

2018

Year in Review



**Supreme Court of Canada
Cour suprême du Canada**





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The Supreme Court of Canada emblem is a symbol of the Court as the highest judicial institution in Canada. It was designed nearly a century ago by the distinguished Montreal architect Ernest Cormier, and can be found emblazoned in the marble floor of the Court's Grand Hall leading to the Main Courtroom. **As its emblem, it represents the Court's key values of justice, independence, integrity, transparency, and bilingualism.**

A Message from the Chief Justice

The Supreme Court of Canada isn't an ivory tower. It's your Court. The decisions we make here affect your life, and that of your family and community. It's important to us that you understand the work that we do, and why it matters.

In 2018, we decided a total of 64 cases, covering everything from child custody to freedom of religion to equal pay. As we do every year, we've grappled with many difficult issues and worked to settle the law clearly and fairly.

Our essential task — to make independent and impartial decisions about issues that matter to Canadians — hasn't changed since the Court was created in 1875. But much else has. Our first judges could never have imagined how technologies like cable news, social media, and smartphones would change our world. Today, these are the media through which many Canadians learn about and interact with their public institutions, including the Court.

The Supreme Court, its judges, and staff are dedicated to finding ways to better serve you. We're leveraging technology and new media to better communicate with you, wherever you live, in both of Canada's official languages.

This document is part of that. We've also become more active on social media ([Facebook](#) and [Twitter](#)); please follow us! And we've started publishing [Cases in Brief](#) that explain our decisions in plain language, so everyone can understand them.

My colleagues and I, and all the staff at the Court, are proud to share our work with you in this Year in Review. We look forward to continuing to serve Canadians in 2019, and beyond.

Sincerely,



Rt. Hon. Richard Wagner, P.C.

Chief Justice of Canada





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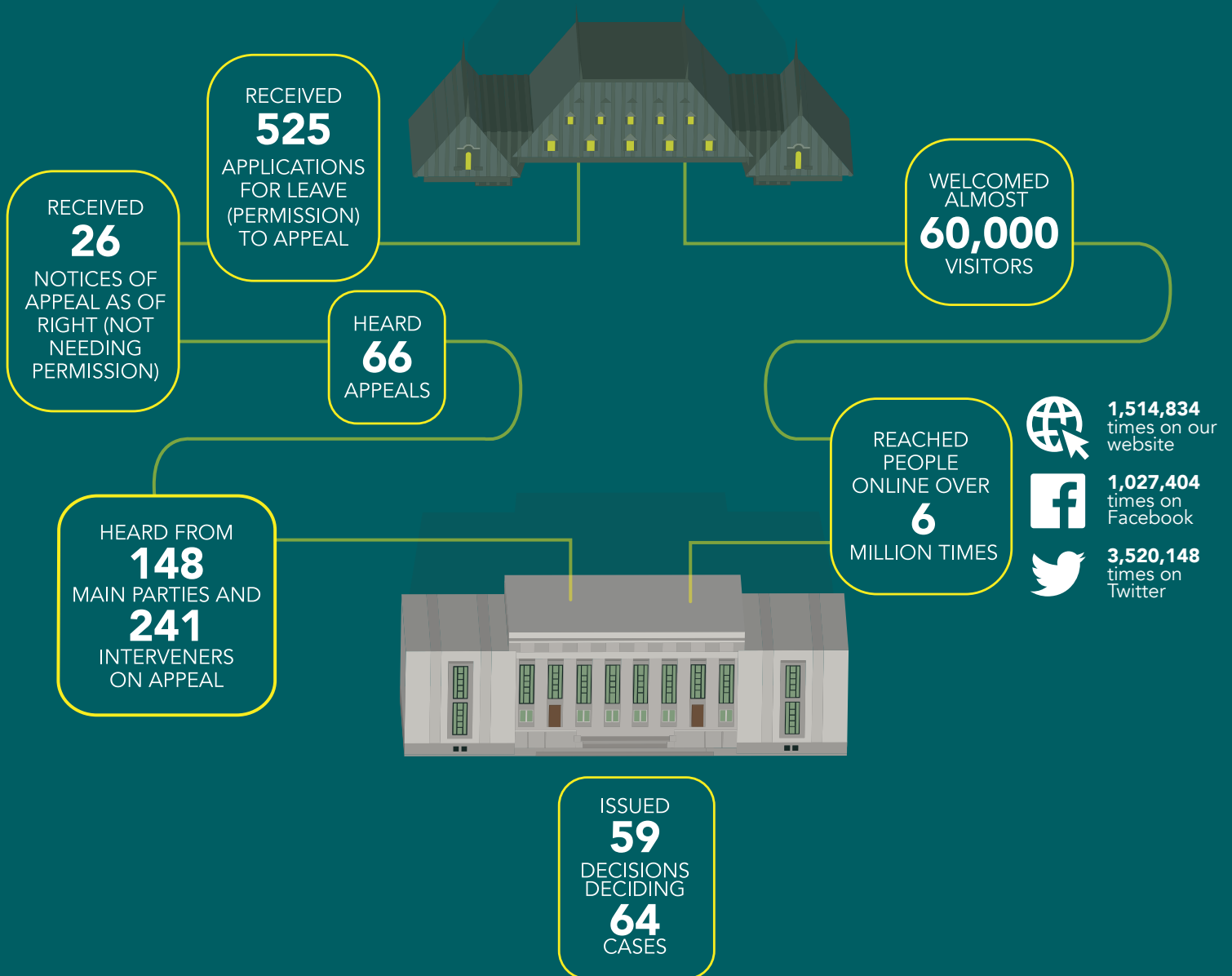
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2018 by the Numbers

