptocurrency.




The table to the right shows the types of agreements out of which disputes arose in arbitrations fully administered by the LCIA pursuant to UNCITRAL Rules and where the LCIA acted as appointing authority.

| Agreement Types | Administered UNCITRAL Arbitrations | Appointment Arbitrations |
|---|---|---|
| Agency/Distribution | - | 1 |
| Loan/Other Loan Facility | 1 | - |
| Partnership | 1 | - |
| Sale of Goods | - | 1 |
| Services | - | 3 |
| Shareholders'/Share Purchase/Joint Venture | - | 1 |



# AGREEMENT DATES

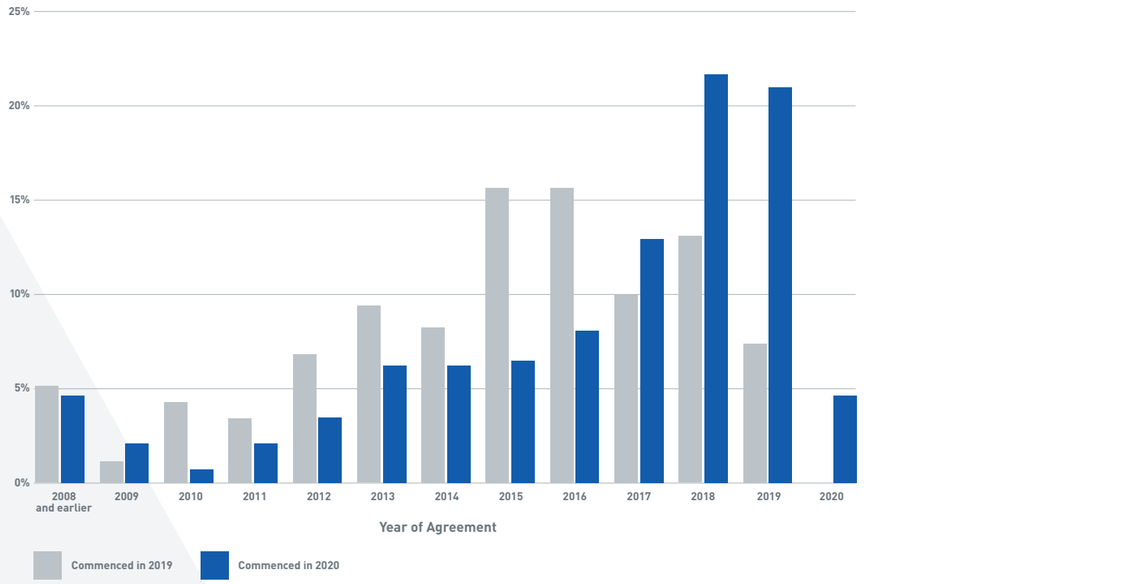
To assess the potential impact of external developments on the make-up of the caseload, it is useful to consider the time lag between the date of the agreements out of which disputes arise and when disputes are referred to the LCIA.

While the general pattern remains the same – that most arbitrations are commenced within five years of the agreement being made – there has been a sharp increase in disputes arising within the previous two years in cases commenced in 2020, which is likely a result of the impact of the COVID-19 pandemic.

In arbitrations administered pursuant to the LCIA Rules commenced in 2020, 43% of disputed agreements were entered into within the previous two years; that is in 2018 and 2019. By contrast, for cases commenced in 2019 and 2018, a much smaller percentage of cases (namely 23% and 30%, respectively), arose out of agreements concluded in the two-year period prior to commencement. The Requests for Arbitration received in 2020 (some of which expressly refer to COVID-19 as triggering the dispute) suggest that this spike represents a positive correlation with the pandemic.

Looking at the longer-term five year period, 68% of agreements were entered into between 2016 and 2020, compared to 62% of agreements for the relative period in 2019 (2015 to 2019), and 69% of agreements in 2018 for the relative period (2014 to 2018). In 2020, slightly fewer cases concerned agreements made in the same year (4.6%) when compared with the previous two years (7.4% in 2019 and 8.3% in 2018).

The agreement dates for cases referred to the LCIA pursuant to the LCIA Rules in 2020 are shown in the following chart.




The date of the agreements out of which disputes arose in arbitrations administered by the LCIA pursuant to the UNCITRAL Rules and where the LCIA acted as appointing authority only were evenly spread between 2009 and 2019, with the exception of one agreement which was concluded in 2001.

