

Vilnius Court of Commercial Arbitration: 2023 statistical report

Vitalija Baranovienė

Chairwoman of the Vilnius Court of Commercial Arbitration

INTRODUCTORY NOTE

This year report provides a statistical overview of arbitration in the Vilnius Court of Commercial Arbitration (VCCA)¹ for the year 2023 and recent trends in comparison with past year(s).

In this report, you will find information about proceedings administered by the VCCA such as the number of new cases, origin of the parties, amounts in disputes, the language and place of arbitration, nature of the dispute by economic sectors, the constitution of Arbitral Tribunals and challenges of arbitrators and average duration of proceedings at the VCCA in 2023. Some new statistics reflects the amendments of the Rules of Arbitration² of the VCCA that entered in force from 1 January 2023.

The VCCA continues its commitment to ensure that each case is handed with the requested efficiency, rapidity and in accordance with the specific needs of the parties.

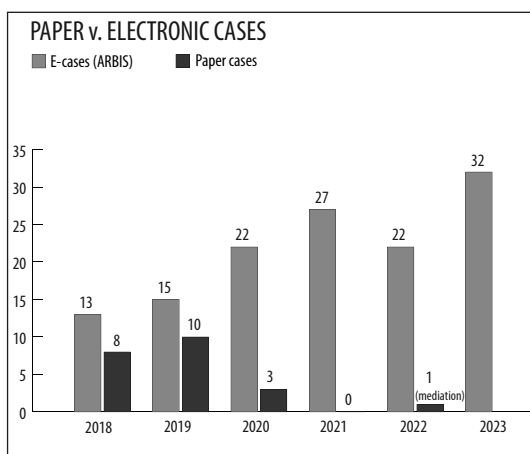
1. NEW CASES: PAPER V. ELECTRONIC

32 new arbitration cases were filed in the VCCA during 2023 as compared to 22 arbitration cases on 2022.

In the middle of 2017 the VCCA has introduced the Vilnius Court of Commercial Arbitration Information System, known as ARBIS³, that is dedicated to the management of arbitration cases online. Since 2021 complete transition from paper-case format to the e-case,

administered via ARBIS, has took place – all new arbitration cases during 2021–2023 were filed via ARBIS, that further contributes to the climate change mitigating initiatives.

Mediation: in 2023 new mediation cases were not received at the VCCA in comparison with 1 request for the mediation under the VCCA Mediation Rules (2014) in 2022, in which the settlement agreement was reached by the parties, subsequently confirmed by arbitral award.



2. PARTIES

In 2023 as in 2022, 50% of the arbitration cases were introduced between at least one Lithuanian and an international party, 50% between Lithuanian parties.

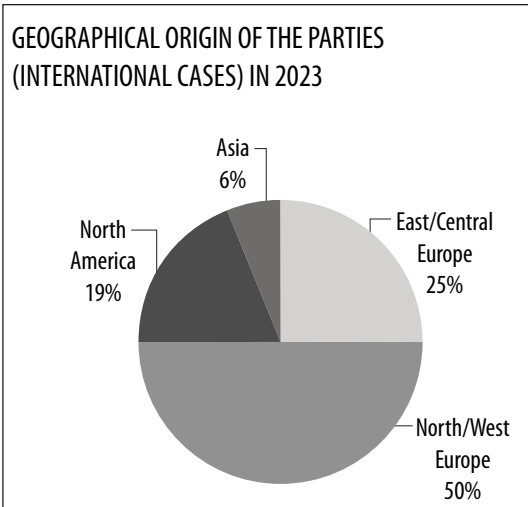
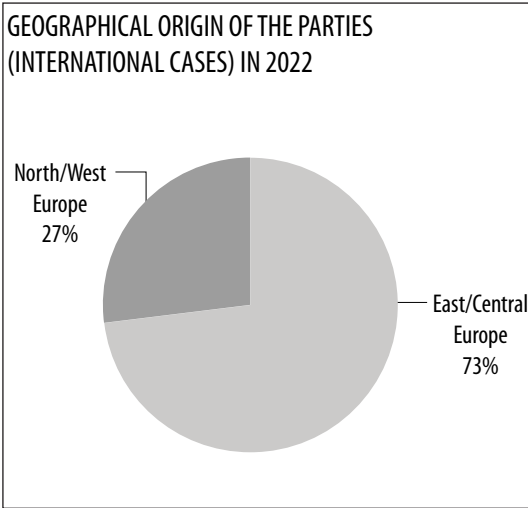
In 2023 2 cases were introduced between only international parties as compared to no

¹ Permanent arbitral institution Vilnius Court of Commercial Arbitration (in Lith. Nuolatinė arbitražo institucija “Vilniaus komercinio arbitražo teismas”), Vilnius, Lithuania, web page : www.arbitrazas.lt

² Rules of Arbitration of the Vilnius Court of Commercial Arbitration in force from 1 January 2021, available at <<http://www.arbitrazas.lt/arbitrazo-reglamentas.htm>>.

