

ARBITRATION AND STATE COURT JUSTICE: COMPARATIVE COST-EFFECTIVENESS

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MILAN CHAMBER OF ARBITRATION

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Arbitration and State Court Justice: Comparative Cost-Effectiveness – Research Report

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Introduction

This study was carried out by SDA Bocconi School of Management in cooperation with the Milan Chamber of Arbitration (CAM).

The research set itself the **primary objective of comparing the cost-effectiveness of an arbitration procedure versus a State Court procedure** through an integrated framework that provides for a comprehensive evaluation of the phenomenon, supported, where possible, by statistical evidence, from the dual perspective of time and costs in order to arrive at a synthesis from an economic-financial standpoint.

In the course of the study, multiple characteristics of the arbitration proceedings administered by CAM over a three-year period were also analysed in detail in order to describe, among the various segmentation variables identified, the specificities in terms of the subject-matter of the dispute, the predominant sectors, the value of the dispute, the parties involved, the composition of the adjudicating body (Arbitral Tribunal), the outcomes and the duration of the proceedings.

In particular, the research was divided into **three main stages**, described below.

- **Analysis of the value of the dispute, duration and costs of the arbitration procedure.** First and foremost, we analysed and verified **the primary characteristics of an arbitration procedure** (with a particular focus on dispute value, duration and costs) from the descriptive and interpretative perspective of a phenomenon that is, by its very nature, complex.
- **Development and administration of a series of surveys.** Secondly, in order to obtain more detailed information – particularly with regard to costs – we developed a series of **surveys** aimed at three different targets: defence lawyers, expert witnesses and in-house lawyers. Additionally, through these surveys, we were able to find some useful information for the research (duration and costs) relating to the **State Court procedure** as well. Since the means of challenging the arbitral award do not include an appeal, it has a **character of "finality" comparable to a second-instance judgement**. With this in mind, **comparisons were made between the arbitration procedure and the two levels of the state justice system**.
- **Synthesis from a business perspective of the economic-financial approach used in investment evaluation.** Finally, we proceeded to integrate the available information on the dispute values, durations and costs of both procedures (State Court Justice and arbitration), synthesising it in an approach based on **economic-financial evaluation** methods, aimed at pinpointing and understanding the main elements of each of the two cases considered, identifying the framework that establishes their cost-effectiveness.

In this document, for each stage, the methodological approach used, the operational steps for collecting and processing the available information, the main analyses conducted and a synthesis of the most relevant evidence emerging were provided.

Exploratory analysis of the duration of the arbitration procedure and the value of the dispute – Methodological approach

Below are the analyses conducted and the main findings with regard to the duration and dispute value of the proceedings conducted at CAM.

The data analysed are taken from a database, provided by CAM, containing information on **345 proceedings**, classified as **either closed or still ongoing at the time of extraction**, filed in the **three-year period 2019-2021**. In order to observe as many closed cases as possible, the data filed by the Chamber of Arbitration at the end of 2022 were analysed.

The **main objective** of this stage of the research is to analyse the **relationship existing** between the **duration of the proceedings** and other **characteristics of the same** (such as, for example, the subject matter, the reference sector, the nature and value of the dispute, etc.).

Below are some **Descriptive Tables** useful for understanding the main characteristics of the **distribution of the data** relating to the **duration of the proceedings** and the **value of the dispute**.

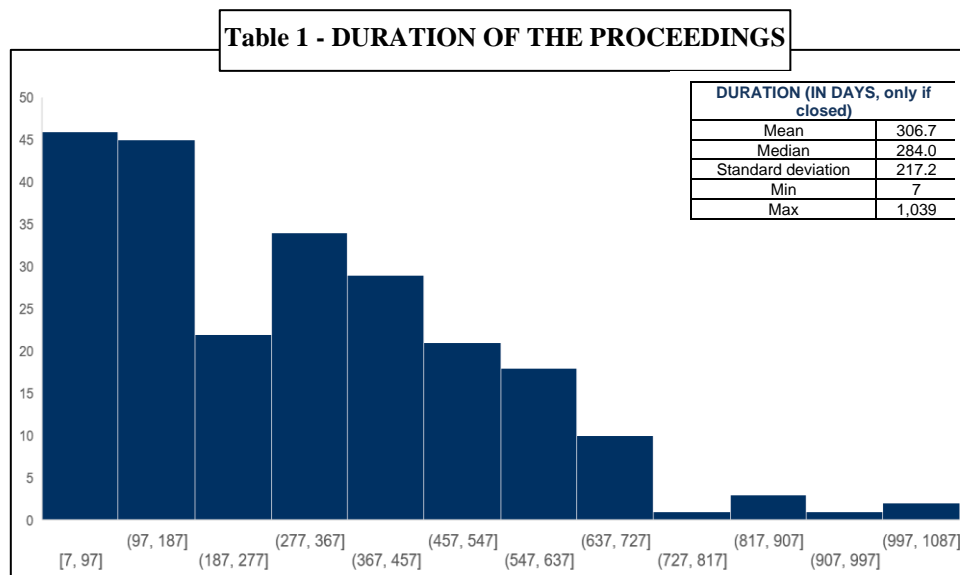
It is important to point out that the **analyses** relating to the duration of the proceedings and – as will be seen in the dedicated section – the value of the dispute **were necessarily conducted solely on proceedings already closed at the time of extraction (232)**. In general, a **strong asymmetry can be observed in both distributions** (duration of the proceedings and value of the dispute, measured by classes of equal size). This evidence is justified by the **presence of a limited number of proceedings** with a **significant duration** (Table 1) and an equally **high dispute value** (Table 2).

As for the duration of the proceedings, it can be seen that the **mean value is approx. 307 days**, while the **median value¹ is 284 days**. The comparison between these two metrics confirms the asymmetry of the distribution². In addition, there is also a **relatively high dispersion³³ value** (standard deviation of 217.2).

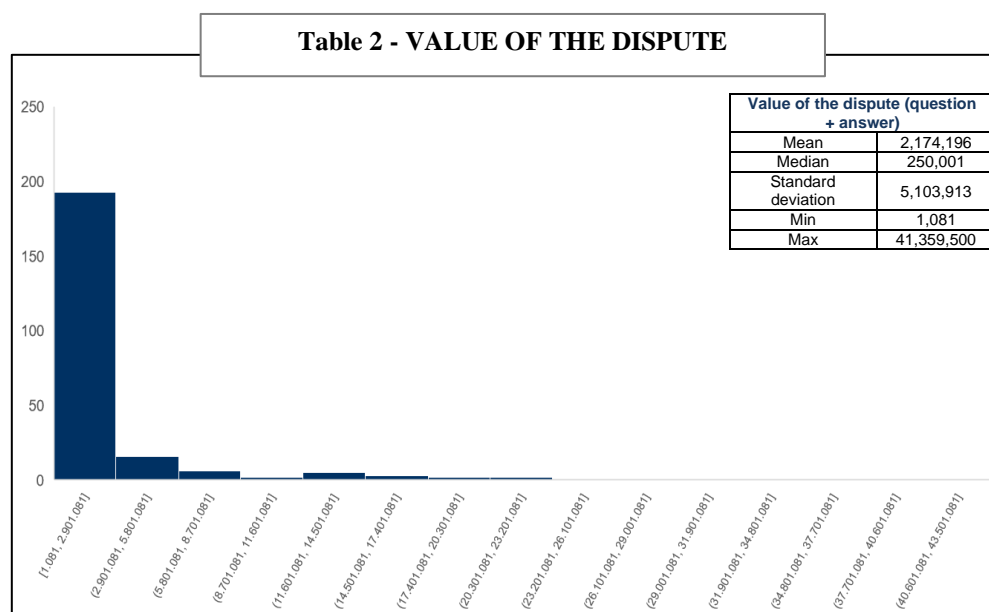
¹ The median is the value that occupies the central position in an ordered (increasing or decreasing) series of data. At a descriptive level, the median is a more robust index than the mean in the case of data with outliers. More specifically, calculating the mean on a dataset with a certain heterogeneity could lead to obtaining a value that is not representative because it is influenced by very high or very low values. For this reason, it is also useful to calculate the median in order to have an index that is not influenced by such outlier observations.

² The skewness of a distribution helps us understand the shape of the data analysed, in order to be able to check whether there are any “tails” in either direction. In the case under analysis, the distribution of the duration is skewed, with a long tail to the right determined by a higher concentration of proceedings with low to medium duration and only a few characterised by a higher duration.

³ The measure of dispersion of a distribution is used to assess how homogeneous or heterogeneous a dataset is. A common index to measure the dispersion of a distribution is the standard deviation, which quantifies the average dispersion of a dataset with respect to its mean. High standard deviation values indicate a higher level of dispersion and hence heterogeneity of the analysed data.



Similarly, the **mean value of the dispute is €2,174,196** with a **median value of €250,001**: in this case, the effect of high-value arbitrations on the mean is even more evident.



In this regard, it is worth noting that half of the proceedings surveyed were below the median value of €250,000. The fact that the mean, on the other hand, is around €2 million demonstrates a considerable distribution, with some sporadic values of particularly large amounts. For this reason, we proceeded to **reclassify⁴ the value of the dispute** into classes. Table 3 shows the distribution with the values reclassified into classes using the criterion indicated in footnote 4: it is evident that the **majority** of the proceedings have a **much smaller dispute value (33.62% of the proceedings have a value between €52,000 and €260,000)**.

⁴ This reclassification was made following the criteria laid down in Ministry of Justice Decree No. 55 of 10 March 2014, as amended by Ministry of Justice Decree No. 37 of 8 March 2018, with reference to the determination of the lawyer's fees in relation to the value of the dispute

Table 3 - RECLASSIFIED VALUE OF THE DISPUTE

Value of the dispute reclassified into classes of different sizes		
Value of the dispute (values in €)	No.	%
€0.01-1,100.00	1	0.43%
€1,100.01-5,200.00	2	0.86%
€5,200.01-26,000	20	8.62%
€26,000.01-52,000	19	8.19%
€52,000.01-260,000	78	33.62%
€260,000.01-520,000	23	9.91%
€520,000.01-1,000,000	19	8.19%
€1,000,000.01-2,000,000	24	10.34%
€2,000,000.01-4,000,000	12	5.17%
€4,000,000.01-8,000,000	17	7.33%
€8,000,000.01-16,000,000	8	3.45%
€16,000,000.01-32,000,000	8	3.45%
Over €32,000,000	1	0.43%
Total	232	100.00%

Finally, the same analyses were repeated **distinguishing proceedings closed with a final award from those without a final award** (Table 4): also in this case, the main evidence is the high frequency of proceedings with a dispute value between **€52,000 and €260,000**.

Table 4 – VALUE OF THE RECLASSIFIED DISPUTE WITH AND WITHOUT A FINAL AWARD

Table 4 – VALUE OF THE RECLASSIFIED DISPUTE WITH AND WITHOUT A FINAL AWARD					
Value of the dispute reclassified into classes of different sizes (comparison between proceedings closed with and without a final award)					
Value of the dispute (values in €)	No award			Final award	
	No.	%		No.	%
€0.01-1,100.00				1	1%
€1,100.01-5,200.00	2	1.50%			
€5,200.01-26,000	14	10.53%		6	6.06%
€26,000.01-52,000	10	7.52%		9	9.09%
€52,000.01-260,000	40	30.08%		38	38.38%
€260,000.01-520,000	13	9.77%		10	10.10%
€520,000.01-1,000,000	9	6.77%		10	10.10%
€1,000,000.01-2,000,000	16	12.03%		8	8.08%
€2,000,000.01-4,000,000	7	5.26%		5	5.05%
€4,000,000.01-8,000,000	9	6.77%		8	8.08%
€8,000,000.01-16,000,000	4	3.01%		4	4.04%
€16,000,000.01-32,000,000	8	6.02%			
Over €32,000,000	1	0.75%			
Total	133	100.00%		99	100.00%

In order to better describe and interpret the subject under investigation, we carried out multiple in-depth studies – illustrated below – by cross-referencing **the duration and value variables of the dispute** with a series of **descriptive attributes** of the proceedings belonging to the sample.

Cluster analysis of arbitration proceedings – Methodological approach

The **main objective** of this section is to **evaluate the possible relationships** between the **specific characteristics of the proceedings** analysed (such as, for example, the subject matter, the reference sector, the nature and value of the dispute etc.) and the **mean duration**. For each intersection with the relevant variables, in order to maintain consistency with the previous sections, the results have been presented both in aggregate form and distinguishing between proceedings concluded with a final award and those closed for other reasons.

From a methodological standpoint, we used **statistical tests for the analysis of variance** (ANOVA)⁵ to determine whether the differences in the duration of the proceedings for the different case studies examined were statistically significant. If **statistically significant differences** emerged (assuming a confidence level of 95%⁶), these were explicitly mentioned at the bottom of each table by means of an asterisk.

The **detailed breakdown** of the proceedings analysed brought to light a number of insights that provided further indications regarding the phenomenon under investigation. Annex 1 includes all tables that analyse the relationship between:

- Duration of the proceedings and subject-matter of the dispute (Table 5)
- Duration of the proceedings and subject-matter of the dispute, distinguishing between proceedings concluded with and without a final award (Table 6)
- Description of the outcome of the proceedings and the subject-matter of the dispute (Table 7)
- Duration of the proceedings and sector involved⁷ (Table 8)
- Duration of the proceedings and sector involved, distinguishing between proceedings concluded with and without a final award (Table 9)
- Description of the outcome of the proceedings and sector involved (Table 10)
- Duration of the proceedings and number of claimants by aggregate values, distinguishing between proceedings concluded with and without a final award (Table 11)
- Duration of the proceedings and classification of the dispute (BTB, PTB, PTP⁸) by aggregate values, distinguishing between proceedings concluded with and without a final award (Table 12)
- Description of the outcome, number of claimants and classification of the dispute (BTB, PTB, PTP) (Table 13)
- Duration of the proceedings and description of the outcome (Table 14)

⁵ ANOVA (Analysis of Variance) is a set of statistical techniques used to compare the mean of two or more groups of data by calculating and comparing the variability within these groups with the variability between the groups.

⁶ The confidence level (commonly set at 95%) is a statistical concept used to indicate the certainty associated with estimation intervals or test results, and it helps quantify how the findings observed in a given sample can be generalised (statistical significance) to similar cases in the analysis. In other words, the reliability of the results observed can be validated through the confidence level.

⁷ This means the sector to which the parties involved in the proceedings belong.

⁸ The CAM dataset distinguishes the following cases: PTP = Private to Private; PTB = Private to Business, generally known as BTC or Business to Consumer; BTB = Business to Business.

- Duration of the proceedings and adjudicating body by aggregate values, distinguishing between proceedings concluded with and without a final award (Table 15)
- Duration of the proceedings and international dispute⁹ by aggregate values, distinguishing between proceedings concluded with and without a final award (Table 16)
- Description of the outcome, composition of the Arbitral Tribunal¹⁰ and international dispute (Table 17)
- Duration of the proceedings and value of the dispute, distinguishing between proceedings concluded with and without a final award (Table 18)
- Description of the outcome of the proceedings and value of the dispute (Table 19).

Summary of the findings

With a view to examining the descriptive and interpretative framework of the sample analysed more in depth, it seems useful to summarise the most important evidence emerging from the analyses shown in the tables mentioned above.

- Taking all the **proceedings** into consideration, **those with the longest mean duration** concern **Leasing** (476 days), **Property** (433 days) and **Industrial** (400 days) cases; in contrast, proceedings relating to **Agency contracts are - on average - the shortest** (201 days). With reference only to proceedings closed with a final award, cases concerning **Insurance + Banking and Insurance Contracts** can be identified as the longest (517 days), while cases concerning **Sale and Purchase agreements** are among the shortest (335 days).
- **With regard to the sectors involved**, the longest duration is found for **Fashion** (372 days) and **Information Technology** (373 days). In contrast, the **shortest proceedings** are related to the **Commercial** (265 days) and **Chemical-Pharmaceutical + Healthcare** sectors (265 days). With reference only to proceedings closed with a final award, the highest duration values can be found for **Fashion** (550 days) and **Energy** (528 days). In contrast, the shortest proceedings refer to **Commercial** disputes (337 days).
- With regard to the **number of claimants**, longer durations are observed when **three** (325 days) or **more than three** (341 days) **parties** are involved in the **proceedings**. It is, however, important to point out that **the numbers of these two case types are rather small**, which could **potentially distort the estimate**. With reference only to proceedings closed with a final award, the longest proceedings involve only one respondent (463 days); it should, however, be observed that the majority of these proceedings (84%) relate to the case of only one respondent, so the point made about the potential distortion of cases with three or more parties applies here as well.
- With reference to the **classification of the dispute**, it can be seen that the **longest proceedings** are those classified as **PTP** (346 days), while **the shortest are those**

⁹ This term refers to proceedings in which at least one party has its registered office or residence abroad.