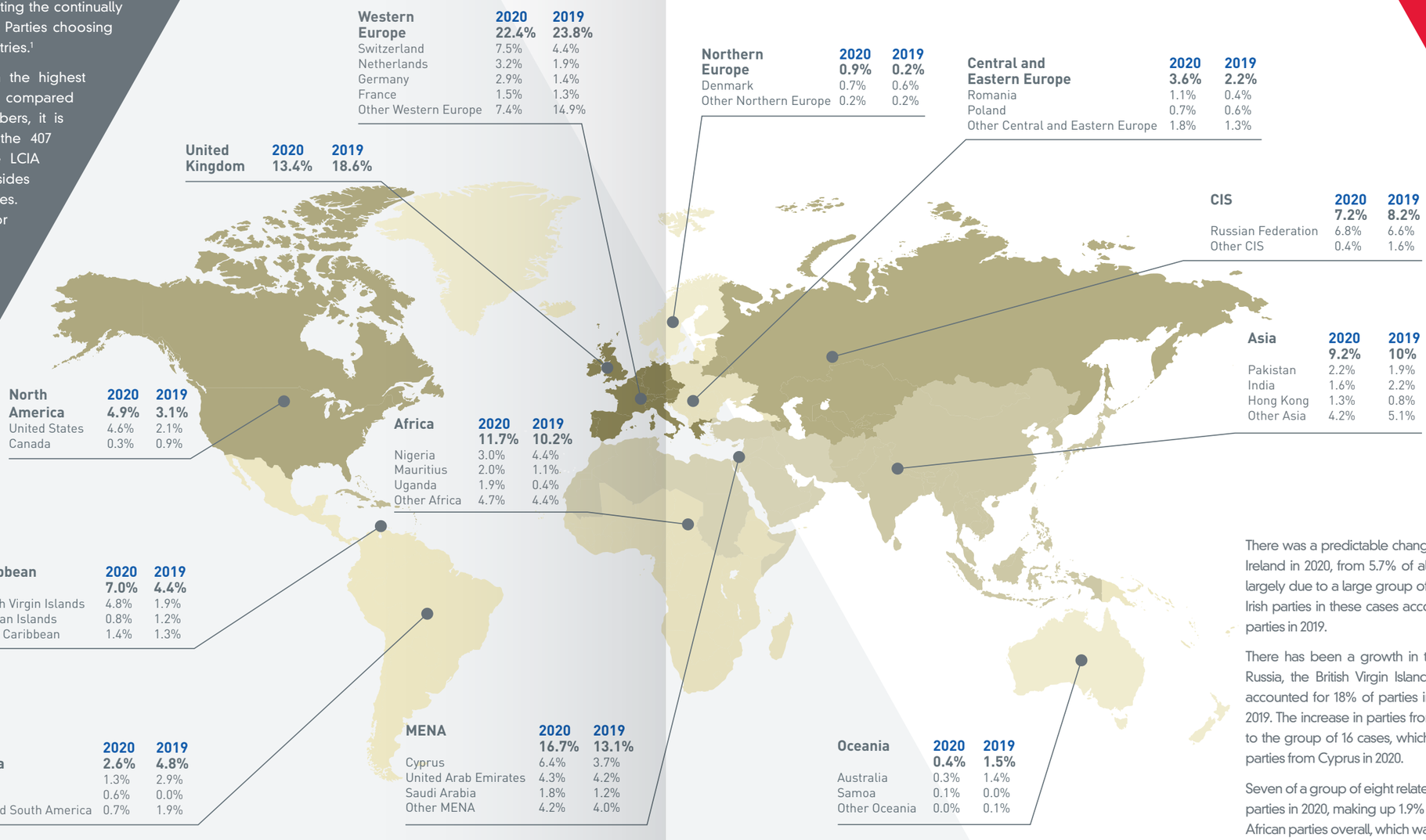
| Year of Agreement | Administered UNCITRAL Arbitrations | Appointment Arbitrations |
|---|---|---|
| 2019 | - | 1 |
| 2018 | - | 1 |
| 2016 | - | 1 |
| 2015 | 1 | - |
| 2014 | 1 | - |
| 2013 | - | 1 |
| 2010 | - | 1 |
| 2009 | 1 | - |
| 2008 and earlier | - | 1 |

# PARTIES

In 2020, 86.6% of parties in arbitrations administered pursuant to the LCIA Rules were from countries other than the United Kingdom, an increase from 81.4% in 2019, and demonstrating the continually international nature of the LCIA's caseload. Parties choosing LCIA arbitration came from 88 different countries.[1]

Parties from the United Kingdom remain the highest comprising 13.4% of all parties in 2020, compared to 18.6% in 2019. In assessing these numbers, it is interesting also to consider that 82 of the 407 arbitrations administered pursuant to the LCIA Rules involved parties from the UK on both sides and 26 arbitrations involved only UK parties. The parties in these 26 cases accounted for almost half all British parties.

The percentage of parties from Western Europe remained steady at 22.4% in 2020. There was a growth in the percentage of parties from Switzerland (from 4.4% in 2019 to 7.5% in 2020) and Germany (from 1.4% in 2019 to 2.9% in 2020), the latter being partially attributed to the 16 related cases, each involving a German respondent.



| Western Europe | 2020 22.4% | 2019 23.8% |
|---|---|---|
| Switzerland | 7.5% | 4.4% |
| Netherlands | 3.2% | 1.9% |
| Germany | 2.9% | 1.4% |
| France | 1.5% | 1.3% |
| Other Western Europe | 7.4% | 14.9% |

| United Kingdom | 2020 13.4% | 2019 18.6% |
|---|---|---|

| Northern Europe | 2020 0.9% | 2019 0.2% |
|---|---|---|
| Denmark | 0.7% | 0.6% |
| Other Northern Europe | 0.2% | 0.2% |

| Central and Eastern Europe | 2020 3.6% | 2019 2.2% |
|---|---|---|
| Romania | 1.1% | 0.4% |
| Poland | 0.7% | 0.6% |
| Other Central and Eastern Europe | 1.8% | 1.3% |

| CIS | 2020 7.2% | 2019 8.2% |
|---|---|---|
| Russian Federation | 6.8% | 6.6% |
| Other CIS | 0.4% | 1.6% |

| North America | 2020 4.9% | 2019 3.1% |
|---|---|---|
| United States | 4.6% | 2.1% |
| Canada | 0.3% | 0.9% |

| Africa | 2020 11.7% | 2019 10.2% |
|---|---|---|
| Nigeria | 3.0% | 4.4% |
| Mauritius | 2.0% | 1.1% |
| Uganda | 1.9% | 0.4% |
| Other Africa | 4.7% | 4.4% |

| Asia | 2020 9.2% | 2019 10% |
|---|---|---|
| Pakistan | 2.2% | 1.9% |
| India | 1.6% | 2.2% |
| Hong Kong | 1.3% | 0.8% |
| Other Asia | 4.2% | 5.1% |

| Caribbean | 2020 7.0% | 2019 4.4% |
|---|---|---|
| British Virgin Islands | 4.8% | 1.9% |
| Cayman Islands | 0.8% | 1.2% |
| Other Caribbean | 1.4% | 1.3% |

| Central and South America | 2020 2.6% | 2019 4.8% |
|---|---|---|
| Mexico | 1.3% | 2.9% |
| Panama | 0.6% | 0.0% |
| Other Central and South America | 0.7% | 1.9% |

| MENA | 2020 16.7% | 2019 13.1% |
|---|---|---|
| Cyprus | 6.4% | 3.7% |
| United Arab Emirates | 4.3% | 4.2% |
| Saudi Arabia | 1.8% | 1.2% |
| Other MENA | 4.2% | 4.0% |

| Oceania | 2020 0.4% | 2019 1.5% |
|---|---|---|
| Australia | 0.3% | 1.4% |
| Samoa | 0.1% | 0.0% |
| Other Oceania | 0.0% | 0.1% |

There was a predictable change in the number of parties from Ireland in 2020, from 5.7% of all parties in 2019 to 0.3% in 2020, largely due to a large group of related cases in 2019 where the Irish parties in these cases accounted for 85% of all of the Irish parties in 2019.

