



**Seminar organized by the Supreme Court of Ireland and  
ACA-Europe**

**How our courts decide: The decision-making processes  
of Supreme Administrative Courts**

**Dublin, 25 – 26 March 2019**

**Answers to questionnaire: Spain**



Seminar co-funded by the «Justice » program of the European Union

**ACA Seminar**  
**How our Courts Decide: the Decision-making Processes**  
**of Supreme Administrative Courts**  
**Dublin, 25-26 March 2019**

**Supreme Court of Ireland**

**Questionnaire**

**I. Introduction**

1.1 The seminar will focus on the process followed by our national Supreme Administrative Courts in reaching their decisions. Each court will have its own formal rules, whether provided for in substantive law or in the internal rules or formal procedures of the court. Furthermore, each legal system will have its own culture and traditions which will inform the way in which the decision making process progresses.

1.2 The purpose of this questionnaire and the seminar which will follow is to provide a greater understanding of both the similarities and differences which exist between the decision making process in the respective Supreme Administrative Courts. It is hoped that this will provide useful information both for comparative purposes but also to give each Supreme Administrative Court a better understanding of the process which may have led to decisions of the courts of other EU member states.

1.3 The Dublin seminar on the 25<sup>th</sup> and the 26<sup>th</sup> March 2019 for which this preparatory questionnaire is being distributed is envisaged as a sister seminar to that which will be organised by our German colleagues in conjunction with the General Assembly of the 12<sup>th</sup> to the 14<sup>th</sup> May 2019 in Berlin. While there may be some small and unavoidable overlap between the issues raised it is intended that the Dublin Seminar will focus on the decision making process of the court whereas the Berlin Seminar will focus on access to the Supreme Court and its functions including, for example, the question of whether ‘filters’ are provided for in administrative procedural law.

1.4 Further, while this project is independent of the ACA-Europe transversal analysis project on ‘The Quality of Judgments’, there will be an inevitable link between certain elements of the questionnaire formulated for that project and aspects of this questionnaire.

1.5 Please note that when answering the questions in this questionnaire it is not (with the exception of the statistical questions regarding caseload under Part C) necessary to consider proceedings which lead to the making of provisional orders.

1.6 In addition, in the event that your institution undertakes legislative functions such as providing advice on proposed legislation as well as the function of adjudicating cases in the context of court litigation, it is not necessary to include information pertaining to the legislative functions when responding to the below questions.

## II. Questions

### A. Background questions in relation to your Supreme Administrative Court/Council of State

1. What is the formal title of your Supreme Administrative Court/Council of State ('institution')? Please provide the name of your institution in your national language and the English translation if possible.

**Tribunal Supremo de España. Supreme Court of Spain.**

2. What country/jurisdiction does your institution serve?

**Spain.**

3. Where is your institution based (i.e. its seat)?

**Madrid.**

4. Please provide a link to your institution's website (if available), including a link to the English or French version or pages of the website if available.

**[http://www.poderjudicial.es/cgpj/es/Poder\\_Judicial/Tribunal\\_Supremo](http://www.poderjudicial.es/cgpj/es/Poder_Judicial/Tribunal_Supremo)**

### B. The Structure of your Supreme Administrative Court/Council of State

5. Please provide an outline of:

(a) The main functions of your institution (e.g. a first and last instance court, court of cassation or court of appeal);

**The Supreme Court is a unique judicial body in Spain with jurisdiction over the whole country, being the highest court in all the areas of law (civil, criminal, administrative and labour), except for the constitutional guarantees and rights, whose competence corresponds to the Constitutional Court. The Supreme Court is composed of five Chambers: First or Civil Chamber; Second or Criminal Chamber; Third or Administrative Chamber; Fourth or Labour Chamber and Fifth or Military Chamber.**

**The Third or Administrative Chamber hears, as a single-instance judicial body, administrative appeals against the acts and provisions of the national Government and the General Council of the Judiciary; the acts and provisions with regards to personnel, administration and heritage management adopted by the competent bodies of the**

**Congress of Deputies, the Senate, the Constitutional Court, the Court of Auditors and the Ombudsman.**

**On the other hand, this Third Chamber acts as a court of cassation, since it hears the appeals in cassation against the decisions of the lower administrative courts.**

(b) The nature of your institution (e.g. a Supreme Administrative Court or a Supreme Court with jurisdiction in other areas of law); and

**As previously indicated, the jurisdiction of the Third Chamber is strictly administrative, that is, it hears the complaints against the actions of the public Administrations subject to administrative law. In this respect, it acts as a single-instance court and also as a court of cassation, as explained above.**

(c) Its place within the overall court structure in your country/jurisdiction.

