

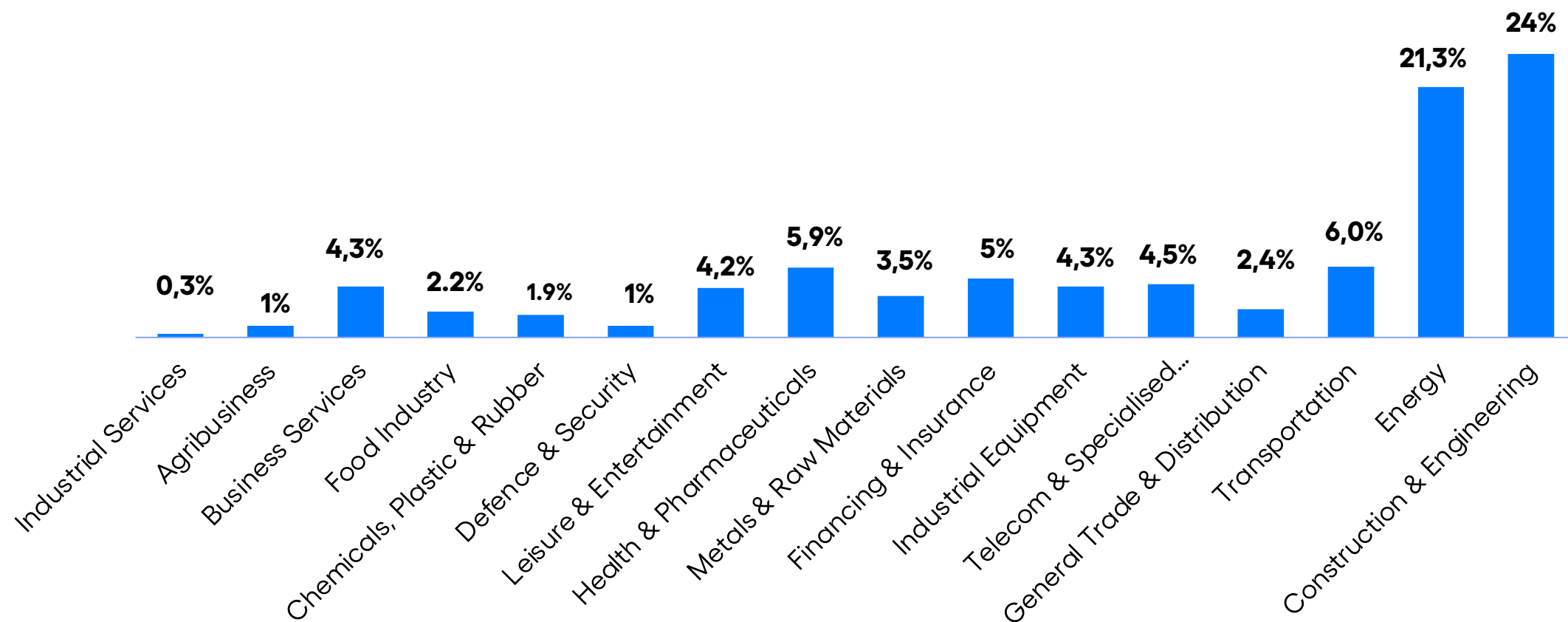
ENERGY DISPUTES: CURRENT STATE OF AFFAIRS