In 2018, the Supreme Court of Canada...



Canada's Final Court of Appeal

The Supreme Court of Canada is Canada's **final court of appeal**. It hears appeals from the **Courts of Appeal** of all the provinces and territories, the **Federal Court of Appeal**, and the **Court Martial Appeal Court of Canada**. It is an independent and impartial institution that decides legal issues of **public importance** and helps with the **development of Canadian law**. It also helps make sure the law is applied **clearly and fairly** across the country. The Court deals with cases in Canada's two major legal traditions: **common law** (based on English law) and **civil law** (based on French law, and applied in Quebec). Anyone appearing before the Court can speak in either official language, and live language interpretation is available at hearings. All of our decisions are available in both **English and French**.

The Court was an early adopter of electronic filing, which allows litigants to save money by printing less and allows easier public access to appeal documents by allowing the Court to post them on its [website](#). The Court has invested in modern technology in the courtroom to ensure that hearings are accessible and, whenever possible, are live-streamed.

There are **nine judges** sitting on the Supreme Court, including the Chief Justice. There needs to be a minimum of five judges for an appeal hearing, but appeals are heard by five, seven, or nine judges (it should be an odd number to avoid a tie). Hearings normally last about **two hours**. Most are **webcast live** on the Court's website, and can be viewed at any time. The Court sits for **three sessions** each year: winter, spring, and fall.

The Supreme Court is part of Canada's judiciary, and so part of one of **three branches of the state**. The **executive** (which includes the Prime Minister and Cabinet) decides policy. The **legislative branch** (Parliament) makes and passes laws. The **judiciary** (the courts) interprets laws once they are passed. Each branch has a role to play in maintaining our **democracy** and the **rule of law**. It is important for courts, including the Supreme Court, to be independent and impartial so that Canadians can trust that judges will decide their cases fairly.

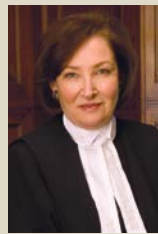
The Judges of the Supreme Court of Canada





**Chief Justice
Richard Wagner**

Year of birth: 1957
Place: Montréal, Quebec
Appointed:
October 5, 2012,
from the Quebec
Court of Appeal
Chief Justice of Canada
on December 18, 2017



**Justice Rosalie
Silberman Abella**

Year of birth: 1946
Place: Displaced Persons
Camp, Stuttgart, Germany
Appointed:
August 30, 2004,
from the Ontario
Court of Appeal



**Justice
Michael J. Moldaver**

Year of birth: 1947
Place: Peterborough,
Ontario
Appointed:
October 21, 2011,
from the Ontario
Court of Appeal



**Justice Andromache
Karakatsanis**

Year of birth: 1955
Place: Toronto, Ontario
Appointed:
October 21, 2011,
from the Ontario
Court of Appeal



**Justice
Clément Gascon**

Year of birth: 1960
Place: Montréal, Quebec
Appointed:
June 9, 2014,
from the Quebec
Court of Appeal



**Justice
Suzanne Côté**

Year of birth: 1958
Place: Cloridorme,
Quebec
Appointed:
December 1, 2014,
from private practice



**Justice
Russell Brown**

Year of birth: 1965
Place: Vancouver,
British Columbia
Appointed:
August 31, 2015,
from the Alberta
Court of Appeal



**Justice
Malcolm Rowe**

Year of birth: 1953
Place: St. John's,
Newfoundland
and Labrador
Appointed:
October 28, 2016, from
the Newfoundland and
Labrador Court of Appeal



**Justice
Sheilah L. Martin**

Year of birth: 1957
Place: Montréal, Quebec
Appointed:
December 18, 2017,
from the Alberta
Court of Appeal



A Court for All Canadians

The Supreme Court of Canada hears cases from **all parts of the country**, on many different topics, in both official languages. These cases **affect all Canadians**, and so it's important that the Court's work is accessible to everyone. The Court's judges and staff have worked hard to make that happen.

