

1. Record Nr.	UNINA9910484967703321
Titolo	Supreme courts under pressure : controlling caseload in the administration of civil justice // Pablo Bravo-Hurtado, Cornelis Hendrik van Rhee, editors
Pubbl/distr/stampa	Cham, Switzerland : , : Springer, , [2021] ©2021
ISBN	3-030-63731-X
Descrizione fisica	1 online resource (vii, 223 pages) : illustrations
Collana	Ius Gentium: Comparative Perspectives on Law and Justice ; ; v.83
Disciplina	347.013
Soggetti	Court congestion and delay
Lingua di pubblicazione	Inglese
Formato	Materiale a stampa
Livello bibliografico	Monografia
Nota di contenuto	Intro -- Contents -- Abbreviations -- Part I: Introduction -- Introduction -- 1 `Under Pressure´ -- 1.1 Two Dimensions of Case Overload -- 1.2 Various Solutions -- 1.3 Content -- 2 Romanic Legal Tradition -- 2.1 France -- 2.2 Italy -- 2.3 Spain -- 3 Germanic Legal Tradition -- 3.1 Germany -- 3.2 Austria -- 3.3 Croatia -- 4 Anglo-American Legal Tradition -- 4.1 England and Wales -- 4.2 United States of America -- 4.3 Argentina -- References -- Part II: Romanic Legal Tradition -- Towards a Reform of the French Court of Cassation? -- 1 The French Court of Cassation in Its Context -- 2 On-Going Reform -- 3 Conclusion -- References -- Finding a Cure or Simply Relieving Symptoms? The Case of the Italian Supreme Court -- 1 The Italian Supreme Court and Its Performance -- 2 One Court and Two Different Functions -- 3 Overburdened Docket: Consequences, Internal Solutions ... -- 4 and External Interventions: The 2009 and 2016 Legislative Reforms -- 5 Effectiveness of the Solution -- 6 `Tips´ from the Outside -- 7 Conclusion -- References -- Back in Focus: Case Overload and Case Selection Standards in the Spanish Supreme Court -- 1 Overview of the History of the Supreme Court -- 1.1 The Constitution of Cdiz (1812) -- 1.2 The Establishment of Cassation Appeal (1838) -- 1.3 The Definitive Shape of Spanish Cassation (1855-1881) -- 1.4 The Passing of the Crown (1978) -- 1.5 A Monetary Threshold (1984-1992) -- 1.6 `Cassational Interest´ As the Central Standard (2000) -- 1.7 A

Constitutional Certiorari (2007) -- 1.8 Legal and Statistical Overview -- 1.9 Almost a Revolution (2014) -- 1.10 Towards a New Stability? -- 2 Particular Aspects -- 2.1 Composition of the Supreme Court and the Cassation Procedure -- 2.2 Case Overload Problems -- 2.3 Case Overload Solutions -- 2.3.1 Increasing Capacity -- 2.3.2 Procedural Measures -- 2.3.3 Reducing Quantity -- 3 Conclusion. References -- Part III: Germanic Legal Tradition -- Sharing Responsibility: The German Federal Court of Justice and the Civil Appellate System -- 1 Overview of the Supreme Court -- 1.1 The Historical Setting -- 1.2 The Structure of the Federal Supreme Court -- 1.2.1 Internal Organisation -- 1.2.2 Special Bar of Lawyers -- 1.2.3 Other Federal Supreme Courts -- 1.2.4 The Federal Constitutional Court -- 1.3 The Procedural Setting -- 1.3.1 The Court System in Civil Matters -- 1.3.2 The Types of Appeal -- Appeal (Berufung) -- Appeal on Points of Law (Revision) -- Complaint (Beschwerde) and Complaint on Points of Law (Rechtsbeschwerde) -- 1.3.3 Restricting Access to the Bundesgerichtshof -- The System as It Was Before 2002 -- Leave to Appeal -- Striking Out Revisions -- 1.3.4 Grounds for Appeal (Revisionsgründe) -- Violation of the Law -- Factual Basis -- 1.3.5 A Successful Appeal on Points of Law -- 1.4 Workflow: Case Management -- 1.4.1 Preliminary Selection of Cases -- 1.4.2 Inferior Judges/Law Clerks -- 1.4.3 Writing the Judgment -- 1.5 Caseload -- 1.5.1 Intake -- 1.5.2 Judgment on the Merits -- 1.5.3 Evolution of Caseload Over the Years -- 2 Overload Problem -- 2.1 Symptoms of Overload -- 2.2 Crisis and Reform Movement -- 2.3 Caseload and Functions -- 3 Overload Solutions -- 3.1 Increasing Capacity -- 3.2 Reducing Quantity -- 3.2.1 Court Fees -- 3.2.2 Restrictions on Access and Other Filters -- 4 Effectiveness of the Solutions -- 5 Openness to Transplants -- 6 Conclusion -- References -- Access to the Austrian Oberster Gerichtshof: Attempts to Strike a Balance Between Adequate Workload and Adequate Review -- 1 The Oberster Gerichtshof -- 1.1 Introduction -- 1.2 A Brief History of the OGH -- 1.3 Organisation of the OGH -- 1.4 Access to the OGH -- 1.4.1 Short Introduction to the Austrian Court System and Appeal Procedure. 1.4.2 Remedies Against Appeal Decisions -- 2 The High Caseload of the OGH and Attempts to Reduce It -- 2.1 Symptoms of Overload and Historical Reasons for It -- 2.2 Important Question of Law Instead of Value Limits? -- 2.3 Combination of Access Filters -- 2.4 Other Measures Against Overload -- 2.5 Other Mechanisms -- 3 Effectiveness of Current Measures -- 3.1 Development of Workload and Duration of Proceedings -- 3.2 'Usability' of the System -- 3.3 Effectiveness in Relation to the OGH's Function -- 3.3.1 Transformation of the Court's Function -- 3.3.2 Fulfilment of the Respective Functions -- 3.3.3 Guiding Function -- 3.3.4 Safeguarding Individual Interests -- 4 Openness to Transplants -- 5 Conclusion -- 5.1 Absence of Real Crisis and Extent of Reforms -- 5.2 Complexity, Definition of Role and Efficiency of Reforms -- 5.3 Size of the Supreme Court and Internal Organisation -- 5.4 Overall Conclusion/Summary -- References -- Croatia: Supreme Court Between Individual Justice and System Management -- 1 Introduction -- 2 The Supreme Court of Croatia -- 3 Revizija as a Second Appeal on Points of Law -- 4 Symptoms of Case Overload -- 5 Case Overload Solutions and Their Effectiveness -- 6 An Embrace of the Public Function of the Supreme Court? -- 7 Conclusion -- References -- Part IV: Anglo-American Legal Tradition -- The Supreme Court of the United Kingdom and the Court of Appeal in England and Wales: Sharing the Appellate Load -- 1 Introduction -- 2 Structure and Practice of the Appellate Courts -- 2.1 The United Kingdom Supreme Court -- 2.1.1 The Court and Its Personnel -- 2.1.2

