



MILAN  
CHAMBER OF  
ARBITRATION

# ANNUAL REPORT

## MEDIATION SERVICE

# 2021

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BLOGMEDIAZIONE



## MEDIATION SERVICE

*In 2021, mediation experienced a further phase of development.*

*The number of proceedings concluded with an agreement increased, as did the number of proceedings in which the parties decided to continue mediation beyond the first meeting.*

*The combination of these two trends indicates a new confidence attitude of trust on the part of lawyers and parties towards mediation which is increasingly seen as a useful tool for handling dispute efficiently and within a reasonable timeframe. Another element to be highlighted is the use of online mediation: almost all meetings in 2021 took place online, confirming the trend of the previous year. This is a trend that we believe will continue in the future.*

*Looking at the figures for the last five years, every day 3 new mediation applications are filed with the Milan Chamber of Arbitration (CAM) at the Conciliation Service. On average, 1,000 new applications are filed per year, with a growing trend: new applications in 2021 are +8% compared to 2020. It should be noted that unless otherwise indicated, the basis for calculating the data in this Report is the number of proceedings concluded in the calendar year 2021.*

*When the parties decided to continue mediation beyond the first meeting, 67 % of CAM mediations ended in agreement; this figure falls to 44,9% in the national average (source: [webstat.giustizia.it](http://webstat.giustizia.it) data September 2021). In terms of time, in 2021 CAM mediation proceedings were concluded in 119 days on average, compared to 173 days for other other Italian conciliation bodies (source: [webstat.giustizia.it](http://webstat.giustizia.it), September 2021), A new impetus to the diffusion and use of mediation is expected thanks to the recent interventions of the Italian legislator, who is reforming the civil justice system.*

*With a spirit of cooperation, CAM is ready to do its part to the advantage of the market, businesses and consumers.*

Settlement rate

67%

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

1000

New filings

119

Mediation days on average

# 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

# 1000

New filings in 2021. An increase by 8% over 2020

# 1034

Proceedings concluded within 2021



## ON-LINE MEETINGS



# 95%

 remote mediation meetings

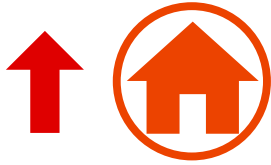
In the pre-covid times they amounted to 1% of the total.

CAM has been able to assure its mediation service without interruption during the entire emergency period.



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# MATTERS BROUGHT TO MEDIATION: VARIATIONS



CONSTRUCTION CONTRACTS

+74%



IP MATTERS

+60%



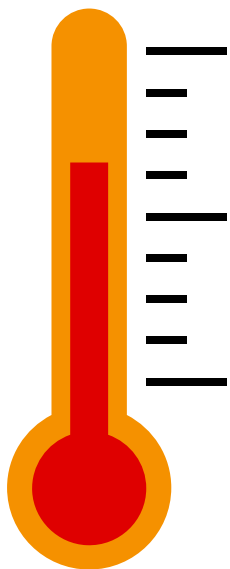
CIVIL LIABILITY

-18%



MEDICAL MALPRACTICE

-6%



Mediation gives a clear picture of the economic context. Construction contract and commodatum disputes increased fourfold in one year; industrial property disputes increased while civil liability disputes decreased.



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## AVERAGE ECONOMIC VALUE INVOLVED



# €282,000

This is the total average value of mediation proceedings in 2021

## MEDIATION PROCEEDINGS BY TYPOLOGY

Business -to-Business	34%
Consumer-to-Business	40%
Between individuals	26%



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## SETTLEMENT RATE



Milan Chamber of Arbitration  
Mediation Service

**67%**

Mediation providers  
in Italy

**44,9%**

In 2021, when the parties decided to continue the mediation after the first meeting with the mediator, 67% of the proceedings ended in a settlement agreement.

The average settlement rate at a national level is 44,9 % (*source: webstat.giustizia.it - September 2021 data*).