In 2018, the Court:

- Began providing short, reader-friendly **Cases in Brief** (summaries of Court judgments) on our website and via **Facebook** and **Twitter**
- Held a **press conference** where the Chief Justice answered questions from reporters
- Welcomed **59,503 visitors** for tours, special events, and hearings, including high school students who were invited to see the Chief Justice's welcome ceremony
- Made changes to the **Supreme Court Rules** to make it easier to **file documents electronically** — meaning faster service and lower cost for litigants
- Held **40 media briefings** and lockups to support journalists reporting on Supreme Court decisions

- Issued **227 news releases** to update Canadians on the Court's work
- Worked with Library and Archives Canada to ensure "collegial documents" (judges' drafts, memos, and notes) that might otherwise have been lost are **preserved for future generations**
- Continued to **support litigants**, both represented by counsel and representing themselves, responding to thousands of email, phone, and in-person inquiries

Connecting to the Court

To learn more about the Court and its activities, everyone can:

- **Watch hearings** live on the website (or go to the archives and watch them later)
- **Listen to audio recordings** of hearings
- Follow updates on **Facebook** and **Twitter**
- Visit the Supreme Court of Canada to **watch a hearing** or **take a tour** (it's free, and we're accessible to people with disabilities)





The Court in Canada...

Supreme Court judges are constantly looking for ways to help Canadians understand the Court's work. In the spirit of accessibility and transparency, they give **speeches** and **interviews** across Canada on topics like access to justice, legal advocacy, and the personal and professional paths that led them to the Court. In 2018, judges spoke to people in ten different provinces and territories. The Court also meets regularly with representatives of bar associations and the media to learn about their needs and improve practices.

...And the World

The Supreme Court is part of a number of **international court organizations**, allowing it to share best practices with, and learn from, courts in other countries:

- World Conference on Constitutional Justice
- Asia-Pacific Judicial Colloquium
- L'Association des Cours Constitutionnelles ayant en Partage l'Usage du Français (ACCPUF, the Association of Constitutional Courts using the French Language)

- L'Association des Hautes Juridictions de Cassation des pays ayant en partage l'usage du Français (AHJUCAF, the Association of Supreme Courts of Cassation of French-Speaking Countries)
- International Association of Supreme Administrative Jurisdictions

The Supreme Court and its judges welcome visitors from across Canada and around the world each year. Judges and Court officials take part in **exchanges and meetings** with their global counterparts at home and abroad, so we can learn **best practices** from other countries and they can learn from us. In 2018, the Court welcomed Lady Hale, President of the United Kingdom Supreme Court and retired South African Deputy Chief Justice Dikgang Moseneke, as well as judges, lawyers, and court officials from Bangladesh, China, France, Indonesia, Israel, Japan, Pakistan, and Ukraine.



Cases at the Court

Cases can be brought to the Supreme Court of Canada three ways. In most cases, a party has asked for **leave (permission) to appeal** a decision of a Court of Appeal. A smaller number of cases are "**as of right**," meaning parties have a right to appeal automatically, so they don't need the Court's permission. The Court must also hear "**references**," which are questions that the federal government has asked the Court for an opinion on.

