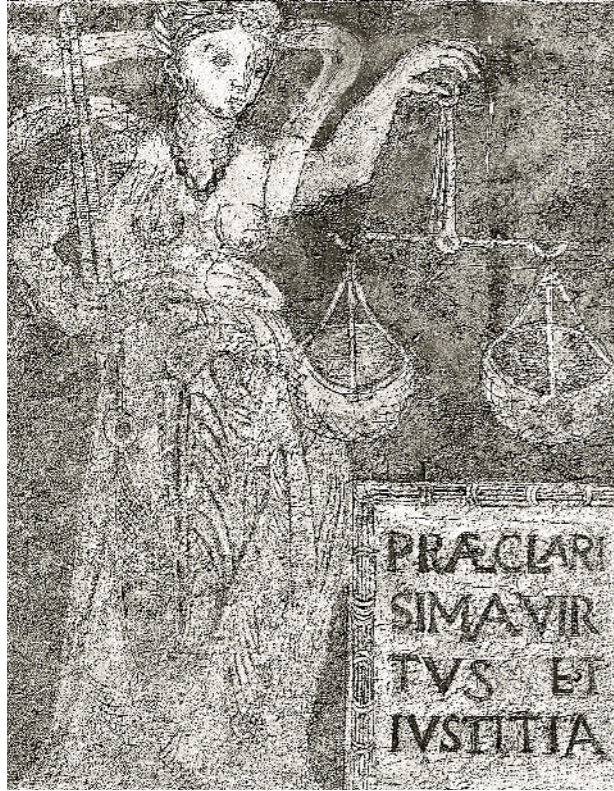**The Swiss Federal Supreme Court**
The Third Power within the Federal State

2023

Justice is the greatest of all virtues
Praeclarissima virtus est iustitia

Mural dating from 1583, located at the former High Court building in Vicosoprano (Bregaglia, Grisons)

Table of Contents

The History of the Federal Supreme Court

Established in 1848

The Federal Supreme Court was established in 1848 by the Swiss Constitution of 12 September 1848, which transformed the previous federation of states into a single federal state in the wake of the Civil War. It was tasked with «the administration of justice to the extent that this is a federal concern». However, the powers of the then Federal Supreme Court were limited in scope. It handed down rulings primarily in civil-law disputes between the cantons and the Confederation and in cases involving political crimes against the Confederation and infringements of the fundamental rights enshrined in the new Constitution, insofar as these matters were referred to it for resolution by the Federal Assembly. It was composed of eleven non-permanent Justices, had no permanent seat and sat as the situation demanded in the Swiss capital or, when required by the cases to be heard, at another location designated by the President.

The Federal Supreme Court becomes a permanent court and is tasked with a new remit

The Federal Supreme Court became a permanent court in 1875. This change was precipitated by the new duties conferred upon it by the Swiss Constitution of 29 May 1874. It was tasked with ruling on jurisdictional conflicts between the federal and cantonal authorities and constitutional disputes among the cantons. Its remit also extended to ruling on appeals lodged by citizens against the decisions of cantonal authorities regarding the infringement of constitutional rights but also on matters involving violations of concordats, treaties and federal laws. As a consequence, it became a true supreme court of the Confederation whose task it was to guarantee the fundamental rights and freedoms of Swiss citizens and to ensure the uniform application of Swiss federal law. In the following decades the duties of the Federal Supreme Court expanded continuously owing to the new legislative powers of the Confederation.

In 1875 the Federal Supreme Court had nine ordinary Justices, who were prohibited from pursuing any other occupation, and two court clerks. In time the number of Justices and court clerks had to be continuously adapted to accommodate the Court's growing case load. It also became necessary to create divisions within the Federal Supreme Court because the number of cases to be heard no longer permitted them to be adjudicated in plenary sessions.

Lausanne was designated as the seat of the permanent Federal Supreme Court. The Court first moved into quarters in Casino de Derrière-Bourg, a building formerly located in the vicinity of Place St. François. This building has since been demolished. The Court then moved into the purpose-built Palais de Justice of Montbenon, where it sat for the next forty years. In 1926 it moved its seat to the Mon-Repos courthouse, built in the park of the same name.

The Federal Supreme Court today

The Swiss Constitution of 18 April 1999 confirmed and consolidated the role of the Federal Supreme Court. It stipulates that the Federal Supreme Court is the supreme judicial body of the Swiss Confederation in civil, criminal, administrative and constitutional matters, and that it administers itself independently and is answerable only to the law. The Federal Supreme Court exercises the administrative supervision over the other federal courts.

In 2007, the former Federal Insurance Court, which was established in 1917 and seated in Lucerne, was integrated in the Federal Supreme Court. Its duties are now carried out by the Third Public Law Division and the Fourth Public Law Division (until the end of 2022 the «social law divisions») of the Federal Supreme Court. These divisions remained in Lucerne and are located in the former administrative building of the Gotthard Railway Company on the shores of Lake Lucerne.

