



Max Planck Institute
LUXEMBOURG
for Procedural Law

Powers and Competences of Boards of Appeal

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Before Boards are involved: interlocutory revision

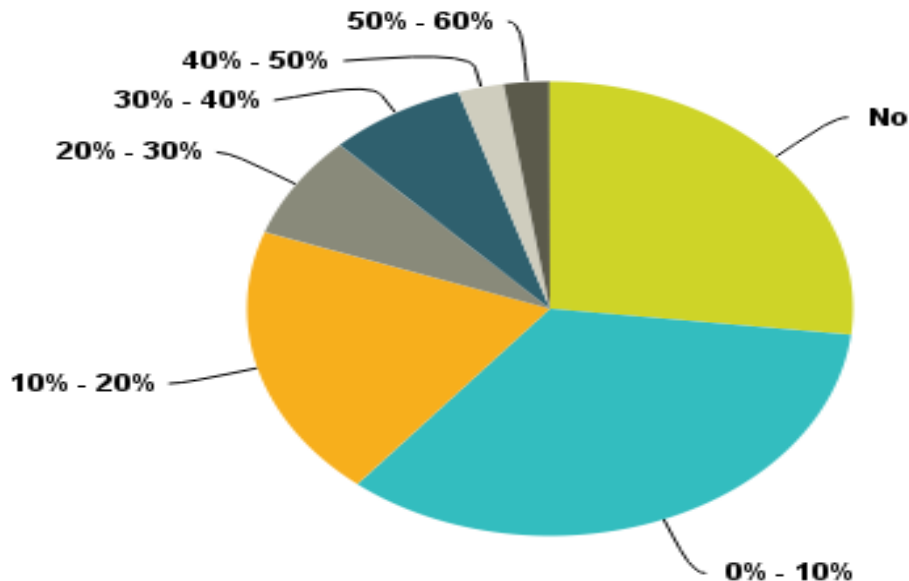
- May facilitate early dispute settlement
 - Filtering function to the benefit of Boards' caseload
 - May involve Boards' members (chairperson)
- How often is interlocutory revision used, when available? (MPI survey)
- For most respondents, it is seldom used: 0-10% of total challenged decisions
 - However, some lawyers – possibly the most active ones – rely heavily on interlocutory revision: 70-100% of the disputes
- What is the success rate?
- Quite low: reported success rates are «never» or «seldom» (0-10%) for most respondents



Power to suspend Agencies' decisions?

- In some cases, the decision on the suspension is taken by the Board
- In others, mere filing of a claim triggers suspension

→ How often



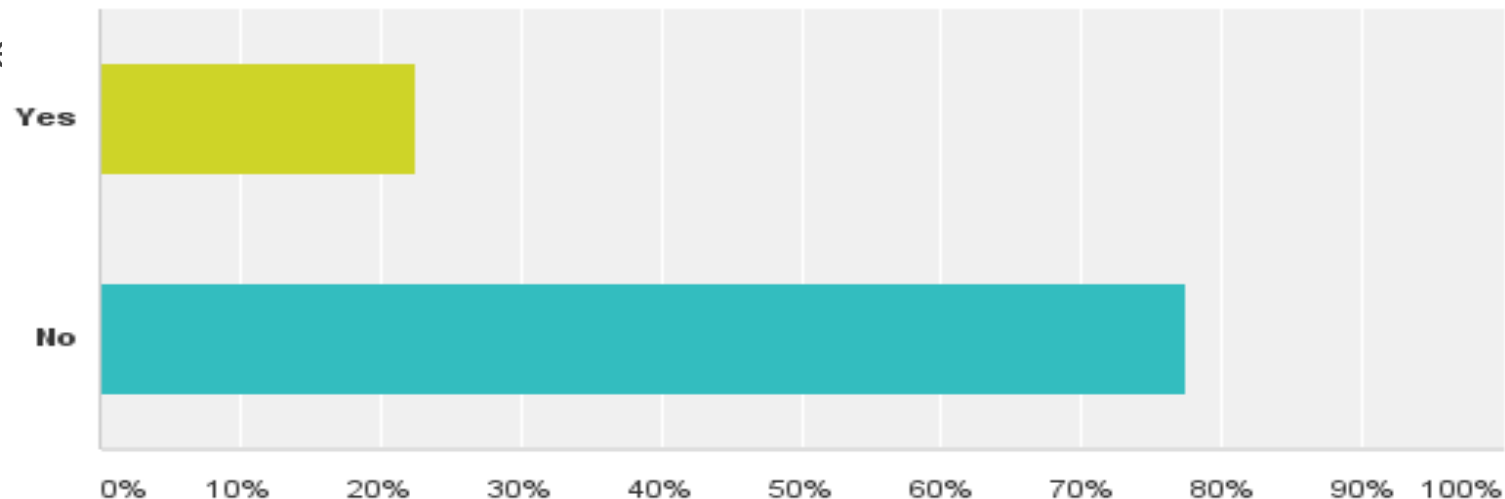
ask for suspension?