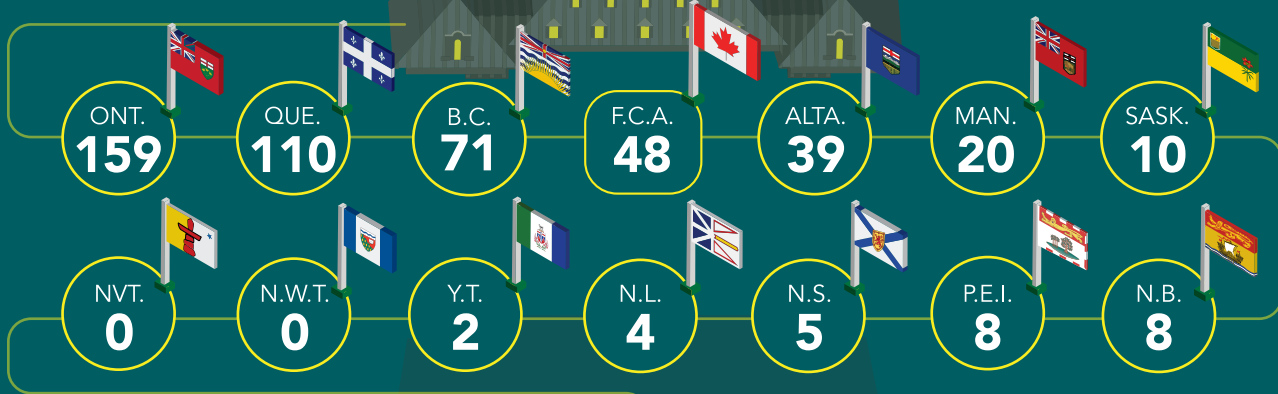
In 2018, **484 applications for leave to appeal** were given to the judges to decide. The Court **granted 39**, or **8%**, of them. It also received **26 notices of appeal as of right**. The Court did not receive any references in 2018 (there was an appeal from a provincial reference, but it is counted as an appeal as of right).



Applications for Leave Referred for Decision

Number of Applications by Origin

Provincial, Territorial, or Federal Court of Appeal

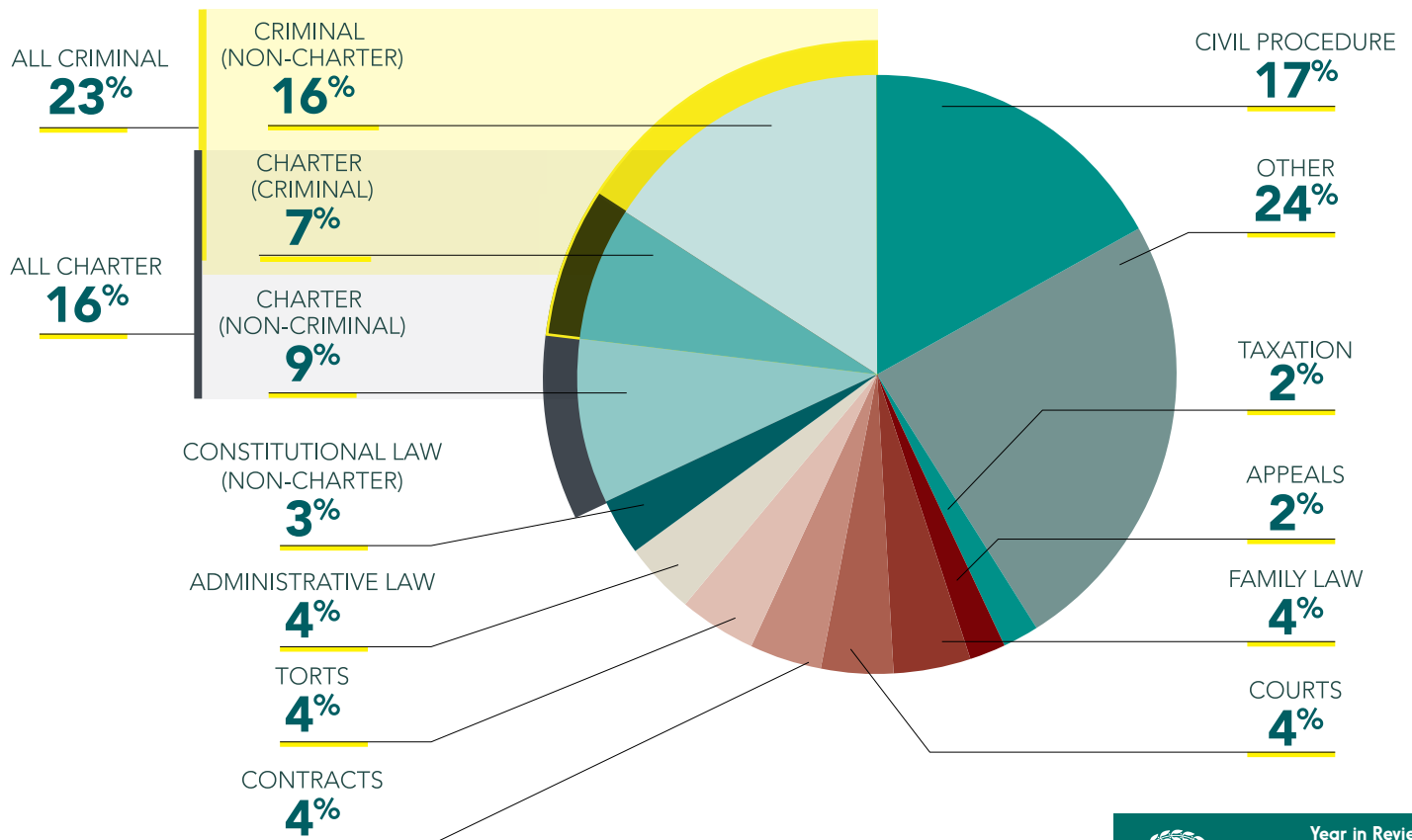


Not all complete applications are referred to judges for decision in the same year.