Sergii Melnyk

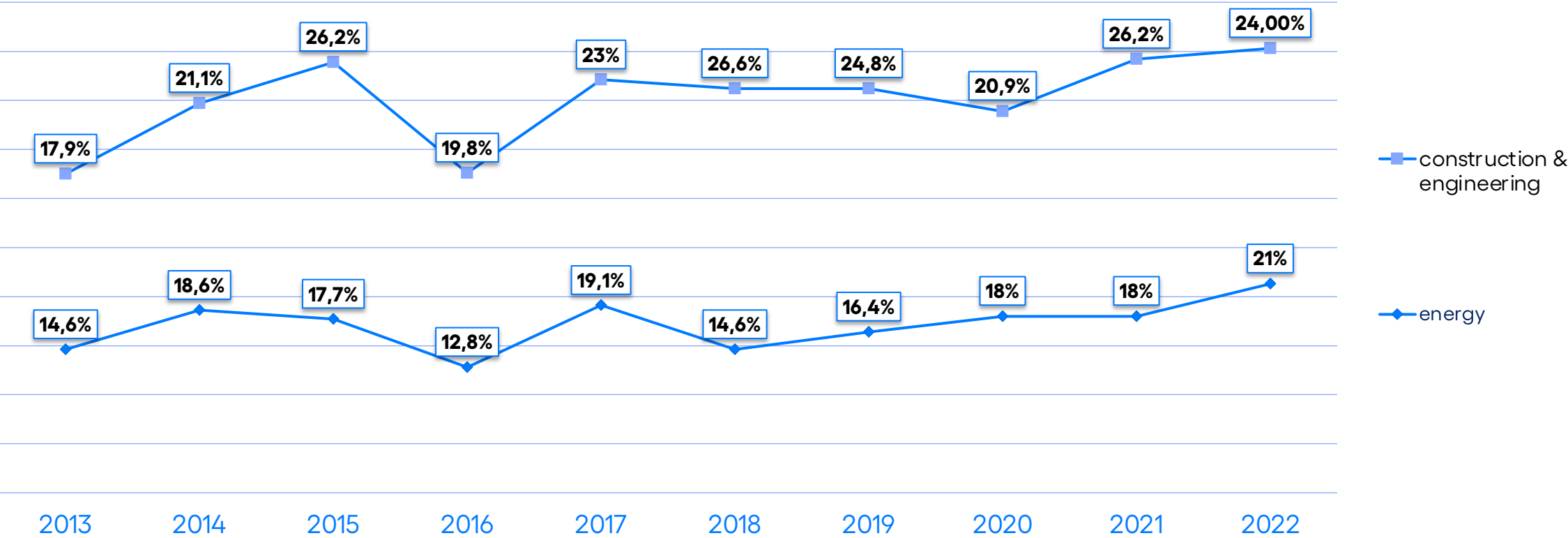
Deputy Counsel, ICC International Court of
Arbitration