¹⁰ By the term “Arbitral Tribunal”, we are referring to both the Arbitration Panel and the Sole Arbitrator.

classified as PTB (238 days)¹¹. With reference only to proceedings closed with a final award, similar relationships are observed between the duration of the proceedings and the classification of the dispute, albeit with higher mean values of approx. 200 days in the case of PTB proceedings (423 days) and approx. 100 days in the case of PTP proceedings (477 days).

- With regard to the final outcome of the proceedings, a substantial difference between the various cases is evident: the longest proceedings are those concluded with a final award (445 days on average). Furthermore, it can be underlined that these differences are statistically significant.
- Analysing the relationship between the duration of the proceedings and the **composition of the Arbitral Tribunal**, it can be seen that, in the case of an **Arbitration Panel**, the **mean duration of the proceedings is longer** (341 days). Similar considerations only apply to proceedings closed with a final award (513 days). Also in this case, the differences appear **statistically significant**.
- Similarly, in the case of an **international dispute** the duration of the proceedings **is longer** (367 days); moreover, the differences in terms of duration between domestic and international arbitration proceedings are also **statistically significant**.
- Last but not least, it can be noted that the proceedings with a final award which have the longest duration are those with a **dispute value between €1 million and €2 million** (585 days). In general, **lower dispute values correspond to shorter durations**. Also in this case, the differences are **statistically significant**.

In brief, although there is a dispersion of values due to the different characteristics of the proceedings observed, it can be stated that:

PROCEEDINGS BEFORE THE CHAMBER OF ARBITRATION HAVE A MEAN DURATION OF LESS THAN ONE YEAR

IN THE MOST COMPLEX CASES (INTERNATIONAL OR HIGH-VALUE DISPUTES) THE MEAN DURATION IS NEVERTHELESS APPROX. ONE AND A HALF YEARS

¹¹ See footnote 8 for definitions of acronyms used.

Exploratory analysis of the costs of the arbitration procedure – Methodological approach

This section of the report contains analyses of the **costs of the arbitration procedure**¹². In particular, the analysis was carried out for proceedings for which **it was possible to retrieve the cost figure (206)**. More specifically, for 26 proceedings, the parties waived the proceedings in the early stages, resulting in a zero value of the costs awarded by the Chamber of Arbitration.

At the methodological level, the data available for each of the proceedings was collected by consulting the **settlement schedule**¹³ drafted by CAM and the **dispositive section of the award** and therefore only for proceedings closed with a final award. For each of the proceedings, it was then possible to **classify the data collected** into **Costs of the proceedings** and **Total legal costs awarded** (total legal costs awarded by the Arbitral Tribunal). As illustrated in Table 20, the mean value of the **Costs of the proceedings** was just over €38,000, with a **median value of €8,000**, reflecting significant dispersion.

Table 20 - COSTS OF THE PROCEEDINGS - DESCRIPTION OF THE OUTCOME

Total costs of the proceedings Values in €			Total costs of the proceedings Values in €					
No.	Valid	206		No.	Mean	Std. Deviation	Min	Max
	Missing	26						
Mean		38,276.45	Filing at the request of the parties	90	19,333.29	36,708.33	150	173,424
Median		8,010.00	Termination due to non-payment	15	3,480.00	4,122.92	200	14,000
Std. Deviation		68,548.79	Non-acceptance of settlement proposal/ Inadmissibility declared by CAM	2	13,220.00	328.10	12,988	13,452
Max		401,633.27	Final award	99	61,275.89	86,839.90	1,808	401,633
Min		150.00	Total	206	38,276.45	68,548.79	150	401,633

Analysing the types of costs of the proceedings in the sample, shown in Table 21, it is interesting to analyse **the items that make up the total expenditure**. In particular, **the costs related to the CAM Fees amount, on average, to less than €8,000, while those related to the Arbitral Tribunal Fees average about €44,000**, while expenses appear to be substantially negligible. Furthermore, we can state that, when comparing proceedings on the basis of their outcome, the values of the CAM Fees are, from a statistical standpoint, significantly different: this evidence is totally in line with the fact that proceedings that have reached a final award also involve more activity for the arbitral institution.

¹² By "costs of the proceedings", pursuant to Art. 40 of the Rules of the Milan Chamber of Arbitration, we are referring to the following items: a. fees of the Chamber of Arbitration; b. fees of the Arbitral Tribunal; c. fees of the expert witnesses of the Arbitral Tribunal, if any; d. reimbursement of expenses of the Chamber of Arbitration, of the arbitrators and of the expert witnesses .

¹³ This is a document containing a breakdown of the amounts awarded by the Arbitration Council for each proceedings.

Table 21 - TYPES OF PROCEEDINGS COSTS – DESCRIPTION OF THE OUTCOME

Values in €						
		No.	Mean	Std. Deviation	Min	Max
CAM fees*	Filing at the request of the parties	90	5,592.22	8,052.25	150	30,000
	Termination due to non-payment	15	3,480.00	4,122.92	200	14,000
	Non-acceptance of settlement proposal/ Inadmissibility declared by CA	2	3,500.00	0.00	3,500	3,500
	Final award	99	10,447.47	12,505.28	400	55,000
	Total	206	7,751.46	10,542.16	150	55,000
Tribunal fees	Filing at the request of the parties	38	32,295.03	37,658.49	520	143,360
	Termination due to non-payment	0				
	Non-acceptance of settlement proposal/ Inadmissibility declared by CA	2	9,360.00	0.00	9,360	9,360
	Final award	99	48,786.07	74,056.72	1,040	343,200
	Total	139	43,710.45	65,927.34	520	343,200
General expenses*	Filing at the request of the parties	37	256.35	337.72	32	1,664
	Termination due to non-payment	0				
	Non-acceptance of settlement proposal/ Inadmissibility declared by CA	2	360.00	328.10	128	592
	Final award	99	979.51	1,116.32	256	8,135
	Total	138	776.64	1,013.69	32	8,135

As observed above regarding the duration of the proceeding, the following also provides in-depth comparisons of the **costs of arbitration** and **its various characteristics**. The **results are presented comparatively between proceedings concluded with a final award and those concluded without a final award**. This choice was made because in most cases the total value of the costs for the two categories is very different, so it would make little sense to consider an aggregated figure that contains both types of cases.

In addition, it should be noted that the **analyses were conducted considering the costs of the proceedings alone**, since data on total awarded legal costs are only available for proceedings closed with a final award. So in order **to ensure uniformity of the analysis**, we shall proceed with this approach and defer the analysis on legal costs to later in this document.

It also seems appropriate to highlight some key findings here, **supported by statistical significance**. Looking at the highest incidence class related to the value of the dispute (between €52,000 and €260,000), already mentioned in Table 3, **the overall mean cost of the proceedings is just over €3,000 in the case of proceedings without an award and just under €13,000 in the case of an outcome with a final award** (Table 27).

Table 27 – COSTS OF THE PROCEEDINGS – VALUE OF THE DISPUTE

Values in €							
	No award*				Final award*		
	No.	Mean	Std. Deviation		No.	Mean	Std. Deviation
€0.01-1,100.00					1	2,280.00	
€1,100.01-5,200.00							
€5,200.01-26,000	10	1,257.99	1,758.74		6	2,757.27	771.13
€26,000.01-52,000	8	606.25	742.31		9	6,524.65	5,475.55
€52,000.01-260,000	34	3,225.01	4,135.32		38	12,853.50	9,919.83
€260,000.01-520,000	10	7,674.60	9,005.27		10	29,799.02	10,157.75
€520,000.01-1,000,000	8	11,301.56	18,668.04		10	88,563.43	100,339.25
€1,000,000.01-2,000,000	13	25,595.04	28,593.21		8	145,482.68	106,050.83
€2,000,000.01-4,000,000	4	5,357.22	7,072.20		5	145,450.70	52,246.12
€4,000,000.01-8,000,000	8	64,427.53	52,154.40		8	171,331.94	65,041.54
€8,000,000.01-16,000,000	3	12,000.00	4,358.90		4	263,734.89	68,021.85
€16,000,000.01-32,000,000	8	60,591.57	65,389.13				
Over €32,000,000	1	134,080.00					
Total	107	16,996.60	34,123.27		99	61,275.89	86,839.89

Cluster analysis of the arbitration proceedings

Also with reference to the **costs of the proceedings**, the cluster analysis of the proceedings examined led to a series of detailed analyses that enrich the explanatory framework of the phenomenon observed.

In particular, **Annex 2** shows the Tables illustrating the relationships between:

- Costs of the proceedings and subject-matter of the dispute, distinguishing between proceedings concluded with and without a final award (Table 22)
- Costs of the proceedings and sector involved, distinguishing between proceedings concluded with and without a final award (Table 23)
- Costs of the proceedings and number of claimants, distinguishing between proceedings concluded and without a final award (Table 24)
- Costs of the proceedings and types of dispute, distinguishing between proceedings concluded with and without a final award (Table 25)
- Costs of the proceedings, composition of the Arbitral Tribunal and international dispute, distinguishing between proceedings concluded with and without a final award (Table 26)
- Costs of the proceedings, value of the dispute and composition of the Arbitral Tribunal, distinguishing between proceedings concluded with and without a final award (Table 28).

Summary of the findings

The following can be highlighted from the above analyses:

- **Proceedings concluded with a final award and characterised by higher overall costs** are those related to **Insurance + Banking and Insurance contracts** (over €93,000) and **Corporate matters** (over €88,000). In contrast, proceedings related to **Procurement contracts and Sale and Purchase agreements** are – on average – **the least expensive** (approx. €16,000). The differences in costs for the various subject-matters are also **statistically significant**.
- **With regard to the reference sector** of the proceedings closed with a final award, the highest costs are found in the **Food Service** (over €170,000) and **Fashion** (over €118,000) sectors. In contrast, the **least expensive proceedings** are found in the **Property** (approx. €28,000) and **Information Technology** (approx. €33,000) sectors.
- With regard to the **number of parties** in the proceedings concluded with a final award, the highest procedural costs are observed **when there are three parties involved** (approx. €114,000). However, note that **the numbers of such cases are extremely small (only 3 observations)**, thereby **potentially distorting the estimate**. In contrast, the proceedings with the lowest total costs are, reasonably enough, related to proceedings involving one respondent only (approx. €59,000).
- With reference to the **classification of the dispute**, it may be observed that the **costliest proceedings** are those classified as **PTP**¹⁴ (approx. €84,000), whereas the **least costly are those classified as PTB** (just over €22,000). It is, however, worth pointing out **the high dispersion of values for PTP cases**.
- Analysing the relationship between the total costs of the proceedings and the **composition of the Arbitral Tribunal**, it can be seen that, in the case of an **Arbitration Panel**, the **mean cost is much higher than in the case of a Sole Arbitrator** (approx. €120,000 versus €23,000), the former case including the **fees of the 3 arbitrators**. These differences in total costs are to be considered **statistically significant**.
- Similarly, in the case of **international disputes** the costs of proceedings closed with a final award **are significantly higher** (approx. €100,000) than in domestic disputes. Yet again, it is worth highlighting the high dispersion of data for both cases (national and international disputes).
- Lastly, it can be seen that, out of the proceedings concluded with a final award, those with the highest total cost are the ones with a **dispute value of between €8 and €16 million** (more than €260,000). In contrast, proceedings with a dispute value in the €52,000-€260,000 bracket have quite a low total cost (approx. €13,000). Finally, the differences between the various dispute values appear **statistically significant**.

¹⁴ See footnote 8 for definitions of acronyms used.

In brief, although there is dispersion in the values observed due to the different characteristics of the proceedings analysed, it can be stated that:

***PROCEEDINGS BEFORE THE CHAMBER OF ARBITRATION HAVE A MEAN
TOTAL COST OF €38,000, AND €61,000 IN THE CASE OF A FINAL AWARD***

***THE MEAN FEES OF THE MILAN CHAMBER OF ARBITRATION IS
APPROX. €8,000, AND €10,500 IF A FINAL AWARD IS FILED***

Overall costs of the arbitration procedure – Methodological approach

Below are the results of the analysis of the overall costs of the proceeding¹⁵ for proceedings concluded with a **final award (99)**.

At the methodological level, we preferred to conduct separate **analyses on these proceedings** since **for the cases closed with a final award** it was possible to retrieve (at least partially) information on the **legal costs awarded by the Arbitral Tribunal**. It is important to point out that in awards, the Arbitral Tribunal generally only allocates legal costs in cases where one of the parties is ordered to pay, in whole or in part, the opposing party's costs. Additionally, since in most cases there is hardly any explicit mention of the amount of General Expenses awarded, the following analyses were conducted using **two different methods** (Table 29):

- **Valuation of legal costs**, including **only defence fees** retrieved from the dispositive section or from the expense reports.
- **Valuation of legal costs**, including the defence fees retrieved from the dispositive section or from the expense reports + **lump sum estimate of the General Expenses (15% of the defence fees)**.

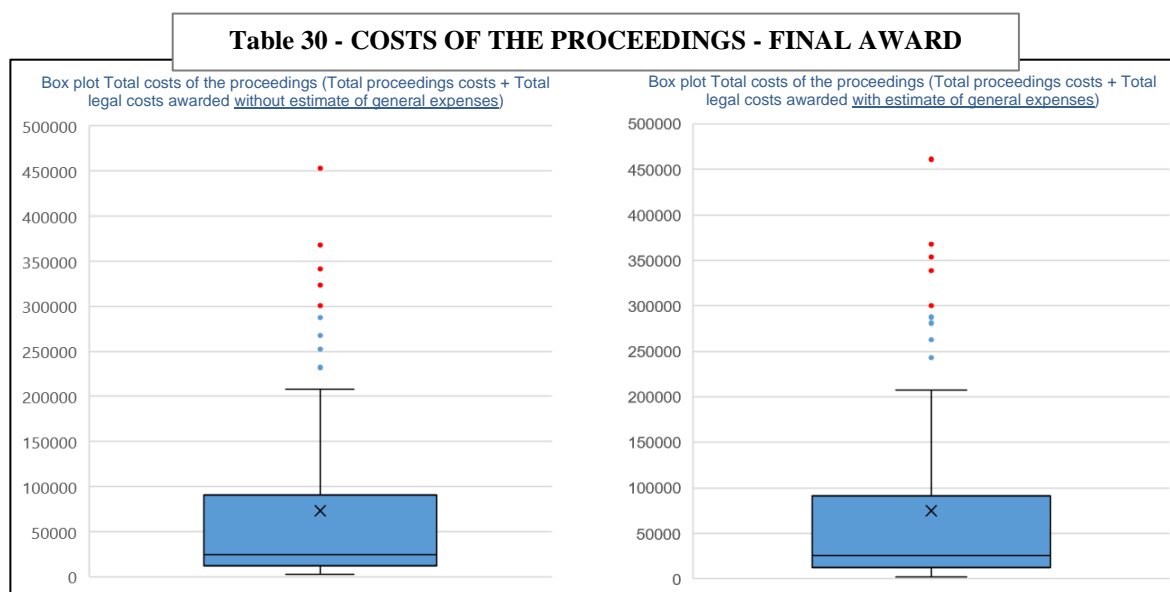
The analysis in Table 29 shows a **marked difference between the mean and median value of the overall costs of the proceeding**, in both valuations including and not including the General Expenses. This distinction is due, as further explained below, to the **presence of certain proceedings with particularly high overall proceedings costs**, which affect the calculation of the mean value of the overall costs.

Table 29 – OVERALL COSTS OF THE PROCEEDINGS – FINAL AWARD					
Total costs of the proceedings (Total proceedings costs + Total legal costs awarded <u>without estimate of the general expenses</u>) Values in €			Total costs of the proceedings (Total proceedings costs + Total legal costs awarded <u>with estimate of the general expenses</u>) Values in €		
No.	Valid	99	No.	Valid	99
	Missing	0		Missing	0
Mean		72,988.74	Mean		74,745.65
Median		24,780.00	Median		25,867.00
Std. Deviation		96,419.72	Std. Deviation		98,139.57
Range		450,791.40	Range		458,534.40
Min		2,459.60	Min		2,459.60
Max		453,251.00	Max		460,994.00

In order to examine **the distribution of the overall costs of the proceedings** in greater detail, box plots were used, as shown in Table 30. This graphical representation made it possible

¹⁵ This item refers to the costs of the proceedings plus legal costs.

to isolate and identify the five highest total costs (highlighted in red) as **potential outliers**¹⁶ through the application of an appropriate statistical procedure¹⁷.