**As already said, the Supreme Court and its Third or Administrative Chamber are on the top of the court structure.**

### **C. Caseload**

6. How many judges<sup>1</sup> serve on your institution?

**At present, the Third Chamber is composed of thirty three senior judges, including its President.**

7. How many cases<sup>2</sup> are brought to your institution per year on average?

**The number of cases registered in the Third Chamber varies from year to year. For example, 5 045 cases were registered in 2013, 5 475 in 2014, 8 803 in 2015 and 9 004 in 2016 (the annual report for 2017 will be published soon).**

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<sup>1</sup> Please include figures concerning judges only and not the number of Advocates General (which will be dealt with under question 11) or judicial assistants/clerks/researchers (which will be dealt with under question 13).

<sup>2</sup> In this question 'cases' means the average number of incoming cases per year, whether litigious (in which the judge(s) decides a dispute) or non-litigious (where a case in which there is no dispute is brought before the Supreme Administrative Court) and in all categories of cases if your Supreme Administrative Court does not deal solely with administrative law cases (for example, civil and commercial law, criminal law etc). It refers to both cases decided in writing and by oral hearing. It includes applications submitted to a Supreme Administrative Court before any filtering process is undertaken if such a mechanism exists.

8. How many cases does your institution dispose of<sup>3</sup> per year on average?

**The number of decisions varies also from year to year. In 2013, 6 583 cases were decided on (by judgements or other decisions, with an average of 100 judgements per judge and year); 5 872 cases were resolved in 2014 (with an average of 81 judgements per judge and year); 5 947 cases were decided on in 2015 (with an average of 83 judgements per judge and year), and 5 569 cases were resolved in 2016 (with an average of 75 judgements per judge and year).**

**D. Internal organisation of the Supreme Administrative Court**

9. Does your institution have chambers/divisions?

**The Third or Administrative Chamber is divided into Sections, although it can sit as a full court.**

10. If yes, provide the following details:

a. How many chambers/divisions?

**In the Third Chamber there is a First Section which declares the appeals admissible or inadmissible and four Sections (from the Second Section to the Fifth Section) in charge of the prosecution. Moreover, there is a Special Section composed by the president of the Chamber and the presidents of the Sections, which hears specifically the appeals against the acts and provisions of the General Council of the Judiciary.**

b. How many judges serve in each chamber/division?

**The number of judges in each Section varies: it is determined in the Chamber's annual rules of allocation and distribution of cases every year, but it can be modified according to the needs. At present, each Section of the Chamber has the following number of judges:**

- **First Section, Admission: President of the Chamber as presiding-judge and five judges.**
- **Second Section: seven judges.**

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<sup>3</sup> Please indicate the average number of cases that come to an end in your Supreme Administrative Court each year either through a judgment or any other decision that ends the procedure, whether it has been considered in writing or by oral hearing.

- **Third Section: seven judges.**
- **Fourth Section: seven judges.**
- **Fifth Section: six judges.**

c. The nature of particular areas of specialisation in your Supreme Administrative Court by chamber or otherwise (if any) (e.g. commercial division, environmental division etc.).

**Broadly, the different Sections of the Chamber cover different areas.**

- **The First Section declares the appeals admissible and well founded (when admitted they are forwarded to the section in charge of the prosecution of the case according to the allocation rules).**
- **The Second Section hears mainly tax matters.**
- **The Third Section deals with the appeals related to litigations about the Law on the Regulated Economic Sectors and Public Competition Law.**
- **The Fourth Section hears the appeals on different matters (public employment, Social Security, Local Law, public procurement...)**
- **The Fifth Section is mainly devoted to town planning and compulsory expropriation, the environment and the patrimonial liability of the Public Administrations.**

d. Do judges move between chambers/divisions? If yes, how is such movement determined?

**The judges of the Third Chamber can change Section, though not on their own accord. The rules for the allocation of cases among Sections are approved every year and the composition of each Section is then decided for that year. This is why a judge can be assigned to a different Section. Moreover, the President of the Chamber can decide to change a judge from one section to another in the course of the year, according to the vacancies occurred, the evolution of the lawsuits and the needs of the Chamber.**

e. Is it possible for a judge to be assigned to more than one Chamber at a time?