³ The Vilnius Court of Commercial Arbitration Information System (ARBIS), available at <www.arbis.lt> .

cases in 2022, 1 case in 2020 and 2 cases in 2018.



Geographical origin: 75% of the international parties in 2023 came from the Europe. It spread 25% from the Eastern/Central Europe and 50% from the Northern/Western Europe. Unlike the 2022, in 2023 the rest 19% of cases with international parties came from North America (19%) and Asia (6%).

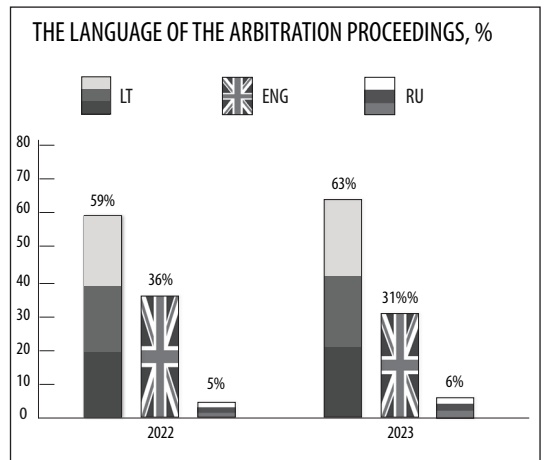
Multiparty Arbitration: 34% of cases included more than two parties in 2023, compared to 23% multilateral cases in 2022 and 11% in 2021. It spread to 6 cases that included three parties, 3 cases – four parties and 1 case each – six and eight parties. We observe an increase in the

number of multilateral cases in recent years, which also reflects the complexity of disputes in reporting period.

3. LANGUAGE

Official languages of the VCCA are Lithuanian, English and Russian.

In 2023, there has been a slight increase of cases in Lithuanian compared to 2022. Indeed, 63% of the cases in 2023 were conducted in Lithuanian (59% in 2022), 31% – in English (36% in 2022) and remaining 6% in Russian (5% in 2022).



4. PLACE OF ARBITRATION

Vilnius as place of arbitration is a steady trend. In 2023, 100% cases have been initiated having the Vilnius indicated as place of arbitration in arbitration agreement or Vilnius was established as the place of arbitration by the Arbitral Tribunal.

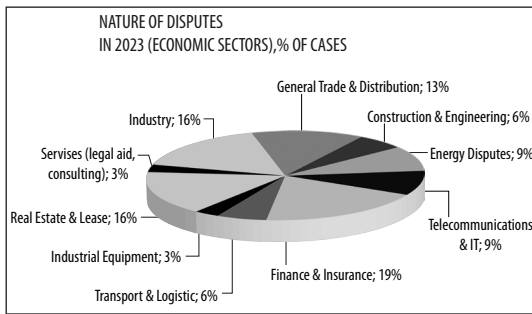
5. APPLICABLE (SUBSTANTIVE) LAW

In most of the cases received in 2023, the parties agreed in arbitration agreement on the application of Lithuanian law as substantive law to the dispute (84%), in the other part of the cases (10%) the parties have determined the law of England and Wales, Norway or application of international instruments such as the United Nations Convention on Contracts for the International Sale

of Goods (CISG), and 6% of cases – no express parties’ agreement on applicable law.

6. NATURE OF THE DISPUTES

In 2023 as in 2022, the percentage of the cases from general trade and distribution is steadily decreasing, constituting only 13% in comparison to 27% in 2022, 30% in 2021 and 48% in 2020. More visible economic sectors in 2023: 19% – finance and insurance (2022; 9%); 16% – real estate and lease (2022; 9%); 16% – industry; 9% –telecommunications and IT (2022; 9%); 9% – energy (2022; 5%); 6% – construction and engineering (2022; 18%); 6% – transport and logistic (2022; 5%); 3% – industrial equipment (2022; 5%), 3% – services.