In view of the small number of outliers (5) and their distorting impact on the quantities observed, in the following analysis we shall focus only on the analyses conducted **excluding outliers** (total number of proceedings with a final award analysed = 94) (Table 32). For the sake of completeness, in *Annex 3* we reproduce the same analysis **including outliers** (total number of proceedings with a final award analysed = 99 - Table 31), and the summary of the legal costs awarded, with and without outliers (Tables 33 and 34).

¹⁶ An outlier is an abnormal value or an “out of bounds” value. This is a case of one or a few values far removed from the other available observations, defined as upper and lower for very large or very small outliers compared to the data under analysis. There are several methods for identifying outliers and they are based on the definition of mathematical limits or thresholds. In particular, the following limits were used in the case in point:

- Upper outlier limit: (third quartile value) + 1.5 * (interquartile range);
- Lower outlier limit: (first quartile value) - 1.5 * (interquartile range).

Similarly, extreme values were also identified, using even stricter mathematical limits:

- Upper limit of extreme values: (third quartile value) + 3 * (interquartile range);
- Lower limit of extreme values: (first quartile value) - 3 * (interquartile range).

¹⁷ Tukey's method for identifying anomalous observations.

Table 32 – TOTAL COSTS OF THE PROCEEDINGS

Values in €						
		No.	Mean	Std. Deviation	Min	Max
Total costs of the proceedings*	To be borne by one party only	46	24,458.04	40,770.72	1,808	182,220
	Sharing with equal proportions	28	75,164.62	84,400.66	2,460	300,544
	Sharing with a higher burden	20	64,058.97	60,674.95	2,964	203,185
	Total	94	47,987.86	64,624.34	1,808	300,544
CAM fees*	To be borne by one party only	46	4,997.83	6,609.03	400	24,000
	Sharing with equal proportions	28	14,182.14	12,756.35	400	40,000
	Sharing with a higher burden	20	9,865.00	9,162.41	500	30,000
	Total	94	8,769.15	10,081.85	400	40,000
Trib* fees	To be borne by one party only	46	18,361.57	34,360.23	1,040	156,000
	Sharing with equal proportions	28	59,383.91	72,920.80	1,560	260,000
	Sharing with a higher burden	20	49,554.00	47,695.32	2,080	156,000
	Total	94	37,217.67	54,187.83	1,040	260,000
Expert witness fees and expenses	To be borne by one party only	2	10,765.56	516.98	10,400	11,131
	Sharing with equal proportions	2	7,442.24	1,241.34	6,565	8,320
	Sharing with a higher burden	6	11,467.50	8,285.89	3,952	22,000
	Total	10	10,522.06	6,407.81	3,952	22,000
General expenses	To be borne by one party only	46	630.58	633.83	256	4,229
	Sharing with equal proportions	28	1,066.99	746.91	298	3,450
	Sharing with a higher burden	20	1,199.72	1,675.90	384	8,135
	Total	94	881.66	996.71	256	8,135

As illustrated, excluding the outliers and considering proceedings with a final award, **the mean total costs of the proceedings drop from €61,000 to just under €48,000**, those related to the CAM fees drop a little, from €10,500 to €9,000, while the Arbitral Tribunal fees drop from €49,000 to €37,000. In the case of an expert witness, the mean fees is €10,500.

Clustering of arbitration proceedings and summary of findings

On the basis of the judgement expressed in the dispositive section, the **Costs of the proceedings** and the **Total legal costs** awarded were reclassified in relation to the sharing between the parties. In order to further analyse the **costs of the proceedings and the legal costs (i.e. the overall costs of the proceeding)**, it seemed interesting to compare the amounts awarded by the Arbitral Council, the technical body of the Chamber of Arbitration that settles the costs of the proceedings, **with the decision of the Arbitral Tribunal** on the allocation of the same between the parties. More specifically, with reference to the breakdown, the **three case types** can be summarised as follows:

- Overall costs of the proceedings **to be borne by one party only – the Losing Party.**
- **Sharing** of the costs of the proceedings **in equal proportions – Compensation** of the legal costs, whereby each party bears its own costs.
- **Sharing** of the overall costs of the proceedings **with a higher burden – Compensation with a higher burden.**

In general, it may be observed that – when considering the total costs of the proceedings and their breakdown into specific cost items – **in the case of high-value arbitrations**, in which the total costs of the proceedings are consequently higher, **the Arbitral Tribunal generally**

divides the total costs equally between the parties or opts for compensation with a higher burden (no complete defeat).

As mentioned, looking only at the aggregate result, excluding outliers (Table 32), we can conclude that the **mean value of the total costs of the proceedings** is approx. **€48,000**. It is, however, worth drawing attention to the **high standard deviation values** in both scenarios (with and without outliers): this evidence underlines **a high dispersion of values with respect to the mean value, i.e. greater variability of total costs for different proceedings** (due to the heterogeneity of the sample analysed).

Similar considerations can be made with reference to the various cost items of the proceeding, where the highest mean values are represented by the fees of the Arbitral Tribunal, while the lowest values refer to legal costs. Last but not least, only 10 proceedings involved the intervention of an expert witness, with a related mean cost value of €10,522 (in addition to the other costs).

Similarly, it is possible to analyse the values for legal costs by placing the final award cases into **three categories**:

- **Defeat** (49% – 48 cases out of 99).
- **Compensation** (36% – 36 cases out of 99).
- **Compensation with a higher burden** (15% – 15 cases out of 99).

It is important to note that in the case of compensation, the values for legal costs are rarely mentioned in the award; moreover, the primary objective of this analysis is to highlight any differences in terms of legal costs awarded by the Arbitral Tribunal and not those actually incurred by the parties. For this reason, comparisons will only be made on the two remaining cases (Defeat and Compensation with a higher burden). In addition to what has just been pointed out regarding the allocation of the costs, it should be mentioned that the analyses were conducted in two different ways:

- **Legal costs calculated** considering **only the value of the defence fees** (retrieved through the award or expense reports).
- **Legal costs calculated** considering **the value of the defence fees + estimated General Expenses (15% of the defence fees)**.

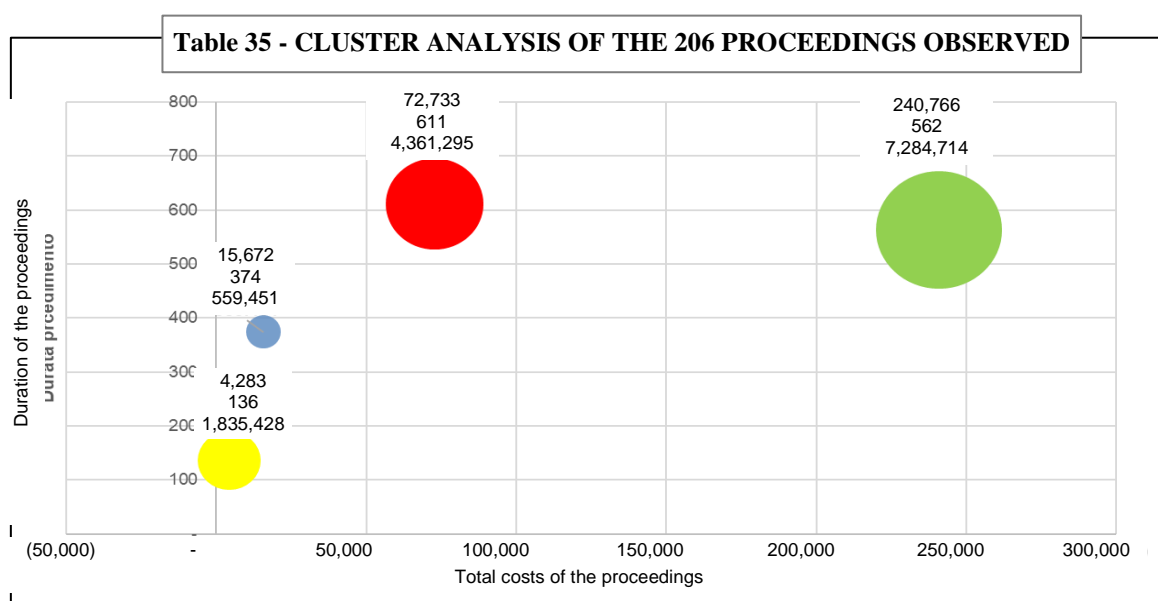
Considering the analyses including the outliers (Table 33 – in Annex 3), the **mean value of the legal costs** (value of fees only) is **approx. €19,000**; this value rises to approx. **€22,000 when the General Expenses are added**. In general, the Arbitral Tribunal tends to award slightly higher mean figures in the case of an award in which the losing party pays all the costs compared to the case of partial compensation.

Similarly, if outliers were not taken into account (Table 34), the **mean value of the legal costs** would be just under **€16,000**, in the case of defence fees alone, and approx. **€18,000**, when General Expenses are also considered. In this case, if the differences between defeat and partial compensation are compared, it is no longer possible to discern a large deviation between the two cases.

In addition to what has been outlined in the sections above, the results of a **cluster analysis** of the proceedings analysed on the basis of their **duration** and the **costs of the proceedings** (CAM Fees + Tribunal Fees + Expert Witness Fees and Expenses + Legal costs) are presented below. **The main objective** of this analysis is to **reconcile the data on the duration of the proceedings with those on the costs of the proceedings**, so as to provide an **overview based on these two dimensions of analysis**.

Cluster analysis has as its **main purpose** the **dividing of a set of observations into groups** (called clusters) that have **two main characteristics**: **high internal homogeneity** (the observations belonging to a cluster are similar to each other) and **high external heterogeneity** (the clusters are different from one another). In this particular case, it is interesting **to correlate the results obtained through cluster analysis¹⁸** with the **value of the dispute** so as to highlight any overall patterns. The **results of the cluster analysis** (Table 35) are shown graphically below.

Number of clusters	
Cluster 1	15
Cluster 2	39
Cluster 3	69
Cluster 4	83



Note that Table 35 shows the centres of the 4 clusters identified. The position with respect to the axes is given by the mean value of the costs of the proceedings (first figure) and the mean duration of the proceedings (second figure) for each cluster. The size of the “bubble” visible in the graph represents the mean value of the dispute of each cluster (third figure).

¹⁸ Cluster analysis is a multivariate statistical analysis technique, i.e. it enables homogeneous and similar observations to be grouped together. In particular, the clusters (or groups) obtained by this procedure possess the characteristic of being internally homogeneous (the observations in the same cluster are similar) and externally heterogeneous (the clusters are different from one another).

Lastly, Table 36 illustrates the cluster analysis of the 206 proceedings observed, distinguishing for each cluster, with **statistically significant** differences, the mean values of costs, duration and dispute value respectively, while Table 37 shows the outcomes of the proceedings, broken down by cluster.

Table 36 - CLUSTER ANALYSIS OF THE 206 PROCEEDINGS OBSERVED

Average cluster values						
		No.	Mean	Std. Deviation	Min	Max
Total costs of the proceeding*	Cluster 1	15	240,766.17	75,740.45	162,291	401,633
	Cluster 2	39	72,733.30	42,343.69	4,138	134,080
	Cluster 3	69	15,671.67	14,715.14	500	64,627
	Cluster 4	83	4,283.29	9,633.35	150	76,656
	Total	206	38,276.45	68,548.79	150	401,633
Duration of the proceeding*	Cluster 1	15	562.47	151.23	303	859
	Cluster 2	39	610.97	165.72	345	1,039
	Cluster 3	69	374.30	75.07	252	562
	Cluster 4	83	136.08	59.43	22	247
	Total	206	336.83	211.53	22	1,039
Value of the dispute*	Cluster 1	15	7,284,713.63	4,992,863.10	999,000	17,078,382
	Cluster 2	39	4,361,295.06	8,276,312.13	25,001	41,359,500
	Cluster 3	69	559,451.42	1,715,756.98	1,081	13,814,000
	Cluster 4	83	1,835,427.59	4,819,413.05	7,372	28,175,000
	Total	206	2,283,028.40	5,329,157.22	1,081	41,359,500

Table 37 - CLUSTER ANALYSIS OF THE 206 PROCEEDINGS OBSERVED

Cluster analysis and outcome of the proceedings								
	Cluster 1		Cluster 2		Cluster 3		Cluster 4	
	No.	%	No.	%	No.	%	No.	%
Filing at the request of the parties	1	6.7%	15	38.5%	18	26.1%	56	67.5%
Termination due to non-payment	0	0.0%	0	0.0%	2	2.9%	13	15.7%
Non-acceptance of settlement proposal/ Inadmissibility declared by CA	0	0.0%	0	0.0%	2	2.9%	0	0.0%
Final award	14	93.3%	24	61.5%	47	68.1%	14	16.9%
Total	15	100.0%	39	100.0%	69	100.0%	83	100.0%

On the basis of the results obtained from the **cluster analysis** and analysing their main characteristics, it is possible to identify **four clusters** of proceedings:

- **Cluster 1** – The proceedings in this cluster are characterised by an **extremely high mean total cost of the proceedings** (€240,766) and an **equally high mean duration** (approx. 562 days). By cross-referencing this information with the mean value of the dispute, it can be seen that the proceedings in this cluster are related to **disputes with a rather high value** (more than €7 million); furthermore, the outcome of the majority of these proceedings (approximately 93%) falls under the **"Final Award"** case category. Finally, it is important to point out that the number of proceedings belonging to this cluster is rather small (**15 proceedings**).

- **Cluster 2** – The proceedings in this cluster are characterised by a **rather high overall mean cost of the proceedings** but much lower than in Cluster 1 (€72,733) and a **high mean duration** (approx. 611 days). The **mean dispute value** of the proceedings in this cluster is **over €4 million** (also with a high dispersion value of the data). As for the type of proceedings, 61.5% were **"Final Award"** cases, while the remainder (38.5%) were **dismissed at the request of the parties**. In total, **39 proceedings** belong to this cluster.
- **Cluster 3** – The proceedings in this cluster are characterised by a **rather low overall mean cost** (€15,671) and a **mean duration of just over one year** (approx. 374 days). The **mean value of the dispute is the lowest of all the clusters** (€559,451); as for the outcome of the proceeding, most of the cases closed with a **"Final award"** (68.5%) and **"Dismissal at the request of the parties"** (approx. 26%). Finally, as to the size of the cluster, it can be seen that **69 proceedings** belong to this cluster.
- **Cluster 4** – The proceedings in this cluster show the **lowest values with regard to both total cost** (approx. €4,283) **and duration** (136 days). In contrast, the **mean value of the dispute is quite high** (approx. €1,835,428), albeit with a high dispersion value (the minimum dispute value is €1,081, while the maximum value is over €13 million). Finally, it can be observed that this cluster contains a high number of proceedings **dismissed at the request of the parties** (67.5%). In terms of size, cluster 4 is the group that **contains the highest number of proceedings (83)**.

In conclusion, Table 37 shows that clusters 3 and 4 are the most populated, while clusters 2 and 4 are characterised by the highest number of proceedings concluded with a final award.

In brief, although there is dispersion in the quantities investigated due to the different characteristics of the proceedings observed, it can be stated that:

MORE THAN 74% (152 OUT OF 206) PROCEEDINGS (CLUSTERS 3 AND 4) ARE CHARACTERISED BY A LOW MEAN COST (BETWEEN €4,000 AND €16,000) AND A MEAN DURATION (BETWEEN 5 MONTHS AND 1 YEAR), ALTHOUGH THE MEAN VALUE OF THE DISPUTE VARIES.

WITH REFERENCE TO THE PROCEEDINGS CONCLUDED WITH A FINAL AWARD (MAINLY CONCENTRATED IN CLUSTERS 2 AND 3), MEAN VALUES OF DURATION AND COST OF THE PROCEEDINGS ARE OBSERVED TO BE SUBSTANTIALLY PROPORTIONAL TO THE MEAN VALUES OF THE DISPUTE

Survey processing and outcomes – Methodological approach

To complement the analyses conducted on the CAM database and with the aim of obtaining information on the **duration** and **costs** of the State Court procedure in relation to arbitration, we carried out a number of surveys. Surveys needed to be developed due to the lack of public data on State Court proceedings containing the degree of detail required for the study.

As mentioned above, since the means of challenging the arbitral award do not include an appeal, the award has a character of “finality” comparable to a second-instance judgement. With this in mind, comparisons were made between the arbitration procedure and the two levels of the state justice system.

The collection of these data serves the objectives of the research for the following reasons:

- Verification of the data on the duration of arbitration proceedings in the CAM database.
- Collection of data on the duration of State Court proceedings (first + second instance as mentioned above) – in order to make comparisons on the significance of any differences observed with respect to arbitration – and comparison with the mean data provided by the Court of Milan.
- Collection of data on legal costs for arbitration and State Court procedure, necessary for the comparative economic-financial analysis of the cost-effectiveness of the two types of procedures

For this purpose, three specific questionnaires (shown in Annex 4) were drawn up, addressed to qualified respondents and aimed at collecting the data necessary for the analyses. The questionnaire was in fact sent to **three main targets**:

- TARGET 1 – **Lawyers** involved in arbitration procedures.
- TARGET 2 – **Expert witnesses** involved in arbitration procedures.
- TARGET 3 – **In-house lawyers** involved in arbitration procedures.