There has been a growth in the percentage of parties from Russia, the British Virgin Islands and Cyprus, which together accounted for 18% of parties in 2020, compared with 12.2% in 2019. The increase in parties from Cyprus is partially attributable to the group of 16 cases, which accounts for almost half of the parties from Cyprus in 2020.

Seven of a group of eight related cases account for all Ugandan parties in 2020, making up 1.9% of all parties. The percentage of African parties overall, which was 10.2% in 2019, remains strong in 2020 at 11.7%.

The nationality of the parties is one of the aspects generally recorded for all cases in which the LCIA is involved.

Four parties were involved in cases administered by the LCIA pursuant to the UNCITRAL Rules. Two were from Mongolia, one from Cyprus and one from Russia.

Thirteen parties were involved in cases where the LCIA acted as the appointing authority only. Four of these parties were from Ghana, two from the United Kingdom, and one party from each of Austria, Germany, Saudi Arabia, Spain, Hong Kong, Thailand, and Ukraine.

In cases in which the LCIA provided fundholding services, 57 parties were involved. The largest share came from the United Kingdom (11), then the United States (8), Bermuda (4), Trinidad and Tobago (4), and France (3). The remaining 27 parties were from 17 different countries across Asia, Africa, the Caribbean, and Europe.

1 In the 2019 Annual Casework Report, it was reported erroneously that parties came from 138 nations in that year. Parties came from 97 nations in 2019 and 138 nations in the years 2017 to 2019.

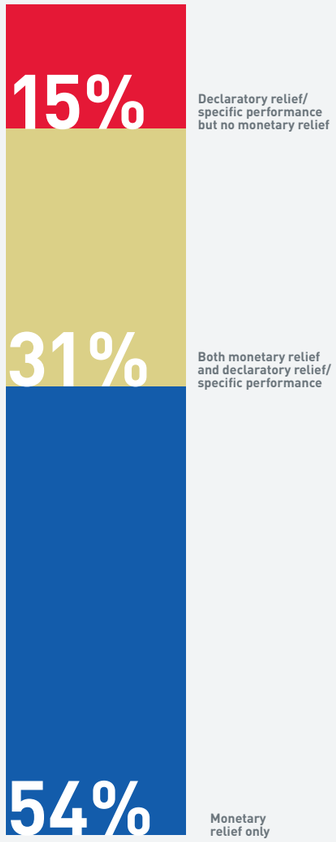
# RELIEF SOUGHT

This section looks at the relief sought in Requests for Arbitration pursuant to the LCIA Rules as they are filed. Two significant caveats are in order: First, claims are often subject to subsequent amendment and additional quantification and these changes are not captured by this report. Furthermore, the LCIA's hourly rate-based system, which is in large part driven by the complexity or significance of a case, provides less incentive to quantify claims in comparison with institutions charging on an ad valorem basis.

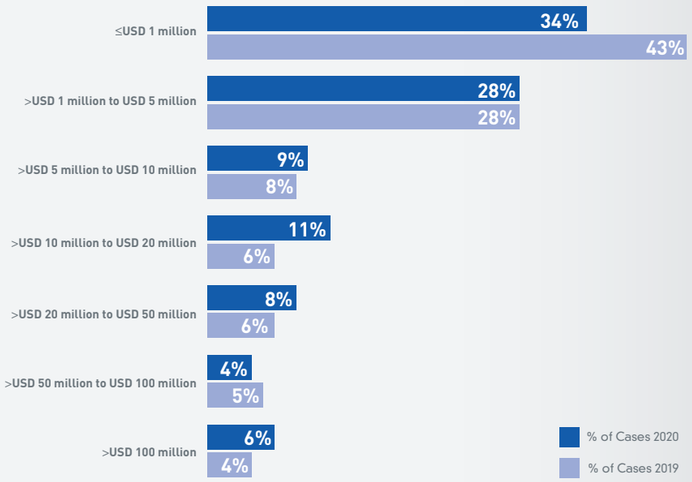
Fewer arbitrations administered pursuant to the LCIA Rules of very low value were seen in 2020, along with a higher number of arbitrations where claimants seek large sums of relief. Together, this means there has been an increase in the percentage of cases in each bracket over USD 5 million and a decrease in cases seeking under USD 1 million in relief.

Where the claims were quantified in Requests for Arbitrations in cases administered pursuant to the LCIA Rules, in 34% of those arbitrations the amount claimed was under USD 1 million (compared with 43% in 2019), in 28% of those arbitrations the amount claimed was between USD 1 and 5 million and in 28% of those arbitrations the sum claimed was between USD 5 and 50 million. In 10% of arbitrations where the claims were quantified in the Request, the amount claimed was over USD 50 million.

## Type of relief sought




## Monetary relief sought in Requests for Arbitration




In 2020, monetary relief was the sole relief sought by claimants in 54% of Requests for Arbitration pursuant to the LCIA Rules, while in 31% of Requests, claimants sought both monetary relief and declaratory relief and/or specific performance. In the remaining 15% of Requests, claimants sought only declaratory relief and/or specific performance.