17 November 2023, 10th Anniversary Seminar
of the CCEEL

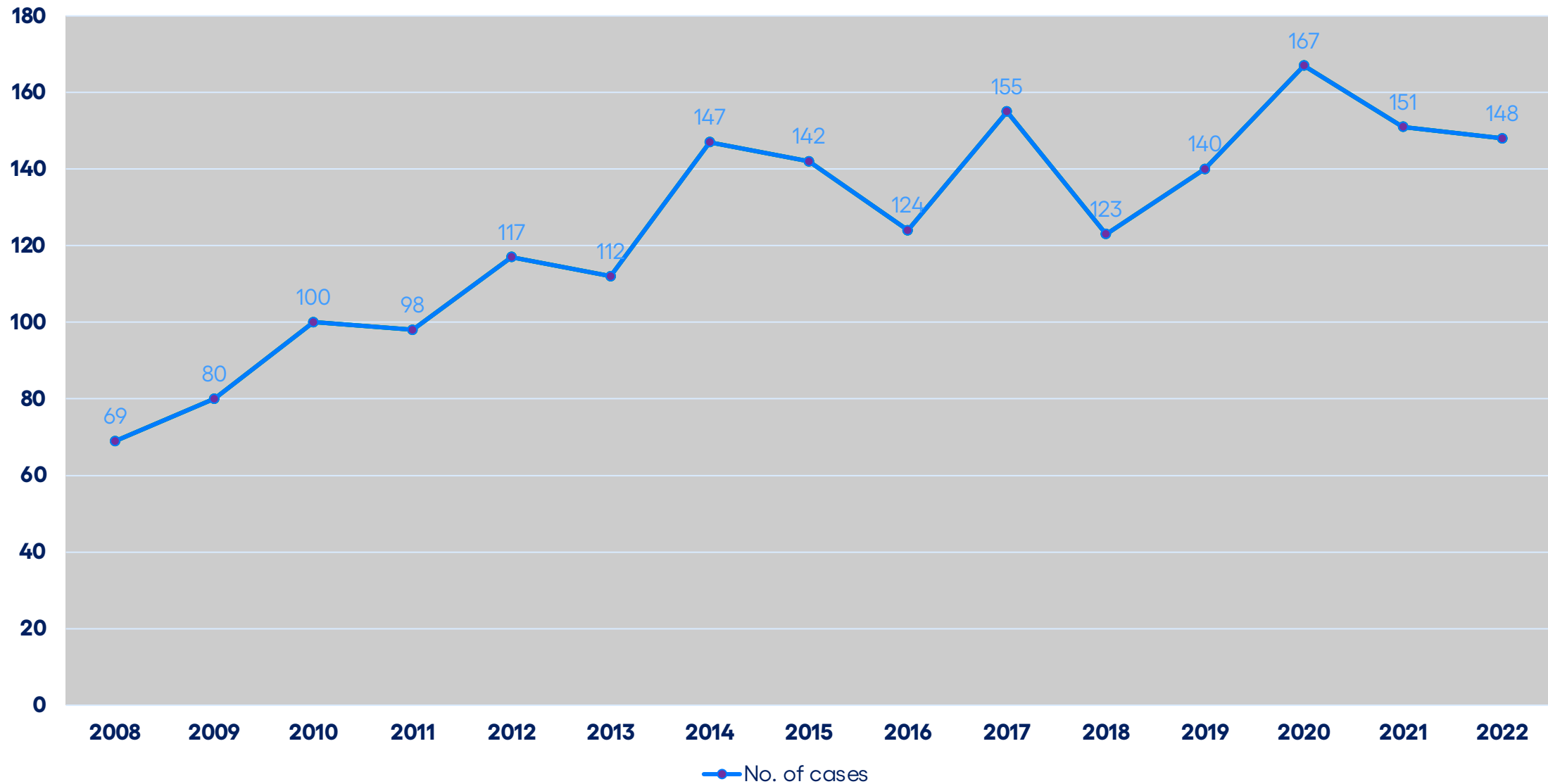
Breakdown of 2022 ICC Arbitrations by Economic Sector



