



## **SPECIAL SESSION - HOW ARBITRATION IS HANDLED IN CAMBODIA**

**Time: 3pm-4:15pm**

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# INTRODUCTION

## Government

- Ministry of Labor and Vocational Training (MLVT)
- Arbitration Council

## Employer

- CAMFEBA
- Sectoral Association of different industries (13)

## Union

- Confederation (40)
- Federation (267)
- Local Union (5694)

# Regulating Labor Disputes Resolution and Types of Labor Disputes

## Regulating Labor Dispute Resolution

- Labor Law (1997) Ch.12
- Prakas No. 317 (2001) on Procedures of Collective Labor Disputes
- Prakas No. 318 (2001) on Procedures of Individual Labor Disputes
- Prakas No. 099 (204) on Arbitration Council [Ref: Prakas No.338 (2002) on Arbitration Council]
- Code of Civil Procedures (2006)
- Law on Trade Union (2016)
- Law on Social Security (2019) [Ref: Law on Social Security (2002)]

## Types of Labor Dispute

- Individual Labor Dispute (Article 300-New, Labor Law)
- Collective Labor Dispute (Article 302, Labor Law)

# Individual and Collective Labor Disputes Resolution

## Individual Labor Dispute Resolution

- Enterprise's Grievance Complaint Procedures (Internal Regulation of the Enterprise, Employment Contract or Collective Bargaining Agreement)
- **Option 1:** Voluntary Conciliation by Ministry in charge of Ministry of Labor
- **Option 2:** Competent Court

**Note: Recent Development and Discussion on role of Arbitration Council in Individual Labor Disputes**

# Individual Labor Dispute Resolution Procedures

Employer vs Worker (s)  
Enterprise Level

Voluntary conciliation by  
Ministry of Labor

Court

Option 1

Employer vs Worker (s)  
Enterprise Level

Court

Option 2

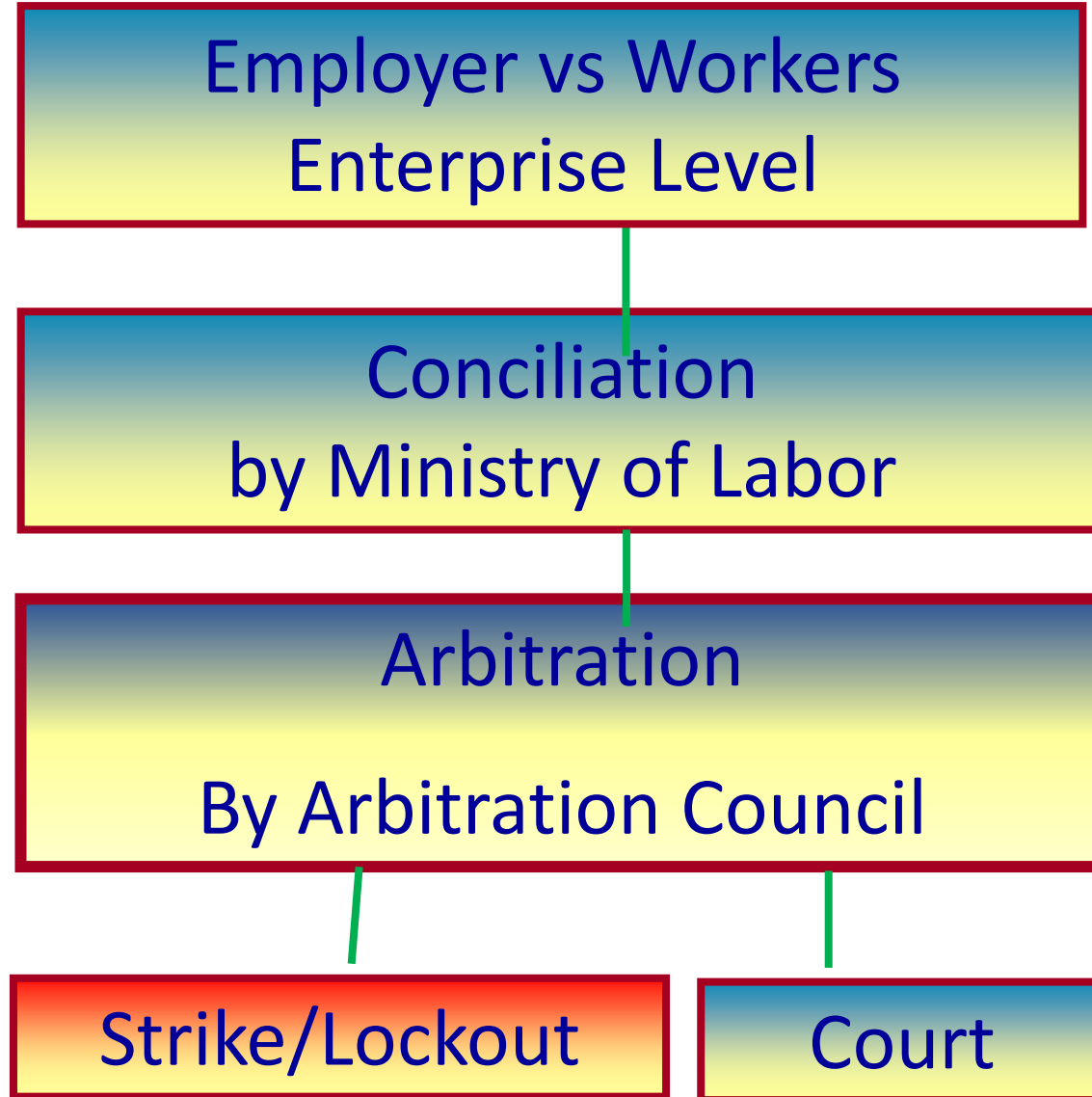
# Individual and Collective Labor Disputes Resolution