The questionnaires were drafted using the same structure, but customising the contents on the basis of the target group. At an operational level, the content of the questionnaires was agreed upon with CAM and digitalised using the **Qualtrics** platform to facilitate its distribution. More specifically, the administration of the survey was conducted by the **Milan Chamber of Arbitration** with reference to Targets 1 and 2; whereas for Target 3 the responses were collected by forwarding the link to **AIGI - Associazione Italiana Giuristi d'Impresa** and **LC Publishing Group**.

As reported in the attached questionnaires, the in-depth survey was carried out with reference to a dispute value of €150,000. The choice of this value was guided by the following two criteria:

- First and foremost, the most populated class in terms of dispute value of CAM data is in fact concentrated in the €52,000 – €260,000 range (see Table 3).

- Based on this range, we selected a specific representative value for this class. In particular, we calculated the midpoint of the class, which is €156,000. With the aim of proposing an easily understandable value – without penalising the correctness of the chosen value – we decided to use the value of €150,000.

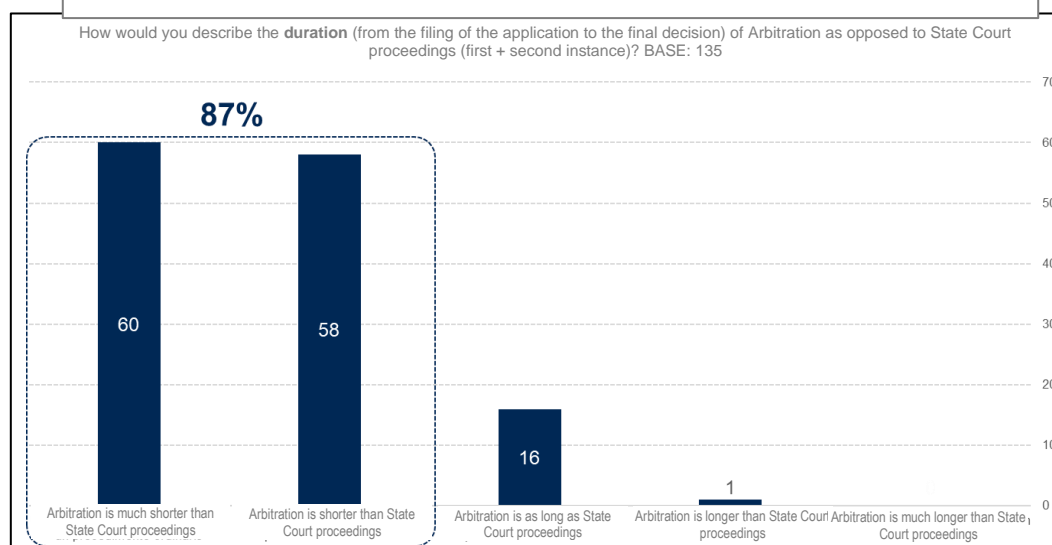
Data collection took place during the period **26 September – 15 November 2023**. For the contents of the survey, please refer to the annexes of this document. Table 38 shows the **total number of completions** (differentiating by degree of completeness) and the **total number of submissions** for each of the three targets considered. Note that – particularly for the expert witness target group – the numbers are relatively small, but given the potential size of the reference population, the redemption¹⁹ levels for this target can still be considered acceptable. We specify below how the data collected for each target group are used (taking into account – in a functional manner – the figures observed).

Table 38 - SURVEY REDEMPTION					
	Total	Surveys 100% completed	Surveys partially completed	Surveys almost totally empty (only 1 or 2 questions answered)	Total submissions
Lawyers	148	104	34	10	579
Expert witnesses	25	23	1	1	62
In-house lawyers	117	60	27	30	1500 AIGI+10,000 Legal Community (Estimated)

The main considerations on the results of the survey are listed below.

The survey conducted on lawyers (Target 1) and in-house lawyers (Target 3) showed **interesting results regarding the comparative duration of arbitration compared to State Court proceedings**.

¹⁹ Redemption means the ratio between the number of responses obtained and the total number of contacts developed through an investigation (survey or marketing initiative).

Table 39 – COMPARISON BETWEEN DURATION OF ARBITRATION AND STATE COURT PROCEEDINGS – CAM LAWYERS

An examination of the data presented in Table 39 reveals a general trend: the majority (over 87%) of the lawyers interviewed, belonging to Target 1, believe that **arbitration is concluded in a shorter (or significantly shorter) duration than the corresponding State Court proceedings**, with 60 respondents indicating it as significantly shorter and 58 considering it simply shorter.

Despite this, a small group of respondents (16 to be exact) notes that the duration of arbitration is comparable to that of State Court proceedings, while a sole respondent sustains that arbitration can last longer. These perceptions are not isolated but are also confirmed within the specific segment of corporate, or “in-house”, lawyers (Target 3).

Table 40 – ANALYSIS OF THE DECLARED MEAN LENGTH OF THE PROCEEDINGS (in months)

	State Court procedure (first + second instance)			Administered arbitration			Ad hoc arbitration		
	Mean	Standard deviation	No.	Mean	Standard deviation	No.	Mean	Standard deviation	No.
TOTAL (obtained as the mean of the durations declared by the individual respondents)	45	25	95	14	8	78	14	9	63
Banking Contracts	39	26	14	12	9	9	13	9	9
Contracts and various obligations	50	26	66	14	9	57	14	8	46
Contracts and various obligations (Atypical contracts)	43	23	18	14	7	14	16	7	10
Contracts and various obligations (work contracts)	50	25	12	18	11	9	17	13	7
Leases and loans for use of urban property	45	20	15	13	9	12	12	7	7
Legal entities and corporate law (Legal entities)	41	24	63	14	8	55	16	9	44
Specialised section of the Company	41	24	37	14	10	33	14	11	25

Deepening the analysis through the data reported in Table 40 (with times expressed in months), a **significant difference can be seen in the mean durations** reported by respondents: **State Court proceedings show a mean duration of almost four years, whereas the mean duration of arbitration is between one year and one and a half years.**

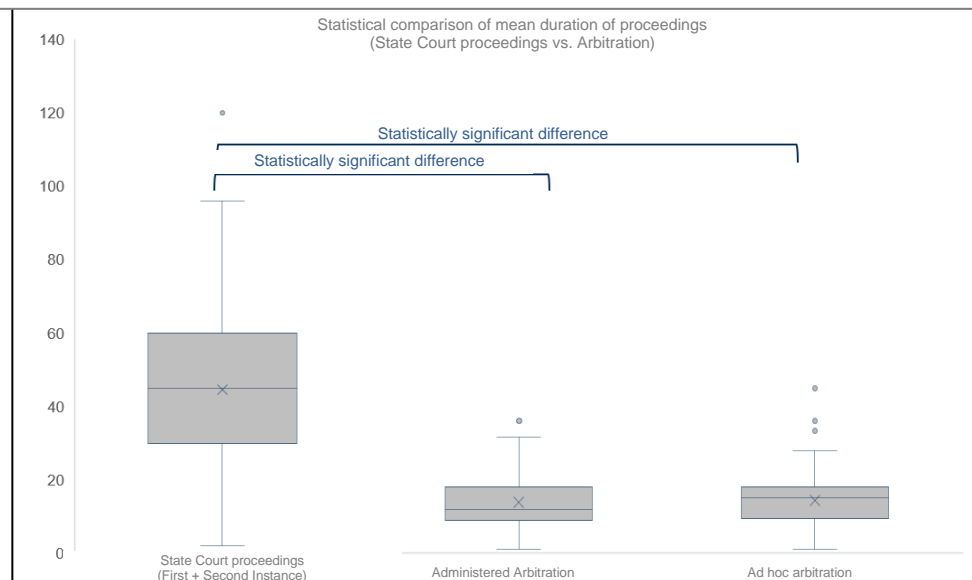
The data collected through the surveys closely reflect those stored in the CAM database, which records – as mentioned above – a mean duration of 445 days for arbitration proceedings

concluded with a final award. A comparison with the mean data provided by the Court of Milan, referring to the same three-year period and the same types of disputes, also confirms the general reliability of the estimates. In fact, according to these figures, State Court proceedings take an average of 764 days for the first instance and a further 597 days for the second, totalling a mean duration of 1,365 days, which corresponds to approx. 45 months.

It is, however, important to note that the statistical robustness of the figures relating to each type of proceedings is not uniform across all the categories examined, such as in the case of atypical contracts or leases and loans of urban properties.

Additionally, both for the State Court proceedings and for arbitration, there is a certain dispersion in the data collected, indicative of the variety of specific circumstances that can affect the duration of the cases. This was further confirmed by comparison with CAM data.

Table 41 – STATISTICAL COMPARISON OF MEAN DURATION OF PROCEEDINGS



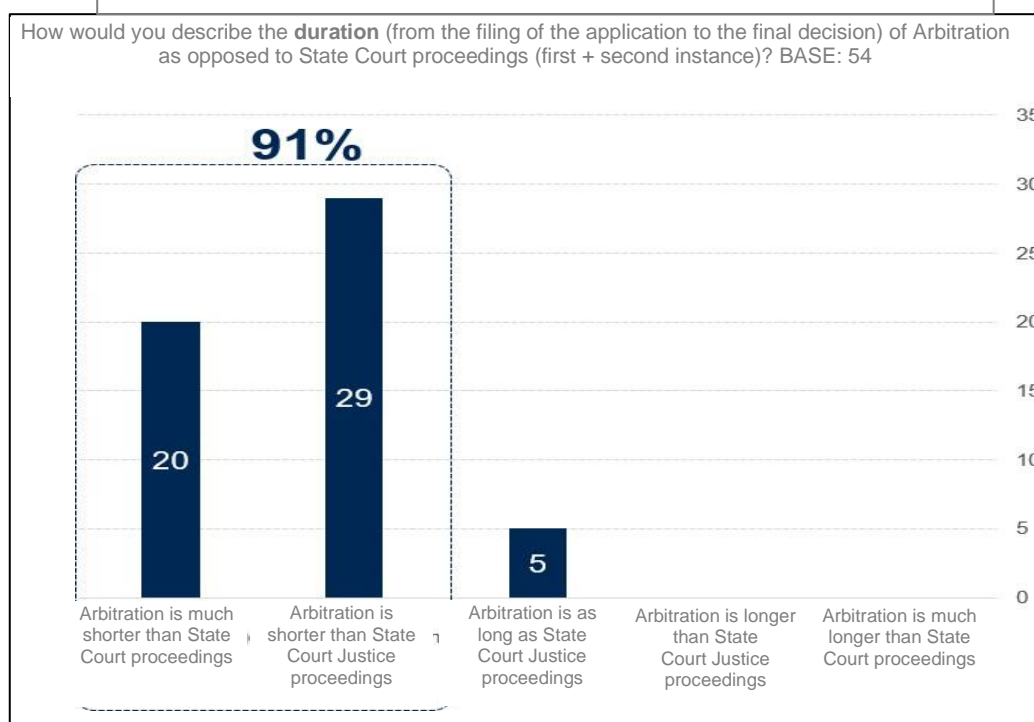
Continuing with the analysis, the information provided in Table 41 made it possible to **determine that the differences observed in duration are statistically significant**, which suggests the possibility of extending the conclusions drawn from this specific sample to the entire reference population.

More specifically, there is a **marked distinction between the mean durations of State Court proceedings and those of the two types of arbitration** (administered and ad hoc), with a significance that stands out in the figures and can be clearly seen in the graphical representation: the distribution of the duration of State Court proceedings is, in fact, significantly higher than that of arbitrations.

This substantial and consistent tendency to favour arbitration for its rapidity is also confirmed by the data of the in-house lawyers.

Among the in-house lawyers (Target 3), similarly to what was observed for CAM lawyers (Target 1), **the view prevails that arbitration is generally significantly shorter than State Court proceedings**. In practice, 91% of the respondents believe that arbitration is concluded in a shorter duration (20 respondents perceive arbitration as much shorter, while 29 perceive it as simply shorter), as shown in Table 42. Only a minority (5 respondents) consider the duration of arbitration to be comparable to that of State Court Justice proceedings, and none consider it to be longer.

Table 42 – COMPARISON BETWEEN DURATION OF ARBITRATION AND STATE COURT PROCEEDINGS - IN-HOUSE LAWYERS



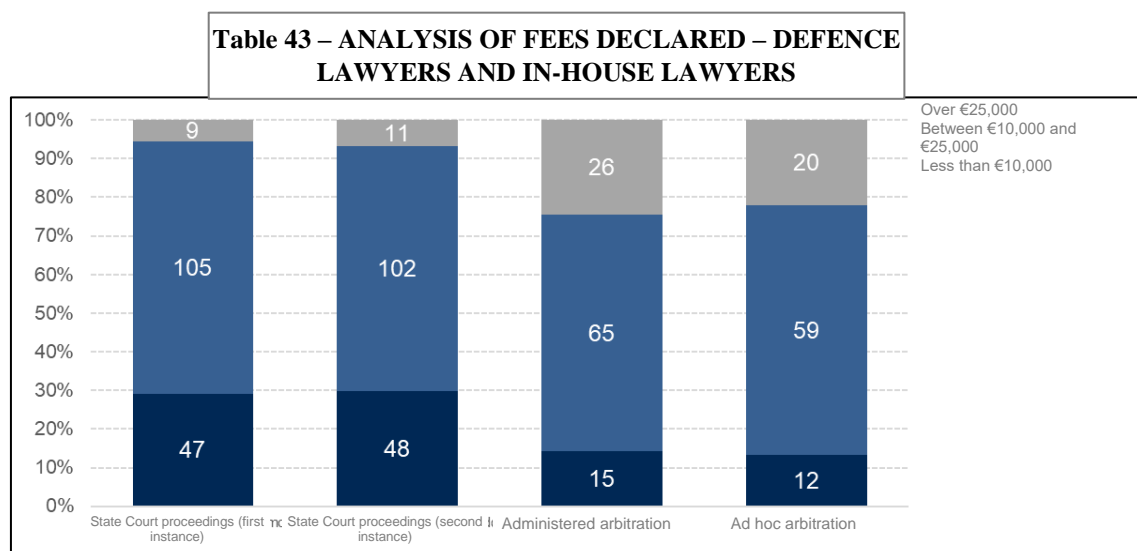
This element makes it possible to confirm, with a sufficient level of confidence, that **arbitration is a much more rapid solution than State Court proceedings, all the more so since the arbitral award has the effect of a judgement and can be challenged on limited and specific grounds provided by law, to such an extent that it has a degree of finality comparable to that of a State Court second-instance judgement.**

This appears to be a fundamentally important result when comparing, as illustrated in the following analysis, the relative costs of the two procedures in order to determine which of the two options is more cost- and time-efficient.

In an analysis of the fees, Table 43 shows the responses given by both targets (Targets 1 and 3), i.e. CAM lawyers and in-house lawyers. In this case, the data of the two targets were added together due to the smaller number of respondents. From the data shown in Table 43, it emerges that the fees charged by the lawyers responding to the surveys for technical defence in arbitration tend to be higher than those charged in State Court proceedings, when only one level of judgement is considered. Where the **comparison has to take into account both levels of**

the State Court procedure, in deference to the need to compare procedures that reach **the same degree of finality**, the latter is **perceived as more burdensome**²⁰ in its overall course.

Specifically, with regard to arbitration, both administered and ad hoc, it can be seen that a greater number of lawyers (especially in-house ones, as shown in Tables 44 and 45 in the Annex) reported fees exceeding €25,000.



Focusing, on the other hand, on the portion of respondents who indicated that they charge fees of less than €10,000, we can see that this proportion is relatively lower in arbitration cases than in State Court proceedings. In practice, in the case of arbitration, there is a smaller percentage of professionals who would charge fees of less than €10,000 compared to State Court proceedings.