The Role of the Federal Supreme Court

The Federal Supreme Court ensures uniform application of Swiss federal law within the 26 cantons of Switzerland

The highest judicial authority within the federal state

As the court of final appeal, the Federal Supreme Court issues final rulings on disputes between individuals, between cantons, between individuals and the government, as well as between cantons and the federal authorities. In this function, the Federal Supreme Court covers all legal domains, in principle civil and criminal law, debt enforcement and bankruptcy law, as well as public and administrative law (including social insurance law). The Federal Supreme Court is responsible in particular for protecting the constitutional rights of citizens.

Virtually no cases are heard in Lausanne or Lucerne in the first instance. Initially, cases are dealt with mostly by the courts of first instance, whose designations vary from canton to canton, and by the cantonal authorities responsible for administrative law. In all civil or criminal matters, the cantons are required to additionally establish a second (higher) judicial instance. In public law, the cantonal administrative and social insurance courts serve as courts of first instance to the Federal Supreme Court. Apart from a few exceptions, other judicial authorities at the federal level also serve as the first instance before cases are referred to the Federal Supreme Court.

Interpreting the law takes front and centre stage

The work of the Federal Supreme Court varies considerably from the cantonal and federal courts of first instance. The federal Justices do not re-establish the facts of the case but rely on the previously established facts; they can be corrected by the Federal Supreme Court only if it finds that they have been incorrectly established in a flagrant manner by the lower court, or that they have been based on a violation of law.

The federal Justices only address questions of law. The Federal Supreme Court ensures that federal law is uniformly applied and that the boundaries set by federal law are not transgressed in the course of the enactment, application and interpretation of law and the administration of justice. As a result of its rulings, the Federal Supreme Court contributes to the development of law and its adaptation to changing circumstances.

Appeals

Anyone seeking justice essentially has four legal recourses for lodging an appeal with the Federal Supreme Court: the three types of standard appeal (relating to civil, criminal and public law disputes) and the subsidiary constitutional appeal. Under the three standard appeal categories, any type of grievance is admissible: incorrect application of the law and infringement of constitutional rights. This makes it easier for individuals to have recourse to the law.

If a standard appeal is not admissible, then cantonal rulings may be appealed by means of the subsidiary constitutional appeal. This appeal only addresses issues of the infringement of constitutional rights.

Rulings

The divisions of the Federal Supreme Court generally render their rulings in panels consisting of three Justices. Five Justices may sit on a panel when fundamental legal issues are at stake or when one of the Justices requests this.

In the great majority of cases rulings are passed by way of circular. This is not possible unless all of the Justices agree to the proposed draft ruling.

Rulings are handed down in public deliberation when the Justices are not unanimous, the division president orders this or when one of the Justices requests this. In this case the Justices deliberate and render their decision in the presence of the public. First the draft ruling and any draft opposing ruling are read, and then the other Justices express their opinions. In doing so, each of the Justices speaks in their native language. When the deliberation is concluded, a vote is taken by a show of hands and the verdict is passed according to the majority.

Decision

Generally speaking, the Federal Supreme Court renders its rulings in the language of the decision being contested. However, the parties to the proceeding are free to draft their petitions in one of Switzerland's four national languages; the petitions are not translated.