## Collective Labor Dispute Resolution

- Enterprise's Grievance Complaint Procedures (Internal Regulation of the Enterprise, Employment Contract or Collective Bargaining Agreement) if any
- Compulsory Conciliation by Ministry in charge of Ministry of Labor
- Compulsory Arbitration by Arbitration Council
- Industrial Action (Strike and/ Lockout) and /or Competent Court



# Collective Labor Dispute Resolution Procedures



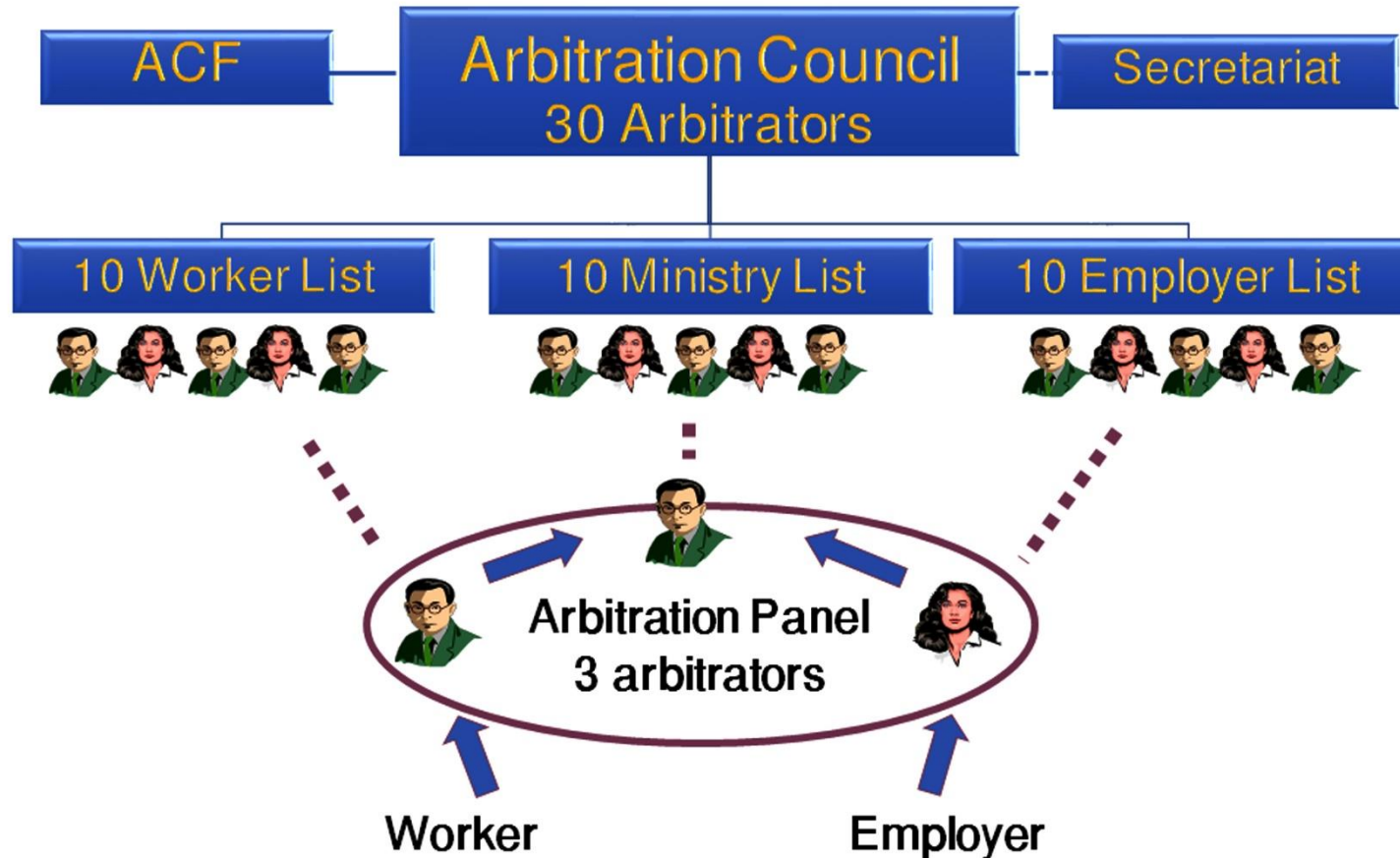
# Arbitration Council Procedures



## About Arbitration Council

- Tripartite body composed of 30 arbitrators (1/3 from the employer list, 1/3 from the Union list and 1/3 from the government list (2019))
- Arbitrators are annually appointed by the Prakas of Ministry in charge of Labor
- Arbitration Council is supported by the Secretariat of Arbitration Council, an arm of the Ministry in charge of Labor and the Arbitration Council Foundation, a local NGO registered with the Ministry of Interior