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## AVERAGE LENGTH OF MEDIATION PROCEEDINGS



**119**  
**days**  
for the CAM  
mediation service

**173**  
**days**  
for other Italian  
mediation  
providers

*Source: [webstat.giustizia.it](http://webstat.giustizia.it)  
September 2021*

**-31%**

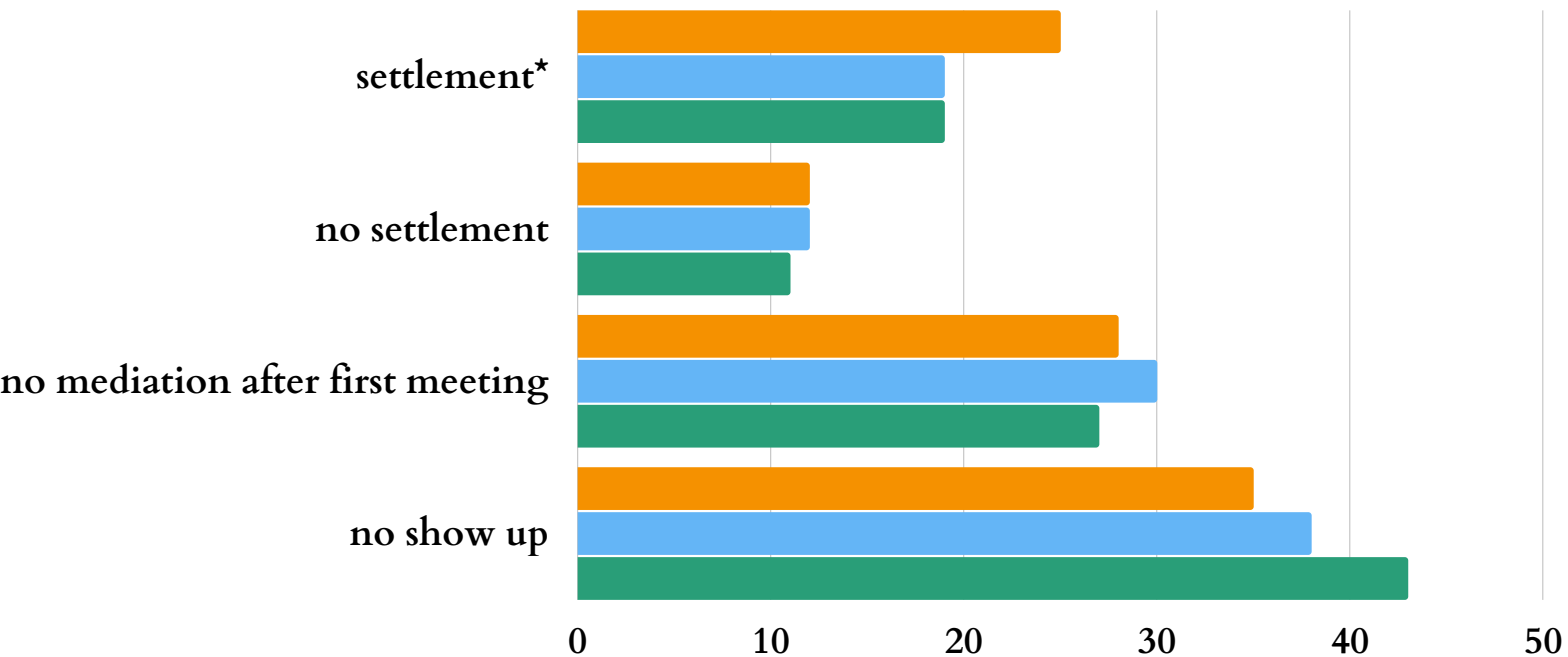
It is the time saving of the duration of  
CAM mediations compared to the  
national average.



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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.