If an appeal is granted, the lower courts need as a general rule only re-examine the case if the Federal Supreme Court is unable to rule itself due to insufficient facts.
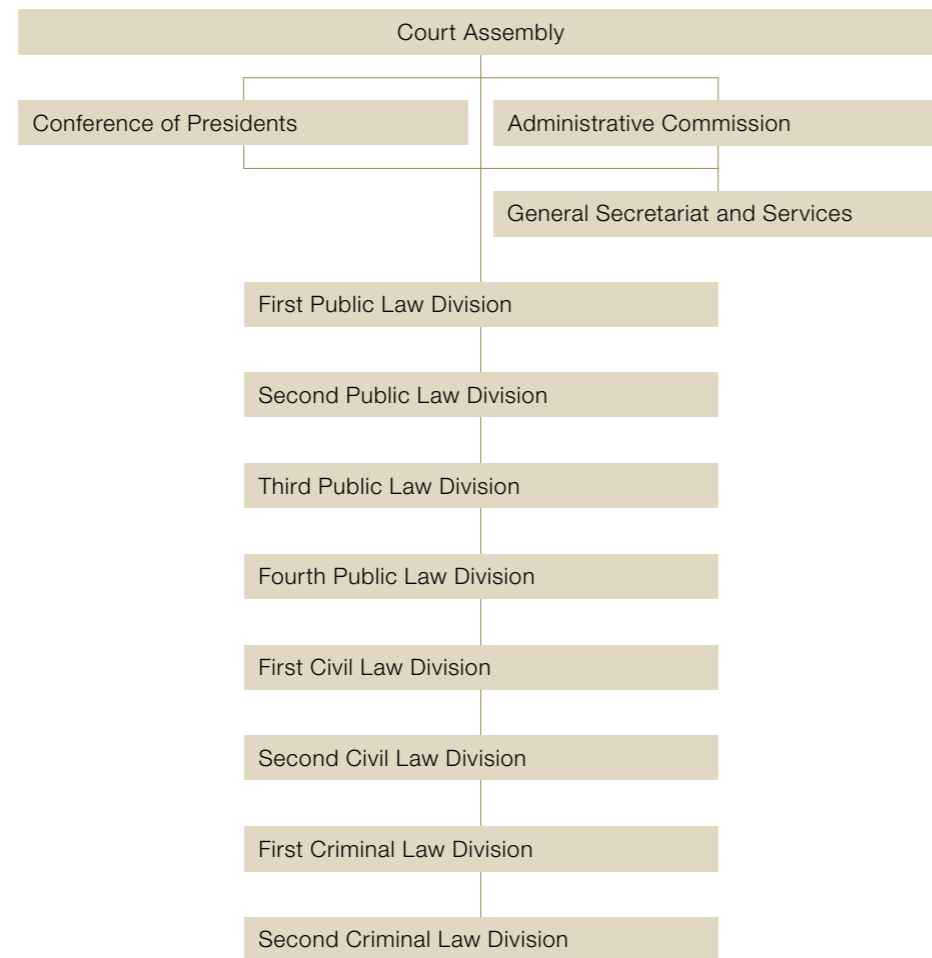
Federal Criminal Court, Federal Administrative Court and Federal Patent Court

Judicial reform saw the creation of further federal judicial authorities. The Federal Criminal Court in Bellinzona officially opened its doors on 1 April 2004. The Federal Administrative Court temporarily opened its doors on 1 January 2007 in Bern and was relocated to its definitive site in St. Gallen in mid-2012. The Federal Patent Court opened its doors at the same location at the beginning of 2012. In some cases, the decisions of these three federal courts of first instance may be appealed to the Federal Supreme Court. All three courts are subject to the administrative supervision of the Federal Supreme Court.

The European context

The European Convention on Human Rights (ECHR), which has been in force since 1953, protects basic human rights at a European level. Switzerland has been a member of the Council of Europe since 1963 and therefore must guarantee the protection of human rights as provided for by this Convention. Under certain conditions a party may appeal a decision of the Swiss Federal Supreme Court to the European Court of Human Rights in Strasbourg and request that it should be reviewed to determine if a violation of the Convention has occurred.

Organisation

Court Assembly

Conference of Presidents	Administrative Commission

General Secretariat and Services

First Public Law Division

Second Public Law Division

Third Public Law Division

Fourth Public Law Division

First Civil Law Division

Second Civil Law Division

First Criminal Law Division

Second Criminal Law Division

Supervisory bodies

The supervisory bodies of the Federal Supreme Court are the Court Assembly, the Administrative Commission and the Conference of Presidents. The Court Assembly consists of all ordinary Justices and is mainly responsible for the Court's internal organisation. It designates the divisions, appoints their presidents and issues the procedural rules for the Court. The Administrative Commission is responsible for managing the Court's administration. It is comprised of the President of the Federal Supreme Court, the Vice-President and one other Justice. The Conference of Presidents consists of the presidents of the various divisions and is responsible for the coordination of judicial decision-making among the divisions. The President of the Federal Supreme Court acts in an advisory capacity. The Secretary-General participates in meetings held by the Court Assembly, the Administrative Commission and the Conference of Presidents in an advisory capacity.

Federal Justices

A total of 40 Justices sit on the bench of the Federal Supreme Court. Currently 16 women and 24 men serve as federal Justices. Of the federal Justices currently serving on the bench, three have Italian, 14 French and 23 German as their native language. The Justices are forbidden from engaging in any gainful occupation outside of their work as federal Justices. The federal Justices have the status of government officials.

The federal Justices are proposed by the Judicial Committee and elected by the United Federal Assembly (National Council and Council of States) for a term of office of six years. They can be re-elected an unlimited number of times until the age of 68. Anyone who has the right to vote at the federal level may be elected a federal Justice; the law does not prescribe any legal training. In practice, however, only proven jurists from the judiciary, practicing legal profession, academia or from the public sector are elected.

Deputy federal Justices

The Federal Supreme Court numbers 19 deputy Justices, who are also elected by the Federal Assembly. The deputy federal Justices serve in a part-time capacity, otherwise they are professors, practicing lawyers or cantonal judges. As a general rule, they serve as replacements for Justices who have recused themselves or have taken ill, or when the Court's docket has become overly full. In the proceedings on which they sit they have the same rights and obligations as the ordinary federal Justices.

