COUNCIL OF EUROPE CONSEIL DE L'EUROPE

Strasbourg, 26 March 2004

CDL-JU (2004)025
Eng. only

EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW

(VENICE COMMISSION)

in co-operation with
THE CONSTITUTIONAL COURT OF AZERBAIJAN

INTERNATIONAL
LEGAL TRAINING WORKSHOP

Improving Examination Methods of
Individual Complaints
Effective Case Management
Effective Decision Drafting

Baku, 26-27 February 2004

REPORT ON

" How cases are dealt with in practice in the Belgian Court of Arbitration "

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How cases are dealt with in practice in the Belgian constitutional court

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I. Introduction and outline

1. The Belgian Court of Arbitration (Court of Arbitration) is particularly honoured by the invitation from the Venice Commission to describe its experience of the judicial review of laws in the light of the Constitution to the Azerbaijani Constitutional Court.

As requested, the emphasis in this report is on the practical arrangements for the processing of cases by the registry, rather than on the substantive legal aspects of the review of laws with regard to their constitutionality.

The legal aspects cannot, however, be overlooked, if only because the potential number of cases declines as the rules of law governing admissibility become stricter.

As always, account needs to be taken of the specific situation of a constitutional court within the national context.

It is for this reason that, in order to make it easier to understand how we work in Belgium, I shall begin by briefly describing the position of the Court of Arbitration within the Belgian federal state set-up (Chapter II).

I shall then go on to consider:

- the conditions governing the admissibility of cases (III);
- the practical organisation of the registry (IV);
- techniques for dealing with an excessive workload (V);
- the method used to draft judgments (VI).

II. Place of the Court of Arbitration within the Belgian constitutional system.

Belgium is a constitutional parliamentary democracy

2. Belgium is a parliamentary democracy. Fundamental rights and the basic rules governing the organisation of the State and the workings of the institutions, in particular the legislature, the executive and the judiciary, are set out in the Belgian Constitution.

The original Constitution dates from the birth of Belgium as an independent nation in 1831. An updated version was published in 1994.

The Court of Arbitration is exclusively competent to ensure that those who make laws abide by the Constitution.

Background to the Court of Arbitration

3. The Court was established as a result of the gradual transformation of the original unitary Belgian state into a federal state comprising autonomous federated entities with their own legislative and executive powers.

In order to settle disputes between the different law-making bodies, it was decided in 1980 to set up a specialised independent court to serve as an arbiter in ensuring that the rules on the apportionment of powers were observed. The Court owes its name to this arbitration function. It has kept this name despite the recent extension of its jurisdiction, which I shall go into in greater detail later.

Provision was made for the establishment of the Court of Arbitration in the Constitution in 1980. The membership, jurisdiction and workings of the court were initially provided for in a law dating from 1983. The Court was solemnly set up in the Senate on 1 October 1984, and on 5 April 1985 it handed down its first judgment.

Jurisdiction of the Court of Arbitration

4. As has been said, the Court was responsible from the outset for reviewing laws in the light of the rules governing the apportionment of legislative powers among the parliaments in federal Belgium.

The basic rules governing the apportionment of powers are set out in the Constitution itself. With the establishment of the Court of Arbitration, Belgium accepted judicial review, in the light of the Constitution, of the legal rules introduced by democratically elected parliaments.

5. The other courts are not competent to review laws in respect of their conformity with the Constitution. If they are faced with such a problem, they must submit it to the Court of Arbitration with a request for a preliminary ruling. They may have lower-ranking legal rules, such as royal and ministerial decrees, reviewed in the light of the Constitution, but not laws passed by parliamentary assemblies.

6. When the Constitution was amended in 1988, the Court's jurisdiction was extended to include review of laws in respect of the constitutional principles of equality and non-discrimination (Articles 10 and 11 of the Constitution) and of rights and freedoms in respect of education (Article 24 of the Constitution). In the wake of this amendment, the original law on the Court of Arbitration was replaced by a new special law[1] of 6 January 1989 on the Court of Arbitration.