In the two cases administered by the LCIA pursuant to the UNCITRAL Rules, claimants sought both monetary and declaratory relief, however only one provided a quantification of the claim in the Notice of Arbitration. This claim was between USD 20 and 50 million.

In the six arbitrations where the LCIA acted as appointing authority only, monetary relief was sought in five cases, and in one case the claimant sought both monetary and declaratory relief. Two claimants sought less than USD 1 million, one sought between USD 1 and 5 million, while the remaining three sought monetary relief of over USD 100 million.

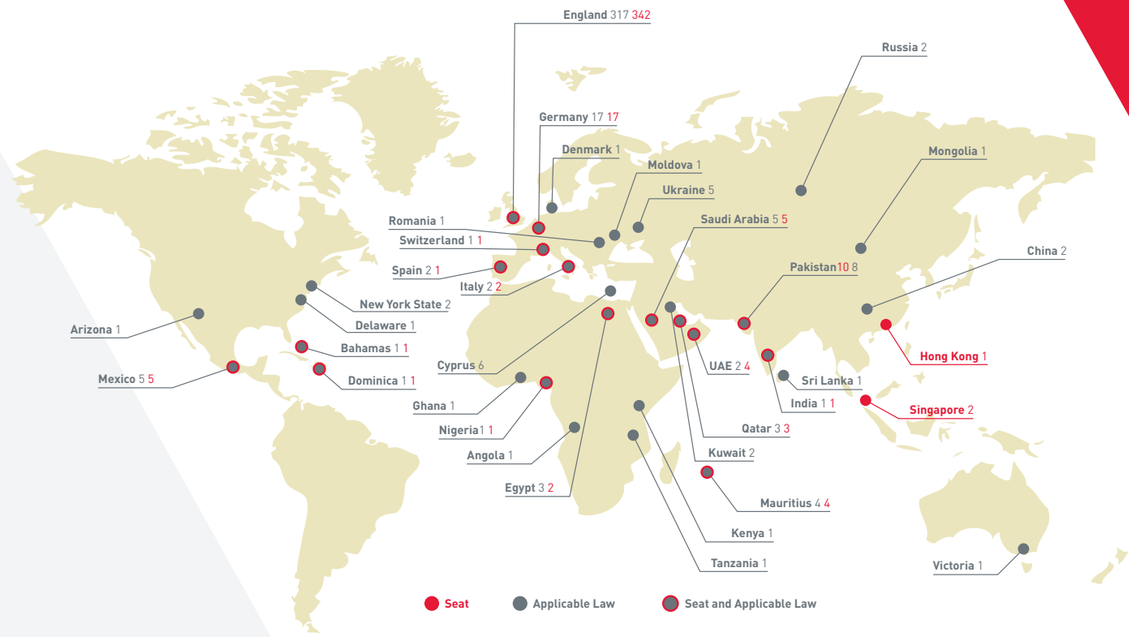


# SEAT AND APPLICABLE LAW

2020 saw a continuing trend of more international seats and choices of law, and a greater link between choice of seat and law in arbitrations administered pursuant to the LCIA Rules. Arbitrations were seated in 18 countries and the laws of 34 nations were chosen by parties to apply in arbitrations.

England remained the most popular seat at 84% of arbitrations administered pursuant to the LCIA Rules, compared to 89% in 2019. English law remained the most-frequently chosen law, governing 78% of arbitrations, compared to 81% in 2019.

The LCIA saw more parties choosing the seat and law from the same country in relation to Germany, Pakistan, and Mexico. The 16 related cases contributed to a rise in the number of cases seated in Germany and governed by German law.




The two arbitrations administered by the LCIA pursuant to the UNCITRAL Rules were seated in England, with one governed by English law and the other by the laws of Mongolia. Of the six arbitrations where the LCIA acted as appointing authority only, four were seated in England and applied English law. In the remaining two cases, one was governed by the laws of Saudi Arabia and one by the laws of Ghana, and the seat was not specified in either case.

Where the LCIA acted as fundholder, 16 were seated in England, 13 of which were governed by English law. Other choices of law in fundholding cases included the laws of Bulgaria, Cameroon, Malawi, Oman, Saudi Arabia, Trinidad and Tobago, the UAE, the USA, and Zambia. The seats were also varied and included seats in Bermuda, Bulgaria, Switzerland, Oman, Singapore, South Africa, and the UAE.

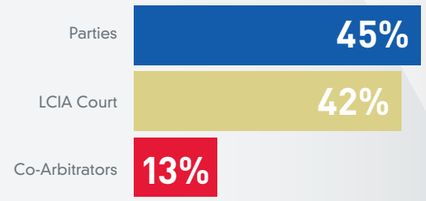
# ARBITRATOR APPOINTMENTS

In 2020, the LCIA Court made a total of 533 appointments of 293 different arbitrators in arbitrations administered pursuant to the LCIA Rules, including three appointments of emergency arbitrators.

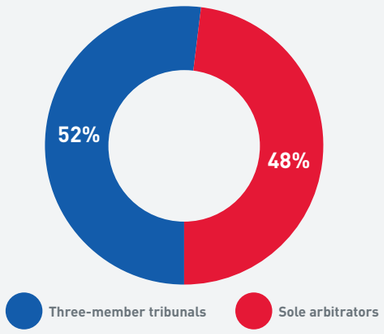
The 533 appointments made by the LCIA Court includes 14 replacement arbitrators to three-member tribunals. Six of the replacements occurred after the tribunal members had to resign because of the impact of the COVID-19 pandemic on procedural timetables, not only in the LCIA cases but in all their cases and workloads.

Three-member tribunals determined the dispute in 52% of arbitrations pursuant to the LCIA Rules, and sole arbitrators determined the dispute in 48% of arbitrations, which is consistent with the long-term pattern of a relatively even split between three-member tribunals and sole arbitrators.