Court clerks

The court clerks are the judicial staff of the Justices. They participate in the instruction of the cases as well as in the adjudication and have an advisory voice. Previously their primary task was to draft the written judgements after the decisions had been rendered in court. Due to the increasing case load of the Court, the court clerks are now also tasked with drafting the draft ruling in many cases. However, the judgment is always made by the Justices involved. Currently 143,9 court clerks serve on the Federal Supreme Court, approximately half of whom are women.

Presidency of the Court's Assembly

President and Vice-President

Yves Donzallaz
President

François Chaix
Vice-President

At the suggestion of the Federal Supreme Court, the United Federal Assembly elects the President and the Vice-President from the pool of ordinary Justices. They are elected for a term of two years and can be re-elected once. The President chairs both the Court Assembly and the Administrative Commission and is the official representative of the Federal Supreme Court.

The Federal Supreme Court divisions

The 40 federal Justices are elected by the United Federal Assembly. The Federal Supreme Court is composed of eight divisions, with four, five or six Justices each. The tasks of the divisions differ according to the legal domains they cover (public law, private law, criminal law and social law). The different divisions essentially deal with the following fields of law:

First Public Law Division

Expropriations, national and regional spatial planning and construction law, environmental protection, political rights, international judicial cooperation in criminal matters, road traffic (including the revocation of driving licences), citizenship, public service personnel, fundamental rights such as equality under the law, guarantee of ownership, freedom of art and guarantees of due process.

Second Public Law Division

Rights of foreigners, public commercial law and other areas of administrative law (e.g. state liability, subsidies, radio and television), fundamental rights such as freedom of religion and conscience, freedom of language and economic freedom.

Third Public Law Division

Taxes, old-age and survivors' insurance, disability insurance, loss of earnings compensation, health insurance and occupational pensions.

Fourth Public Law Division

Disability insurance, accident insurance, unemployment insurance, cantonal social insurance, family allowances, social assistance, military insurance, supplementary benefits and transition benefits for older unemployed persons.

First Civil Law Division

Code of Obligations (law of obligations), insurance contracts, intellectual property rights, competition law and international arbitration.

Second Civil Law Division

Civil Code (law of persons, family law, law of succession and property law), proceedings concerning debt recovery and bankruptcy.

First Criminal Law Division

Substantive criminal law (without the execution of penalties and measures), Code of Criminal Procedure and appeals against final rulings in criminal proceedings (without no-proceedings orders and abandoning proceedings).

Second Criminal Law Division

Execution of penalties and measures, interlocutory rulings in criminal proceedings, no-proceedings orders and abandoning proceedings.

Federal Justices, Deputy Federal Justices and Court Clerks

First Public Law Division | Federal Justices

Lorenz Kneubühler

François Chaix

Stephan Haag

Thomas Müller

Laurent Merz

Deputy Federal Justices

Marie-Claire Pont Veuthey	Tanja Petrik-Haltiner
Richard Weber	Mecca Athos
Jeremias Fellmann	

Court Clerks

Georg Pfäffli	Dominique Alvarez	**Court Clerk Pool**
Olivier Kurz	Fabian Mösching	Andrea Gadoni
Tiziano Crameri	Pascal Baur	Corsin Bisaz
Alexandra Gerber	Jacqueline Dambeck	
Philipp Gelzer	Dominique Hänni	
Christian Parmelin	Annina Dillier	
Beat Dold	Valentin Vonlanthen	
Bénédicte Tornay Schaller	Mischa Poffet	
Adrian Mattle	Félise Rouiller	
Sandrine Arn		

Second Public Law Division | Federal Justices

F. Auf Linden

Florence Aubry Girardin

Yves Donzallaz

Julia Hänni

S. Hartmann

Stephan Hartmann

Marianne Ryter

Deputy Federal Justices

Markus Berger

Vincent Martenet

Tanja Petrik-Haltiner

Court Clerks

Raffaella Ieronimo Perroud	Marco Zollinger
Emmanuelle Jolidon	Hector Rastorfer
Claude-Emmanuel Dubey	Cedric Marti
Stéphanie Vuadens	David Hongler
Eleonor Kleber	Florian Weber
Alexandre de Chambrier	Annekatrin Wortha
Cornel Quinto	
Daniela Ivanov	**Court Clerk Pool**
Eloi Jeannerat	Marco Savoldelli

Third Public Law Division | Federal Justices

Francesco Parrino

Thomas Stadelmann

Margit Moser-Szeless

Michael Beusch

Karin Scherrer Reber

Deputy Federal Justices

Rolf Benz

Markus Berger

Mathias Kradolfer

Court Clerks

Andreas Matter	Stéphanie Vuadens	Jérôme Bürgisser
Jean-Marc Berthoud	Francesca Cometta Rizzi	Rafi Feller
Brigitte Keel Baumann	Klaus Williner	
Petra Fleischanderl	Olivier Bleicker	
Andreas Traub	Stéphanie Perrenoud	
Florian Cretton	Barbara Stanger	
André Nabold	Martin Businger	**Court Clerk Pool**
Johanna Dormann	Moritz Seiler	Marco Savoldelli
Martin Kocher	Lilian Nünlist	Isabelle Rupf