In 2003 the Court's jurisdiction was again extended to include review in respect of all the provisions of Title II of the Constitution concerning fundamental rights and freedoms, Article 191 of the Constitution, concerning the rights of foreigners in Belgium, and a few specific constitutional provisions concerning tax (Articles 170 and 172 of the Constitution).

[1] We use the term "special law" because, as provided for in the Constitution, it was passed by a special majority in the federal parliament (at least half the parliamentarians in each language group of both the House of Representative and the Senate must be present, and in each language group two-thirds of the members present must vote in favour).

Membership and workings of the Court of Arbitration

7. The Court is a specialised body, independent of the legislature, the executive and the judiciary. It comprises twelve judges appointed for life by the King on a proposal from a two-thirds majority of the House of Representatives or the Senate (in turn). They must be aged at least 40 and remain in office until the age of 70.

Half the judges must have at least five years' experience in one of the legislative assemblies. The other half must have held high judicial office.

Given the existence of two main language groups in Belgium, one Dutch-speaking and the other French-speaking, there are as many French-speaking as Dutch-speaking judges. Each language group has its own president.

8. The court has only one bench (or division), comprising seven judges. The Presidents sit on all cases and the other judges are appointed to cases in turn.

In ordinary cases decisions are taken by means of a four to three majority. It is not possible to abstain.

Important cases may be heard in plenary, with all twelve judges[2]. This occurs in about 20% of cases. If the vote is evenly split, the president 'in function' has the casting vote.[3]

9. The judges are assisted by 18 highly qualified lawyers, known as *"référendaires" (legal advisors)*[4]. They are permanently appointed after a highly selective recruitment examination and a three-year training period.

10. There are three stages in the examination of each case.

First comes a "written stage", during which the parties may lodge written submissions. Then comes the "oral stage", ie the hearing, and finally there is what I shall call the "secret stage" ie the judges' actual consideration of the judgment.

The entire investigation, from the beginning of the proceedings to the judgment, takes ten to twelve months on average.

11. I shall now consider the conditions governing the admissibility of cases, the practical organisation of the registry and then techniques enabling the court to deal with an excessive

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[2] If a judge is prevented from attending, the Court sits with ten instead of twelve judges, so that linguistic parity is maintained.

[3] One year the Dutch-speaking President is 'president in function' and the next year the French-speaking President (the changeover taking place on 1 September).

[4] There are also two registrars (about whom I shall speak in greater detail later). Each judge has a personal assistant, and there is a typist for every two judges. There are also a variety of services (translation, library and documentation, databases, computer facilities, accounts etc. There are currently 56 administrative members of staff and the Court has a total staff of 88.

workload. I shall end with some information about the way in which judgments are drafted in practice.

III. Admissibility conditions

12. Conditions of admissibility differ depending on whether cases are brought before the Court of Arbitration in the form of an application for judicial review or a request for a preliminary ruling [5].

Requests for a preliminary ruling

13. Preliminary questions are put by courts when, in the course of proceedings, a problem arises in connection with the constitutionality of a law. As stated in the section on theory, the ordinary courts cannot, as a rule, deal with such questions themselves but must request a preliminary ruling [6].

Broadly, the admissibility requirements in the case of a preliminary question are :

- it must be a question put by a court;
- the question must specify the legal rule to be reviewed by the Court of Arbitration and indicate exactly what the constitutionality problem is;
- the case must be one for which the Court of Arbitration has jurisdiction[7].

Application for judicial review

14. The second way of bringing a case before the Court of Arbitration is to lodge an application for the judicial review of a legally binding rule.

Such applications may be lodged by:

- the federal government and the governments of the federated entities;
- the speakers of the parliamentary assemblies, at the request of two-thirds of their members;
- natural persons and legal entities.