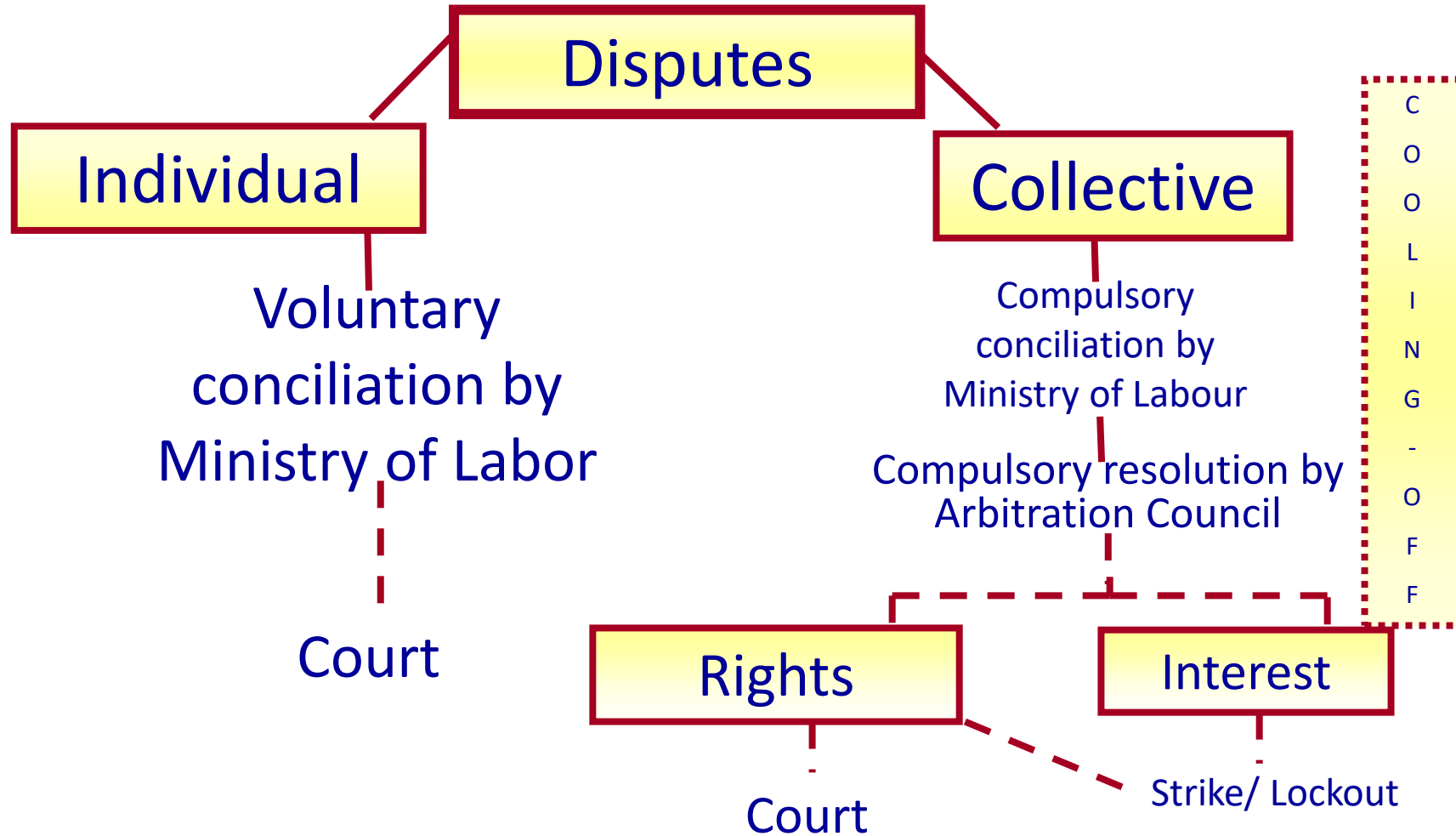
# About Arbitration Council



- How it works? Why it was designed such a way?
  - **Internal Factors:** Labor Disputes and no trustable mechanism
  - **External Factors:** Cambodia-US Bilateral trade Agreement, ILO



# Summary of Labor Dispute Resolution Procedures



# Before Hearing, Hearing and Post Hearing

- **Before Hearing:** The Minister in charge of labor refers the case to Arbitration Council, case registration, Choose Arbitrators, Forming Arbitration Panel, and Setting the Hearing dates, Invitation sent to party notifying the hearing and submission of evidence
- **Hearing:** Explaining Procedures, choosing arbitral award, and conducting conciliation and / or Arbitration
- **Post Hearing:** Submission of further evidence, objecting evidence, Issuing arbitral award, opposing arbitral award, and notify the minister about the case