**In principle, as a general rule, the judges of the Third Chamber exercise their functions only within the Chamber. There can be exceptional cases in which they can sit in another Chamber of the Supreme Court, either to substitute another judge (in order**

**to have quorum) or in case of disagreement (in the event of a tied vote, the presence of judges of another Chamber is used to break the tie).**

**At the Third Chamber they only perform their duties within the Section they are assigned to, except in the case they have to, occasionally, be part of another Section (cases which are regulated), in order to substitute another judge due to absence, vacancy or impossibility to act.**

f. Are there different levels of chambers, for example, an ‘ordinary chamber’ and Constitutional Review Chamber?

**There is no hierarchy among the Chambers of the Supreme Court. Their relation is not hierarchical, they differentiate from each other only in terms of competence, that is, they have a specific field of competence.**

**The Spanish Constitutional Court is not a Chamber of the Supreme Court. The Constitutional Court is a jurisdictional body, not a judicial body, as it is not an integral part of the Judiciary, being out of the Spanish judicial structure.**

g. How many judges are usually assigned to consider and decide an average case?

**Article 15 of the Law 29/1998, on the Administrative Jurisdiction, provides that in order to hold hearing, to deliberate or to pronounce judgement they must be present, apart from the President, the following judges:**

- a) All the judges in the Section to decide on the appeals in cassation and appeals for revision;**
- b) Four judges in the rest of cases.**

**For procedural formalities, which do not imply an examination of the merits of the case, the attendance of the President and two other judges shall be sufficient.**

h. Does the number of judges assigned to decide cases vary? If yes:

- (i) Based on what rules or factors?
- (ii) Who decides how many judges are assigned to consider and decide a particular case?

**The number of judges is objectively determined according to what is laid down in Article 15 abovementioned. There is no difference depending on the subject matter of the case.**

i. Is there a procedure for certain cases to be elevated to a grand chamber or plenary session? If yes, how is this decided and how many judges decide?

j. Are judges assigned certain additional roles (e.g., rapporteur, case manager, other specific responsibilities etc.) relating to a particular case?

If yes, specify the additional roles and explain how these roles are assigned.

**It is possible for a case to be submitted to the plenary session, for it to be examined and resolved by all the judges who compose it. The decision to elevate the case corresponds to the President of the Chamber (on her/his own initiative or at the request of the judges of the Chamber) when s/he considers it convenient for a better administration of justice.**

**The exercise of this power is not common, only when issues of great judicial, economic or social importance are at stake which pose problems that require an examination by all the judges of the Chamber; when there are relevant problems of interpretation or application of the Law which are common to the different Sections, or when it is needed to resolve disagreements about the criteria adopted by the Sections.**

**One of the judges of the Chamber is appointed judge-rapporteur, according to the order established in the annual rules of allocation and distribution of cases.**

k. How significant is the role of the Chief Judge or President of the court in determining:

(i) The assignment of cases to chambers or panels of judges;

(ii) The number of judges assigned to consider and decide a particular case;

(iii) The assignment of certain additional roles to judges (see (f) above);

(iv) Any other matters you consider relevant in this context. For example, are there any other special panels, General Assemblies or bodies of judges to which cases are assigned.

**The allocation of cases among the Sections of the Court and the appointment of each judge-rapporteur in every case are objectively predetermined according to the**

**criteria expressed in the allocation and distribution rules, approved every year by the Governance Chamber, which decides on the internal rules of the Court.**

**The judges of the Supreme Court are devoted only to their jurisdictional duties within the Supreme Court, with a strict regime of incompatibilities. Nevertheless, the judges can attend conferences, courses or specialised workshops, on their own initiative or at the request of the President of the Chamber.**

**Only the judges of the Third Chamber resolve the appeals lodged before it. The intervention of other judges, advisory bodies or external experts to resolve the appeals is not envisaged in any case.**

11. Does the position of Advocate General exist in your legal system? If yes, please indicate:

- (i) The number of Advocates General or equivalent members of your institution;
- (ii) The function of the Advocate General in the context of your institution; and
- (ii) The extent to which the Advocate General participates in proceedings before your institution.