15. Originally, when the Court of Arbitration simply arbitrated between the federal state and the federated entities, only governments and parliamentary speakers could lodge an application, when they considered that another parliament had acted *ultra vires.*

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[5] In Belgium there is no possibility of lodging a constitutional complaint "*Verfassungsbeschwerde/plainte constitutionnelle*". It is not possible to appeal to the Court of Arbitration against court decisions or decisions taken by the administrative authorities, but only against laws.

[6] "Preliminary" in that it is obtained before the ordinary court hands down a judgment itself in the light of the reply from the Court of Arbitration.

[7] As has been said, the Court does not carry out a review in respect of all the provisions of the Constitution and may rule only on legally binding rules.

Since the Court's jurisdiction was extended in 1988 (see above), individuals have also been able to lodge an application for judicial review in the event of both a breach of the rules governing jurisdiction and a breach of certain other provisions of the Constitution.

One of the main measures designed to prevent an influx of applications for judicial review from individuals requires that they prove that they have an "interest" in submitting the application[8]. In other words, they must be able to demonstrate that they are personally, directly and adversely affected by the rule that they are contesting. Action on behalf of the people (actio popularis) is therefore ruled out.

16. There are further conditions of admissibility for applications for judicial review:

- The application must be lodged by registered letter and signed and dated by the applicant[9] or the applicant's lawyer[10];
- Grounds must be stated in the application[11];
- The appeal must be lodged within six months of publication of the contested rule in the Official Gazette (*Moniteur belge)*[12]*;*
- The case must be one for which the Court has jurisdiction.

IV. Practical organisation of the registry

Registrars

17. There are two registrars, one Dutch-speaking and one French-speaking, appointed by the King. They may remain in office until the age of 65.

The registrars perform primarily judicial duties and have special responsibilities. They draw up the necessary official documents and records, are responsible for giving official notification of procedural documents, attend hearings and countersign judgments. Most contact between the Court and lawyers, judges, officials and individuals in connection with cases takes place through the registrars.

They are also in charge of the registry, which comprises a staff of nine.

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[8] A government or parliamentary speaker lodging an application is not, on the other hand, required to demonstrate an interest, but must nevertheless append to the application a copy of the decision to lodge it.

[9] Needless to say, the application must also indicate the identity of the applicant (name, place of residence).

[10] Ten extra copies of the application must be appended, along with a copy of the contested rule and a list of appendices, if any. When a legal entity is lodging the appeal, it is also necessary to append a copy of the Articles of Association and the decision to go to court.

[11] The grounds must indicate sufficiently clearly what rule which the court is responsible for upholding has allegedly been breached, what legal rule is being contested and in what way the Constitution has allegedly been infringed.

[12] The few special cases in which another time limit applies will not be considered here.

18. In practice, the registrars, along with the Presidents, are also responsible for the routine management of the Court in respect of staff, finance, administration, premises, etc. In addition, they prepare the administrative meetings of the plenary Court and are responsible for implementing administrative decisions.

Tasks of the registry

19. Court procedure hinges on the registry, and entails the following tasks, among others:

- registering new cases[1] and producing a file for each case[14];
- conducting a preliminary investigation of the case in respect of content[15];
- conducting a preliminary investigation in respect of the formalities[16];
- issuing instructions to the translation department;
- forwarding a copy of the files to all the judges and their legal advisors and the translation department;
- notifying[17] all the public authorities provided for by law[18] of applications for a preliminary ruling and applications for judicial review;
- giving notification of the subject of cases and the identity of the persons bringing them by means of publication in the Official Gazette (*Moniteur belge)*[19];
- registering all the memorials submitted (written submissions)[20] and forwarding a copy to all the judges and their legal advisors;

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[13] All registered letters received by the registry are numbered before the envelope is opened. There is therefore a clear objective criterion for the investigation of cases: the order in which they arrive.

[14] A page is affixed inside the cover of each file with basic information (serial number, subject of the case, date on which it was brought, membership of the bench, reference to similar cases, key words).

[15] In order to ascertain whether it is appropriate to bring the new case to a close by means of a fast-track screening procedure (discussed below) or join the case to similar cases.