Binding Arbitral Award-BAA

Non-Binding Arbitral Award- NBAA

## Legal Basis

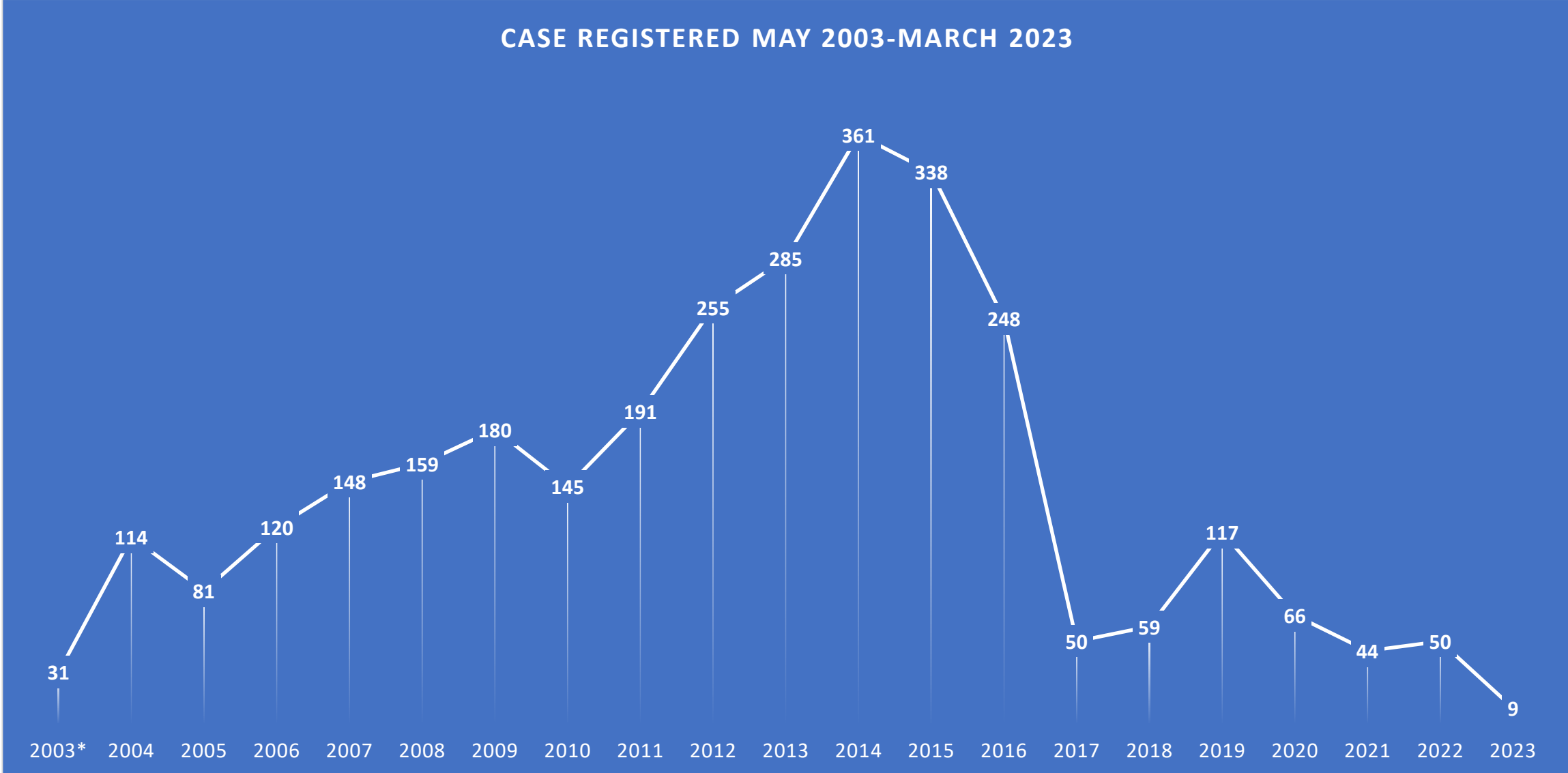
- Prakas 099 on Arbitration Council, Article 46 and 47
- Code of Civil Procedures: Compulsory Execution, Article 353