- ALTA.:** Alberta
- B.C.:** British Columbia
- F.C.A.:** Federal Court of Appeal
- MAN.:** Manitoba
- N.B.:** New Brunswick
- N.L.:** Newfoundland and Labrador
- N.S.:** Nova Scotia
- N.W.T.:** Northwest Territories
- NVT.:** Nunavut
- ONT.:** Ontario
- P.E.I.:** Prince Edward Island
- QUE.:** Quebec
- SASK.:** Saskatchewan
- Y.T.:** Yukon

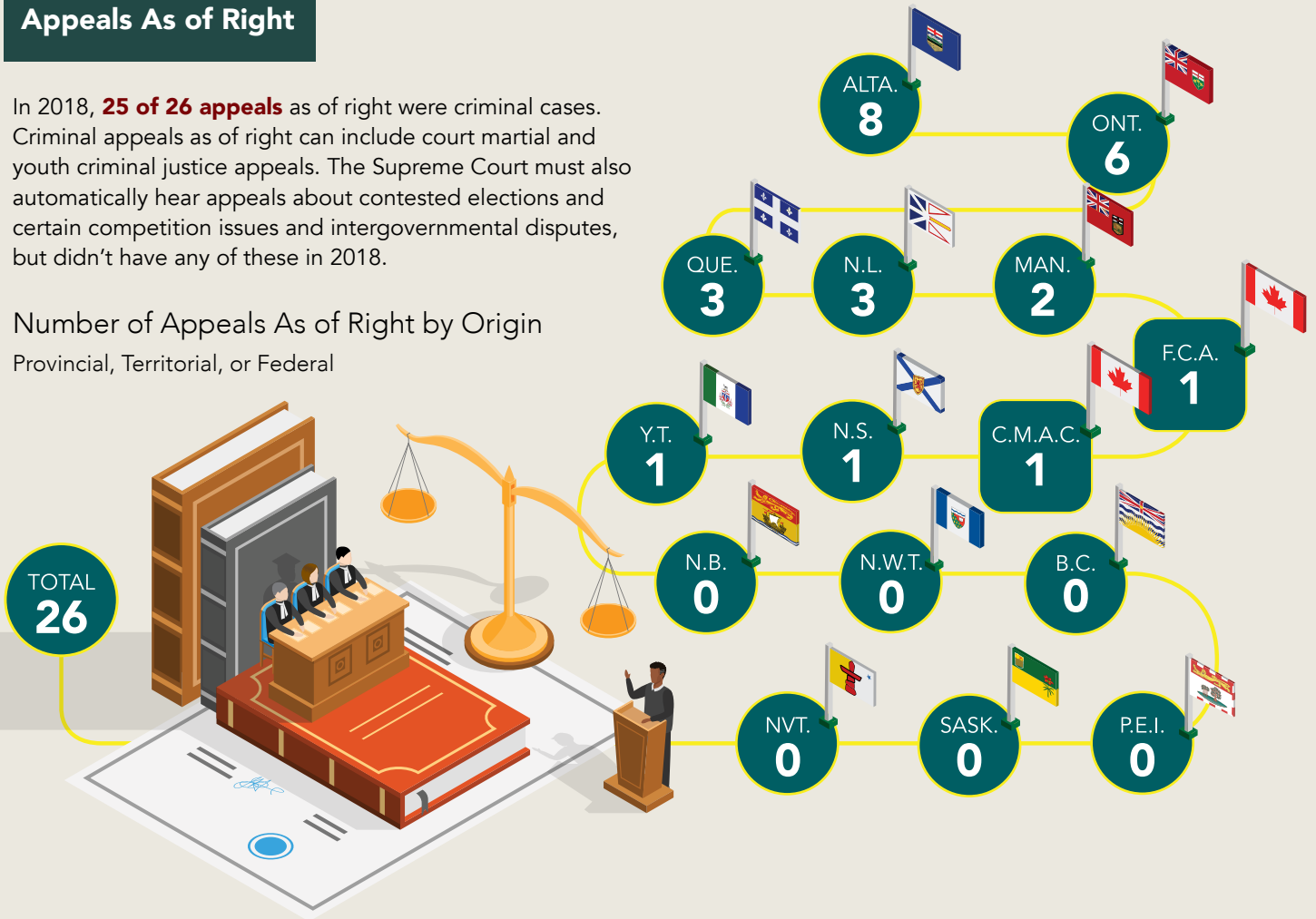
Percentage of Applications by Principal Area of Law