**The position of Advocate General does NOT exist in the Spanish Administrative Jurisdiction, in any of the instances (in cassation either), as it exists in the Court of Justice of the European Union. The judge-rapporteur is in charge to report about the case in the deliberation process, to propose a decision to the members of the Chamber and to draft the judgment.**

#### **E. Research and Administrative Assistance**

12. What level of research and/or administrative assistance is available to your institution?

**The judges of the Supreme Court have technical assistance bodies at their disposal. Apart from the Library of the Court, there is a Technical Cabinet of Information and Documentation, whose Director is a Judge. The Technical Cabinet is organised in five functional areas, the same number as the Chambers of the Court, and is composed of lawyers and coordinating lawyers, experts in the different areas, who provide technical assistance, collaboration and support to the judges of the Chambers according to the terms determined by them.**

**This is the case in the Third Administrative Chamber, which has at its disposal a team of lawyers and coordinating lawyers who provide technical assistance on the tasks of documentation, research and support to the decision.**

13. How many officials provide legal research support to your institution?

**The Technical Cabinet assumes the task of legal research, always at the service of the Chambers of the Court, among other important functions. The Technical Cabinet is composed, as of today, by a total number of 75 lawyers and coordinating lawyers, who, in turn, are specialized in the fields of competence of the five Chambers of the Court.**

**At present, twenty lawyers and five coordinating lawyers perform their duties in the administrative branch.**

14. Do officials which provide legal research assistance to your institution also provide administrative assistance?

**Apart from the task of legal research, they provide support to the decision (study and preparation of decision proposals), always supervised by the President of the Supreme Court and according to the guidelines given to them by the respective presidents of the Chambers; bearing in mind that the organisation and purposes of each area of competence (civil, criminal, administrative, labour and military), and the involvement in the said support to the decision, may vary depending on the needs and peculiarities of each Chamber.**

15. Are research and administrative supports pooled (i.e. shared between judges) or assigned individually to judges or is there both a pool and some researchers assigned to individual judges? Please explain.

**The assistance provided by the Technical Cabinet to each Chamber is carried out according to the guidelines and instructions given by each of the presidents of the Chambers. The Cabinet does not act at the unilateral request of each judge, rather its field of action is determined and authorized by the President of the Chamber. There are no lawyers assigned to individual judges, unless the President of the Chamber so directs in order to perform a particular duty which requires specific support.**

**This is the case in the Third Administrative Chamber. The lawyers perform their duties always according to the instructions and directions of the President of the Chamber, and any assistance to an individual judge must be provided with the approval of the President.**

16. If research and administrative support is assigned individually to judges, is there also a research and documentation or equivalent department which provides additional pooled research support?

**This question has been previously answered.**

17. To what extent, if at all, do assistants/*référendaires* provide support to judges in your institution as regards specifically:

- (a) Preparation of pre-hearing documents, such as a memorandum to assist the judge prior to the hearing of a case;
- (b) Undertaking legal research to assist a judge to make a decision in a case;
- (c) Discussing aspects of a case with a judge orally or in writing;
- (d) Consideration and evaluation of the relevant law;
- (e) Undertaking comparative law analysis;
- (f) Drafting sections of judgments;
- (g) Putting forward a suggested or preliminary decision for judge(s) to consider;
- (h) Any other element that you consider is relevant in this context.

**Taking into account what has been previously exposed, the main task of the Technical Cabinet in the administrative area of competence is focused on the support to the First Section of the Third Chamber, in charge of admitting the appeals, with regards to the task of deciding if the appeals are declared admissible or inadmissible. The lawyers examine each appeal, checking if it fulfils the formal requirements to be admitted, and making to the judge-rapporteur a proposal for non-admission in the case it does not fulfil the standards.**

**If the appeal fulfils the formal requirements, they inform the judge-rapporteur about the issues raised in the appeal, analysing the laws and regulations applicable, studying the possible existence of relevant precedents, providing the pertinent case law and, finally, proposing a decision as to whether to admit the appeal or not, depending on the interest of the issues raised.**

## **F. Oral hearings**

18. Is there an oral hearing in all cases?

**Although the procedural law applicable considers the possibility to hold hearings, the truth is that in the proceedings conducted by the Chamber in single instance there are usually no audiences, only a formal procedure to submit written conclusions. On the contrary, in the cassation appeals there are usually audiences, once finished the procedures for submission of both the application instituting proceedings and the statement of opposition.**

19. If there is not an oral hearing in all cases:

- (a) What percentage of cases typically involves an oral hearing?
- (b) On what basis (formal rules or informal determinations) is it determined which cases will have an oral hearing?