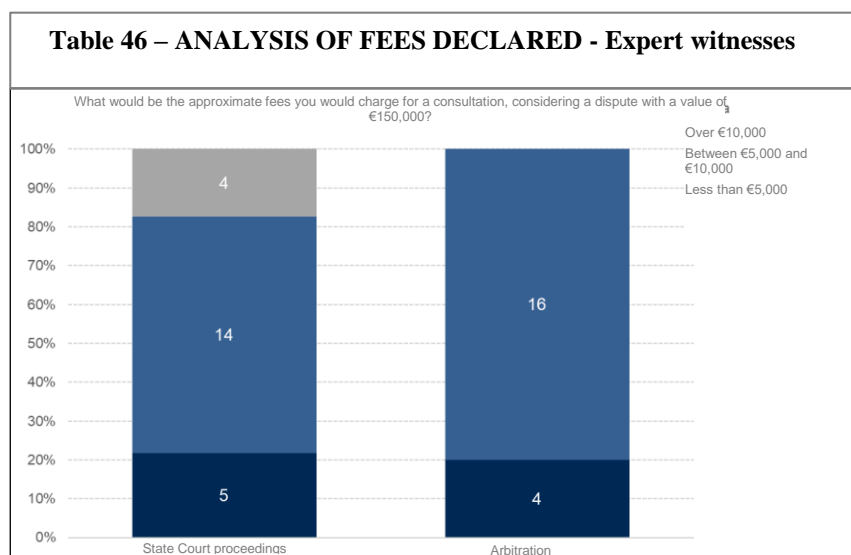
In order to verify the robustness of the indications emerging from the surveys, we proceeded to estimate a synthetic value of the fees charged by the Target respondents, using the weighted average of the specific values of each class with respect to the response frequencies obtained, as illustrated in the synthesis made from the perspective of the economic-financial evaluation. The mean value emerging for the State Court proceedings is substantially superimposable on that laid down – as an indication of fees for its various stages – in the Regulation establishing the parameters for the determination of fees for the legal profession²¹.

Turning to the analysis of the results of the survey for expert witnesses (Target 2), it can be seen from the analysis of the results in Table 46 that the differences between the fees charged by expert witnesses in State Court and arbitration proceedings are marginal.

²⁰ To complete the descriptive analysis above, an appropriate statistical test (Chi-square test of independence) was conducted to verify whether there is any relationship between the level of the State Court proceedings and the amount charged as fees by the lawyers: for example, whether there is a tendency at a given level of judgement to charge higher or lower fees. The test results indicate no significant association between the variables, leading to the conclusion that, with reference to the sample represented in the surveys, lawyers do not charge significantly higher or lower fees in connection with the level of the proceedings involved.

²¹ Reference is made to Decree of the Minister of Justice No. 55 of 10 March 2014 – Regulation establishing the parameters for the determination of fees for the legal profession, pursuant to Article 13, para. 6 of Law No 247 of 31 December 2012, also amended by Ministerial Decree No. 37 of 8 March 2018, and later updated by Decree of the Minister of Justice No. 147 of 13 August 2022.

In particular, it can be observed that around 20% of the sample declares in both cases that they charge fees of less than €5,000, while the remaining 80% would charge fees of more than €5,000 but, in most cases, less than €10,000. It is important to point out, however, that the fees declared could be influenced by the type of business sector to which the expert witness belongs: in this case, we did not proceed with a cluster analysis of the values also with reference to the business sector, given the rather small number of observations in the database.



Finally, it is interesting to note that, with reference to the class of dispute value in question, **there are no expert witnesses that, in arbitration contexts, charge fees of over €10,000.** From the analysis, albeit with a limited sample size that does not allow the conclusions to be extended to a broader context, **it can therefore be inferred that, with some exceptions, for the indicated class of dispute value (€150,000), expert witnesses tend to charge roughly similar fees for both State Court proceedings and arbitrations.** It should be noted – on a methodological level – that the data on the value of expert witness fees, where available, were included in the CAM database and considered in the analysis of the costs associated with each proceeding. **The results of the survey seem to confirm and align with the information collected by CAM.**

In brief, based on the overall results provided by the surveys and their subsequent processing, it can be stated that:

ARBITRATION IS PERCEIVED BY THE LAWYERS WHO TOOK PART IN THE SURVEY AS A MORE RAPID, ALBEIT MORE COSTLY, SOLUTION COMPARED TO THE STATE COURT PROCEDURE, WHEN, HOWEVER, ONLY ONE LEVEL OF JUDGEMENT IS CONSIDERED.

IN FACT, SINCE THE ARBITRAL AWARD IS NOT APPEALABLE (UNLIKE A FIRST-INSTANCE JUDGEMENT BEFORE THE COURT) BUT CAN ONLY BE CHALLENGED ON LIMITED AND SPECIFIC GROUNDS PROVIDED BY LAW, IT CAN BE CONSIDERED – IN TERMS OF FINALITY – EQUIVALENT TO A SECOND-INSTANCE JUDGEMENT.

Description of the economic-financial approach used

In order to complete the analysis of the elements on which the comparison between the two proceedings is based, it should be underlined that an evaluation that is limited only to the duration, costs and value of the dispute is incomplete because it fails to take into account a further element which, in certain cases, could take on a decisive role. As is well established in business disciplines, in fact, the evaluation of an investment alternative must take into account its economic-financial profile, i.e. its financial value over time. The comparison of costs and possible compensation in constant euros, in contexts characterised by different durations, appears in fact limiting, all the more so in the perspective of a corporate entity interested in investing its liquid assets in potential alternative opportunities.

To conclude the analyses conducted, therefore, on the basis of the data drawn from the samples observed, our intention was to arrive at a synthesis of an economic-financial nature, i.e. a methodology that helps synthesise the evaluations generally based on costs and times alone, with further indications useful for enriching the information framework within which to make decisions based on criteria of economic rationality.

Below are the methodological steps used to construct this further perspective of comparison between arbitration and State Court proceedings. In order to identify the sample to be analysed, the following steps were taken.

With reference to the **sample of CAM proceedings**:

1. The source database refers to **CAM arbitration proceedings in the period 2019-2021**, concluded with a final award: 99 cases with a mean proceedings duration of 445 days (Table 6) and a mean total cost of the arbitration proceedings (CAM fees, Arbitral Tribunal fees, Expert Witness fees and Expenses) of €61,275 (Table 20), which decreases to approx. €48,000 excluding outliers (Table 32);
2. The data collected (Table 4) showed a concentration of **proceedings with a dispute value of between €52,000 and €260,000**: 38 out of 99 cases with a mean proceedings duration of **385 days** (Table 18) and a mean overall cost of the arbitration proceedings (CAM fees, Arbitral Tribunal fees, Expert Witness fees and Expenses) of **€12,853** (Table 27).
3. A special survey was then conducted to pinpoint **legal costs** by asking lawyers to declare the value of their fees for proceedings with a dispute value of **€150,000**.

As mentioned above, the choice of this value was guided by the following two criteria:

- First and foremost, the most populated class in terms of dispute value of CAM data is in fact concentrated in the €52,000 – €260,000 range.
- Based on this range, we selected a specific representative value for this class. In particular, we calculated the midpoint of the class, which is €156,000. With the aim of proposing an easily understandable value – without penalising the correctness of the chosen value – we decided to use the value of €150,000.

For obvious reasons of confidentiality, the research was unable to disclose the specific legal fees, but was able to categorise them in ranges of varying monetary amounts. **Values were collected from these three possible ranges**, selected on the basis of:

- A. Less than €10,000;
- B. Between €10,000 and €25,000;
- C. Greater than €25,000.

The three ranges were chosen in line with the information requested from the lawyers in the surveys, adjusting them to the value of the dispute analysed (€150,000), and selecting, together with CAM, plausible compensation amounts.

- 4. We therefore decided to carry out the economic evaluation considering the cases referred to in point 2., and in order to be able to proceed with specific data for the legal costs, we chose the **intermediate value in the cost ranges collected** (see point 3), proceeding as follows:
 - A. for the range with cost data of less than €10,000, we chose a reference value of €5,000;
 - B. for the range between €10,000 and €25,000, we chose a reference value of €17,500;
 - C. for the range over €25,000, we chose a reference value of €35,000. In particular, since this last expense bracket is not capped at an upper limit, we chose a representative value for this range which, while being above €25,000, was still reasonable in relation to the value of the dispute.
- 5. Having to consider **jointly the costs incurred by both parties, we multiplied the mean value of each cost range by two**. Specifically, the mean total legal cost is €10,000 for the lowest cost range; €35,000 for the cost range between €10,000 and €25,000; €70,000 for the highest range (over €25,000).

With reference to the **sample of State Court proceedings**:

- 1. **Not having detailed data on State Court proceedings, we proceeded with the collection of data through the survey mentioned**, asking the lawyers interviewed to indicate a mean value for the duration of State Court proceedings (first + second instance) and fees (differentiating between first and second instance) for a dispute with a value of €150,000, consistent with the assumptions made on arbitration.

2. More specifically, for this sample, **defence fees** (separately between first and second instance) were surveyed by asking lawyers to state what their fees would be among three possible ranges, similar to the classes identified for arbitration:
 - A. Less than €10,000;
 - B. Between €10,000 and €25,000;
 - C. Greater than €25,000.

3. In order to **align the sample with that chosen for CAM, the analysis focused on disputes with a value of €150,000**, assuming that the overall data for the State Court proceedings (see point 1 above) would also be representative of the subset €52,000–€260,000. Due to the unavailability of sufficiently detailed data on the duration of State Court proceedings, segmented by expenditure bracket, a precautionary hypothesis was tested. The data provided by the Court of Milan were used, showing mean durations of 764 and 597 days for matters similar to those dealt with in arbitration. Due to the provisional enforceability of the first-instance judgement, the comparison was therefore made with the durations for that stage of the State Court procedure²².

The intention was to employ the approach of economic-financial analysis in constructing the simulations based on the samples described above, for which certain working assumptions were made. In particular, the economic-financial comparison between State Court proceedings and arbitration was carried out using the **model for the economic analysis of investment**, which is based on **discounted cash flows**²³.

According to this logic **the cost of the proceedings (State Court or arbitration) is considered to be a kind of “investment” made in order to obtain the recognition of an infringed right. The compensation obtained at the end of the proceedings represents the “return” on the investment made.**

Although the discounted cash flow approach, employed in this context, uses the concept of NPV (Net Present Value), **it is not aimed at determining a true return on investment, but rather an economic-financial comparison between the State Court and arbitration procedures.**

In view of the above, **some methodological premises** need to be clarified:

²² The first-instance judgement is provisionally enforceable, which allows enforcement in the event of non-payment. An appeal does not suspend provisional enforceability, although a request for suspension of enforceability is provided for in rare and specific cases.

²³ The first studies on discounting and NPV (Net Present Value) date back to the mid-1900s. Today, this methodology is commonly used in the valuation of investments and extensively explained in the most common corporate finance texts.

1. The comparison between arbitral and State Court proceedings is made **considering all the costs incurred by the parties jointly** as though the “transferor” and the “transferee” were one and the same. The legal costs for both parties have therefore been aggregated, in line with the assumptions outlined above. In other words, the return is set against the total costs of the parties irrespective of each party's position (winning or losing). This is justified by the following reasons:
 - A. The allocation of proceedings costs (both arbitral and State Court Justice) between the parties is **decided at the end of said proceedings** and cannot be determined in advance.
 - B. It would be obvious to find economic cost-effectiveness for the prevailing party and the opposite for the losing party, whereas **the purpose of this study is the comparative economic-financial analysis of the two procedures** and not the cost-effectiveness or otherwise of the parties as a function of the outcome of the proceeding.
 - C. If we were to proceed by separating the two positions, we would arrive at a result in which one party has a positive return which is offset by the other who, of course, has a negative return; **the total return is clearly the sum of the two.**
2. The two types of procedure (arbitration and State Court Justice) are compared by equating their durations, i.e. **making the comparison on the same time horizon**. Specifically, the duration of the State Court proceedings is used, which is, as already mentioned, usually longer. This means formulating the hypothesis that **the sum awarded to the prevailing party in the arbitral award, once the proceedings are concluded, is reinvested** for the remainder of the time that would, otherwise, be required to reach the conclusion of the State Court proceedings.
3. Considering what has already been stated in point 1.B above, it is obvious that the actual economic and financial return for the “prevailing” party would be **higher than that shown in the study**, since most of the costs are borne by the “losing” party.
4. Comparisons are made by assuming that **the sum awarded to the prevailing party is the same for both types of procedure (arbitral and State Court Justice)**. In other words, the sum awarded by the Arbitral Tribunal and by the State Court Judge is assumed to be the same.
5. In the analyses conducted, we calculated the economic results of **different alternative scenarios**, combining the three cost brackets of the proceedings with different possible sums awarded at the end of the proceedings. The simulations also involved comparing the legal costs awarded by the Arbitral Tribunal, as recorded in the CAM data, with those indicated by the parameters for the determination of fees for the legal profession, although this is not a binding indication.

6. The discount and capitalisation rate used for the calculations was constructed using the Capital Asset Pricing Model²⁴. The opportunity to use, as a precautionary measure, the same rate also for calculating the return on the amount awarded in advance in the arbitration arises from the following considerations:
 - A. If a rate other than the discount rate were used, **assumptions would have to be made regarding the greater or lesser risk appetite** of the party choosing to start the arbitration procedure. If the risk appetite were low, then the rate would be close to a risk-free return; whereas if it were high, the rate would be higher and it would be necessary to define by how much.
 - B. Since, as already mentioned, the purpose of the analysis is not the quantification of the actual return on investment, but the comparison between the types of procedures, those still bound by the State Court procedure continue to bear an **opportunity cost for a longer period of time**, a cost that at this point has become an **opportunity gain for those who exited earlier through arbitration**.
7. When comparing the procedures, it was assumed that legal and/or default interest on the value of the dispute was not included. This is due to the fact that, in the sample observed, there is no uniformity in the application of the two types of interest, and a significant number of cases exist in which no amount is recognised in this regard. Nevertheless, the implications of this were addressed in the conclusion of the comparative cost-effectiveness analysis.

Hypotheses and results of the economic-financial comparison between arbitration and the State Court procedure

The comparative economic analysis between arbitration and the State Court procedure takes into account two **key elements**: the **mean duration and the total cost of each proceeding**. As mentioned, the mean duration of arbitration, deriving from the cases observed, is **385 days** (Table 18). Using data from the Court of Milan, the duration is **764 days**, for the first-instance judgement only.

With regard to the costs of the proceedings, these were divided into **legal costs**, deriving from the data collected through the surveys, distinguishing arbitration from State Court proceedings, and the **costs of the proceedings themselves**, which for arbitration includes CAM fees, Arbitral Tribunal fees, fees of the Expert Witnesses, if any, and “out-of-pocket” expenses (albeit of negligible significance). **For the State Court procedure, the costs of the proceedings were not specifically allocated, as they are meant to be distributed over the entire community**²⁵.

As already mentioned, **different classes (ranges of values) of proceedings were analysed, distinguishing increasing legal costs from increasing proceedings costs**.

²⁴ The rate used in the simulation is derived from the following components: risk-free return for Italy (Source: 10-year BTP, Consensus P. Fernandez) + Market Risk Premium for Italy (Source: Consensus P. Fernandez) x approx. BETA of the “legal” sector risk (taken from stock exchange data of European listed companies in the sector).

²⁵ It should be noted that in this analysis, for the sake of consistency, the unified contribution has been taken into account; although it qualifies as a recurring expense in State Court proceedings, it is nonetheless of little significance with regard to the dispute values considered in the simulation.

The **final value of the final arbitral award or judgement in the State Court procedure** was then hypothesised, for each of the above cost categories, by setting several alternative scenarios, with dispute values ranging from a **minimum of €20,000** to a **maximum of €260,000**.

The analysis focuses on the **Net Present Value** thus considering **different cost scenarios and different sums awarded at the end of the proceeding**. This approach provides a sensitivity analysis, showing how **the economic outcome (Procedure Margin) varies depending on specific assumptions regarding costs incurred and sums awarded** at the outcome of the proceeding.

Based on the simulations conducted, it can be concluded that:

- assuming that the costs for both parties are equal or only slightly higher in the case of arbitration compared to the State Court procedure, arbitration becomes **more cost-effective as the value of the dispute increases**.
- State Court procedures are more cost-effective when the “Procedure Margin” (the difference between the value of the dispute and the total costs of the procedure) is small, and when the reinvestment of the arbitral award is, therefore, unable to generate sufficient financial income to offset the difference in the present values of the costs incurred, which, due to the different durations of the two procedures, penalises the arbitration procedure. This is presumably more frequent when considering very low-value disputes.
- Conversely, in cases where the value of the dispute increases, arbitration may become more cost-effective than the State Court procedure. This greater cost-effectiveness depends on the increase of two independent variables: the value of the dispute and the reinvestment rate. Arbitration should, therefore, be preferable in cases in which the value of the dispute is sufficiently substantial and when the possibility of “freeing up” in advance the resources awarded by the judgement **enables them to be productively used in alternative investments** that offer profitability rates not lower than the investment rate in the procedure.
- If, as mentioned above, the two procedures provide for the recognition of legal and/or default interest, the comparative economic analysis will have to take into account the dynamics between said rates and the discount and reinvestment rates, respectively.