[16] Was the application lodged by registered letter? Have all the required appendices been enclosed? And so on. In the case of requests for preliminary rulings, the most important documents in the lower court's file are also required.

[17] By registered letter with acknowledgment of receipt. This makes sure that the intended recipient has received the document and that the time limits for sending written submissions (a memorial) begin to run. The time limits for submitting memorials are laid down by law, but the Presidents may take a decision to shorten or extend them, giving reasons for their decision.

[18] A number of authorities are informed of all cases and may then prepare a defence of a contested rule or intervene: the Cabinet and the governments of the federated entities, as well as all speakers of legislative assemblies (making a total of 17 public authorities). In the case of requests for preliminary rulings, all the parties to the case in the court that made the request are likewise informed. There is a time limit of 45 days for submitting a memorial, as from notification of the case.

[19] Third parties who might have an interest in intervening in the case are informed of it by this means. They have 30 days as from publication in the Official Gazette to submit a memorial intervening and thus become a party to the case (provided they can prove that they have an interest in doing so).

[20] The registry also checks that the memorial has been submitted within the statutory deadline (for further details, see below).

- notifying all the parties that have submitted a memorial of all the other memorials[21];
- registering all the memorials submitted in reply and forwarding them to all the judges and their legal advisors[22];
- drafting and giving notification of various orders and forwarding a copy to all the judges and their legal advisors;
- notifying the parties that the case is ready to be heard[23];
- attending hearings;
- polishing and finalising judgments;
- notifying the parties of judgments;
- forwarding judgments to the Official Gazette for publication;
- archiving closed cases.

The two registrars are assisted in these duties by two full-time personal assistants. There are also four full-time staff and one part-time member of staff who carry out the practical work.

Databases

20. For the past few years the registry has been running computerised databases to deal with most of the information concerning cases in progress. One member of the registry staff is occupied full-time inputting all the data.

As the number of cases grows, the registry databases are becoming an increasingly useful means of managing files and timetabling cases efficiently.

The registry databases also make it possible to monitor the Court's workload (see appended example) and the number of cases being dealt with by each judge and legal advisor.

As soon as cases are closed, the judgments are processed by another department in electronic databases that serve mainly for legal reference purposes (they are somewhat comparable to the Venice Commission's CODICES).

All the judgments are published virtually as soon as they are delivered, on the website of the Court of Arbitration (www.arbitrage.be).

The department responsible for the database of closed cases produces a new table summarising all the cases every year (see appended list).

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[21] There is a time limit of 30 days for submitting a memorial in reply, as from this notification.

[22] In the case of applications for judicial review, there is further notification to allow those who have submitted a memorial to reply within 30 days to the memorials submitted in reply.

[23] The document ordering that the case be prepared for trial (*ordonnance de mise en état*) indicates from the outset when the hearing will take place. At least 15 days must elapse between notification of the *ordonnance de mise en état* and the hearing, during which time the parties and their counsel may come and consult the file in the registry. If there is still a matter which the Court wishes to clarify, this is mentioned in the *ordonnance* in the form of a question, so that counsel are not unexpectedly faced with the question at the hearing.

V. Techniques for dealing with an excessive workload

The need to have an interest in the case in order to lodge an application for judicial review

21. A major initial obstacle to lodging applications has already been mentioned among the admissibility conditions (see 15 above): individuals wanting to lodge an application for judicial review must prove that they have an interest in doing so.

In order to prevent applications prompted simply by a desire to complain and ones that will serve the applicant no purpose, the latter is required to prove in the application that the contested rule adversely affects him or her personally.

The theory of the "acte clair" in the case of preliminary questions

22. It has already been pointed out (see 5 above) that the Court of Arbitration has sole jurisdiction to review the law in the light of the Constitution. Ordinary courts faced with a problem connected with the conformity of a law with the Constitution must submit the matter to the Court of Arbitration by means of a preliminary question.

The courts are not, however, obliged to submit such a questionwhen they consider that the concerned statutory provision is manifestly not at variance with the Constitution[24].

