

Court Governance and Administration - Court Efficiency: Experiences and Procedures at the Swiss Federal Supreme Court

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I. Introduction

The problems of court efficiency and the duration of procedures are linked to a variety of external and internal influences. One of the major external factors is the case-load to which the judges and the court's administration are exposed. The "endogenous" factors include the appellate procedures to be respected by the parties and the court and the internal organization of the court's decision making process.

The thirty judges of the Swiss Federal Supreme Court never all join to sit on the same case. Instead, the Court is divided into six permanent chambers or divisions, each of which has jurisdiction over cases pertaining to a specific subject matter. More than 90% of the case-load is liquidated in a written procedure where three judges decide, based on the files, after having exchanged their written opinions; in easy non-controversial cases, a "summary" procedure is carried out.¹ If the subject is of higher importance or general interest, five judges are involved. If a law statute on the whole is being revised, seven judges sit on the case. In controversial and important matters, finally, the case comes up for a session where a public debate takes place.²

Reflecting Switzerland's different cultures and languages, the Court is actually made up of nineteen German, nine French and two Italian-speaking judges. All judges usually express their oral and written opinions in their respective native languages. The findings of the verdict are written in the language used by the lower court from which the appeal came. The multitude of tongues and the necessity of decision making in groups of three, five or seven judges renders the internal organization of the Swiss Supreme Court rather time-consuming and complex.³ Judges and clerks are expected to read and understand German, French and Italian. There are no facilities for translation.

¹ Cf. hereafter, cipher IV.

² See Marc Forster, European Constitutional Law in Action: Visiting a Public Debate at the Swiss Federal Supreme Court, Indiana International & Comparative Law Review, vol.3 (1993) no. 2, p. 265 ff.; cf. hereafter, cipher III/2.

³ See Thomas Geiser, in Prozessieren vor Bundesgericht (Thomas Geiser & Peter Münch eds., 1996), at 37.