Fourth Public Law Division | Federal Justices

Martin Wirthlin

Marcel Maillard

Alexia Heine

Daniela Viscione

Jean Métral

Deputy Federal Justice

Sarah Bechaalany

Court Clerks

Claudia Kopp Käch	Mélanie Fretz Perrin	Claudio Colombi
Roger Grünvogel	Jenny Castella	
Elisabeth Berger Götz	Lukas Grünenfelder	
Isabel von Zwehl	Janina Huber	
Beatrice Polla	Franziska Martha Betschart	
Christian Hochuli	Philipp Wüest	
Jaromir Jancar	Selin Elmiger-Necipoglu	
Christoph Grunder	Mathieu Ourny	
Claudia Durizzo	Mark Walther	

First Civil Law Division | Federal Justices

Monique Jametti

Fabienne Hohl

Christina Kiss

Yves Rüedi

Marie-Chantal May Canellas

Deputy Federal Justice

Mattia Pontarolo

Court Clerks

Géraldine Godat Zimmermann	Christian Stähle
Giorgio Piatti	Olivier Carruzzo
Thomas Widmer	Jacques Douzals
Christian Luczak	Isabelle Raetz
Matthias Leemann	Valentin Botteron
Diane Monti	Matthias Dürst
Daniel Brugger	Alexander Kistler
Niklaus Matt	
Matthias Gross	

Second Civil Law Division | Federal Justices

Christian Herrmann

Elisabeth Escher

Nicolas von Werdt

Felix Schöbi

Grégory Bovey

Federica De Rossa

Deputy Federal Justices
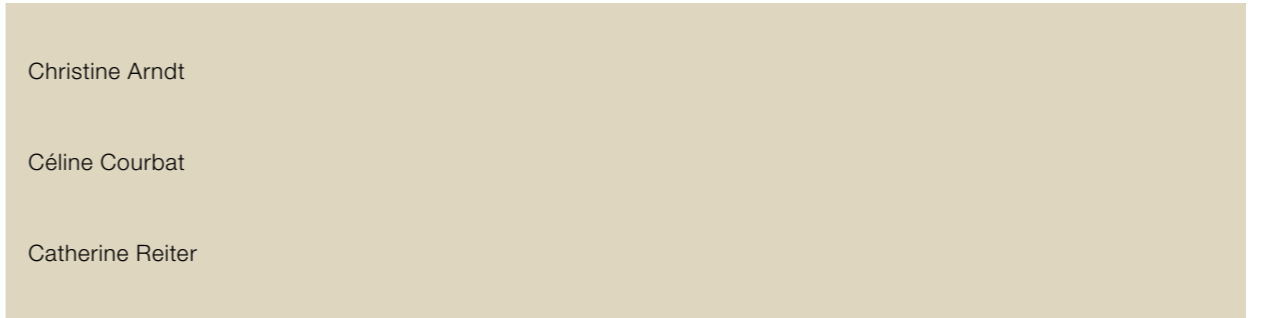
Christine Arndt

Céline Courbat

Catherine Reiter

Court Clerks

Andrea Braconi	Annick Achtari	Zina Conrad
Dominique Mairot	Caroline Hildbrand	Flora Bouchat
Véronique Jordan	Marie Dolivo	
Marco Levante	Ralph Ludwig Buss	
Urs Peter Möckli	Stéphanie Feinberg	
Ombline de Poret Bortolaso	Gina Gutzwiller	
Simon Zingg	Sarah Gudit	
Valentin Monn	Valentin Piccinin	**Court Clerk Pool**
Flavia Antonini	Anouk Lang	Lorenz Sieber

First Criminal Law Division | Federal Justices

Laura Jacquemoud-Rossari

Christian Denys

Giuseppe Muschietti

Beatrice van de Graaf

Deputy Federal Justices

Yvona Griesser

Cordula Lötscher

Beata Wasser-Keller

Court Clerks

Marlène Kistler Vianin	Alexandre Dyens	**Court Clerk Pool**
Mengia Ladina Arquint Hill	Malorie Rettby	Andrea Gadoni
Damien Vallat	Stefan Boller	Vanessa Thalmann
Rosaria Sara Ortolano Ribordy	Mona Erb	Flavia Bianchi
Lea Unseld	Nadia Meriboute	Giulia Corti
Doris Pasquini	Sandra Frey Krieger	Michael Burkhardt
Ludivine Livet	Sébastien Rosselet	Julien Barraz
Corinne Andres	Chantal Meier	
Véronique Klinke	Ömer Keskin	
Stéphanie Musy	Delphine Brun	

