



MILAN
CHAMBER OF
ARBITRATION

ANNUAL REPORT

MEDIATION SERVICE

2020

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ANNUAL REPORT 2020

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Executive Summary 2020

2020 has been particularly complicated for people, businesses and in general for the socio-economic context. Containment measures in Italy, as everywhere else, have affected the activity of courts and law firms and the spreading of the disease itself has determined the increase of some typologies of disputes, i.e. the rental of residential and commercial spaces needing renegotiation of the rent or the disputes on inheritance, unfortunately connected with the rise of deaths.

As figures show, mediation reveals the new dynamics triggered by the pandemic crises.

In spite of the general economic and judiciary slowdown, the Milan Chamber of Arbitration and the mediation service kept on providing their services to citizens and to the business community, also by improving the use of digital technology. In 2020, 90% of the 1291 mediation meetings, was held online

If, on one hand, we saw a decrease by 6% in the submission of mediation requests, on the other hand the quality of the service remains high.

Both settlement rates and length of proceedings are better than those at a national level: 61% of proceedings ended with a settlement and lasted on average 100 days (172 days at a national level).

Settlement rate

61%

when the parties decide to proceed with mediation after the first informative meeting

new filings

926

1.291

mediation meetings
(90% on-line)

MEDIATION IN ITALY: WHAT YOU SHOULD KNOW

The following information are key to a better understanding of our statistics.

In Italy, the legislative decree **D.Lgs. 28/2010** has regulated mediation for **commercial and civil disputes**. According to the law, mediation can represent a **pre-condition for filing a lawsuit** for the following subject matters:

- Joint ownership
- Property rights
- Division
- Inheritance
- Family agreements
- Renting
- Commodatum
- Rent of company
- Damages arising from medical and healthcare liability
- Defamation through the press or by other means of advertising
- Insurance, banking and financial contracts.

A first informative meeting with a mediator is mandatory. Parties must be **assisted by their Counsel**.

Furthermore, the **judge** can also order the mediation attempt irrespective of the subject matter, after taking into consideration the nature of the proceedings, the phase of the process and the behaviour of the parties.

All other dispute matters fall under the “**voluntary mediation**” field.

For “voluntary” mediation proceedings, the assistance of a counsel is not mandated (but it is allowed).

Settlement agreements reached under the law, if signed by the parties and their lawyers become immediately enforceable titles.

Parties can choose the **mediation service provider**; even though there is a territorial competence requirement, parties can opt for a different forum consensually.

Mediation providers can offer their services under the Italian mediation law if registered at a special **registry** at the Ministry of Justice – which evaluates the trustworthiness of the centres.

Currently, the list counts about 500 mediation providers in Italy.

There is no “free-lance” mediation in Italy. A **mediator** should be listed in a mediation centre. In addition, mediators have to be **trained** by approved mediation training centres, which are also registered at the Ministry of Justice. For this reason, most of the mediators who can perform mediations in Italy are Italian.

On the website of the Ministry of Justice it is possible to find [national mediation figures](#). Those are available also in English.



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NEW CASE FILINGS

926 new filings in 2020. A decrease by 6% over 2019, for the slowdown of law firms' activity due to the lockdown restrictions, even if the Milan Chamber of Arbitration has been fully operational remotely.

716 proceedings concluded within 2020



MEDIATION MEETINGS

1291 mediation meetings held

90% remotely



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MATTERS BROUGHT TO MEDIATION: VARIATIONS