This possibility, which did not exist in the original law on Court of Arbitration undermines the Court's sole jurisdiction, but was introduced for fear of an influx of cases.

It does not, however, exist in the case of courts against which there is no longer any possibility of appeal: courts ruling at last instance must in any event request a preliminary ruling concerning the conformity of the law with the Constitution[25].

[24] This measure is based on the theory of the "acte clair" applicable in European Community Law. According to the case law of the European Court of Justice, national courts are dispensed from the obligation to request a preliminary ruling from that Court (Article 234 of the EC Treaty) when "the correct application of the Community law is so obvious as to leave no scope for reasonable doubt" as to the way in which the issue should be settled (Court of Justice, 6 October 1982 in the case of s.r.l. CILFIT and others v. the Italian Ministry of Health, 283/81, European Court reports, 1982, page 3415).

[25] Here the Belgian regulations differ from European law: in the European context, only courts ruling at last instance are obliged to request a preliminary ruling, but they may apply the theory of the "*acte clair*". In the Belgian context, all courts must request a preliminary ruling, but may apply the theory of the "*acte clair*", with the exception of courts ruling at last instance. The special law on the Court of Arbitration contains a number of measures designed to prevent the ordinary courts, mainly the higher courts, from seeking to avoid requesting a preliminary ruling, but this is beyond the scope of this report.

"Preliminary procedure"

23. As has been said (footnote 5), the Belgian system makes no provision for constitutional complaints[26]. This appreciably limits the potential number of cases that can come before the Court in comparison with other countries.

In Belgium there is no need (at present, fortunately) to introduce a screening procedure to ensure that the Court itself hears only "cases of fundamental constitutional interest".

Further to the extension of the Court's jurisdiction in 1988, however, a number of techniques were introduced in Belgium to control the number of cases that came before the Court of Arbitration. These techniques are governed by Sections 69 to 73 of the Special Law of 6 January 1989 on the Court of Arbitration, under the heading "Preliminary Procedure".

The preliminary procedure makes it possible to work faster because it bypasses the ordinary written stage, with its successive memorials from the parties and the authorities allowed to intervene, which would otherwise easily take six months. In the cases concerned, there is no hearing either.

When the registry makes its initial examination of newly arrived cases, it checks at the outset whether the preliminary procedure can be applied. If the registrar considers that it can, a suggestion is made to this effect by means of a label affixed to the copies of the files intended for the judges and legal advisors.

Fast-track investigation, by a reduced bench of three judges, of cases that are manifestly inadmissible or manifestly do not fall within the Court's jurisdiction.

24. Section 71 of the Special Law of 6 January 1989 on the Court of Arbitration makes it possible for a reduced bench of three judges[27] to put an end to the investigation of cases that are manifestly inadmissible[28] or manifestly do not fall within the Court's jurisdiction[29].

A Dutch-speaking and a French-speaking reporting judge are appointed for each incoming case. When the two reporting judges agree that the case is manifestly inadmissible or does not fall within the Court's jurisdiction, they draft a document to this effect (reporting judges' conclusions), setting out their arguments. They have 30 days in which to present these conclusions to the President.

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[26] *Verfassungsbeschwerde, plainte constitutionnelle.*

[27] As has been said, the Court has jurisdiction only in respect of legally binding rules. An application to have a decision by a local administrative authority set aside would, for example, manifestly not fall within the Court's jurisdiction.

[28] For an overview of the admissibility conditions, see Chapter III above.

[29] As has been said (see 8 above), the Court normally sits with a single bench of seven judges or in plenary with ten or twelve judges.

The conclusions are sent to the party lodging the application for judicial review or, in the case of preliminary questions, to the parties in the lower Court, who have 15 days in which to respond in writing in a memorial justifying their arguments.

If, once this time limit has elapsed, the two reporting judges and the President unanimously agree that the case is manifestly inadmissible or manifestly does not fall within the Court's jurisdiction, a decision to this effect is made in a judgment handed down by this restricted three-judge bench and the case is thereby closed.