Appeals As of Right

In 2018, **25 of 26 appeals** as of right were criminal cases. Criminal appeals as of right can include court martial and youth criminal justice appeals. The Supreme Court must also automatically hear appeals about contested elections and certain competition issues and intergovernmental disputes, but didn't have any of these in 2018.

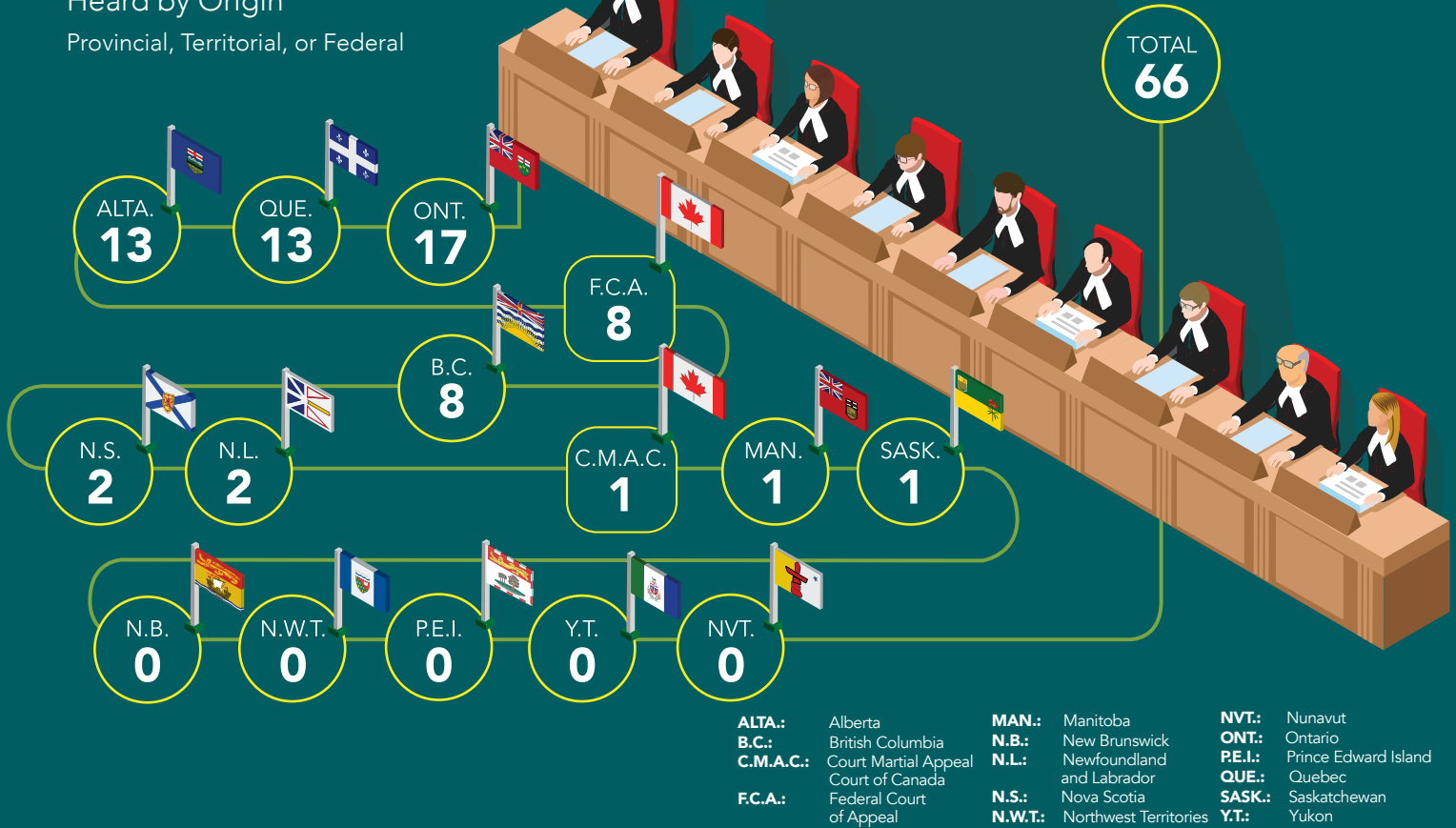
Number of Appeals As of Right by Origin
Provincial, Territorial, or Federal