Appellate Jurisdiction -- 2.1.3 Permission to Appeal Requirements -- 2.1.4 Permission to Appeal and Appeal Statistics -- 2.2 The Court of Appeal -- 2.2.1 The Court and Its Personnel -- 2.2.2 Appellate Jurisdiction -- 2.2.3 Permission to Appeal Requirements. 2.2.4 Permission to Appeal and Appeal Statistics -- 3 Caseload Problems and Reform Attempts -- 3.1 No Overload in the UKSC -- 3.2 Case Overload in the Court of Appeal and Procedural Reform -- 4 Conclusion -- References -- A Happy-Go-Lucky Story: The American Supreme Court and Overload Problems -- 1 Introduction -- 2 The Purpose Served by the U.S. Supreme Court -- 3 The Long Path to the Current U.S. Supreme Court Apparatus -- 4 Caseload Pressure and Institutional Evolution in the U.S. Supreme Court -- 5 Caseload Cures and Consequences in the U.S. Supreme Court -- 5.1 Expanding the Court -- 5.2 Adding Staff -- 5.3 Choosing the Cases: Limiting the Caseload via the Certiorari Decision -- 5.4 Limiting the Court's Jurisdiction -- 5.5 The Burden of the Plenary Docket -- 5.6 A Real Caseload Crisis in the U.S. Courts of Appeals? -- 6 The Role of National Legal Culture -- 6.1 Narrowing Judicial Functions: Advisory Opinions and Political Questions -- 6.2 A Broadened View of Finality -- 6.3 Ancillary Responsibilities -- 6.4 Receptiveness to Transplants -- 7 Conclusion -- References -- Case Selection and Writ of Certiorari in Argentina: 'Transcendence' as a Case-Selection Parameter at the Federal Supreme Court -- 1 Introduction -- 2 Filters and the Crisis of the Supreme Courts -- 2.1 'Quantitative' Crisis -- 2.2 'Qualitative' Crisis -- 2.3 Mechanisms to Address the Crisis -- 3 The Requirement of 'Transcendence' in the Extraordinary Appeal at the Federal Supreme Court -- 3.1 Introduction -- 3.2 The Partial Discretion of Article 280 of the Code of Civil Procedure -- 3.3 The Requirement of 'Transcendence' and the Definition of Irrelevant Issues -- 3.3.1 Introduction: 'Transcendence' and the Institutional Role of the Supreme Court -- 3.3.2 Heterogeneity of the Supreme Court's Roles. Variability of Parameters. Importance. 3.3.3 First Requirement to Define 'Transcendence' or 'Significance': Suitability of the Case to Allow the Supreme Court to Acc... -- 3.3.4 Second Requirement to Define 'Transcendence' or 'Significance': General Impact of Discussed Issues. Distinction Between ... -- The Direct or Indirect Scope of the Precedent -- The Size of the Group of Person Affected -- 3.3.5 Irrelevant Issues, Discretion and Verisimilitude. 'Argentine Certiorari' and the Doctrine of 'Arbitrariness' -- 4 Conclusion -- References.

---