If, on the other hand, unanimity is lacking, the case will continue by means of the ordinary procedure.

Fast-track investigation in certain other cases

25. Section 72 of the Law on the Court of Arbitration provides for a fast-track investigation:

- when the application for judicial review is manifestly ill-founded;
- when the preliminary question manifestly calls for a negative answer;
- when it is possible to put an end to the case by means of an immediate judgment (*arrêt de réponse immediate*) because of the nature of the case or the relative simplicity of the issues it raises.

In the first two hypotheses, the Court can deal quickly with cases where there is manifestly no breach of the Constitution.

Here again, it is the reporting judges who set the preliminary procedure in motion by drafting conclusions within 30 days. The conclusions are sent to the party concerned, who has 15 days in which to react in writing.

This procedure is different from that provided for in Section 71, in that it is not the restricted three-judge bench that decides, but the ordinary seven-judge bench.

The third and last hypothesis provided for in Section 72 makes it possible to hand down an immediate judgment. The Court itself used to use this technique to uphold the previous case law when the same question had arisen in another case.

Since 2003 (see 6 above), it has also been possible to use this preliminary procedure in cases which, because of their nature or relative simplicity, can be closed rapidly, even if the Court concludes that there has been a breach of the Constitution. In that case, not only the parties concerned but all the authorities designated by law (see footnote 18) are informed of the reporting judges' conclusions so that the contested rule may, if necessary, be defended.

Again under Section 72, the bench may decide to put an end to the preliminary procedure and apply the ordinary procedure.

Increase in the number of legal advisors

26. When the Court's jurisdiction was extended in 2003 , it was feared that the number of cases would increase substantially.

In addition to the above-mentioned measures extending the scope for applying the preliminary procedure, provision was made for the possibility of increasing the number of legal advisors to a maximum of 24.

The Court later decided to increase the number of legal advisors from 14 to 18.

Examination of memorials submitted late

27. One measure taken by the Court that is less radical but nevertheless cuts down on procedure consists in immediately eliminating memorials that have been submitted late.

As has been said, the law lays down time limits within which memorials may be submitted. When a memorial has, on the face of it, been submitted late, the Court will inform the party submitting it. Unless the latter can justify the lateness within 8 days, the memorial will be ignored in the proceedings[30]

VI. Drafting of judgments

28. Each judgment of the Court of Arbitration is the result of intensive co-operation between the judges, legal advisors, registrars, secretariat and translation department.

On average, a judgment is about 15 pages long, but there are cases in which judgments exceed 130 pages[31].

The judgment is in four parts.

First part

29. The first part is drafted by the registrar. It includes the title page and a brief description of the case and the names of the judges concerned, followed by a more detailed description of the case and the main procedural stages.

[30] In practice, this also means that the party concerned is not taken into account as a party to the case.

[31] Part of the judgment is in single spacing, 10 pts (Times New Roman), and part in one-and-a-half spacing. As *Microsoft Word* files, the judgments contain about 60 kilobytes on average.

Second part

30. The second part sums up the views of all the parties as set out in the memorials.

The summary is prepared by the first reporting judge's legal advisor[32] and checked by the Court.

In the case of requests for preliminary rulings, it is ascertained, before this second part, in what context the preliminary question has been put (under the heading "Facts and prior procedure").

Third and fourth parts

31. The third part of the judgment consists of the preamble, which describes how the Court reached its assessment. The fourth or "operative" part comprises the final ruling.

32. How are these third and fourth parts drafted?

Once the time limits for submitting memorials have expired and the draft summary (second part) is made, the first reporting judge, in consultation with the second reporting judge, prepares an internal report on the case. The Court may then decide whether further investigation is needed. If not, the case is prepared for the hearing.

Initial consideration is given to the judgment as soon as possible after the end of the hearing. To this end, the reporting judges, with the help of the legal advisors, prepare a preliminary draft judgment[33].