With reference to the economic-financial analysis just described in detail, it can be concluded that:

THE COMPARISON BETWEEN ARBITRATION AND THE STATE COURT PROCEDURE MUST INCLUDE THE ECONOMIC-FINANCIAL PROFILE IN THE EVALUATION, ENCAPSULATED IN THE CONCEPT OF THE FINANCIAL VALUE OF TIME.

A MERE COMPARISON BETWEEN THE COSTS OF THE TWO PROCEDURES AND THE VALUE OF THE DISPUTE IN CONSTANT EUROS IS LIMITING AND DOES NOT CONSIDER THE POSSIBILITY OF FREEING UP AND DEPLOYING FUNDS, THAT WOULD OTHERWISE NOT BE AVAILABLE FOR LONGER PERIODS, IN PROFITABLE ALTERNATIVE INVESTMENTS, ACCORDING TO THE PRINCIPLES

Synthesis of the study and main conclusions

The **main objective** of this study is to conduct a comparative analysis **from the point of view of the cost-effectiveness of an arbitration procedure versus a State Court procedure**.

In order to include the different profiles of possible comparisons, we developed an evaluation – supported where possible by statistical evidence – of the phenomenon in terms of both time and costs, with the aim of arriving at a synthesis, also of an economic-financial nature.

In conducting the study, we analysed in detail multiple characteristics of all the arbitration proceedings carried out at CAM over a three-year period. In particular, the research was divided into the **following three main stages**:

- analysis of the duration and costs of the arbitration procedure, and their segmentation into clusters with respect to the various observable profiles in terms of the subject-matter of the dispute, the predominant sectors, the value of the dispute, the parties involved, the composition of the adjudicating body (Arbitral Tribunal), the outcomes and the durations;
- development and administration of a series of surveys, aimed at obtaining information from three different target groups (defence lawyers, expert witnesses and in-house lawyers) on the duration and costs of the State Court Procedure compared to Arbitration;
- synthesis and use of the information collected in the first two stages with the aim of proceeding to an economic-financial synthesis in the comparison between the two procedures (State Court Justice and arbitration), in order to comprehend the key variables characteristic of each of the two cases considered, outlining the framework that determines their cost-effectiveness.

For each stage, the methodological approach used, the operational steps for collecting and processing the available information, the main analyses conducted and a synthesis of the most relevant evidence emerging were provided.

Given the depth and complexity of the analyses conducted, which are difficult to represent concisely, it seems appropriate to present **the following concluding summary considerations**.

With reference to the analysis of proceedings filed with the Chamber of Arbitration and relating to the three-year period under observation (**Stage 1**), the following main findings emerge:

1. Proceedings before the Chamber of Arbitration have **a mean duration of less than one year (307 days), increasing to 445 days in the case of a final award**. In the most complex cases (international or high-value disputes) **the mean duration is just over one and a half years**. Although the mean is reasonably small, the sample observed shows a dispersion in terms of case, sector, type of dispute, outcome and value.
2. In most cases, **the value of the disputes tends to be between €52,000 and €260,000**, although outliers emerge in this case too, i.e. proceedings (few) for which the value of the dispute exceeds, for example, tens of millions of euros.

3. In terms of onerousness, proceedings before the Chamber of Arbitration have a **mean cost of €38,000, which rises to €61,000 in the case of a final award**. This value drops to **€48,000**, net of outliers. **The mean fees for the Chamber of Arbitration is approx. €8,000, which increases to €10,500 in the event of a final award being filed**.
4. Notwithstanding the heterogeneity in the characteristics of the proceedings carried out, it was possible to put them into clusters, from which it emerges that **over 74% (152 out of 206) are characterised by a mean cost of between €4,000 and €16,000 and a mean duration of between 5 months to 1 year**. With reference to the proceedings concluded with a final award, we can see that the **mean duration and cost values of the proceedings are substantially proportional to the mean values of the dispute**.

As regards to the **surveys administered to defence lawyers, expert witnesses and in-house lawyers**, with reference to duration and cost estimates for State Court proceedings (Stage 2), it seems relevant to point out that:

1. **Arbitration is perceived by the lawyers who took part in the survey as a more rapid solution compared to the State Court procedure**. In fact, since arbitration is not appealable (unlike a first-instance judgement before the Court) but can only be challenged on limited and specific grounds provided by law, an arbitral award can be considered – in terms of finality – equivalent to a second-instance judgement. In particular, the majority (over 87%) of the lawyers surveyed and 91% of the in-house lawyers believe that arbitration is concluded in a shorter (or significantly shorter) duration than the corresponding State Court procedure. In the perception of the survey participants, in fact, **State Court proceedings show a mean duration of almost four years, whereas the mean duration of arbitration is between one year and one and a half years**. These data faithfully reflect those filed in the CAM database and those collected at the Court of Milan, for matters similar to those dealt with in arbitration, and **are statistically significant**.
2. The fees charged by lawyers for technical defence in arbitration tend to be higher than those charged in the State Court procedure, when, however, only one level of judgement is considered. With reference to the class of dispute value in question, in fact, the proportion of lawyers who reported **fees exceeding €10,000 is higher in arbitration cases than in each of the two State Court levels of judgement**. Where, on the other hand, the comparison has to **take into account both levels of the State Court procedure**, in deference to the need to compare procedures that reach the same degree of finality, **the latter is perceived as more burdensome in its overall course**.

Lastly, with regard to the **economic-financial comparison** (Stage 3), in the light of the estimates and assumptions illustrated, the analyses conducted show that:

1. Assuming that the costs for both parties are equal or only slightly higher in the case of arbitration compared to the State Court procedure, arbitration becomes more cost-effective as the value of the dispute increases.
2. **State Court procedures are more cost-effective when the Procedure Margin**, defined here as the difference between the value of the dispute and the total costs of the procedure, **is small** and thus the reinvestment of the arbitral award is unable to generate sufficient financial income to offset the difference in the present values of the costs incurred, which, due to the different durations of the two procedures, penalises the arbitration procedure.
3. Conversely, in cases where **the value of the dispute increases, arbitration may become more cost-effective than the State Court procedure**. This greater cost-effectiveness depends on the increase of two independent variables: the value of the dispute and the reinvestment rate. Arbitration should, therefore, be preferable in cases in which the value of the dispute is sufficiently substantial and when the possibility of **“freeing up” in advance the resources awarded by the judgement enables them to be productively used in alternative investments that offer profitability rates not lower than the investment rate in the procedure**.
4. If, finally and as previously mentioned, **the two procedures provide for the recognition of legal and/or default interest**, the comparative economic analysis will have to take into account the **dynamics between said rates and the discount and reinvestment rates**, respectively.

In brief, **the study conducted** on the series of proceedings carried out by CAM in the three-year period observed **leads to several interesting results and offers different insights for further study**.

Firstly, in addition to the **informative value related to the stratification conducted for the different characteristics of the proceedings** (dispute value, sector, subject matter, etc.) and the analysis of their possible relationships, with detailed quantitative evidence, and in many cases supported by statistical significance, we can confirm the **shorter durations** compared to the State Court procedure.

Secondly, given the sample available and the information set constructed also through the survey results, it emerges that **the fees charged by lawyers for technical defence in arbitration do not appear to be higher than those charged for the two levels of judgement in State Court proceedings**, when the same finality is taken into account.

Finally, it is important to underline that **a mere comparison between the costs sustained in the two procedures appears limiting**, since it fails to consider – **in addition to other relevant elements that are difficult to quantify, such as the certainty of the outcome, the expertise of the judges on the types of proceedings and the confidentiality guaranteed – the relevance of the economic-financial profile, deriving from the possibility of using the compensation obtained in the award in profitable alternative investments**, according to the principles of economic rationality. The comparative cost-effectiveness analysis between

arbitration and State Court procedure is therefore justified and summarised in the evaluation of their economic-financial profile, encapsulated in the concept of the financial value of time.

It seems appropriate, in conclusion, also to mention the value of the intangible elements referred to above. In interviews with various lawyers during the course of the study, it emerged that, although these aspects cannot be incorporated in a quantitative evaluation, they can assume a significant, if not – in some cases – decisive weight in the choice as to which procedure to pursue.

In particular, reference is mainly made to:

- **certainty of the outcome**, which has implications in two respects. On the one hand, the unpredictability of the durations creates a framework – with subjective psychological and emotional implications – that risks compromising the ability to make decisions with full peace of mind and rationality, sometimes affecting business operations. On the other hand, the uncertainty of the proceedings is one of the factors that determines the reluctance of international operators to conduct business in our country;
- **expertise of the judges** and of the other parties in the proceedings, such as the expert witnesses, which, on the one hand, contributes to the higher costs of the arbitration procedure, but on the other improves the timeline and provides a more direct relationship between the adjudicating body and the parties involved, who converse on the merits by virtue of the specific expertise acknowledged;
- **confidentiality**, a crucial element designed to protect the reputation of those involved. As is well known, one of the most important assets for any company resides in the reputation of its brand, an aspect that sometimes assumes a value far exceeding the monetary aspects of a dispute.

This work also provides **potential insights for further study**, related to the possibility of extending the comparison – conducted with reference to the sample observed – to a variety of scenarios concerning the possible configurations of the attributes that define proceedings (such as the dispute value, sector, parties involved, etc.). This, however, entails the availability of detailed data, relating to State Court proceedings, at a similar level of granularity to that found for the arbitration proceedings.

In conclusion, the study points out that litigation, in a context of increasingly intense exchanges and interactions with diversified stakeholders, has to be considered a physiological or potentially recurring event in corporate management; for this reason, similarly to **other choices made in corporate management**, those concerning the most appropriate way of handling a dispute must **take into account multiple factors**: legal, durations, costs, the values at stake, be they tangible or intangible, and the opportunity to gain additional benefits by promptly reinvesting the compensation awarded at the end of the proceedings in alternative profitable projects.

Annex 1

Table 5 - Duration of the proceedings and subject-matter of the dispute

Analysis of the duration of the proceedings and the subject-matter of the dispute					
Values in days					
	No.	Mean	Std. Deviation	Min	Max
Rental, sale, transfer of company branch	15	337	166.46	100	635
Agency	7	201	188.59	65	610
Procurement contracts	17	323	262.01	32	1039
Insurance + banking and insurance contracts	8	320	258.71	40	644
Collaboration and consulting	19	211	175.27	11	602
Sale and purchase agreements	13	238	156.51	24	463
Supply	30	342	242.05	41	869
Property (Sale and purchase of property, condominiums, leases)	7	433	290.37	47	920
Industrial (Distribution, IP, Branding, Commercial Cooperation)	10	400	258.57	50	902
Leases	2	476	234.76	310	642
Mandate	3	158	24.58	130	176
Corporate (sale and purchase of shares and shareholders' agreements)	44	325	190.05	7	662
Corporate (intra-corporate)	42	265	201.04	37	725
Other	15	357	266.18	61	1033
Total	232	307	217.22	7	1039

Table 6 – Duration of the proceedings and subject-matter of the dispute, distinguishing between proceedings concluded with and without a final award

Analysis of the duration of the proceedings and the subject-matter of the dispute							
Values in days							
	No award				Final award		
	No.	Mean	Std. Deviation		No.	Mean	Std. Deviation
Rental, sale, transfer of company branch	10	321	180.68		5	369	146.79
Agency	5	125	63.32		2	391	310.42
Procurement contracts	10	239	187.45		7	443	318.98
Insurance + banking and insurance contracts	4	124	116.47		4	517	199.11
Collaboration and consulting	12	116	97.98		7	373	161.91
Sale and purchase agreements	8	177	168.54		5	335	67.39
Supply	15	190	182.66		15	495	195.06
Property (Sale and purchase of property, condominiums, leases)	3	359	336.76		4	488	289.05
Industrial (Distribution, IP, Branding, Commercial Cooperation)	4	315	397.69		6	457	125.12
Leases					2	476	234.80
Mandate	2	149	26.87		1	176	
Corporate (sale and purchase of shares and shareholders' agreements)	26	246	191.01		18	440	118.49
Corporate (intra-corporate)	26	155	121.63		16	444	174.67
Other	8	208	107.08		7	528	296.67
Total	133	204	175.01		99	445	190.32

Table 7 - Description of the outcome of the proceedings and the subject-matter of the dispute

Description of the subject matter of the dispute by proceedings outcome											
		Description of the outcome									
		Termination due to non-payment		Final award		Non-acceptance of settlement proposal/ Inadmissibility declared by CA		Filing at the request of the parties		Joined to another proceeding	
		No.	%	No.	%	No.	%	No.	%	No.	%
Description of subject-matter	Rental, sale, transfer of company branch	1	7%	5	5%	0	0%	9	9%	0	0%
	Agency	0	0%	2	2%	0	0%	5	5%	0	0%
	Procurement contracts	1	7%	7	7%	1	10%	8	8%	0	0%
	Insurance + banking and insurance contracts	0	0%	4	4%	1	10%	3	3%	0	0%
	Collaboration and consulting	0	0%	7	7%	2	20%	10	10%	0	0%
	Sale and purchase agreements	1	7%	5	5%	2	20%	5	5%	0	0%
	Concession	0	0%	0	0%	0	0%	0	0%	0	0%
	Supply	2	13%	15	15%	1	10%	8	8%	4	40%
	Property (Sale and purchase of property, condominiums, leases)	0	0%	4	4%	1	10%	2	2%	0	0%
	Industrial (Distribution, IP, Branding, Commercial Cooperation)	0	0%	6	6%	0	0%	4	4%	0	0%
	Leases	0	0%	2	2%	0	0%	0	0%	0	0%
	Mandate	1	7%	1	1%	0	0%	1	1%	0	0%
	Corporate (sale and purchase of shares and shareholders' agreements)	1	7%	18	18%	0	0%	21	21%	4	40%
	Corporate (intra-corporate)	4	27%	16	16%	2	20%	18	18%	2	20%
	Other	4	27%	7	7%	0	0%	4	4%	0	0%

Table 8 - Duration of the proceedings and sector involved

Analysis of duration of the proceedings by sector					
Values in days					
	No.	Mean	Std. Deviation	Min	Max
Art	1	288		288	288
Banking-financial	9	350	216.20	40	636
Chemical-Pharmaceutical + Healthcare	10	265	194.29	24	555
Commerce	39	265	169.40	22	711
Communications + services	29	299	241.99	11	1033
Building industry	16	276	283.23	32	1039
Energy	18	315	244.46	41	859
Property	20	333	180.37	40	716
Industry	38	303	221.12	41	920
Information Technology	15	373	241.66	7	869
Fashion	12	372	289.89	50	902
Food Service	16	321	208.00	58	651
Transport (sea, air, rail)	9	289	141.46	107	512
Total	232	307	217.22	7	1039

Table 9 – Duration of the proceedings and sector involved, distinguishing between proceedings concluded with and without a final award

Analysis of duration of the proceedings by sector							
Values in days							
	No award				Final award		
	No.	Mean	Std. Deviation		No.	Mean	Std. Deviation
Art					1	288	
Banking-financial	4	217	166.29		5	457	202.27
Chemical-Pharmaceutical + Healthcare	5	98	70.90		5	431	101.77
Commerce	23	215	167.40		16	337	148.82
Communications + services	14	115	88.34		15	471	209.96
Building industry	9	100	93.82		7	503	286.69
Energy	13	233	206.25		5	528	218.38
Property	11	250	193.34		9	434	97.40
Industry	26	224	167.29		12	476	230.87
Information Technology	3	70	81.47		12	449	204.26
Fashion	9	313	308.46		3	550	135.50
Food Service	10	216	157.58		6	497	160.21
Transport (sea, air, rail)	6	255	126.40		3	357	172.51
Total	133	204	175.01		99	445	190.32

Table 10 - Description of the outcome of the proceedings and sector types

Description of sector by proceedings outcome											
Description of the outcome											
		Termination due to non-payment		Final award		Non-acceptance of settlement proposal/ Inadmissibility declared by CA		Filing at the request of the parties		Joined to another proceeding	
		No.	%	No.	%	No.	%	No.	%	No.	%
Description of sector (reclassified)	Art	0	0.0%	1	1.0%	0	0.0%	0	0.0%	0	0.0%
	Banking-financial	0	0.0%	5	5.1%	0	0.0%	4	4.1%	0	0.0%
	Chemical-Pharmaceutical + Healthcare	0	0.0%	5	5.1%	0	0.0%	4	4.1%	1	10.0%
	Commerce	3	20.0%	16	16.2%	2	20.0%	17	17.3%	1	10.0%
	Communication s + services	1	6.7%	15	15.2%	0	0.0%	12	12.2%	1	10.0%
	Building industry	2	13.3%	7	7.1%	3	30.0%	4	4.1%	0	0.0%
	Energy	1	6.7%	5	5.1%	0	0.0%	8	8.2%	4	40.0%
	Property	1	6.7%	9	9.1%	2	20.0%	8	8.2%	0	0.0%
	Industry	5	33.3%	12	12.1%	3	30.0%	17	17.3%	1	10.0%
	Information Technology	0	0.0%	12	12.1%	0	0.0%	3	3.1%	0	0.0%
	Fashion	0	0.0%	3	3.0%	0	0.0%	8	8.2%	1	10.0%
	Food Service	1	6.7%	6	6.1%	0	0.0%	9	9.2%	0	0.0%
	Transport (sea, air, rail)	1	6.7%	3	3.0%	0	0.0%	4	4.1%	1	10.0%