Second Criminal Law Division | Federal Justices

Bernard Abrecht

Sonja Koch

Christoph Hurni

Christian Kölz

Yann-Eric Hofmann

Court Clerks

Marc Forster	**Court Clerk Pool**
Fabienne Kropf	Mélanie Nasel
Noemi Rohrer	Sandrine Paris
Christine Sauthier	Alexandre Tinguely
Myriam Lustenberger	Michael Hahn
Benjamin Clément	Patrick Schurtenberger
Marcus Stadler	Barbara Kern
Tommaso Caprara	Florence Schwab Eggs
Charles Fragnière	

Secretary-General's Office and Court Services

Secretary-General	Secretariat, Support Staff, Media Relations, Organisation and relations

Legal and Information Service

IT

Resources

Human Resources

Financial Resources

Court Registries

Maintenance and Security

Ushers

Court Registry and Administration Lucerne
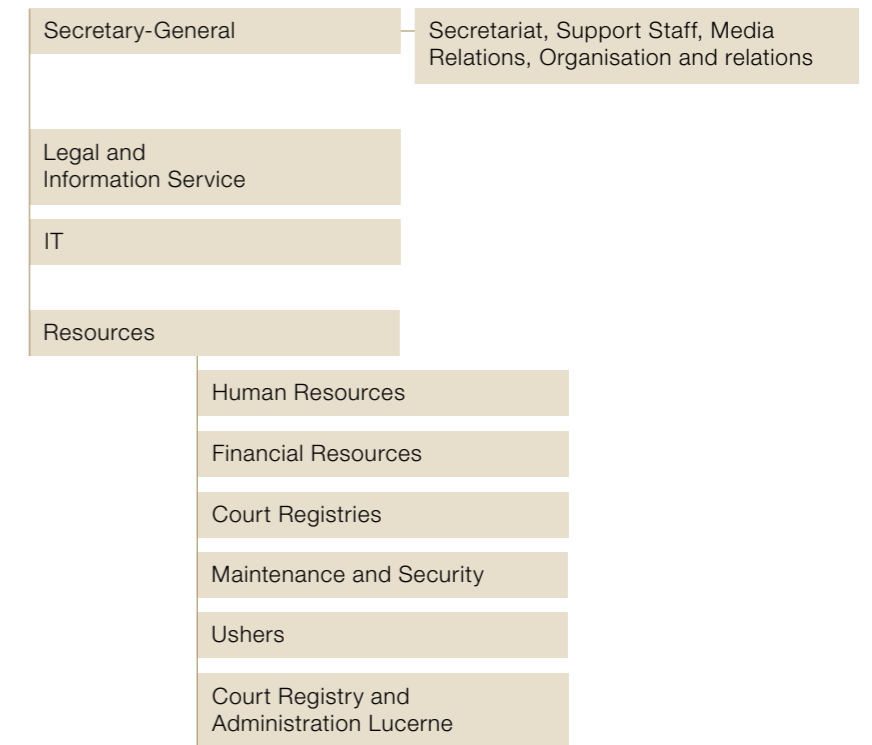
The Secretary-General's Office is the administrative headquarters for the Court Assembly, the Administrative Commission, the Conference of Presidents and the President of the Federal Supreme Court. It provides support for all staffing, organisational, administrative and financial matters. It is also the steering and supervisory body for the court services. The court services support the Justices and the court clerks in their judicial activities. The scientific services provide the key tools for office communication, file administration, the library, legal databases, etc. The chancelleries manage the court files and are responsible for issuing the rulings. The logistics services ensure that the Court can operate in an orderly and smooth fashion.

General Secretariat | Secretary-General and Division Heads

Services | Service Heads

Nicolas Lüscher
Secretary-General

Legal and Information Service | Thomas Diener

IT | Daniel Brunner

Human Resources | Andrea Lanz

Financial Resources | Pierre-Alain Joye

Maintenance and Security | Thierry Leresche

Ushers | Jérôme Eltschinger

Central Registry Lausanne | Yanick Mollard

Secretary- General's Office | Jacqueline Modoux

Court Registry and Administration Service Lucerne | Silvia Benedetto Huber

Lorenzo Egloff
Deputy Secretary-General,
Finances, Human Resources
and Administrative Services

Jacques Bühler
First Assistant Secretary-
General and General
Project Manager Justitia 4.0