Certain aspects of the case may then be examined in greater detail, either in separate information notes, or by means of footnotes to the preliminary draft judgment.

The latter is forwarded (with a translation) to all the judges and legal advisors as soon as possible[34]. The text already takes account, as far as possible, of the basic layout[35] and typing rules designed to ensure that all judgments are uniform[36].

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[32] Two reporting judges, one French-speaking and one Dutch-speaking, are appointed for each case, in accordance with a complex rota system. The decision as to whether the case will be examined in Dutch or French is taken according to certain rules. When the case is examined in Dutch, the Dutch-speaking judge, with the assistance of a Dutch-speaking legal advisor, will take all initiatives concerning the investigation of the case, up to and including the preparation of a draft judgment.

[33] If the two reporting judges do not agree, the first reporting judge submits a text in any case. The second reporting judge may submit an alternative text.

[34] Even the judges who are not part of the bench hearing the case and their legal advisors receive a copy of the preliminary draft. This in no way gives them the right to intervene in the case, but allows them to take account of the progress of all the cases pending.

[35] Use is made, in particular, of headings and sub-headings, such as "As to admissibility" and "As to the merits" or "First ground", "Second ground", etc. Numerical subdivisions are also used, for example A.1.1, A.1.2, A.2, A.3, etc for the second part (the parties' submissions) and B.1, B.2.1, B.2.2, etc for the third part (the preamble).

[36] There is an in-house handbook for the preparation of judgments.

33. All the staff of the Court of Arbitration are connected to the Court's computer network and use the same programmes.

All draft judgments are stored in electronic form (as *Microsoft Word* documents) in a common part of the server. The documents stored carry a specific file name, which is composed in such a way that it is possible to see at a glance what case the document covers, what sort of document it is, who drafted it and which version it is.

Consideration of the judgment in chambers

34. The judges may await the preliminary exchange of views on the draft or immediately propose written amendments.

An amendment may concern one or other part of the text or constitute a full alternative. Amendments may be tabled while all the judges on the bench are considering the judgment in chambers, by an individual judge or jointly. Depending on the case, the reporting judges may be asked to submit a new text or one or more of the other judges may draft an alternative version.

If necessary, the case will be discussed on several occasions[37] and the draft will be rewritten several times until the broadest possible consensus is obtained[38].

It is not only the degree of legal difficulty of the cases and their often very great social importance that make consideration of the judgment tricky. The fact that seven judges[39], with the help of their legal advisors, must come up with a single judgment also makes this stage particularly complex. In addition, it is always necessary to work in two languages. All this means that judgments may be considered for up to some months and in some rare cases up to six months or more (several judgments are considered simultaneously).

After the final vote and a last joint reading of the text, a date is set for delivering the judgment.

Generally, the draft is also circulated "for written observations" to all the judges and legal advisors. This means that last-minute comments can be made. The translation department and the secretariat carry out a final check and make linguistic, layout and typing corrections.

Delivery of the judgment

35. The judgment is delivered at a public hearing, at which its operative provisions are read out[40]/[41].

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[37] On average, a case comes back three or four times in the course of the morning or afternoon. There are six such sessions a week (from Tuesday to Thursday), and one to three cases are discussed at each.

[38] See 8 above for the majority required.

[39] And, in 20% of cases, 12 judges.

[40] The parties and their lawyers, who are informed beforehand of the date on which the judgment will be delivered, may obtain a preliminary copy of the judgment from the registrar as soon as it has been delivered. The registrar then officially notifies all the parties and the public authorities designated by law of the judgment.

Despite the recent extension of the Court's jurisdiction, the time limit within which the Court must rule has been reduced by law from 18 to 12 months.

The Court makes every effort to rule within the one-year time limit. It succeeds in doing so in the vast majority of cases.

[41] A certain amount of time has been saved by virtue of a provision introduced when the Court's jurisdiction was extended in 2003, whereby the judgment may be delivered by the Presidents alone and therefore no longer needs to be delivered in the presence of all the members of the bench.