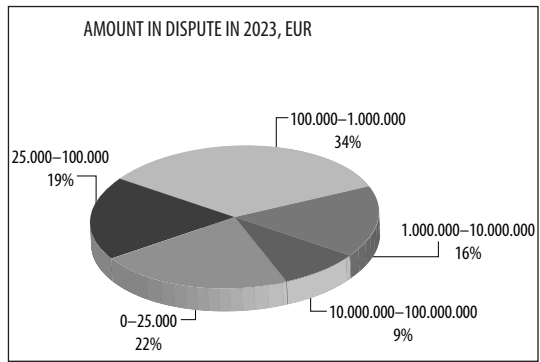


7. CONSOLIDATION

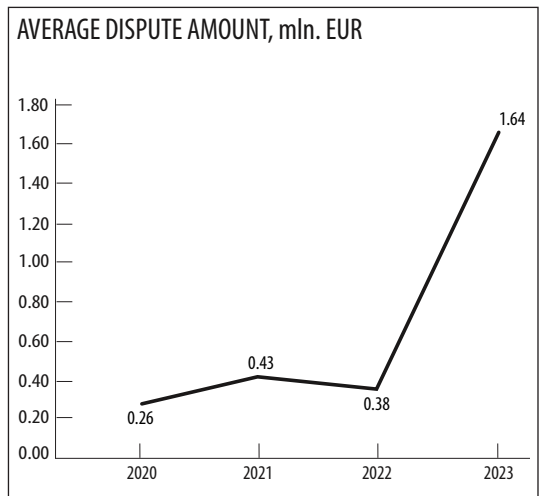
The VCCA Rules of Arbitration, which came into force in 2023, introduced new Article 21¹ that provide for wider opportunities to consolidate arbitration cases, not only by consent of the parties. Therefore in 2023 3 requests to consolidate cases were received, of which 1 was granted and 2 were rejected.

8. AMOUNT IN DISPUTE

The percentage of the arbitration cases in 2023 by amount in dispute spread to 34% – [EUR 100.000 – EUR 1.000.000] (27%, 2022); 22% – small cases up to EUR 25.000 (18%, 2022); 19% – cases with amount in dispute falling between [EUR 25.000 – EUR 100.000] (50%, 2022); 16% – bigger cases [EUR 1 mln. – EUR 10 mln.] (5%, 2022) and 9% cases with amount in dispute falling between [EUR 10 mln. – EUR 100 mln.].



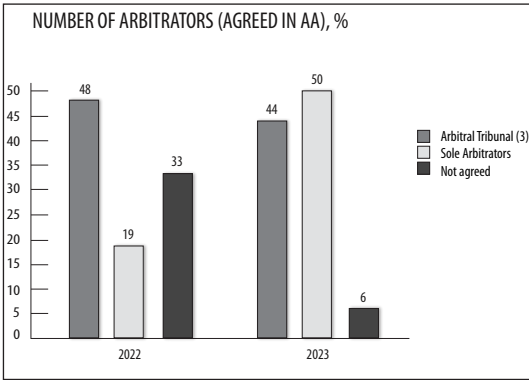
The average amount in dispute has increased from EUR 0,38 mln. in 2022 to EUR 1,64 mln. in 2023.



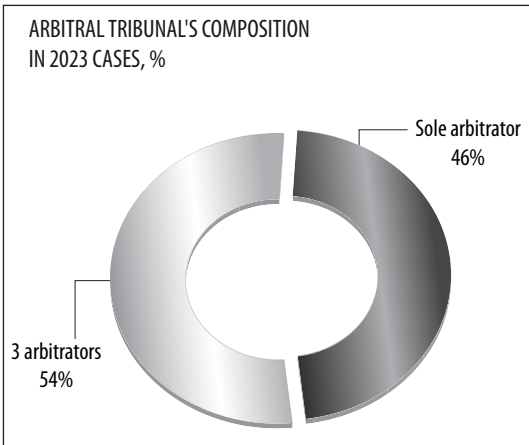
9. ARBITRAL TRIBUNAL

9.1. COMPOSITION

In 2023 the arbitration clauses contained express parties’ agreement on the number of arbitrators: in 50% of the cases – Arbitral Tribunals composed of a sole arbitrator (in 2022 – 19%) and 44% of the cases – of three arbitrators (in 2022 – 48%). Remaining – 6% of the cases – had no express parties’ agreement as to the number of arbitrators (in 2022 – 33%). Practically, 46% of cases in 2023 were decided by Arbitral Tribunals composed of a sole arbitrator compared to 47% in 2022 and 56% in 2021, and 54% – composed of three arbitrators in 2023, compared to 53% in 2022 and 44% in 2021.