Peter Josi
Assistant Secretary-General,
Media and Communication

Caroline Brunner
Assistant Secretary-General,
Court Registries and Deputy
Media and Communication

vacant
Assistant Secretary-General

Facts and Figures

History

1848	With the new Federal Constitution the transition from a confederation to a federal state is realised and a non-permanent supreme court is introduced.
1874	As a result of a constitutional amendment, the Federal Supreme Court becomes a permanent institution.
1917	The Federal Insurance Court is established in Lucerne.
1959	The Council of Europe founds the European Court of Human Rights.
1968	The Federal Insurance Court becomes an independent division of the Federal Supreme Court, but remains in Lucerne.
1998	The European Court of Human Rights becomes a permanent institution based in Strasbourg.
2000	The Swiss electorate approves judicial reform. The newly extended buildings in Lausanne are inaugurated.
2004	The Federal Criminal Court is established in Bellinzona.
2007	The Federal Insurance Court is merged with the Federal Supreme Court: the two new Social Law Divisions are based in Lucerne. The Federal Administrative Court is established.
2012	The Federal Patent Court is established in St. Gallen. The Federal Administrative Court relocates to its definitive site in St. Gallen.
2013	The Federal Criminal Court inaugurates its new, definitive court building in Bellinzona
2021	In a federal referendum, the «Justice Initiative», which demanded that in future Federal Justices be chosen by lot, is rejected.
2023	The two social law divisions in Lucerne become the Third and Fourth Public Law Divisions. The Federal Supreme Court receives a second criminal law division.

The Swiss Federal Supreme Court in 2022

Pending cases as of 1 January 2021	New cases filed	Decided	Pending cases as of 31 December 2022
First Public Law Division			
622	1363	1307	678
Second Public Law Division			
410	1145	1048	507
First Civil Law Division			
298	677	716	259
Second Civil Law Division			
494	1225	1313	406
Criminal Law Division			
897	1573	1443	1027
First Social Law Division			
274	778	716	336
Second Social Law Division			
241	626	590	277
Others			
2	5	5	2
Total			
3238	7392	7138	3492

Extracts from the Court's Rulings

The rulings handed down by the Federal Supreme Court extend to all conceivable situations in life, as the following selection from the wide variety of the Court's rulings shows.

Green light for wind farm project

BGE 147 II 319 of 18 March 2021, First Public Law Division
The Sainte-Croix wind farm project in the canton of Vaud comprises six wind turbines around 150 metres high. The Federal Supreme Court largely dismissed appeals in connection with the project. Above a threshold value for annual energy production of 20 gigawatt-hours, a wind farm may be considered to be of national interest. In light of the wind speeds at the planned sites, this threshold is met for the project.

DNA profile of climate activist must be deleted

BGE 147 I 372 of 22 April 2021, First Public Law Division
Climate activists had participated in the blockade of a bank in Basel in 2019. The public prosecutor's office of the canton of Basel-Stadt ordered the taking of fingerprints and DNA samples from several arrested persons. The Federal Supreme Court upheld the appeal of one of the persons concerned and ordered the deletion of the DNA profile and the fingerprints. In light of all the circumstances, the measures taken by the public prosecutor's office proved to be disproportionate.

Cantonal Corona measures at rallies

BGE 148 I 33 and 148 I 19 of 3 September 2021, Second Public Law Division
According to the Federal Supreme Court, the temporary restriction of the number of participants in rallies to 15 in the canton of Bern due to the coronavirus constituted a disproportionate encroachment on the freedom of assembly. A rally loses its significance with only 15 participants. In contrast, the temporary restriction of the number of participants to 300 was permissible in the canton of Uri.

No constitutional right to elective home education

BGE 146 I 20 of 22 August 2019, Second Public Law Division
A mother unsuccessfully applied for home schooling for her son. The Federal Supreme Court dismissed her appeal. The Federal Constitution does not grant parents a right to be able to teach children of primary school age at home. Even very restrictive cantonal regulations or a ban on private tuition at home are compatible with the constitutional right to protection of private and family life.

Climate activists convicted

BGE 147 IV 297 of 26 May 2021, Criminal Law Division
Twelve climate activists were rightly convicted of unlawfull entry for their 2018 occupation of a bank branch in Lausanne. They could not claim to have acted in a state of necessity because the requirement of an 'imminent danger' was not met. In its decision, the Federal Supreme Court did not have to assess the scientific findings on global warming.

Defamation by liking or sharing a Facebook post

BGE 146 IV 23 of 29 January 2020, Criminal Law Division
A man was accused, among other things, of spreading defamatory Facebook posts by third parties by pressing the 'Like' or 'Share' button, thereby making himself guilty of defamation. The Federal Supreme Court has confirmed that this can constitute an offence if the post is thereby communicated to a third party and the third party becomes aware of it.

Swisscom does not have to block streaming domains

BGE 145 III 72 of 8 February 2019, First Civil Law Division
A company demanded that Swisscom, as an internet provider, block its customers' access to certain foreign portals through which films that are unlawfully made available can be streamed or downloaded. The Federal Supreme Court came to the conclusion that Swisscom itself can not be accused of any specific contribution to the infringement of copyrights and is therefore not obliged to block the websites in question.

Visitation rights after the dissolution of the registered partnership

BGE 147 III 209 of 16 March 2021, Second Civil Law Division
Two women had registered their partnership in 2015. One of the women gave birth to three children after artificial insemination abroad. The couple separated in 2018. Subsequently, the issue was the visitation rights of the mother's ex-partner. The Federal Supreme Court held that, as a rule, an ex-partner of the legal parent must be granted visitation rights if a 'social' parental relationship has developed with the child and if the child was conceived as part of a joint parenting project and has grown up within the couple's relationship.