**The decision to hold a hearing is decided for each individual case by the respective Section, on the proposal of the judge-rapporteur, according to the characteristics and issues raised in each case, when it is considered that the holding of a hearing is convenient to better understand and resolve the contentious issues. The decision to hold a hearing is taken by means of a court order notified to the parties, summoning them to appear on the day and time indicated.**

- (c) Can parties to a case request an oral hearing? If yes, what is the significance or consequence of such a request?

**The parties to a case can request the holding of a hearing, but the decision corresponds to the Chamber, which is not obliged by the requests of the parties.**

20. Does deliberation take place between the judges before the oral hearing? If so, is this the practice in all cases or in some cases?

**Regardless of the informal debates and exchanges of points of view which the judges may have had before the hearing, deliberation itself takes place after the hearing.**

21. Are time limits imposed on parties making oral submissions before your institution?

**The day and time of the hearing are fixed in the decision to hold a hearing, and the parties will have to appear before the Court in order to make their oral statements.**

22. Are parties permitted to address the Court for an uninterrupted period of time? If so, for how long?

**There is NO established rule about the length of the pleadings by the parties. They are usually given a moderated time limit for their oral exposition, but it is not a fixed rule, on the contrary, it is used with flexibility according to the characteristics and complexity of the case.**

23. Is discussion in the oral hearing confined to matters set out in the statements or written submissions of the parties or may it involve broader legal discussion between the lawyers/a party and the Court?

**The discussion in the oral hearing is about the issues raised by the written submissions of each party, with no prefixed limits. The court order in which the holding of a hearing is decided does not limit the issues that will be discussed in the hearing nor does it limit the pleadings of the parties to concrete and predetermined issues. Once the parties have made their oral statements, the judge-rapporteur can pose questions to the parties, and the rest of judges can also do so.**

24. Are parties permitted to file further written submissions following an oral hearing?

**No. With the holding of a hearing the proceedings come to an end, and the case is pending for deliberation and ruling.**

25. Is it possible for a judge to be excluded from proceedings based on a legal opinion expressed during an oral hearing giving rise to the perception of bias?

**At the hearing, the cases in which abstention and challenge of judges can be considered are applicable. If during the holding of a hearing a member of the Chamber expresses any opinion which may give rise to such cases, the parties can challenge him/her.**

**G. Written submissions of parties**

26. What is the usual length and level of detail of written submissions of parties provided to your institution? Please indicate the approximate number of pages (1.5 line spacing) of a 'typical' written submission.

**With regards to direct appeals submitted before the Third Chamber in single instance, there is no predetermined limitation for the written pleadings of the parties. They are free as to their length. In this sense, there is no standard length.**

**On the contrary, with regards to cassation appeals, there is an Agreement of the Governance Chamber of the Supreme Court which states that the application instituting proceedings and the statement of opposition will have to comply with the following requirements: The application instituting proceedings and the statement of opposition will have a maximum length of 50.000 "characters with spaces", equivalent to 25 pages. The text will appear only at the front of the sheet and not at the back of the sheet. This maximum length comprises the footnotes, charts and tables that may be eventually incorporated. The character font used will be Times New Roman at 12-point size in the text and 10-point size in the footnotes or literal transcriptions. The line spacing will be 1.5 and the horizontal and vertical margins (top, bottom, left and right margins) will be of 2.5 cm.**

27. Is there a maximum length for written submissions filed by parties in a case? If yes, please provide details.

**This question has been answered in the previous response.**

#### **H. Consideration of the case**

28. Can your institution raise points of law of its own motion (i.e. ex officio) or is it limited to the points raised by the parties to the case?

**The two first paragraphs of Article 33 of the Law on Administrative Jurisdiction read as follows:**

- 1. Courts in the administrative jurisdiction shall pronounce judgment within the limits of the demands submitted to them by the parties and the grounds of both the application instituting proceedings and the statement of opposition.**
- 2. The judge or court shall notify the parties if, in handing down their ruling, they feel that the question brought before them may have been incorrectly described**

by the parties due to the apparent existence of other potential grounds on which the application instituting proceedings or the statement of opposition could have been based. The judge or court shall so notify the parties in the form of an order advising them that final judgment is pending, stating the potential grounds the court feels have been overlooked and granting the parties a shared ten-day period in which to submit such arguments as they see fit. The period for giving judgment shall be suspended meanwhile. No appeal may be made before the aforesaid order.