Sectors - Trends

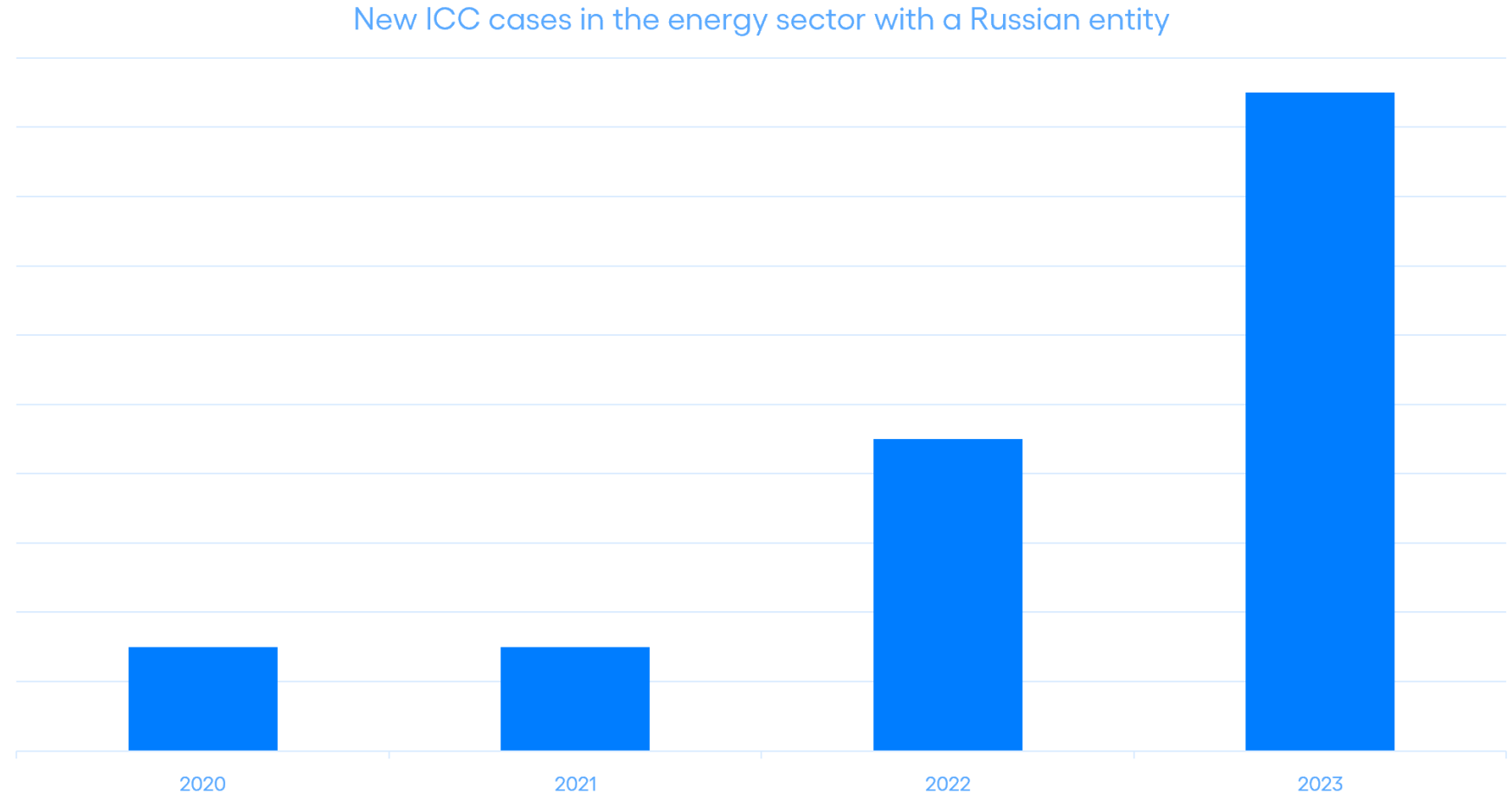


Total number of new ICC Cases in the Energy sector

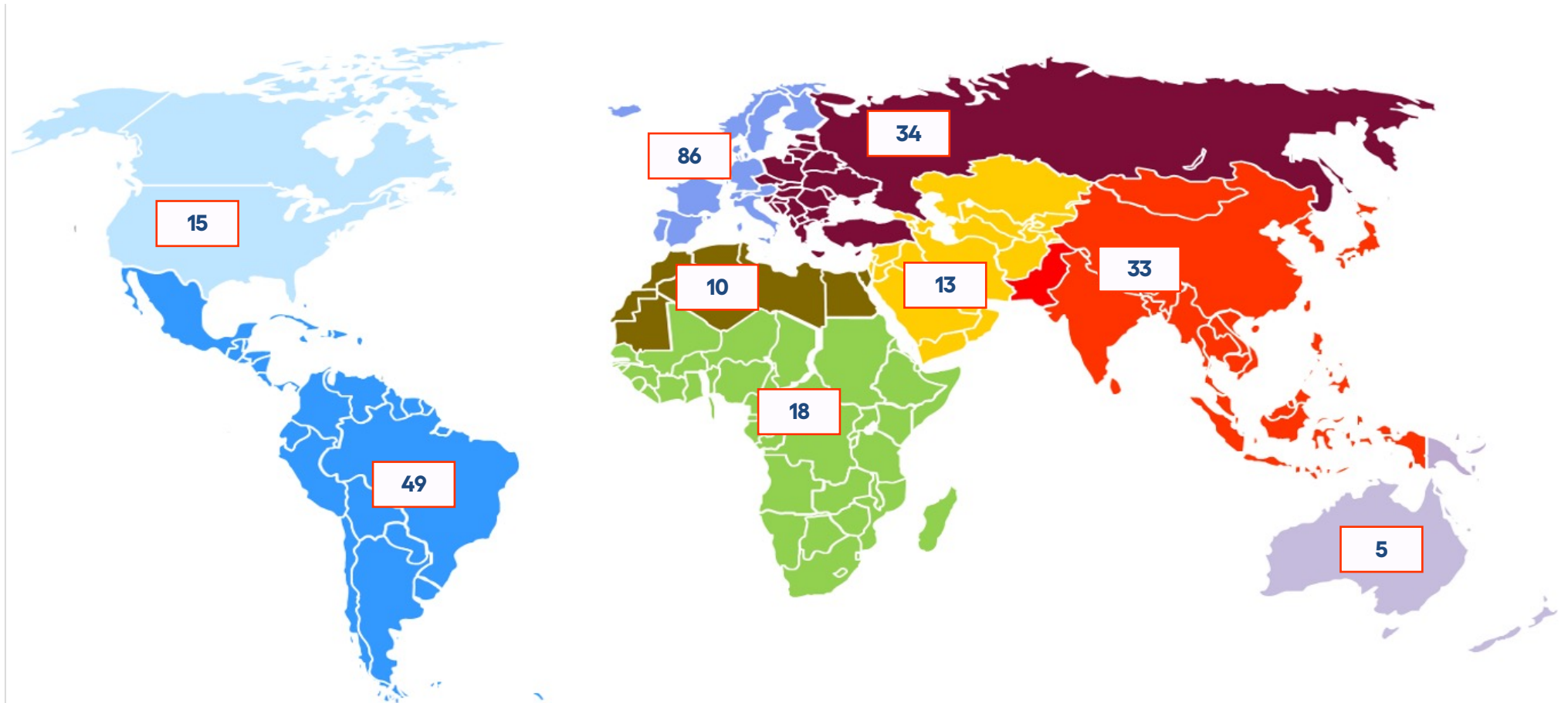


Trends – new Russian cases