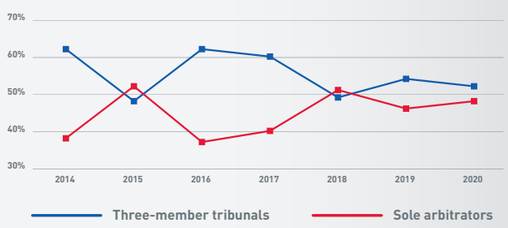
## Arbitrator selection 2020




## Three-member tribunals vs sole arbitrators 2020




## Three-member tribunals vs sole arbitrators 2014 - 2020




Parties continue to request the LCIA Court to select arbitrators, with the Court selecting in 42% of appointments in arbitrations pursuant to the LCIA Rules in 2020, compared with 39% of appointments in 2019. This reflects a long-term pattern for the continued involvement of the LCIA Court in one of its key roles in arbitrations pursuant to the LCIA Rules.

Pursuant to the LCIA Rules, parties and co-arbitrators may (and often do) nominate their own arbitrator, while formal appointment by the LCIA Court is contingent on the Court's approval of the candidate following a review of a candidate's independence and impartiality, and availability. In 2020 the parties and the co-arbitrators together selected arbitrators in 58% of appointments in 2020, compared with 61% of appointments in 2019.

The LCIA holds less information on the selection of arbitrators in UNCITRAL arbitrations and fundholding cases. In addition, the process and terminology and the stage and level of involvement of the LCIA differs in these cases.

In arbitrations pursuant to the UNCITRAL Rules arbitrators are appointed by the parties and the co-arbitrators in accordance with the procedure pursuant to the Rules, without review by the LCIA Court. Two sole arbitrators were appointed by the LCIA Court in 2020 in arbitrations administered by the LCIA pursuant to the UNCITRAL Rules. In one case the sole arbitrator was appointed in accordance with the list procedure and in the second case the list procedure failed and the LCIA Court selected the sole arbitrator directly.

In cases where the LCIA acted as the appointing authority only, the LCIA Court appointed one co-arbitrator and one sole arbitrator in 2020. The co-arbitrator was appointed in accordance with the mechanism provided for in the relevant arbitration agreement, after the respondent failed to respond to the Notice of Arbitration, while the sole arbitrator was appointed by the list procedure provided for in the UNCITRAL Rules after the parties could not agree on an arbitrator.

In fundholding cases, the LCIA was informed of 65 appointments of 50 different arbitrators. Three-member tribunals determined the dispute in 80% of the cases and sole arbitrators determined the dispute in 20% of the cases.



# ARBITRATOR NATIONALITIES

For the purposes of statistical information, this report only counts the primary nationality indicated to the LCIA by the arbitrators, while for the purposes of appointments the LCIA considers all additional nationalities to ensure that all requirements of the LCIA Rules, and other rules where relevant, are met.

Despite seeing a lower percentage of British parties in 2020 and a decrease in the prevalence of English seat and English law in arbitrations administered pursuant to the LCIA Rules, the proportion of appointments of British arbitrators rose from 51% in 2019 to 63% in 2020, which is closer to the 2018 rate of 65%. The majority of the appointments of British arbitrators (65%) were from party or co-arbitrator nominations, with just over a third being appointments of arbitrators selected by the LCIA Court.

In arbitrations administered pursuant to the LCIA Rules, 53% of the LCIA Court's appointments were of British arbitrators (compared with 35% in 2019), 68% of appointments from party nominations were of British arbitrators (compared with 49% on 2019), and 82% of appointments made by joint nomination of the co-arbitrators were of British arbitrators (compared with 66% in 2019).

The remaining 37% of appointments comprised appointments of arbitrators from 40 different countries, with the next highest numbers of arbitrators being from Canada, the United States, Ireland, Germany, and Mexico.

The LCIA Court selected non-British arbitrators 47% of the time, compared to the parties selecting a non-British arbitrator 32% of the time and co-arbitrators 18% of the time.


The two arbitrators appointed in arbitrations administered by the LCIA Court pursuant to the UNCITRAL Rules were British. Of the two arbitrators appointed by the LCIA Court as the appointing authority, one was British and one was Nigerian.

The LCIA Court does not have a role in the selection of the arbitrators in fundholding cases. In fundholding cases most arbitrators appointed were British. Forty-eight of the 65 appointments (74%) were of British arbitrators, four (6%) were of arbitrators from the United States, four (6%) were of arbitrators from Canada, while the remaining 14% appointments were of arbitrators from Egypt (3), Switzerland (2), Austria (1), South Africa (1) and Greece (1).

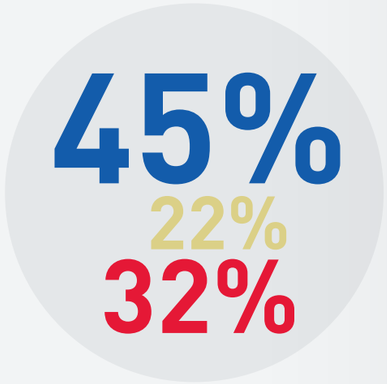
# GENDER DIVERSITY

The LCIA continues to lead in gender diversity, as the overall number of appointments of female arbitrators continues to grow in 2020, reaching 33% (or 175 out of 533 arbitrator appointments pursuant to the LCIA Rules) compared to 29% in 2019, with parties and co-arbitrators finally leaning in.

Parties nominated female arbitrators in 22% of all appointments, compared with 12% of all appointments in 2019. Co-arbitrators have also selected female arbitrators more often increasing from 30% of all appointments being of female arbitrators in 2019 to 32% in 2020. The LCIA Court has continued to appoint a high percentage of female arbitrators. In 2020, 45% of the Court's appointments were of female arbitrators, compared to 48% in 2019.

In arbitrations administered by the LCIA pursuant to the UNCITRAL Rules, as well as those arbitrations where the LCIA acted as the appointing authority only, all appointments were of male arbitrators. Where the appointment was made in accordance with the list procedure, the LCIA Court included female candidates.