  RENT/LEASE **+17%**

  INHERITANCE **+8%**

  CONDOMINIUM **-77%**

  BANK CONTRACTS **-49%**

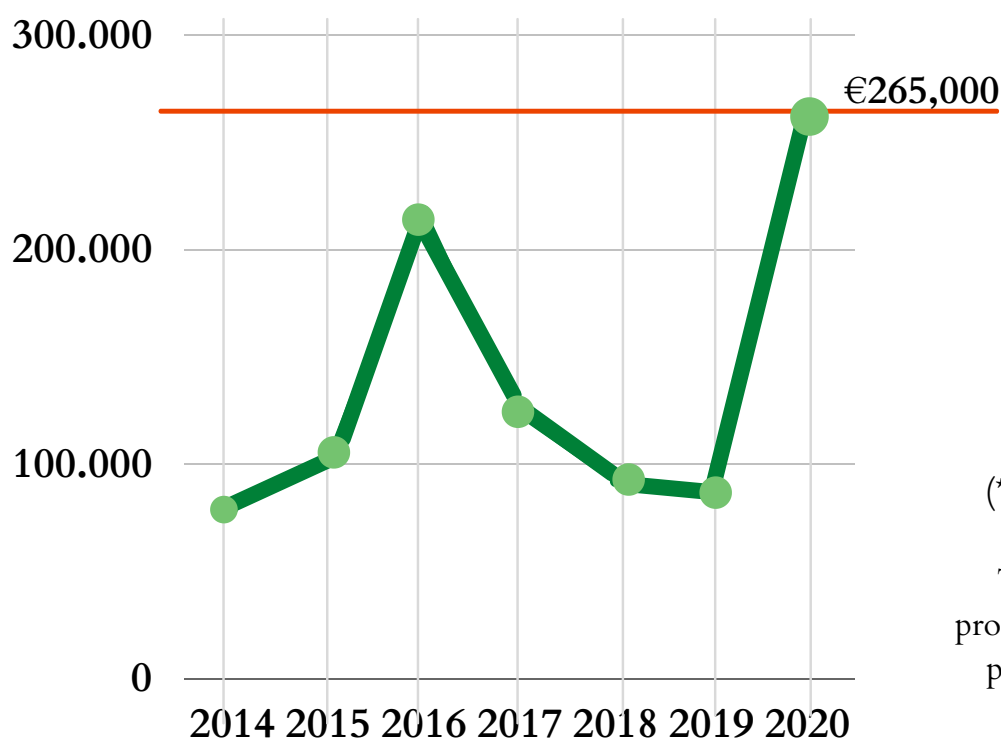


Mediation gives a clear picture of the economic context.
In one year of COVID, mediation proceedings on rentals have increased also for the difficulty of the tenants (citizens or businesses) to fulfil their contractual obligations or to re-negotiate the contracts.
At the same time, condominium disputes have dropped as the annual assembly was not allowed during the containment measures period.



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AVERAGE ECONOMIC VALUE INVOLVED



Increasing
by €88k* in 2019 to
€265k* in **2020**
(+201%)

(*the data exclude the 3 highest and 3 lowest values registered.
The dataset is composed only of the proceedings where the parties decide to proceed with mediation after the first informative meeting)

MEDIATION PROCEEDINGS BY TYPOLOGY

Business to business

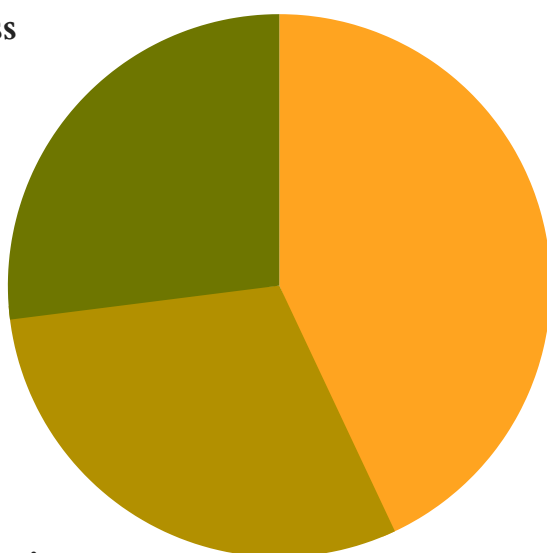
● 27%

Consumer to business

● 43%

Private to private

● 30%



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SETTLEMENT RATE



Milan Chamber of Arbitration
Mediation Service

61%

Mediation providers
in Italy

47,4%

- Parties in our mediation proceedings have settle in the 61% of cases
- The average settlement rate in Italy is 47,4%*
(source: webstat.giustizia.it – September 2020 data)