The number of new cases with a Russian entity has **tripled** in 2022 and increased by more than **six times** in 2023 in relation to 2020-2021 level.



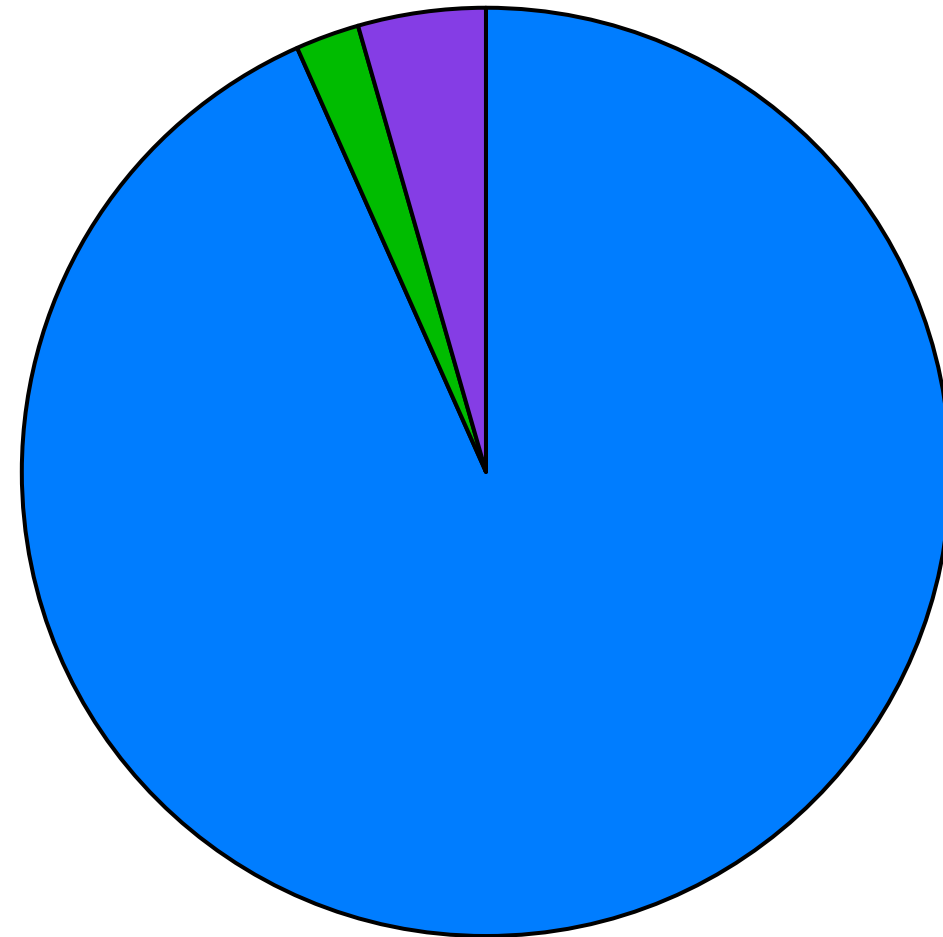
Parties in the Energy sector per region (2022)