Table 11 - Duration of the proceedings and number of claimants by aggregate values, distinguishing between proceedings concluded with and without a final award

Analysis of the duration of the proceedings by number of claimants					
Values in days					
	No.	Mean	Std. Deviation	Min	Max
1	193	311	223.21	7	1039
2	23	251	189.45	22	618
3	11	325	186.16	70	716
More than 3	5	341	167.51	165	518
Total	232	307	217.22	7	1039

Analysis of the duration of the proceedings by number of claimants							
Values in days							
	No award				Final award		
	No.	Mean	Std. Deviation		No.	Mean	Std. Deviation
1	110	197	169.55		83	463	194.51
2	13	185	194.96		10	336	151.41
3	8	286	203.56		3	430	76.27
More than 3	2	342	249.61		3	340	158.01
Total	133	204	175.01		99	445	190.32

Table 12 - Duration of the proceedings and classification of the dispute (BTB, BTP, PTP) by aggregate values, distinguishing between proceedings concluded with and without a final award

Analysis of the duration of the proceedings by dispute classification*					
Values in days					
	No.	Mean	Std. Deviation	Min	Max
BTB	178	301	215.91	7	1039
PTB	11	238	221.85	32	704
PTP	43	346	219.96	41	725
Total	232	307	217.22	7	1039

Analysis of the duration of the proceedings by dispute classification							
Values in days							
	No award				Final award		
	No.	Mean	Std. Deviation		No.	Mean	Std. Deviation
BTB	102	199	168.14		76	439	196.09
PTB	6	83	60.38		5	423	198.75
PTP	25	252	206.21		18	477	168.83
Total	133	204	175.01		99	445	190.32

Table 13 - Description of the outcome, number of claimants and classification of the dispute (BTB, BTP, PTP)

Description of the outcome by number of claimants										
	Description of the outcome									
	Termination due to non-payment		Final award		Non-acceptance of settlement proposal/ Inadmissibility declared by CA		Filing at the request of the parties		Joined to another proceeding	
	No.	%	No.	%	No.	%	No.	%	No.	%
1	11	73.3%	83	83.8%	10	100.0%	80	81.6%	9	90.0%
2	2	13.3%	10	10.1%	0	0.0%	11	11.2%	0	0.0%
3	2	13.3%	3	3.0%	0	0.0%	5	5.1%	1	10.0%
More than 3	0	0.0%	3	3.0%	0	0.0%	2	2.0%	0	0.0%

Description of the outcome by dispute classification										
	Description of the outcome									
	Termination due to non-payment		Final award		Non-acceptance of settlement proposal/ Inadmissibility declared by CA		Filing at the request of the parties		Joined to other proceedings	
	No.	%	No.	%	No.	%	No.	%	No.	%
BTB	11	73.3%	76	76.8%	7	70.0%	75	76.5%	9	90.0%
PTB	1	6.7%	5	5.1%	1	10.0%	4	4.1%	0	0.0%
PTP	3	20.0%	18	18.2%	2	20.0%	19	19.4%	1	10.0%

Table 14 - Duration of the proceedings and description of the outcome

Analysis of the duration of the proceedings by outcome* classification					
Values in days					
	No.	Mean	Std. Deviation	Min	Max
Termination due to non-payment	15	168	74.16	58	334
Final award	99	445	190.32	142	1039
Non-acceptance of settlement proposal/ Inadmissibility declared by CA	10	120	141.97	32	417
Filing at the request of the parties	98	229	189.50	7	902
Joined to another proceeding	10	88	40.35	41	178
Total	232	307	217	7	1039

Table 15 - Duration of the proceedings and adjudicating body by aggregate values, distinguishing between proceedings concluded with and without a final award

Analysis of the duration of the proceedings by adjudicating body*					
Values in days					
	No.	Mean	Std. Deviation	Min	Max
Sole Arbitrator	127	278	201.47	11	1039
Panel (3 arbitrators)	105	341	231.26	7	1033
Total	232	307	217.22	7	1039

Analysis of the duration of the proceedings by adjudicating body*								
Values in days								
	No award				Final award			
	No.	Mean	Std. Deviation		No.	Mean	Std. Deviation	
	Sole Arbitrator	67	169		149.57	60	401	180.75
	Panel	66	239		192.19	39	513	186.89
	Total	133	204		175.01	99	445	190.32

Table 16 - Duration of the proceedings and international dispute by aggregate values, distinguishing between proceedings concluded with and without a final award

Analysis of the duration of the proceedings by international dispute*					
Values in days					
	No.	Mean	Std. Deviation	Min	Max
No	188	292	220.99	7	1039
Yes	44	367	190.93	64	725
Total	232	307	217.22	7	1039

Analysis of the duration of the proceedings by international dispute*								
Values in days								
	No award				Final award			
	No.	Mean	Std. Deviation		No.	Mean	Std. Deviation	
	No	113	196		175.81	75	438	202.22
	Yes	20	248		167.84	24	467	148.65
Total	133	204	175.01	99	445	190.32		

Table 17 - Description of the outcome, composition of the Arbitral Tribunal and international dispute

Description of the outcome by Adjudicating Body										
	Description of the outcome									
	Termination due to non-payment		Final award		Non-acceptance of settlement proposal/ Inadmissibility declared by CA		Filing at the request of the parties		Joined to another proceeding	
	No.	%	No.	%	No.	%	No.	%	No.	%
Sole Arbitrator	7	46.7%	60	60.6%	8	80.0%	50	51.0%	2	20.0%
Panel	8	53.3%	39	39.4%	2	20.0%	48	49.0%	8	80.0%

Description of outcome by International Dispute										
	Description of the outcome									
	Termination due to non-payment		Final award		Non-acceptance of settlement proposal/ Inadmissibility declared by CA		Filing at the request of the parties		Joined to another proceeding	
	No.	%	No.	%	No.	%	No.	%	No.	%
No	14	93.3%	75	75.8%	6	60.0%	84	85.7%	9	90.0%
Yes	1	6.7%	24	24.2%	4	40.0%	14	14.3%	1	10.0%

Table 18 - Duration of the proceedings, value of the dispute, distinguishing between proceedings concluded with and without a final award

Analysis of the duration of the proceedings by value of the dispute							
Values in days							
	No award				Final award		
	No.	Mean	Std. Deviation		No.	Mean	Std. Deviation
€0.01-1,100.00					1	288	
€1,100.01-5,200.00	2	54	10				
€5,200.01-26,000	14	139	177		6	266	71
€26,000.01-52,000	10	97	75		9	419	256
€52,000.01-260,000	40	189	125		38	385	157
€260,000.01-520,000	13	211	151		10	483	226
€520,000.01-1,000,000	9	183	129		10	516	115
€1,000,000.01-2,000,000	16	253	219		8	585	125
€2,000,000.01-4,000,000	7	162	123		5	557	221
€4,000,000.01-8,000,000	9	344	207		8	539	232
€8,000,000.01-16,000,000	4	179	95		4	503	173
€16,000,000.01-32,000,000	8	278	239				
Over €32,000,000	1	902					
Total	133	204	175		99	445	190

Table 19 - Description of the outcome of the proceedings and value of the dispute

Description of the outcome by value of the dispute										
	Termination due to non-payment		Final award		Non-acceptance of settlement proposal/ Inadmissibility declared by CA		Filing at the request of the parties		Joined to another proceeding	
	No.	%	No.	%	No.	%	No.	%	No.	%
€0.01-1,100.00	0	0.0%	1	1.0%	0	0.0%	0	0.0%	0	0.0%
€1,100.01-5,200.00	0	0.0%	0	0.0%	1	10.0%	1	1.0%	0	0.0%
€5,200.01-26,000	1	6.7%	6	6.1%	1	10.0%	12	12.2%	0	0.0%
€26,000.01-52,000	2	13.3%	9	9.1%	1	10.0%	7	7.1%	0	0.0%
€52,000.01-260,000	5	33.3%	38	38.4%	3	30.0%	28	28.6%	4	40.0%
€260,000.01-520,000	1	6.7%	10	10.1%	2	20.0%	9	9.2%	1	10.0%
€520,000.01-1,000,000	0	0.0%	10	10.1%	0	0.0%	8	8.2%	1	10.0%
€1,000,000.01-2,000,000	3	20.0%	8	8.1%	0	0.0%	10	10.2%	3	30.0%
€2,000,000.01-4,000,000	0	0.0%	5	5.1%	0	0.0%	6	6.1%	1	10.0%
€4,000,000.01-8,000,000	2	13.3%	8	8.1%	1	10.0%	6	6.1%	0	0.0%
€8,000,000.01-16,000,000	1	6.7%	4	4.0%	1	10.0%	2	2.0%	0	0.0%
€16,000,000.01-32,000,000	0	0.0%	0	0.0%	0	0.0%	8	8.2%	0	0.0%
Over €32,000,000	0	0.0%	0	0.0%	0	0.0%	1	1.0%	0	0.0%

Annex 2

Table 22 - Costs of the proceedings and subject-matter of the dispute, distinguishing between proceedings concluded with and without a final award

Analysis of the costs of the proceedings by subject-matter of the dispute							
Values in €							
	No award*				Final Award		
	No.	Mean	Std. Deviation		No.	Mean	Std. Deviation
Rental, sale, transfer of company branch	10	7,631.74	7,644.21		5	39,641.40	43,583.51
Agency	4	4,553.50	6,181.27		2	130,357.41	180,297.25
Procurement contracts	8	25,526.05	37,431.38		7	16,532.31	14,229.25
Insurance + banking and insurance contracts	3	5,216.67	8,472.95		4	93,724.78	139,026.12
Collaboration and consulting	8	2,841.50	4,595.44		7	19,281.51	31,970.45
Sale and purchase agreements	7	3,926.00	4,348.04		5	16,053.83	6,429.12
Supply	10	22,063.00	45,554.45		15	82,637.37	106,470.66
Property (Sale and purchase of property, condominiums, leases)	2	3,450.00	3,606.24		4	38,858.56	57,256.22
Industrial (Distribution, IP, Branding, Commercial Cooperation)	4	35,479.00	65,773.25		6	87,611.81	114,935.70
Leases					2	11,424.03	10,216.32
Mandate	2	751.00	213.55		1	76,656.00	
Corporate (sale and purchase of shares and shareholders' agreements)	21	42,616.25	50,141.17		18	88,513.13	82,126.47
Corporate (intra-corporate)	21	7,933.00	17,177.61		16	59,989.70	106,748.77
Other	7	3,078.57	2,719.35		7	46,897.89	67,597.11
Total	107	16,996.60	34,123.27		99	61,275.89	86,839.90

Table 23 - Costs of the proceedings and sector involved, distinguishing between proceedings concluded with and without a final award

Analysis of the costs of the proceedings by sector involved							
Values in €							
	No award				Final award		
	No.	Mean	Std. Deviation		No.	Mean	Std. Deviation
Art					1	2,280.00	
Banking-financial	4	15,859.63	22,381.93		5	55,111.27	46,635.11
Chemical-Pharmaceutical + Healthcare	4	387.50	286.87		5	94,908.71	126,673.57
Commerce	21	8,041.28	10,798.10		16	47,560.72	103,784.53
Communications + services	8	1,493.75	1,862.85		15	36,477.45	29,882.86
Building industry	6	5,563.14	6,794.97		7	55,292.16	80,161.38
Energy	9	31,116.95	39,314.29		5	111,731.40	124,206.04
Property	8	4,872.69	7,926.37		9	28,918.14	33,713.66
Industry	22	21,688.21	38,539.70		12	67,228.53	73,057.84
Information Technology	2	175.00	35.36		12	33,567.74	44,615.04
Fashion	8	48,051.50	69,757.74		3	118,456.80	80,142.14
Food Service	10	17,777.23	39,764.98		6	170,367.35	159,950.80
Transport (sea, air, rail)	5	36,148.60	44,636.75		3	70,901.61	114,576.26
Total	107	16,996.60	34,123.27		99	61,275.89	86,839.90

Table 24 - Costs of the proceedings and number of claimants, distinguishing between proceedings concluded with and without a final award

Analysis of the costs of the proceedings by number of claimants							
Values in €							
	No award				Final award		
	No.	Mean	Std. Deviation		No.	Mean	Std. Deviation
1	85	15,439.46	30,933.88		83	59,597.40	88,842.19
2	13	23,637.69	49,105.93		10	68,202.61	86,358.61
3	7	9,293.00	12,681.51		3	114,382.00	70,645.60
More than 3	2	66,970.13	83,396.36		3	31,518.83	37,954.22
Total	107	16,996.60	34,123.27		99	61,275.89	86,839.90

Table 25 - Costs of the proceedings and classification of the dispute (BTB, PTB, PTP), distinguishing between proceedings concluded with and without a final award

Analysis of the costs of the proceedings by number of claimants							
Values in €							
	No award				Final award		
	No.	Mean	Std. Deviation		No.	Mean	Std. Deviation
BTB	80	15,749.44	33,281.37		76	58,437.70	81,868.28
PTB	5	1,678.40	2,169.97		5	22,514.40	14,747.50
PTP	22	25,013.12	39,953.83		18	84,026.44	113,251.99
Total	107	16,996.60	34,123.27		99	61,275.89	86,839.90

Table 26 - Costs of the proceedings, composition of the Arbitral Tribunal and international dispute, distinguishing between proceedings concluded with and without a final award

Analysis of the costs of the proceedings by adjudicating body							
Values in €							
	No award*				Final award*		
	No.	Mean	Std. Deviation		No.	Mean	Std. Deviation
Sole Arbitrator	54	4,545.84	9,918.85		60	23,205.36	32,020.40
Panel (3 arbitrators)	53	29,682.28	44,139.54		39	119,845.94	109,759.53
Total	107	16,996.60	34,123.27		99	61,275.89	86,839.90

Analysis of the costs of the proceedings by international dispute							
Values in €							
	No award				Final award*		
	No.	Mean	Std. Deviation		No.	Mean	Std. Deviation
No	91	15,667.15	31,101.14		75	48,849.15	76,237.14
Yes	16	24,557.81	48,507.92		24	100,109.46	106,559.65
Total	107	16,996.60	34,123.27		99	61,275.89	86,839.90

Table 28 - Costs of the proceeding, value of the dispute and composition of the Arbitral Tribunal, distinguishing between proceedings concluded with and without a final award

Analysis of costs of the proceedings by value of the dispute (split by adjudicating body)													
Values in €													
	Sole arbitrator							Panel (3 arbitrators)					
	No award			Final award				No award			Final award		
	No.	Mean	Std. Deviation	No.	Mean	Std. Deviation		No.	Mean	Std. Deviation	No.	Mean	Std. Deviation
€0.01-1,100.00				1	2280.00								
€1,100.01-5,200.00													
€5,200.01-26,000	9	855.99	1289.09	5	2816.80	846.59		1	4876.00		1	2459.60	
€26,000.01-52,000	7	621.43	800.45	8	6,369.15	5,832.32		1	500.00		1	7,768.66	
€52,000.01-260,000	23	3,036.30	3,764.23	28	10,055.38	4,866.81		11	3,619.59	5,000.70	10	20,688.24	15,521.81
€260,000.01-520,000	6	5,510.33	6,235.55	6	25,606.83	5,004.85		4	10,921.00	12,452.35	4	36,087.31	13,413.41
€520,000.01-1,000,000	2	600.00	141.42	5	40,139.68	3,618.80		6	14,868.75	20,659.40	5	136,987.19	129,528.67
€1,000,000.01-2,000,000	4	10,466.89	8,933.77	2	84,376.00	41,532.62		9	32,318.66	32,111.36	6	165,851.57	115,797.31
€2,000,000.01-4,000,000	1	15,728.86		1	61,746.00			3	1.900.00	1,819.34	4	166,376.88	26,836.13
€4,000,000.01-8,000,000	1	66,728.00		3	98,775.00	24,181.01		7	64,098.89	56,324.24	5	214,866.10	28,167.93
€8,000,000.01-16,000,000				1	162,291.20			3	12,000.00	4,358.90	3	297,549.45	8,939.27
€16,000,000.01-32,000,000	1	5,000.00						7	68,533.22	66,330.30			
Over €32,000,000								1	134,080.00				
Total	54	4,545.84	9,918.85	60	23,205.36	32,020.40		53	29,682.28	44,139.54	39	119,845.94	109,759.53