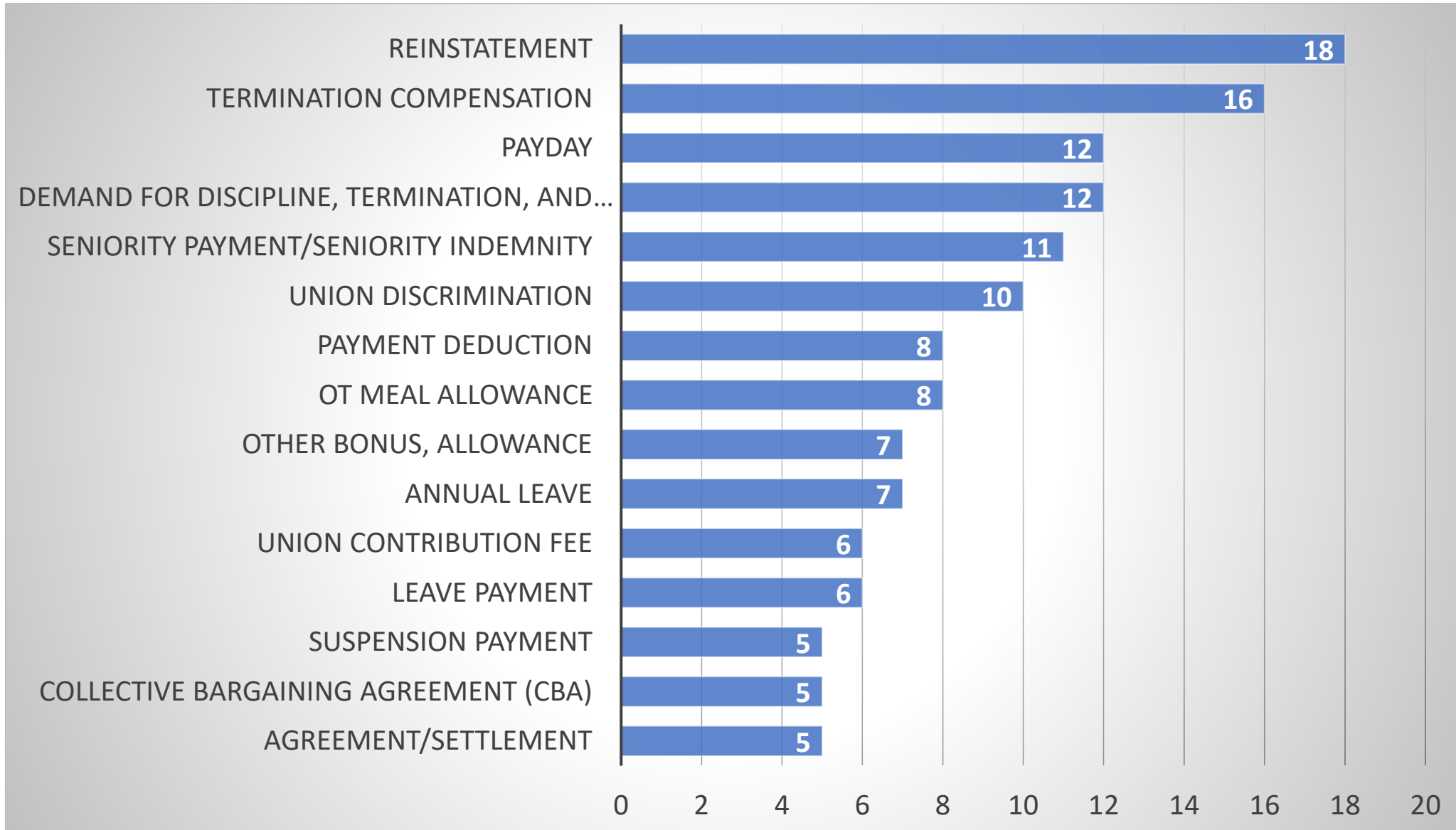
## Decision of the Court on BAA

- No formal data from the court
- 22/11-Benjamat Construction with binding Arbitral Award issued on 21 March 2011. AC's decision was upheld by the Court of Appeal.