**The rate refers to those who agreed to mediate after the informative meeting*



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AVERAGE LENGTH OF MEDIATION PROCEEDINGS

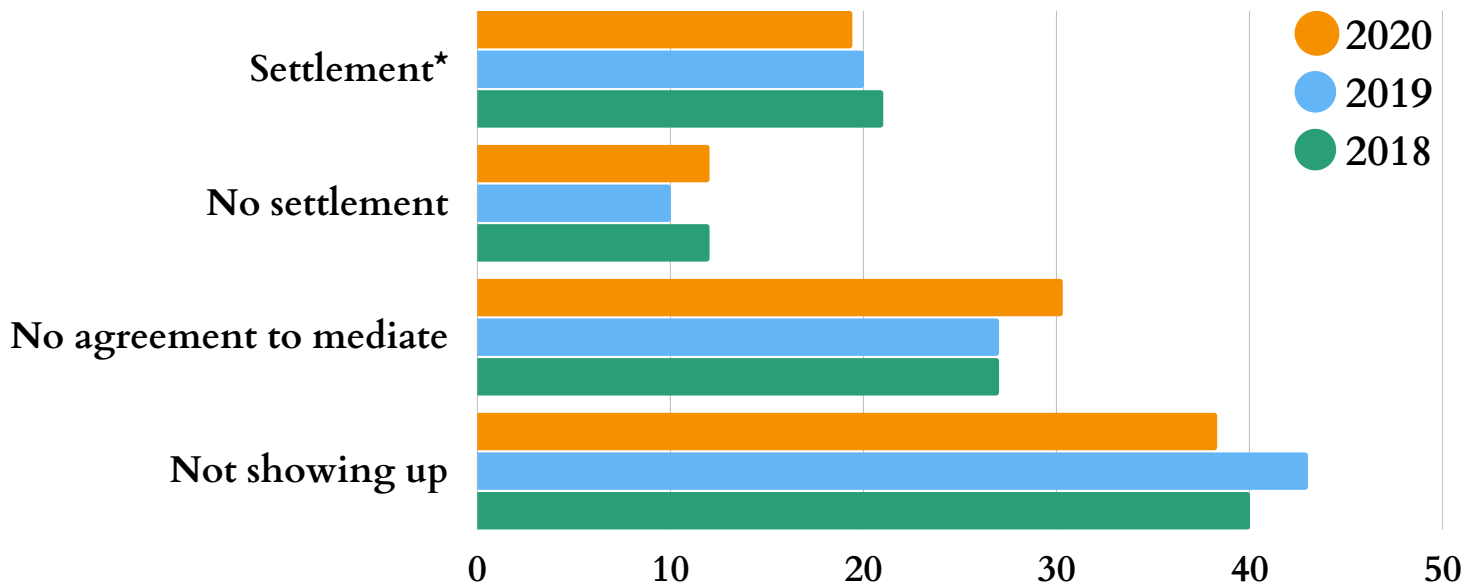
100 days
for the CAM
mediation
service

172
days for other
Italian mediation
providers



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OUTCOME OF THE PROCEEDINGS



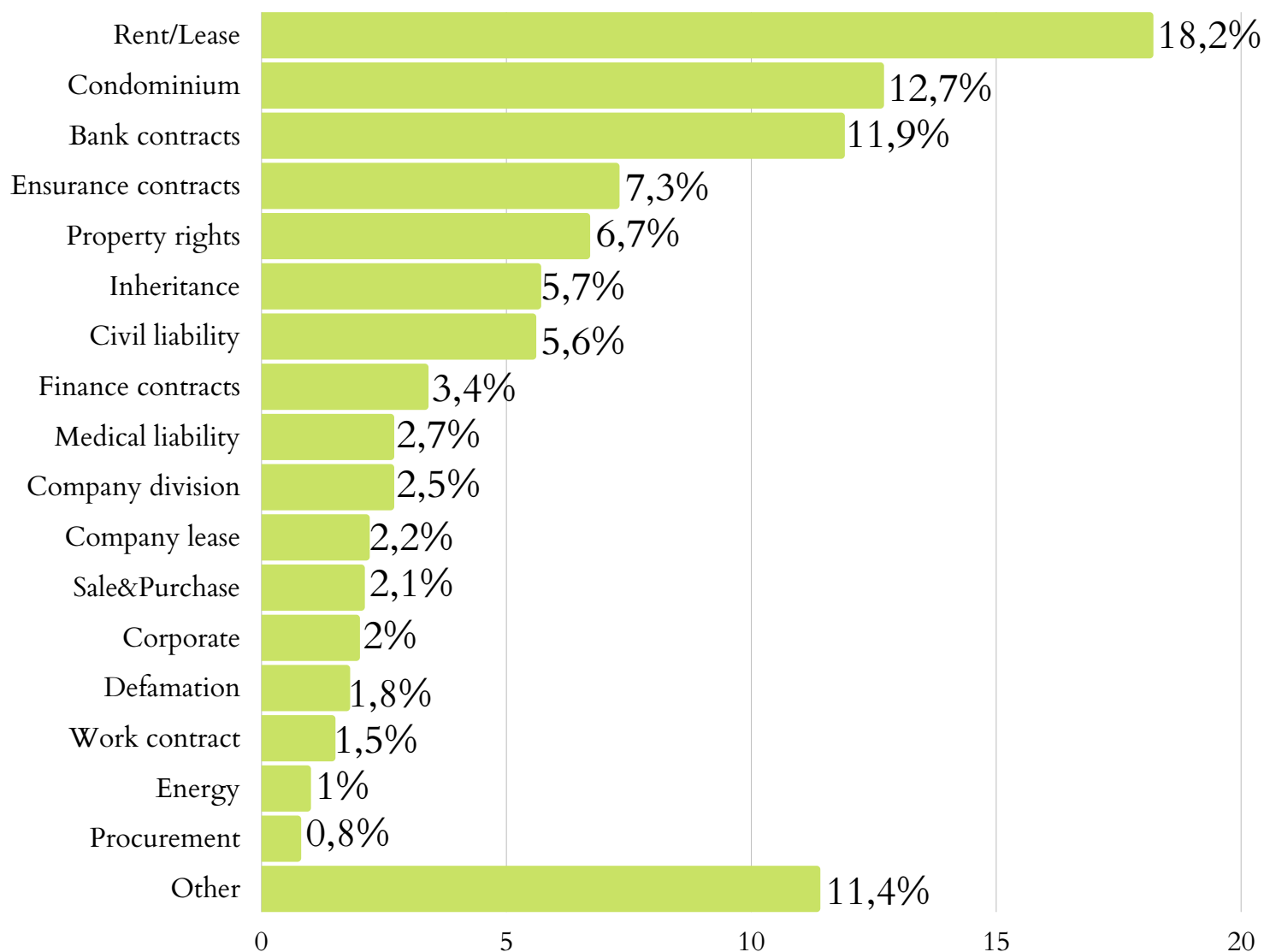
- **Settlement** = the parties have resolved their dispute
- **No settlement** = the parties have not resolved their dispute
- **No agreement to mediate** = after the first informative meeting one or all the parties have decided not to proceed with the mediation
- **Not showing up** = the parties or the invited party refused to participate in the first informative meeting and in the mediation proceedings

**Settlements in 2020 have decreased by 21% over the previous year. However, it should be noted that the data is linked to a general decrease in the number of cases concluded in 2020, which is an effect of the limitations on activities imposed by the health restrictions to prevent the spread of Covid-19.*



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CASE FILINGS SORTED BY BUSINESS SECTORS