In fundholding cases, where the LCIA Court has no involvement in the selection of arbitrators, 17% of appointments were of female arbitrators.




**Appointments of female arbitrators as a percentage of all appointments in LCIA arbitrations by selection method**

**LCIA Court**

**Parties**

**Co-Arbitrators**

# FIRST-TIME APPOINTEES

Of the appointments made in arbitrations pursuant to the LCIA Rules in 2020, 14% (72 out of 533) were of candidates not previously appointed by the LCIA Court, compared to 19% in 2019.

The LCIA Court, parties and co-arbitrators have all selected slightly fewer arbitrators who had not previously been appointed in the relevant year, being 10% (down from 15% in 2019), 17% (down from 21% in 2019) and 13% (down from 19% in 2019), respectively.

Proportionately, the LCIA's figures for appointing candidates not previously appointed by the LCIA Court are lower than that of the parties, reflecting that the LCIA Court selects three times as many sole arbitrators and three times as many chairs as the parties select, roles for which prior experience of LCIA arbitration is typically required.

Given the differences in the appointment process in UNCITRAL arbitrations and that the LCIA is only aware of UNCITRAL arbitrations that it administers, it is not possible to provide comparable first-time appointment statistics in UNCITRAL arbitrations or fundholding cases.


**Appointments of first-time appointees as a percentage of all appointments in LCIA arbitrations by selection method**

**LCIA Court**

**Parties**

**Co-Arbitrators**



# REPEAT APPOINTMENTS

In line with internal policy, the LCIA endeavours to appoint different arbitrators as frequently as possible, which is reflected in the increase in the overall percentage of arbitrators appointed only once in the same calendar year in arbitrations administered pursuant to the LCIA Rules, from 60% in 2019 to 62% in 2020. Twenty percent of arbitrators were appointed twice, and 9% of arbitrators were appointed three times.

The remaining 9% of arbitrators were appointed more frequently, which in large part is due to appointments in related cases, where in some instances the parties and co-arbitrators nominated the same arbitrators across all cases and the cases were subsequently consolidated.

The average number of appointments for all arbitrators was one appointment, for male arbitrators the average was one and for female arbitrators the average was two.

# TRIBUNAL SECRETARIES

In 2020, tribunal secretaries were appointed in 39 arbitrations conducted pursuant to the LCIA Rules, compared with 27 last year. Fourteen of the appointments were of male tribunal secretaries and 25 were of female tribunal secretaries. It should be noted that one female tribunal secretary was appointed in seven related cases.

There has been an increase in the use of tribunal secretaries by sole arbitrators. In 2020, 19 of the secretaries were appointed to assist sole arbitrators and 20 were appointed to assist three-member tribunals, compared with seven secretaries appointed to assist sole arbitrators and 20 to assist three-member tribunals in 2019.

As with arbitrators, the tribunal secretaries hailed from a number of different countries, including nationals of the United Kingdom, France, Canada, Kenya, the United States, Colombia, Switzerland, Germany, India, Belgium, Singapore, Austria, Australia, Lebanon, and Mexico.

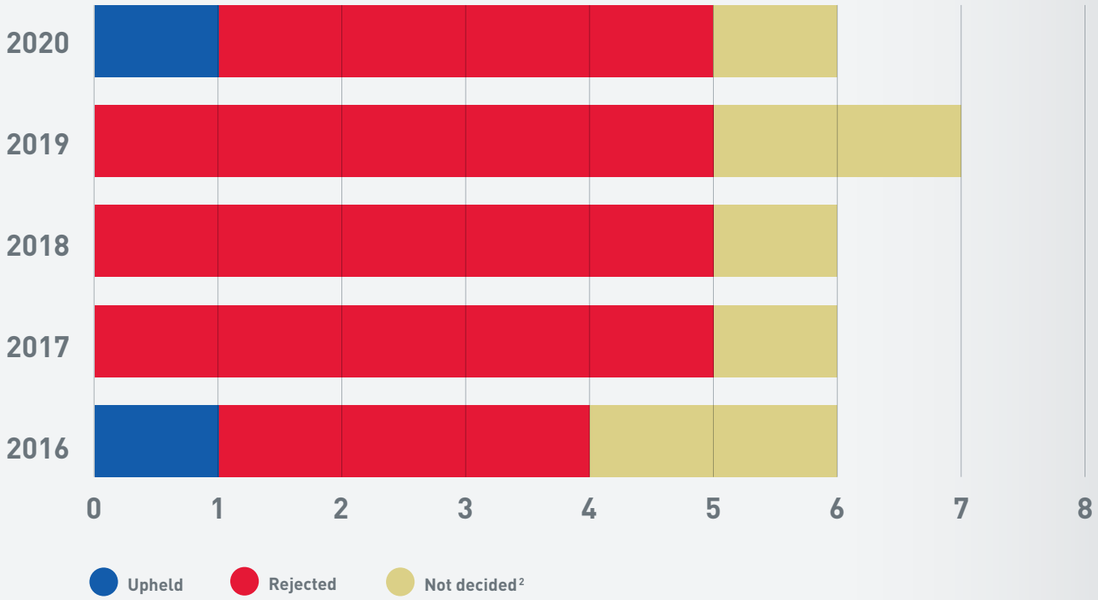
# CHALLENGES

The LCIA is encouraged to see a continuingly-low number of challenges to arbitrators, with only six challenges made by parties in arbitrations pursuant to the LCIA Rules in 2020 (compared with seven in 2019), and only one of the six challenges being upheld. Four of the remaining challenges were dismissed and one remains pending as at the end of 2020.

Proportionally there is a drop in the total number of challenges compared to the number of new cases. In 2020, there were six challenges and 407 arbitrations commenced pursuant to the LCIA Rules (1.5%), whereas in 2019 there were seven challenges and 346 new arbitrations (2%).