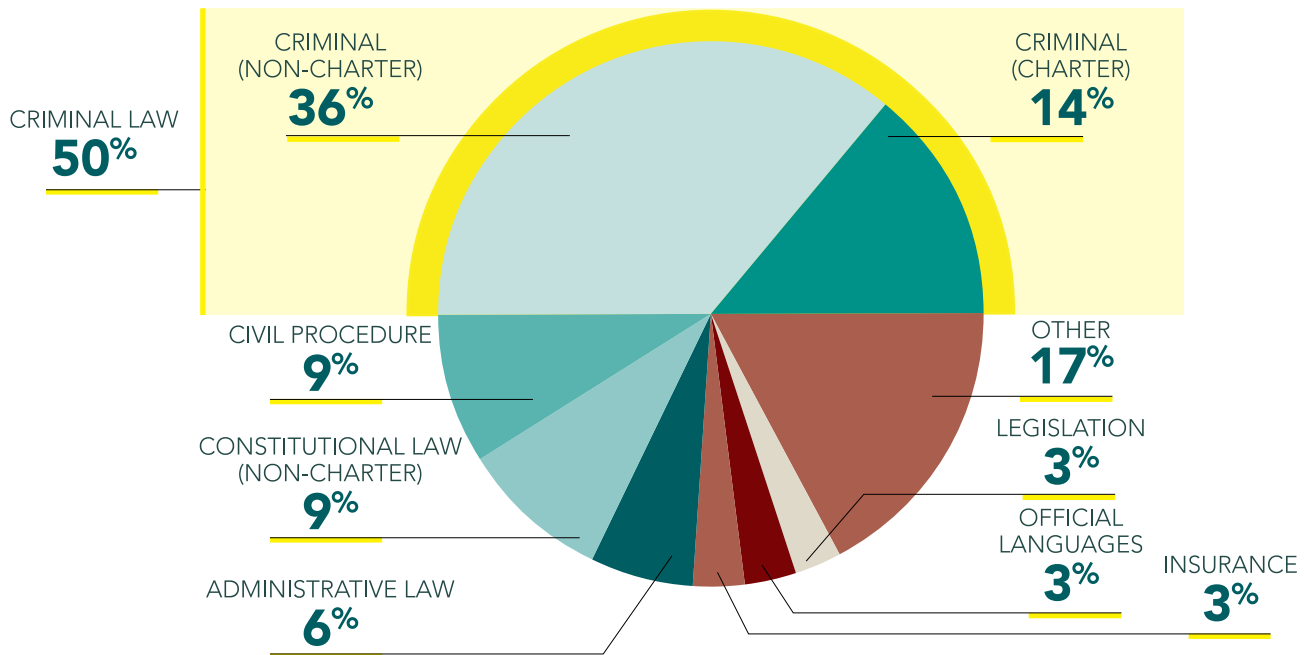
Appeals Heard (By Leave and As of Right)

Number of Appeals Heard by Origin

Provincial, Territorial, or Federal



Percentage of Appeals Heard by Principal Area of Law



Note: Leave to appeal may have been granted (or an appeal as of right filed) the year before.