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104 INTERNATIONAL MEDIATIONS OVER THE LAST 3 YEARS



15%



7%



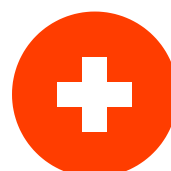
11%



6%



11%



6%



9%



3%



32%



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CONSENSUAL MEDIATION



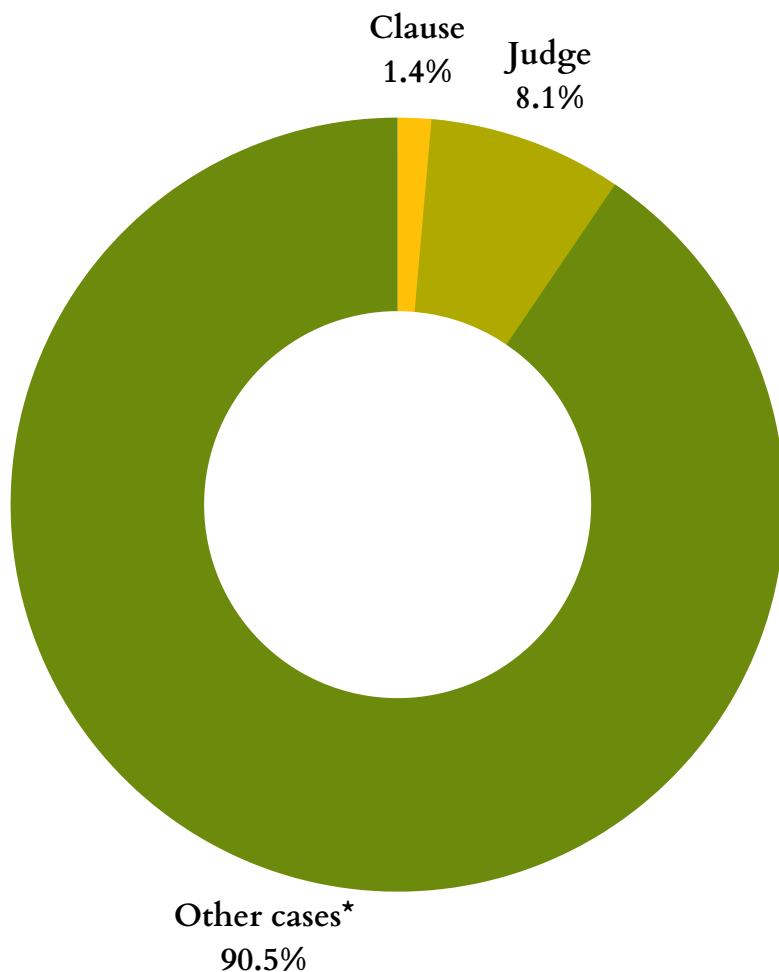
One fifth of the parties **consensually** decide to attempt dispute resolution through mediation

4 out of 5 situations, parties have either an obligation stated by the law or by the judge to try mediation before filing a case to the court



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MEDIATION DISTRIBUTION BY ORIGIN OF THE PROCEEDINGS



- **58**
is the number of cases referred by the judge
- **10**
were the cases stemming from a contractual clause

*cases where the mediation is a pre-condition before going to court and cases where parties voluntarily and consensually decide to mediate their dispute



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"FAST TRACK MEDIATION"

Fast Track Mediation Rules (FTMR) is a parallel track that offers an informal and adaptable scheme which can be customized according to the parties' needs. The proceedings is very simple and straightforward and leaves to Parties the full control of the proceedings and its outcome.

The choice between the Italian Mediation System under Decree 28/2010 or FTMR is upon the parties and it can be a matter of conflict management strategy. In general, it could be more convenient to resort to the mediation under the Decree 28/2010 if the subject matter falls under the mandatory scope of application or if the parties intend to file for court – in case of failure of the mediation – or when the Parties need a decision enforceable in Italy.

However, if court proceedings is not an option or the subject matter is not falling within the mandatory matters or the obligation doesn't have to be executed in Italy, FTMR could be a valuable choice which leaves much more space to self-determination of the parties.

Under the FTMR, the agreement reached is a contract between the parties. Legal assistance is not mandatory and parties can have a mediator of their choice: a person they both know and trust. Alternatively, the parties can ask the Secretariat to choose the mediator in their place by picking the name from the relevant list or from the lists of other mediation service providers in partnership with CAM.



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Thank you!

Please, contact us
for any enquiry

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