In addition to formal challenges pursuant to Article 10 of the LCIA Rules once an arbitrator has been appointed, objections on the basis of pre-appointment disclosures were made by parties in relation to eleven cases in 2020. The LCIA Court proceeded with the appointment in seven of those cases.

The outcomes of pending challenges in previous years have been updated in the below chart.




Where the LCIA Court is the designated appointing authority in an arbitration pursuant to the UNCITRAL Rules, the LCIA Court will step in and decide the challenge. The LCIA records these challenges separately from those made by parties pursuant to the LCIA Rules, and there were no such challenges in 2020.

2 This includes cases where the challenge was withdrawn or superseded, the arbitrator resigned, the parties agreed to the replacement of the arbitrator, as well as challenges which remained pending as at the end of 2020.



# MULTI-PARTY AND MULTI-AGREEMENT ARBITRATIONS

In 2020, 5.4% of arbitrations commenced pursuant to the LCIA Rules involved disputes arising out of more than one agreement, up from 2% in 2019. One of the two cases administered by the LCIA pursuant to the UNCITRAL Rules involved disputes arising out of three agreements.

In 2020, 31% of arbitrations commenced pursuant to the LCIA Rules involved more than two parties, and 1% of arbitrations (or four) involved ten or more parties. There has been a rise in the percentage of multi-party arbitrations since 2019, where 22% of arbitrations involved more than two parties.

Where the LCIA acted as appointing authority, one arbitration involved three parties. There were seven fundholding arbitrations involving more than two parties.

It should be noted that this section of the report looks at a snapshot of the arbitration as it was commenced. It does not take into account arbitrations which have subsequently been consolidated or arbitrations where a third party has been joined subsequent to the Request.

# CONSOLIDATION

In 2020, 50 applications for consolidation were made by parties pursuant to the LCIA Rules, an increase of over 40% compared with 2019. The 2020 Rules introduced in October allow consolidation under broader circumstances. Twelve of the 49 applications were made in cases pursuant to the 2020 Rules.

The decision to consolidate involves an assessment by the LCIA Court or the Tribunal of the concrete facts and circumstances of the relevant arbitrations. While it is not feasible to provide qualitative information or details of the fact scenarios where applications were granted or rejected, the following quantitative information provides some guidance on the provisions invoked and/or were the basis of the order for consolidation.

Of the 50 applications for consolidation:

(a) Fifteen applications were granted by the LCIA Court pursuant to Article 22.6 of the 2014 Rules or 22.8(i) or 22.8(ii) of the 2020 Rules;

(b) Eight applications were granted by the tribunal, with the approval of the LCIA Court, pursuant to Article 22.1(ix) of the 2014 Rules;

(c) Fifteen applications were granted by the tribunal, with the approval of the LCIA Court, pursuant to Article 22.1(x) of the 2014 Rules or 22.7(ii) of the 2020 Rules;

(d) One application was made pursuant to both Article 22.1(ix) of the 2014 Rules and the Arbitration Agreement, and granted by the tribunal, with the approval of the Court;

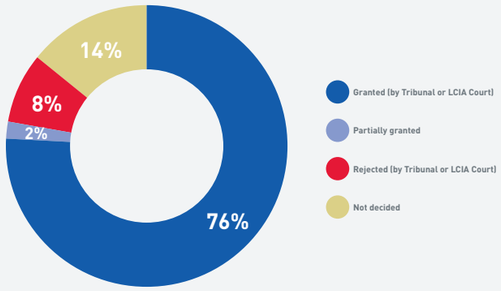
(e) Four applications were dismissed by the tribunal and/or the Court;

(f) One application was withdrawn after the parties agreed instead for the tribunal to run the arbitrations concurrently, while another application was superseded after the parties settled; and

(g) Six applications were pending as at the end of 2020.

One of the 50 applications requested the consolidation of six cases commenced in 2020 with an already-consolidated arbitration (previously of six arbitrations) commenced in 2018. Two applications involved cases commenced in 2019 where the request for consolidation was made early in 2020.

## Applications for consolidation




No applications for consolidation were made by parties in arbitrations administered by the LCIA pursuant to the UNCITRAL Rules.

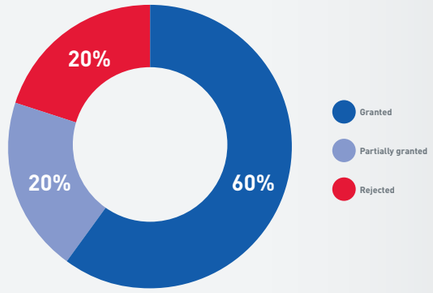
# JOINDER

Parties in arbitrations pursuant to the LCIA Rules made fewer applications for the joinder of a third party to the arbitration in 2020 than in 2019, continuing the downward trend in joinder applications over the last three years.

In 2020, five applications were made for the joinder of a third party, three of which were granted, one was partially granted and partially withdrawn following agreement of the parties, and one was rejected. In most cases all parties agreed to the joinder of the third party.

In 2019, parties made 13 joinder applications.