In arbitration agreements the parties have tended to indicate sole arbitrator however in fact more cases were decided by Arbitral Tribunals composed of three arbitrators in 2023.

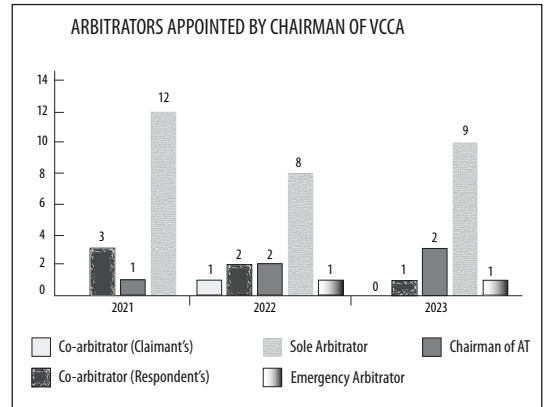


9.2. APPOINTMENTS

Under the Rules of Arbitration of the VCCA (Article 17) the Chair of the VCCA has the right to appoint arbitrator in some circumstances, for instance, when a party or parties or the arbitrators fail to appoint arbitrator, or the emergency arbitrator have to be appointed (Article 2 of Annex No.1⁴ of the Rules of Arbitration of the VCCA). The number of appointments by the Chair of the VCCA in 2023 was 13 appointments in comparison to 14 appointments in 2022 and 16 in 2021. The appointments distributed: 9 sole arbitrators were appointed in 2023

(8 in 2022, 12 in 2021), no arbitrators appointed from the claimant's side (1 in 2022, no in 2021), 1 arbitrator appointed from respondent's side (2 in 2022, 3 in 2021), 2 chairmen of the Arbitral Tribunal (2 in 2022, 1 in 2021), 1 emergency arbitrator (1 in 2022 and no in 2021).

1 foreign arbitrator was appointed by the Chair of the VCCA in 2023 compared to no such appointments in 2022 and 3 in 2021. However 2 foreign arbitrators were appointed by the parties and arbitrators in 2023 (3 in 2022).

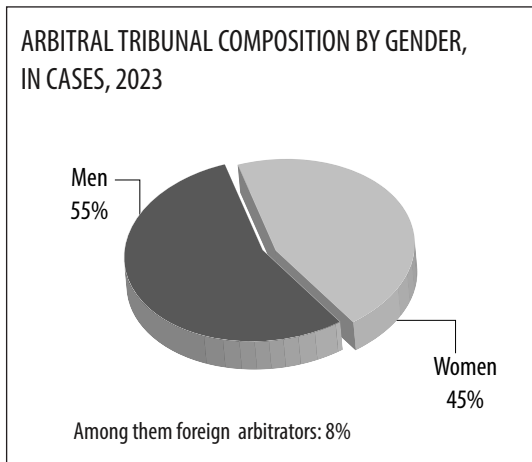


9.3. WOMEN IN ARBITRATION

In 2023, 45% of appointed arbitrators were women compared to 36% in 2022 and 33% in 2021. 38% of the arbitrators appointed by the Chair of the VCCA in 2023 were women compared to 57% in 2022 and 44% of such appointments in 2021.

| Arbitrators by gender | 2020 | 2021 | 2022 | 2023 |
|-------------------------------|------|------|------|------|
| Women | 23 | 16 | 14 | 23 |
| Out of them appointed by VCCA | 11 | 7 | 8 | 5 |
| Men | 15 | 32 | 25 | 28 |

⁴ Ibidem.

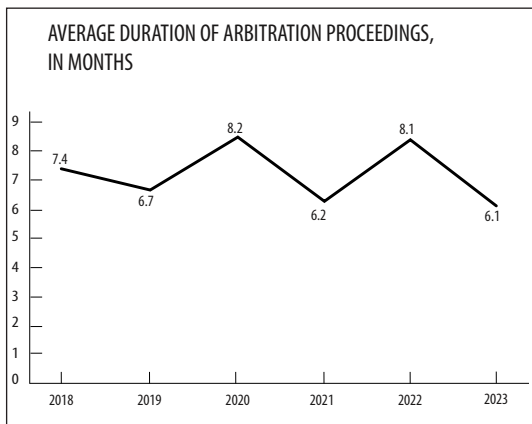


9.4. CHALLENGES AND REPLACEMENTS OF ARBITRATORS

Two objections / requests for challenge of arbitrator was received in 2023, compared to 1 request in 2022 and to 2 objections and 2 requests for challenge in 2021. Both objections resulted in new appointments by parties or by the VCCA’s chair.