Trends – tribunal constitution

In a vast majority of cases the **three-member tribunal** is appointed.

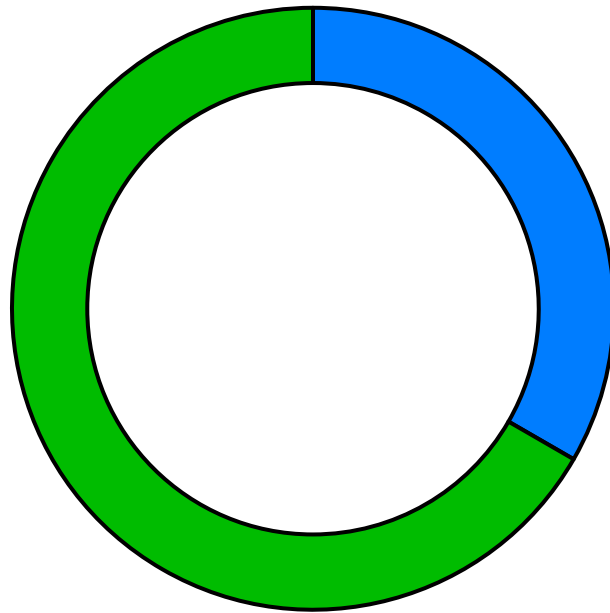
Tribunal types



■ Three-member tribunal ■ Sole arbitrator ■ Not decided yet

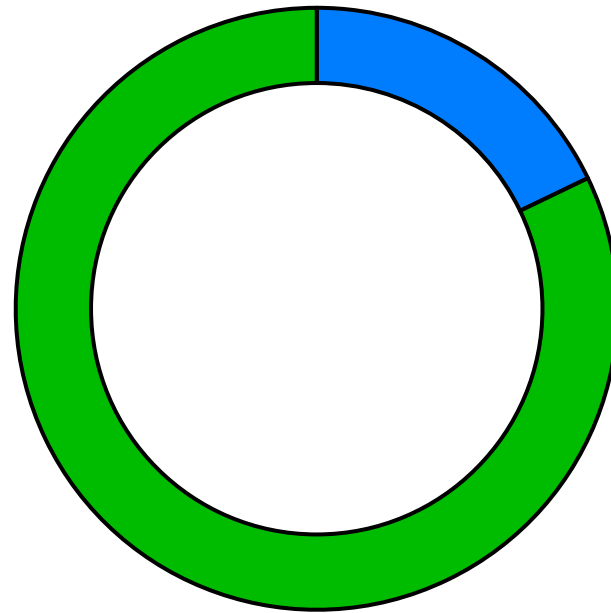
Trends - role of the Russian party

Pre-invasion



■ Claimant ■ Respondent

Post-invasion



■ Claimant ■ Respondent

Even before the invasion, the tendency was for the Russian party to be **Respondent**.

This tendency only increased after the invasion.

Pre-invasion disputes



Failure to pay for gas or oil

Contesting the price of gas

Termination of contract

Readjusting the minimum supply quantity

Non-payment of damages

Failure to pay for intermediary or consulting services

Construction related disputes (power plants, oil fields)

Post-invasion disputes



Failure to provide the necessary quantities of gas

Non-performance of contracts as a result of sanctions

Non-performance of contracts as a result of invasion and hostilities

Nullity of the contract as a result of Russian countermeasures

Triggering of performance guarantees

Failure to pay for the equipment and services as a result of the invasion

Non-cooperation of the Russian party



Thanks!