Consistency of case-law: the Boards vis-à-vis themselves

- Precedential value of past decision?
- For cases between the same parties: repeated litigation
- For other parties: what role fore precedents?

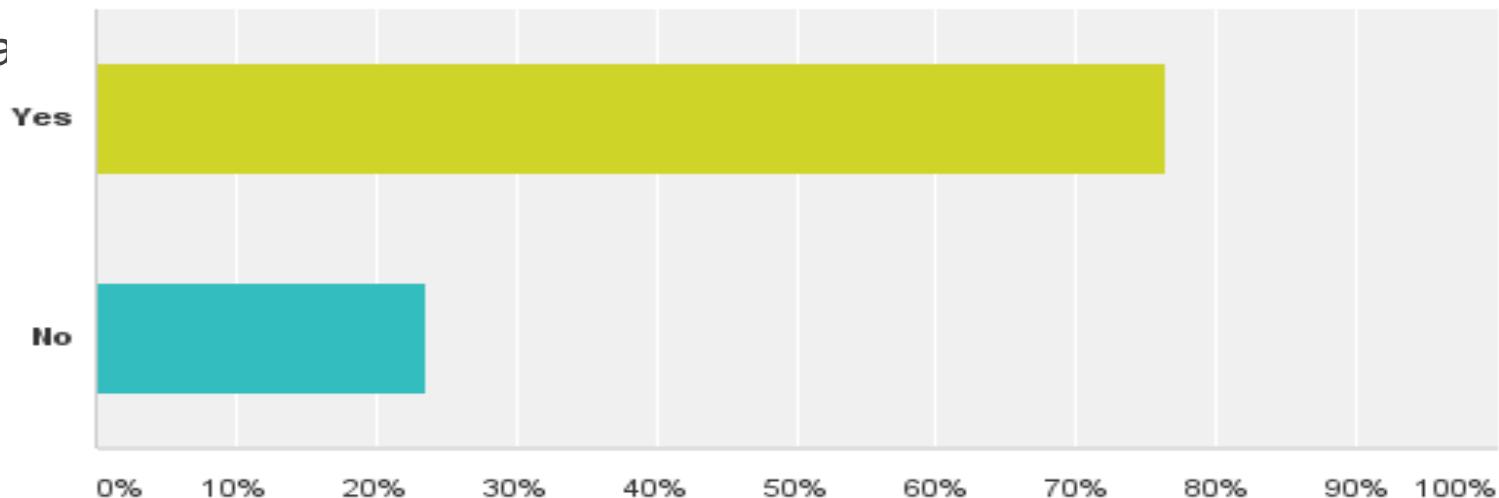
→ Are



Factual and legal basis of Board's decisions

- Can new facts and evidence be brought before Boards?
- *Jura novit curia?*
- Can decisions go beyond parties' requests? *Reformatio in pejus?*

→ Ca



Direct exercise of administrative powers?

- Some Boards have the power to either:
 - Remit the case to the Agency
 - Directly exercise the power of the Agency (power of substitution)

→ On which ground