10. AVERAGE DURATION OF THE VCCA PROCEEDINGS IN 2023

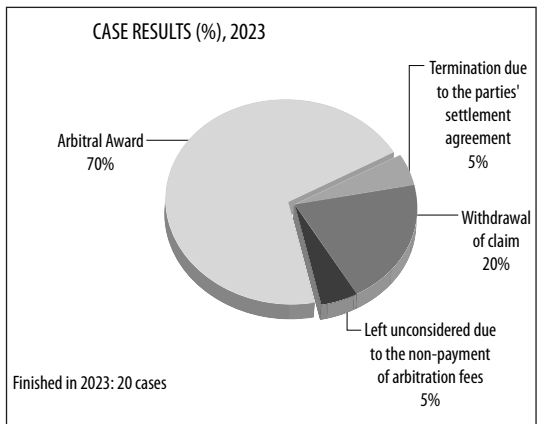
In 2023 20 cases have been finished and an arbitration procedure administered under the VCCA Rules of Arbitration lasted in average **6,1 months** (16 cases – 4,7 months, 4 cases – 11,7 months), compared to 8,1 months in 2022 and 6,2 months in 2021. It took in average **7 months** from initiation of the case until rendering a final arbitral award in 2023.



From the initiation of the case to the constitution of the Arbitral Tribunal and transmission of the case to arbitrators, it takes in average 2,2 months (2,1 months in 2022). This period variates depending on the duration and success of service of notice of arbitration to the respondent(s), due to delays in provision for the arbitration fees by the party(ies) as well due to challenges raised to the arbitrators nominated by the parties, etc.

Under the Rules of Arbitration of the VCCA (Article 22 (1)) the case file shall be transmitted to the Arbitral Tribunal upon constitution of the Arbitral Tribunal and the payment by the parties of the determined arbitration fees. Article 42 (1) provides for the time limit of resolution of the dispute by rendering an arbitral award not later within six months following the transmission of the case file to the Arbitral Tribunal. The average duration from transmission of the case file to the Arbitral Tribunal until the end of the case was 5,1 months in 2023 (5,4 months in 2022).

In view of complexity of the case and also in event of international commercial arbitration the procedural time limits may be extended pursuant to Article 8 of the said Rules. In practice 6 months’ time limit is extended due to the fact that, with the parties’ consent, Arbitral Tribunals bifurcate the case and/or establish procedural timetables exceeding – and thus extending – the six months deadline provided in the Arbitration Rules of the VCCA.



In 2023 70% of finished cases ended by arbitral award (77%, 2022), 20% – by withdrawal of claim by the party (3%, 2022), 5% terminated due settlement by the parties' (10%, 2022) and 5% left unconsidered due to non-payment of the arbitration fees (7%, 2022). In 2023 there were no arbitration awards upholding the settlement, compared to 1 case in 2022.

CONCLUSION

The number of initiated cases at VCCA in 2023 compared to 2022 increased by more than a third (45%) and corresponds to the fluctuations of the economic cycle reflecting the dynamics of cases in the long term.

In conclusion some trends may be underlined in 2023 such as:

- increase in number of cases by 45 per cent;
- increased diversity of parties' origin;
- the diversity of disputes referred to arbitration from different sectors of the economy;
- increased complexity due to multiparty arbitrations;
- Vilnius as preferred place of arbitration;
- prevalent e-case form for arbitration;

- the average dispute amount increased more than 4 times up to EUR 1.68 mln.;
- sole arbitrator preferred in arbitration agreements;
- better gender representation in composition of the Arbitral Tribunals;
- continuous balancing role of the VCCA in representation of the gender throughout constitution of the Arbitral Tribunals;
- decreasing average duration of the arbitration proceedings despite deviations in some more complex cases.

It can be repeated with certainty that the VCCA Information System (ARBIS) introduced in 2017 was appreciated by users, showed positive results and contributed to better management of arbitration cases online during the pandemic COVID-19 period and afterwards.

Having in mind VCCA's experience for more than 20 years in Lithuania and Baltics, this report demonstrates the continuous work and stability of the VCCA as credible and solid arbitral institution both nationally and internationally.