29. How is discussion, deliberation and decision-making structured in your institution?

**There are no predetermined rules about the structure adopted by the process of deliberation. The usual practice is that the judge-rapporteur initiates deliberation reporting the Chamber about the issue at stake and proposing a solution. Once he has presented his/her report, the judges are given turns to take the floor to make their remarks, with the President of the Section as moderator, leading the debate. The discussion is conducted in an open and flexible manner. When the president decides that the issue has been sufficiently discussed, it is subjected to voting. The vote is cast first by the least senior judge and successively in order of seniority, finishing with the most senior judge and the President.**

30. Does your institution deliberate in a number of different languages? If so, please provide some detail. For example, does your institution have more than one official language?

**All debates and deliberations are carried out in Spanish at the Supreme Court. Spanish is the State official language, which all Spaniards have the duty to know.**

31. Are there rules, processes, or conventions about how discussions and votes take place?

If yes, specify the relevant rules etc.

**This question has been previously answered.**

32. How are preferences for particular outcomes communicated between the judges?

**In the course of deliberation, each judge expresses orally and informally his/her opinion on the issue under dispute each time s/he intervenes in the debate. The final vote, once deliberation has finished, is an individual voice vote, in which each judge expresses his/her position clearly before the rest of the colleagues.**

33. Where there is an oral hearing, to what extent does the oral hearing (as opposed to written submissions) influence the court's discussion, deliberation and decision-making?

**The oral hearing has not a value different than the written submissions. The Chamber, at its discretion, can give value to what it considers important among everything submitted or expressed before it.**

34. Are there any other procedural rules or conventions that you believe impact significantly on the way in which cases are considered?

**Not generally.**

#### **I. The decision of the institution**

35. Is the decision delivered on behalf of the institution or is it open to each individual judge assigned to the particular case to deliver a separate judgment?

**The judicial decision is delivered by the Chamber, as a collegial court, and not by every single judge. The judges who are members of the Chamber and dissent from the conclusion reached can express opinions at variance with the judgment, which are attached to it.**

36. If the decision is delivered on behalf of the institution, does one judge write for the institution? If not, please explain how the judgment of the court is written for your institution. Are there formal rules or informal practice governing this?

**The judgement is drafted by the judge-rapporteur, reflecting on it the result of the deliberation. If the proposal of the judge-rapporteur has been rejected and s/he desires to issue a dissenting opinion, the drafting can be made by other member of the Chamber who will express the majority view. In an informal way, the members of the Chamber exchange their points of view with the rapporteur about the manner in which the judgment has to be drafted.**

37. How is the court's ruling/reasoning recorded?

**The ruling of the case and the reasoning on which it is based are reflected in the judicial decision. There are no deliberation minutes. The content and details of the previous deliberation are reserved and not made public.**

38. Is there a distinction in your Supreme institution between the Judgment (i.e. reasons) and the Order (i.e. the operative ruling of the court)?

**Naturally, there is a distinction among the judicial decisions which order and carry out procedures and the judicial decisions which terminate the proceedings.**

**Procedural court orders (“providencias”) have a brief reasoning when it is considered convenient.**

**In the cases referred to in Article 206 of the Civil Procedure Law, which applies in a complementary way to the administrative jurisdiction (when decisions are adopted on appeals against procedural court orders, when a decision is adopted on the admission or rejection of a claim, counterclaim, joinder of actions, admission or rejection of evidence, judicial approval of settlements, mediation agreements and covenants, injunctions and nullity or validity of procedures; and also when they concern rules of procedure, registry annotations and inscriptions and incidental matters, regardless of whether or not this Act establishes a special procedure for them, provided that, in such cases, the law requires a decision of the Court, as well as those decisions which terminate the procedures of a petition or appeal before the ordinary procedure is finished) the decision is issued in the form of a reasoned court order or writ (“auto”), which must include the reasoning behind it.**

**Finally, the judgment (“sentencia”) is the decision which puts an end to the proceedings once finished the ordinary procedures, and resolves the issues raised in a reasoned and consistent manner.**

39. Are there any other distinctions of this nature in the decisions delivered by your institution?

**There are three types of judicial decisions as previously explained: procedural court orders (“providencias”), reasoned court orders or writs (“autos”) and judgments (“sentencias”).**

**J. Timeframes for the decision-making process**

40. How long, on average, between consideration of a case by your institution and the making of a decision? Please indicate the approximate length of time between the introduction of the case into the system of the Supreme Administrative Court (rather than the time when the case first comes before a judge for consideration) and the final resolution of the case through, for example, the pronouncement of the final decision.