Pregnant women are eligible for placement

BGE 146 V 210 of 11 February 2020, First Social Law Division
(today Fourth Public Law Division)
A pregnant woman who was looking for permanent employment was denied a claim to daily unemployment benefits. This was on the grounds that her chances of finding employment seven and a half weeks before her due date were slim. The Cantonal Court of Valais overturned the decision, which was upheld by the Federal Supreme Court. The employability of a pregnant woman can not in general be denied with the argument that employment before the birth is unlikely. This would imply that employers did not want to hire the woman because of the imminent birth, which would constitute discrimination prohibited by the Gender Equality Act. Therefore, the period after the birth must also be taken into consideration with regard to employability.

Staff have the right to co-determination in pension fund changes

BGE 146 V 169 of 5 May 2020, Second Social Law Division
(today Third Public Law Division)
Employees have a genuine right to co-determination when the employer changes the occupational pension fund. A termination of the affiliation contract with the previous pension fund by the employer requires the prior consent of the employees or alternatively of the employee representatives. If this consent is not given, the termination is invalid. It is not sufficient if the staff are simply informed about the termination or merely consulted about it.

The Court's Buildings

The Mon-Repos Building in Lausanne

The Federal Supreme Court's Mon-Repos Building houses 30 magistrates (Federal Justices) and 300 staff members, and is a symbol of the Swiss Constitutional State. The current Mon-Repos Building is – after the Casino Building at Place St. François and the court building of Montbenon – the third Federal Supreme Court building in Lausanne. The Court moved into this building designed by architects Prince, Béguin and Laverrière in 1927. Due to the pressures of a growing case load and the resulting increase in work towards the end of the last century, it was necessary to rent external office space and, as a permanent solution, forge plans to extend this court building. In 2000, two additional wings were inaugurated.
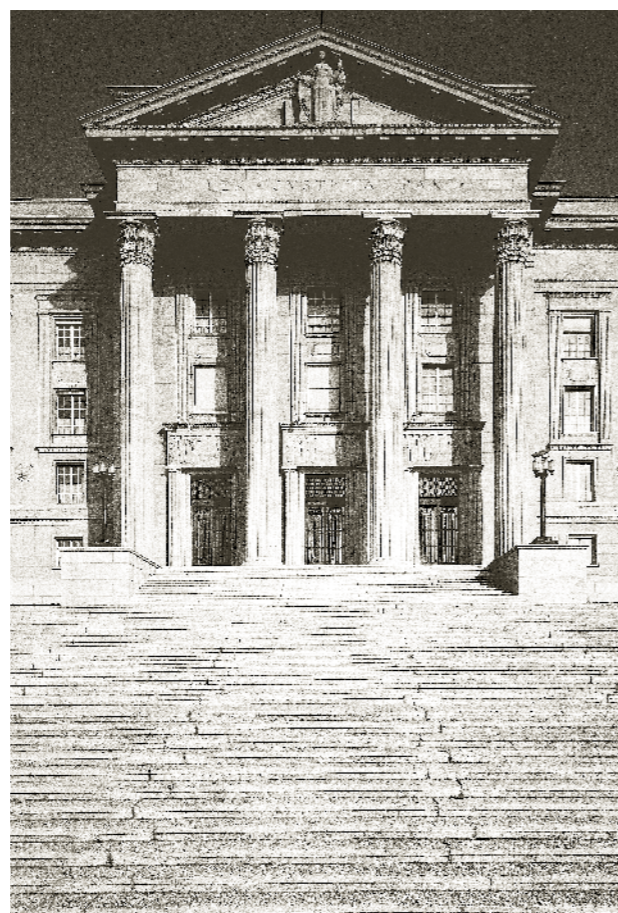
The Gotthard Building in Lucerne

Upon being established, the former Federal Insurance Court was located at Adligenswilerstrasse in Lucerne for 85 years. At the end of 2002, it was transferred to the Gotthard Building, then owned by the Swiss Federal Railways and centrally located at the lakeside. Designed in 1887 by architect Gustav Mossdorf as an administrative building for the historic Gotthard Railway Company, it was extensively renovated and restored in 2002. Since 2007 it houses the Third and the Fourth Public Law Division (until the end of 2022 the «social law divisions»), which ensued from the former Federal Insurance Court. The Gotthard Building is home to 10 federal Justices and 70 members of staff.
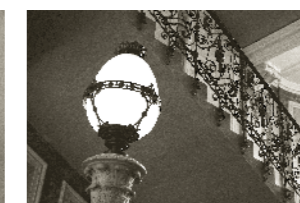
Swiss Federal Supreme Court

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Documentation

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please visit our website: www.bger.ch

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