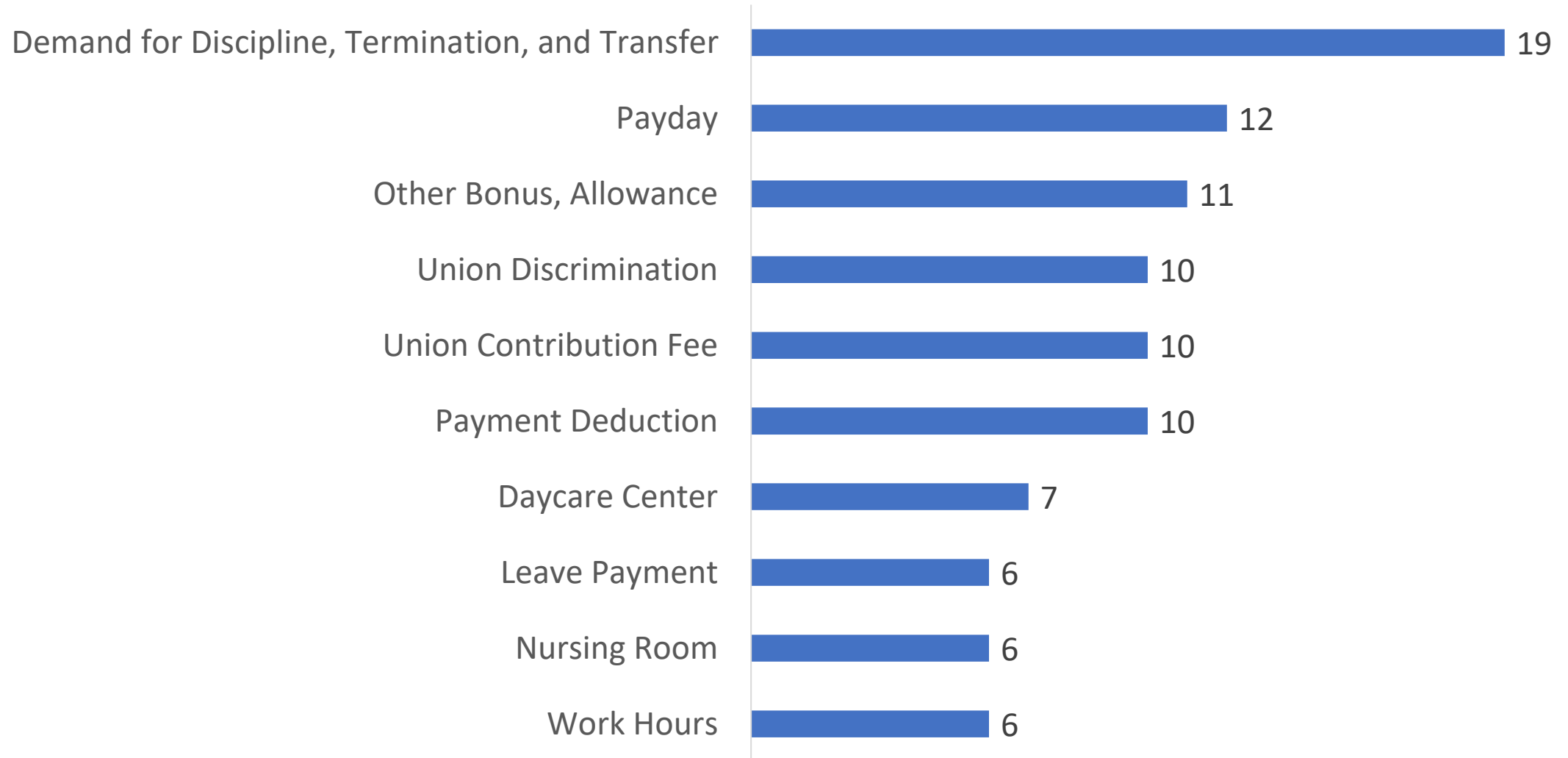
# Cases Registered and solved at Arbitration Council