**According to the annual reports of the Third Chamber of the Supreme Court, the average time of response, calculated in months, is the following: In 2013, 15.5 months; in 2014, 14.7 months; in 2015, 13.8 months; in 2016, 16.4 months.**

41. Is there a specific mandatory timeframe for deciding all cases? If yes, please provide details.

**There is no compulsory maximum time limit for the procedural treatment of the cases, but there is a deadline for the pronouncement of a judgment once the proceedings have finished, deliberation has taken place and a decision has been reached. Article 67 of the Law 29/1998, on the Administrative Jurisdiction, states that the judgment will be pronounced within the period of ten days after the proceedings have been declared ready for judgment; although it is possible to pronounce judgment once the time limit has expired if the judge considers that the decision will not possibly be issued within that period, notifying it to the parties to the case in this instance.**

42. Are there specific mandatory timeframes for particular categories of cases? If yes, please provide details of the categories of cases and the relevant timeframes.

**The time limit of ten days already mentioned is applicable to all the categories of cases. Nevertheless, it must be taken into account that according to Article 63.1 of the Law 29/1998, on Administrative Jurisdiction, the cases must be resolved in order of age, although preference can be given for deliberation, vote and ruling to more modern cases by means of a court's reasoned agreement due to exceptional circumstances.**

43. If there are no mandatory timeframes for deciding cases, is there a certain amount of time that it is considered appropriate for the decision-making process to take? If yes, please provide details.

**Each case will have, with regards to its procedural treatment, the length derived from its own complexity and from the procedural activity of the parties to the case.**

**Concerning the time limit to pronounce judgment, although the general deadline is ten days, as already said, this deadline can be postponed in some cases according to the complexity of the issues raised and of the deliberation about them; in this sense, it is not possible to provide general rules about the time which is deemed appropriate.**

44. If there are mandatory timeframes applicable to the decision-making process in your institution, is it ever difficult for the court to abide by these timeframes? If yes, what are the main reasons for this?

**Once the decision about the issues raised has been reached, the judgment is usually pronounced within the allotted timeframe.**

45. If there are no mandatory timeframes for deciding cases, but by convention or practice, there is a certain amount of time that is considered appropriate for the decision-making process to take, is it ever difficult for the court to abide by this timeframe? If yes, what are the main reasons for this?

**There are NO established maximum time limits for the procedural treatment of cases.**

#### **K. Developments over time**

46. Have the processes you have outlined in the preceding answers been subject to any significant changes in the last five years?

**The appeal in cassation has undergone profound changes with the adoption of the Organic Law 7/2015, dated 21<sup>st</sup> July 2015. From this Law onwards, the procedure for admission and resolution of cases is not determined, as it was before, by criteria like the amount of the claim or the subject matter under discussion, but by the “objective interest in resolving a cassation appeal on the issues raised in order to develop case law”.**

47. If yes, have these changes had an effect on the way cases are considered and decided?

**There has been a fundamental change of the procedure for admission and resolution of cases. Admission is based now on the criteria of the objective interest in resolving a cassation appeal on the issue at stake in order to develop case law. The writ of admission has to specify the issue about which there is an interest in resolving a**

**cassation appeal in order to develop case law; and the judgment will respond specifically to the issue and will resolve the appeal on the basis of said response.**

48. Do these changes constitute an improvement in your view? If yes, please provide details.

**The advantage of the new system is that the Supreme Court has now a wide margin of appreciation to determine which issues stir up enough interest to resolve a cassation appeal about them and to rule out those which lack such an interest. In this way, the cases which raise repetitive issues or issues already examined and resolved by case law, or just purely circumstantial issues, are set aside; and only the appeals which raise issues on the interpretation of the legal system that really need clarification by the Supreme Court are admitted. As appeals are filtered in the admission procedure, a rapid response is encouraged and legal security and certainty in the interpretation and application of Law is reinforced.**

**I. Further comments or observations**

49. Is there anything about your institution and/or its particular decision-making processes that you believe is not captured in the questions above, or any contextual information that you believe would aid our understanding of the decision-making processes in your court?

**No.**

**Thank you for completing this questionnaire.**