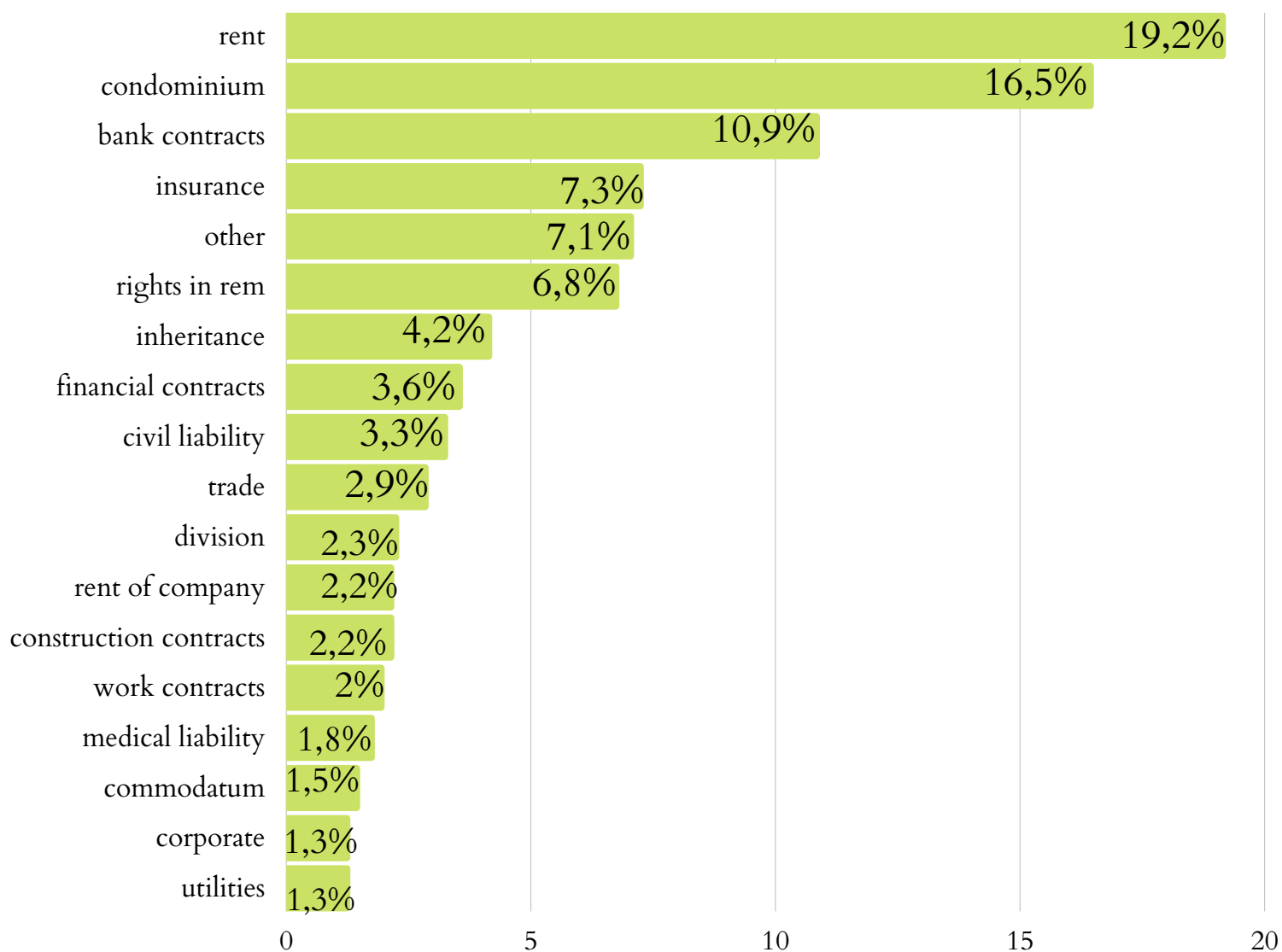
Increasing number of cases closed by  
agreement

139 agreements in 2020, 261 in 2021



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# CASE FILINGS SORTED BY BUSINESS SECTORS



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## VOLUNTARY MEDIATION



22% of mediations filed at  
CAM is voluntary

Mediation is voluntary when the matter in dispute is not listed in the Decree 2010/28 as a matter for which a first meeting with a mediator is a precondition to legal action.

The obligation to see a mediator before filing a case to court can also stem by an order by the Judge or a contractual clause.



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**109**  
cases referred by the  
judge



**23**  
provided for by a  
contractual clause



# "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.



CAM has been the first Italian mediation provider to tackle art disputes.



## Which are those disputes?

They might be of contractual and non-contractual nature with regard to:

- a subject (artist, gallery owner, collector, restorer, art advisor, auction house, museum art foundation, art association)
- an object (painting, sculpture, photograph, collector's item, etc.)
- a matter regarding arts (copyright, restitution of stolen works, art collection management).

*Artistic conflict is characterised by its multidimensionality, internationality and confidentiality.*



contact us at  
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CAM has been the first Italian mediation provider to tackle environmental disputes.



**FacilitAmbiente**

PREVENIAMO I CONFLITTI AMBIENTALI

In 2021 CAM, together with the Chamber of Commerce of Milan, MonzaBrianza and Lodi, started the project **FACILITAMBIENTE**.

Facilitambiente is a procedure aimed at preventing environmental conflicts related, for example, to the construction of industrial sites, infrastructure and property development projects.



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# Thank you!

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for any enquiry

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