## Applications for joinder



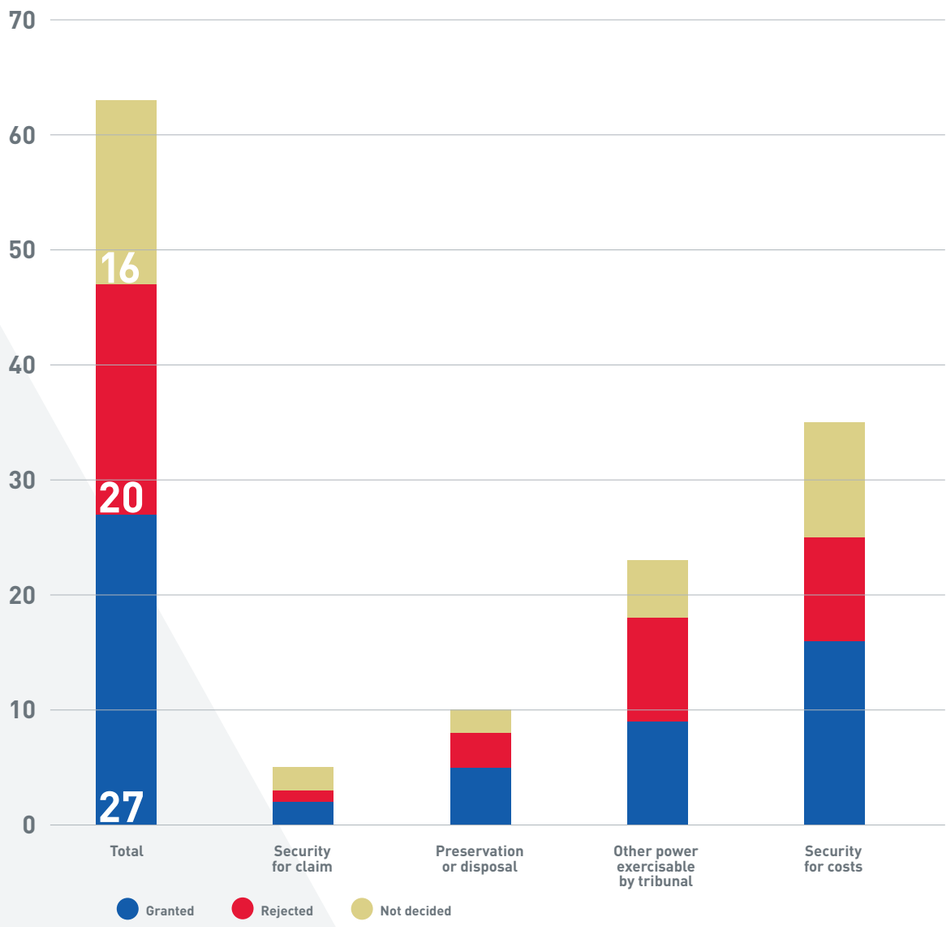

No applications were made for a joinder in arbitrations administered by the LCIA pursuant to the UNCITRAL Rules.



# INTERIM RELIEF

In 2020, parties made 63 applications for interim and conservatory measures pursuant to Article 25 of the LCIA Rules (involving 49 arbitrations). Security for costs was the most common interim relief sought by the parties.

Tribunals granted the relief in 27 instances and rejected the application in 20 instances. The remaining 16 applications were superseded, withdrawn or pending as at the end of 2020.




There were no applications for interim relief in arbitrations administered by the LCIA pursuant to the UNCITRAL Rules.

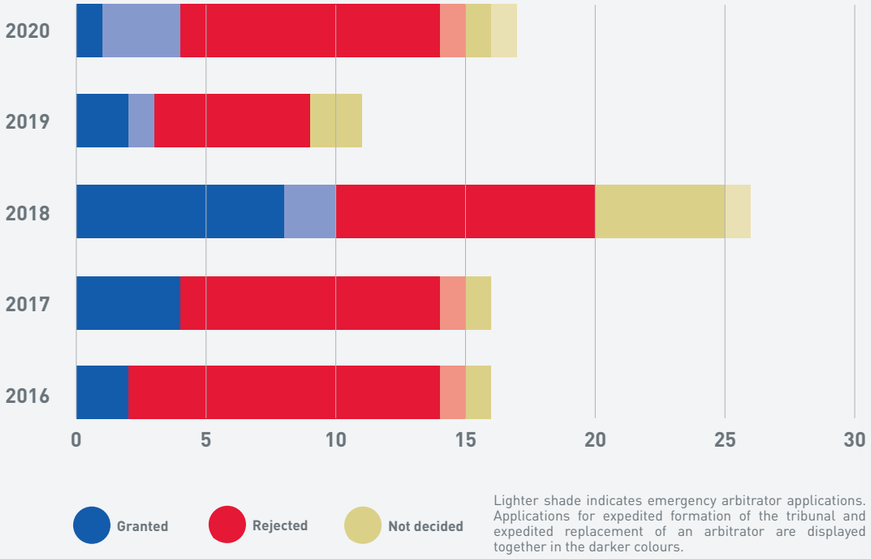
# EXPEDITED FORMATION OF TRIBUNALS AND EMERGENCY ARBITRATOR APPOINTMENTS

In 2020, there was an increase in both applications for expedited formation of the tribunal and applications for the appointment of an emergency arbitrator.

There were 13 applications for expedited formation of the tribunal pursuant to Article 9A of the LCIA Rules; three more than in 2019. Eleven applications were rejected, one was granted and one was superseded after the parties agreed to expedite the formation of the tribunal.

Parties to LCIA arbitrations made five applications for the appointment of an emergency arbitrator pursuant to Article 9B of the LCIA Rules compared with one in 2019. Three of the five applications were granted, one was rejected and one was withdrawn.

This year also saw three applications for the expedited replacement of an arbitrator pursuant to Article 9C of the LCIA Rules, two of which were granted and one was rejected.




Lighter shade indicates emergency arbitrator applications. Applications for expedited formation of the tribunal and expedited replacement of an arbitrator are displayed together in the darker colours.

While expedited formation of the tribunal and the appointment and emergency arbitrator are tools available for parties seeking urgent relief, the LCIA Court's prompt appointment of tribunals and the flexibility of the procedure provided by the Rules enable parties the opportunity to address preliminary matters with the tribunal at an early stage as well.



# OTHER ADR SERVICES

The LCIA received a total of three requests for mediation and one request for adjudication. Three of the agreements under dispute were governed by English law while one did not specify the governing law.

The disputes concerned a range of industry sectors with one dispute each in the industry sectors energy and resources, transport, construction and infrastructure, and professional services.

The eight parties involved in these other ADR cases were from the United Kingdom (3), Nigeria (2), South Korea (1), the Netherlands (1), and Sweden (1).

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