Annex 3

Table 31 - Total costs of the proceedings (with outliers)

Total costs of the proceedings (with outliers)						
Values in €						
		No.	Mean	Std. Deviation	Min	Max
Total costs of the proceedings*	To be borne by one party only	48	33,464.72	59,241.98	1,808	257,847
	Sharing with equal proportions	30	92,573.14	105,311.59	2,460	367,978
	Sharing with a higher burden	21	80,133.93	94,466.25	2,964	401,633
	Total	99	61,275.89	86,839.90	1,808	401,633
CAM fees*	To be borne by one party only	48	6,039.58	8,204.43	400	30,000
	Sharing with equal proportions	30	16,403.33	15,061.04	400	55,000
	Sharing with a higher burden	21	12,014.29	13,295.12	500	55,000
	Total	99	10,447.47	12,505.28	400	55,000
Trib* fees	To be borne by one party only	48	26,266.50	51,074.96	1,040	223,760
	Sharing with equal proportions	30	74,491.64	91,120.49	1,560	312,000
	Sharing with a higher burden	21	63,537.14	79,165.62	2,080	343,200
	Total	99	48,786.07	74,056.72	1,040	343,200
Expert witness fees and expenses	To be borne by one party only	2	10,765.56	516.98	10,400	11,131
	Sharing with equal proportions	2	7,442.24	1,241.34	6,565	8,320
	Sharing with a higher burden	6	11,467.50	8,285.89	3,952	22,000
	Total	10	10,522.06	6,407.81	3,952	22,000
General expenses	To be borne by one party only	48	710.07	796.93	256	4,229
	Sharing with equal proportions	30	1,182.01	968.56	298	4,607
	Sharing with a higher burden	21	1,306.08	1,704.63	384	8,135
	Total	99	979.51	1,116.32	256	8,135

Table 33 - Total legal costs awarded (with outliers)

Total legal costs awarded (with outliers)						
Values in €						
		No.	Mean	Std. Deviation	Min	Max
Total legal costs awarded (defence fees)	Defeat	47	19,864.96	24,682.41	1,000	100,000
	Compensation with a higher burden	14	16,137.20	17,219.89	2,374	69,943
	Total	61	19,009.41	23,104.44	1,000	100,000
Total legal costs awarded (defence fees + estimated general expenses)	Defeat	47	22,844.70	28,384.77	1,150	115,000
	Compensation with a higher burden	14	18,557.75	19,802.89	2,730	80,434
	Total	61	21,860.81	26,570.11	1,150	115,000

Table 34 - Total legal costs awarded (without outliers)

Table 34 -Total legal costs awarded (without outliers)						
Values in €						
		No.	Mean	Std. Deviation	Min	Max
Total legal costs awarded (defence fees)	Defeat	44	15,875.46	19,194.64	1,000	89,365
	Compensation with a higher burden	14	16,137.20	17,219.89	2,374	69,943
	Total	58	15,938.64	18,589.86	1,000	89,365
Total legal costs awarded (defence fees + estimated general expenses)	Defeat	44	18,256.78	22,073.84	1,150	102,770
	Compensation with a higher burden	14	18,557.75	19,802.89	2,730	80,434
	Total	58	18,329.42	21,378.34	1,150	102,770

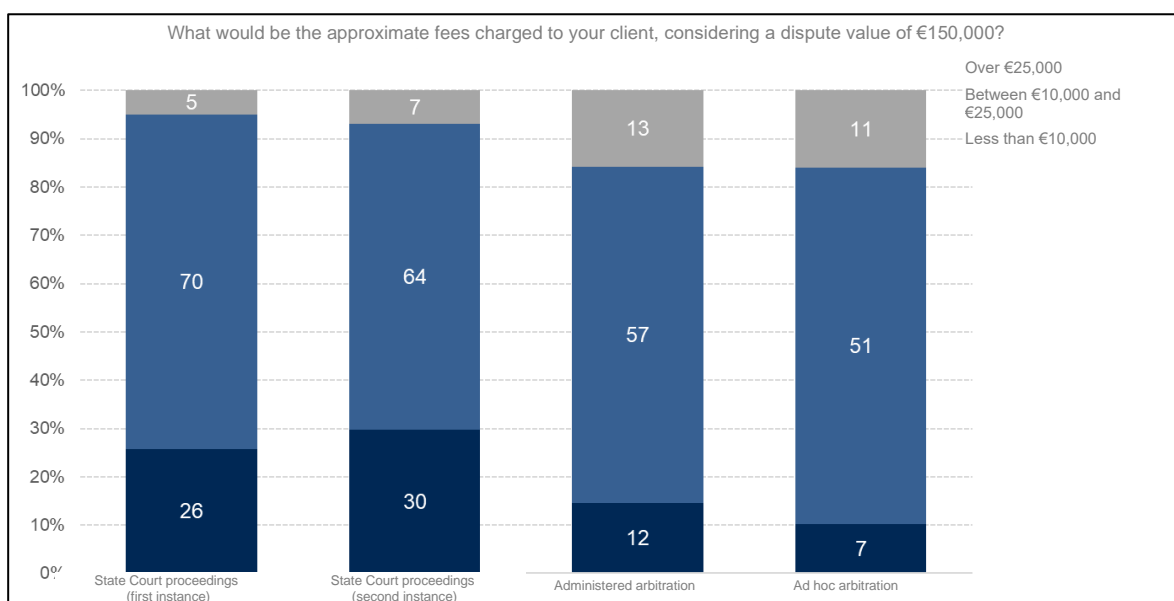
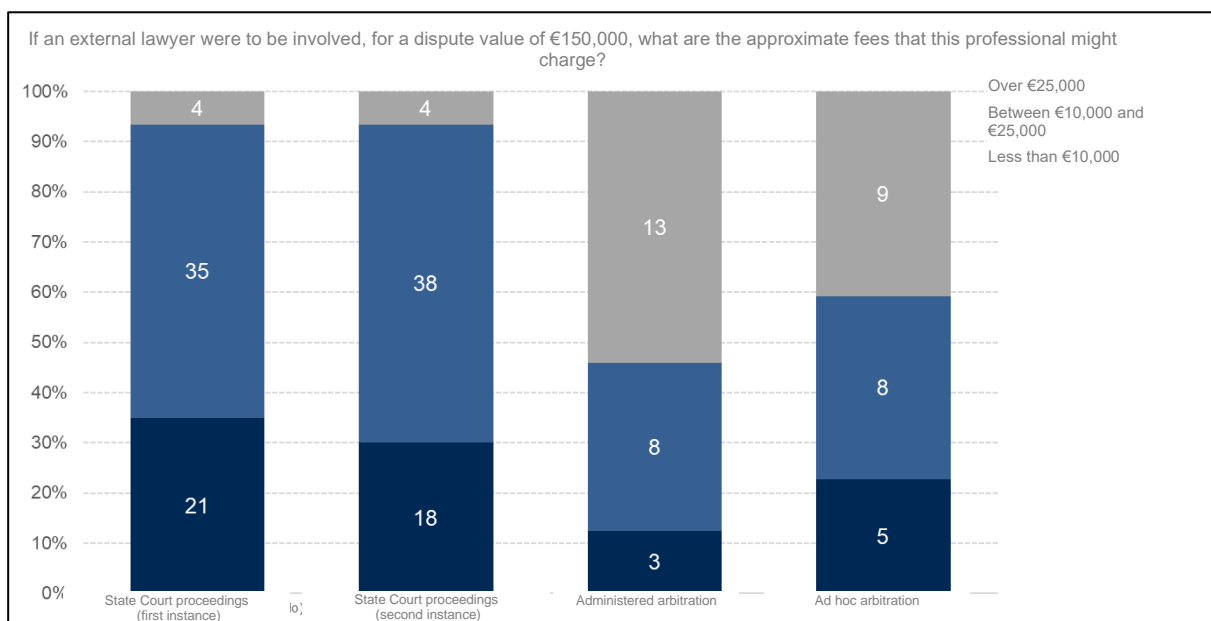
Table 44 - Analysis of fees declared by CAM lawyers

Table 45 - Analysis of fees declared by in-house lawyers



Annex 4 – Survey texts

Lawyers

Start of section: Introduction

Welcome!

The SDA Bocconi School of Management is carrying out research on the durations and costs of arbitration on behalf of the Milan Chamber of Arbitration.

For this reason, we kindly ask you to complete the following questionnaire: it should not take more than 4 minutes of your time.

Your answers are very important to us and we would be very grateful if you could complete the entire questionnaire. The answers will be analysed in aggregate form, then processed anonymously and confidentially, in accordance with the law on privacy.

Thank you in advance for your cooperation.

End of section: Introduction

Start of section: Screening questions

A0 Thinking over your professional experience, have you ever provided assistance as a lawyer in arbitration procedures?

☐ Yes

☐ No

A1 How many defences in arbitration proceedings have you handled in the last three years?

[Question only shown if A0 = Yes].

☐ Less than 5

☐ Between 5 and 10

☐ More than 10

A2 Of the following procedural matters, which are the main ones you usually deal with? A maximum of three alternatives can be selected.

- ☐ Banking Contracts
 - ☐ Contracts and various obligations
 - ☐ Contracts and various obligations (Atypical Contracts)
 - ☐ Contracts and various obligations (Works Contracts)
 - ☐ Leases and loans for use of urban property - business rental agreements
 - ☐ Legal entities and corporate law (Legal entities)
 - ☐ Specialised section of the Company
-

A3 How would you typically describe the duration (from the filing of the application to the final decision) of an arbitration as opposed to a State Court procedure (first + second instance)?

[Question only shown if A0 = Yes].

- ☐ Arbitration is much longer than State Court proceedings
- ☐ Arbitration is longer than State Court proceedings
- ☐ Arbitration is as long as State Court proceedings
- ☐ Arbitration is shorter than State Court proceedings
- ☐ Arbitration is much shorter than State Court proceedings

End of section: Screening questions

Start of section: Applications time + cost - Arbitration and procedure

B1 Could you please indicate the mean duration **(in months)** of proceedings in each of the following subject-matters?

[Question only shown if A0 = Yes. The subject-matters shown in this question are the three selected in A2]

	Arbitration	State Court proceeding (first + second instance)
Banking Contracts		
Contracts and various obligations		
Contracts and various obligations (Atypical contracts)		
Contracts and various obligations (Works contracts)		
Leases and loans for use of urban property – business rental agreements		
Legal entities and corporate law (Legal entities)		
Specialised section of the Company		

B2 What would be the estimated value of the fees charged to your client, considering a dispute value of €150,000?

[Question only shown if A0 = Yes].

	Less than €10,000	Between €10,000 and €25,000	Over €25,000
Arbitration	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
s proceedings (first instance)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
State Court proceedings (second instance)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

End of section: Applications time + cost - Arbitration and State Court procedure

Start of section: Applications Time + Cost - State Court procedure

C1 Could you please indicate the mean duration **(in months)** of proceedings (first + second instance) for each of the following subject-matters?

[Question only shown if A0 = No. The subject-matters shown in this question are the three selected in A2]

	State Court procedure (first + second instance)
Banking Contracts	
Contracts and various obligations	
Contracts and various obligations (Atypical contracts)	
Contracts and various obligations (Works contracts)	
Leases and loans for use of urban property – business rental agreements	
Legal entities and corporate law (Legal entities)	
Specialised section of the Company	

C2 What would be the estimated value of the fees charged to your client, considering a dispute value of €150,000?

[Question only shown if A0 = No].

	Less than €10,000	Between €10,000 and €25,000	Over €25,000
State Court proceedings (first instance)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
State Court proceedings (second instance)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

End of section: Applications Time + Cost - State Court procedure

Expert Witnesses

Start of section: Introduction

Welcome!

The SDA Bocconi School of Management is carrying out research on the durations and costs of arbitration on behalf of the Milan Chamber of Arbitration.

For this reason, we kindly ask you to complete the following questionnaire: it should not take more than 3 minutes of your time.

Your answers are very important to us and we would be very grateful if you could complete the entire questionnaire. The answers will be analysed in aggregate form, then processed anonymously and confidentially, in accordance with the law on privacy.

Thank you in advance for your cooperation.

End of section: Introduction

Start of section: Screening questions

A0 Thinking over your professional experience, have you ever assisted as an expert witness in arbitration procedures?

- ☐ Yes
- ☐ No

A1 How many arbitration proceedings have you handled in the last three years?

[Question only shown if A0 = Yes].

- ☐ Less than 5
- ☐ Between 5 and 10
- ☐ More than 10

A2 For which of the following sectors do you usually offer consulting? A maximum of three alternatives can be selected.

☐

Banking-financial

☐

Chemical-pharmaceutical + Healthcare

☐

Commercial

☐

Communications + services

☐

Building industry

☐

Energy

☐

Property

☐

Industry

☐

Information Technology

☐

Fashion

☐

Food Service

☐

Transport (sea, air, rail)

☐

Art

End of section: Screening questions

Start of section: Applications time + cost - Arbitration and State Court procedure

B1 What would be the estimated value of the fees you would charge for consulting, considering a dispute value of €150,000?

[Question only shown if A0 = Yes].

	Less than €5,000	Between €5,000 and €10,000	Over €10,000
Arbitration	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
State Court proceedings	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

End of section: Applications time + cost - Arbitration and State Court procedure

Start of section: Applications Time + Cost - State Court procedure

What would be the estimated value of the fees you would charge for consulting, considering a dispute value of €150,000?

[Question only shown if A0 = No].

	Less than €5,000	Between €5,000 and €10,000	Over €10,000
State Court proceedings	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

End of section: Applications Time + Cost - State Court procedure

In-house lawyers

Start of section: Introduction

Welcome!

The SDA Bocconi School of Management is carrying out research on the durations and costs of arbitration on behalf of the Milan Chamber of Arbitration.

For this reason, we kindly ask you to complete the following questionnaire: it should not take more than 4 minutes of your time.

Your answers are very important to us and we would be very grateful if you could complete the entire questionnaire.

The answers will be analysed in aggregate form, then processed anonymously and confidentially, in accordance with the law on privacy.

Thank you in advance for your cooperation.

End of section: Introduction

Start of section: Screening questions

A0 Thinking over your professional experience, have you ever been involved in arbitration procedures?

- ☐ Yes
- ☐ No

A1 In how many arbitration proceedings have you been involved in the last three years?

[Question only shown if A0 = Yes].

- ☐ Only 1
- ☐ Between 2 and 5
- ☐ More than 5

A2 In which of the following sectors does the company you work for operate?

- ☐ Banking-financial
 - ☐ Chemical-Pharmaceutical and Healthcare
 - ☐ Commerce
 - ☐ Communications and services
 - ☐ Building industry
 - ☐ Energy
 - ☐ Property
 - ☐ Industry
 - ☐ Information Technology
 - ☐ Fashion
 - ☐ Food Service
 - ☐ Transport (sea, air, rail)
 - ☐ Art
-

A3 How would you describe the duration (from the filing of the application to the final decision) of an arbitration as opposed to a State Court procedure (**first + second instance**)?

[Question only shown if A0 = Yes].

- ☐ Arbitration is much longer than State Court proceedings
- ☐ Arbitration is longer than State Court proceedings
- ☐ Arbitration is as long as State Court proceedings
- ☐ Arbitration is shorter than State Court proceedings
- ☐ Arbitration is much shorter than State Court proceedings

End of section: Screening questions

Start of section: Applications time + cost - Arbitration and State Court procedure

B1 Could you please indicate the mean duration (in months) of an arbitration and State Court judgement proceedings (first+ second instance)?

[Question only shown if A0 = Yes].

	Arbitration	State Court proceedings (first + second instance)
Mean duration (in months)		

B2 If an external lawyer were to be involved, for a dispute value of €150,000, what is the estimated value of the fees that this professional might charge?

	Less than €10,000	Between €10,000 and €25,000	Over €25,000
Arbitration	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
State Court proceedings (first instance)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
State Court proceedings (second instance)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

End of section: Applications time + cost - Arbitration and State Court procedure

Start of section: Applications Time + Cost - State Court procedure

C1 Could you indicate the mean duration (in months) of State Court proceedings (first + second instance)?

	State Court procedure (first + second instance)
Mean duration (in months)	

C2: If an external lawyer were to be involved, for a dispute value of €150,000, what is the estimated value of the fees that this professional might charge?

	Less than €10,000	Between €10,000 and €25,000	Over €25,000
State Court proceedings (first instance)	O	O	O
State Court proceedings (second instance)	O	O	O

End of Block: Applications Time + Cost - State Court procedure