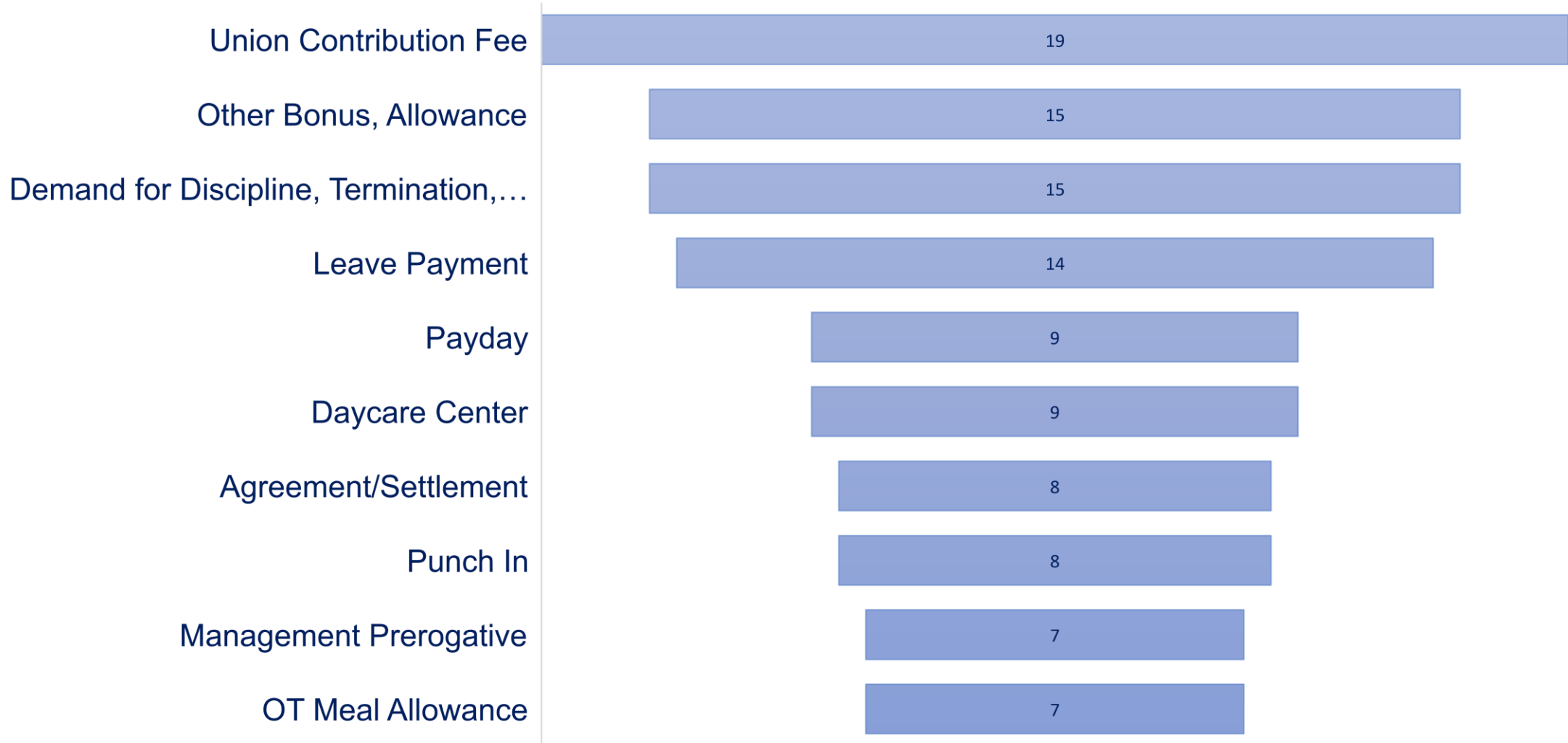
# Top disputes referred to AC in 2020 (During Covid-19)



# Top disputes referred to AC in 2021 (During Covid-19)



# Top disputes referred to AC in 2022 (Post Covid-19)



# Outcomes of the AC Services

AC has handled 3,042 cases by end of 2022 (covering over 1.18 million workers and hundreds of enterprises)

Resolution Success Rate is 75.16%

Arbitral Awards Issued is 2106 cases and Agreements reached is 935 cases

Average # of days of dispute resolution: 22 days

No backlog of cases (All registered cases are properly resolved without remaining)

The AC process is efficient and cost-free to parties



Q&A



# For more information!



[www.arbitrationcouncil.org](http://www.arbitrationcouncil.org)



[www.facebook.com/ArbitrationCouncilFoundation](https://www.facebook.com/ArbitrationCouncilFoundation)



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