Decisions

Notable Decisions

- A **New Brunswick** law preventing residents from stocking up on **alcohol** from another province was found to be **constitutional**. Provinces have flexibility to make laws to address particular conditions and priorities **within their borders**, even if those laws may incidentally restrict the movement of goods across their borders.
[R. v. Comeau](#)
- Law Societies in **B.C.** and **Ontario** had the power to refuse approval to a **proposed law school** that made students follow a religiously-based code of conduct regulating sexual behaviour that discriminated against same-sex couples.
[Law Society of British Columbia v. Trinity Western University and Trinity Western University v. Law Society of Upper Canada](#)
- The **Constitution** allows the federal, provincial and territorial governments to work together to **regulate securities trading** under a single, unified system.
[Reference re Pan-Canadian Securities Regulation](#)
- Courts can't interfere with religious groups' decisions on purely **religious questions**, even if they don't follow the same fair procedures as public bodies.
[Highwood Congregation of Jehovah's Witnesses \(Judicial Committee\) v. Wall](#)
- The **Crown** has to act **honourably** toward Canada's **Indigenous peoples**, but this does not mean Parliament has to **consult** them when passing laws.
[Mikisew Cree First Nation v. Canada \(Governor General in Council\)](#)
- The choice to **speak either English or French** in certain courts is a **protected right**. When this right is not respected, there might have to be a new hearing.
[Mazraani v. Industrial Alliance Insurance and Financial Services Inc.](#)
- Courts can't force parties to renegotiate **contracts**, so unexpected changes in **electricity prices** didn't mean that Hydro-Québec had to share its profits from the **Churchill Falls** power station.
[Churchill Falls \(Labrador\) Corp. v. Hydro-Québec](#)
- **Prison authorities** must show that psychological and statistical tools used to make decisions about **Indigenous inmates** are effective for them.
[Ewert v. Canada \(Correctional Service\)](#)
- A **lawyer's uncivil behaviour** in court may not amount to **professional misconduct** if it was based on a mistaken understanding of the law. All the circumstances must be taken into account.
[Groia v. Law Society of Upper Canada](#)
- A person who shares an **electronic device** (like a computer or phone) with someone else can't waive the other user's **Charter** privacy rights.
[R. v. Reeves](#)
- The **mandatory victim surcharge** that everyone convicted of a crime had to pay was found to be unconstitutional, and struck down as **cruel and unusual punishment**.
[R. v. Boudreault](#)
- A law dealing with **pay equity** in Quebec continued **women's disadvantage** in the workplace, and so was unconstitutional.
[Quebec \(Attorney General\) v. Alliance du personnel professionnel et technique de la santé et des services sociaux](#)

All Decisions

#	Case Name	Origin	Decision Date
1	R. v. Seipp	British Columbia	Jan. 16
2	Delta Air Lines Inc. v. Lukács	Federal Court of Appeal	Jan. 19
3	Quebec (Commission des normes, de l'équité, de la santé et de la sécurité du travail) v. Caron	Quebec	Feb. 1
4	Williams Lake Indian Band v. Canada (Aboriginal Affairs and Northern Development)	Federal Court of Appeal	Feb. 2
5	R. v. Canadian Broadcasting Corp.	Alberta	Feb. 9
6	R. v. A.R.J.D.	Alberta	Feb. 9
7	R. v. G.T.D.	Alberta	Feb. 14
8	Valard Construction Ltd. v. Bird Construction Co.	Alberta	Feb. 15
9	R. v. A.G.W.	Alberta	Feb. 16
10	R. v. Black	Ontario	Mar. 13
11	International Brotherhood of Electrical Workers (IBEW) Local 773 v. Lawrence	Ontario	Mar. 20
12	R. v. Carson	Ontario	Mar. 23
13	R.A. v. Her Majesty The Queen	Ontario	Mar. 23
14	R. v. Magoon* Decision rendered from the bench (written reasons Apr. 13, 2018)	Alberta	Nov. 27, 2017
15	R. v. Comeau	New Brunswick	Apr. 19
16	Office of the Children's Lawyer v. Balev	Ontario	Apr. 20
17	Quebec (Attorney General) v. Alliance du personnel professionnel et technique de la santé et des services sociaux	Quebec	May 10
18	Centrale des syndicats du Québec v. Quebec (Attorney General)	Quebec	May 10
19	Rankin (Rankin's Garage & Sales) v. J.J.	Ontario	May 11
20	R. v. Cain	Nova Scotia	May 14
21	R. v. Stephan*	Alberta	May 15
22	West Fraser Mills Ltd. v. British Columbia (Workers' Compensation Appeal Tribunal)	British Columbia	May 18
23	R. v. Colling	Alberta	May 18
24	R. v. Gulliver	Alberta	May 18
25	R. v. Wong	British Columbia	May 25
26	Highwood Congregation of Jehovah's Witnesses (Judicial Committee) v. Wall	Alberta	May 31
27	Groia v. Law Society of Upper Canada	Ontario	June 1
28	Haaretz.com v. Goldhar	Ontario	June 6
29	Montréal (Ville) v. Lonardi	Quebec	June 8
30	Ewert v. Canada	Federal Court of Appeal	June 13
31	Canada (Canadian Human Rights Commission) v. Canada (Attorney General)	Federal Court of Appeal	June 14

#	Case Name	Origin	Decision Date
32	Law Society of British Columbia v. Trinity Western University	British Columbia	June 15
33	Trinity Western University v. Law Society of Upper Canada	Ontario	June 15
34	R. v. Suter	Alberta	June 29
35	Lorraine (Ville) v. 2646-8926 Québec inc.	Quebec	July 6
36	British Columbia v. Philip Morris International, Inc.	British Columbia	July 13
37	R. v. Brassington	British Columbia	July 20
38	Rogers Communications Inc. v. Voltage Pictures, LLC	Federal Court of Appeal	Sept. 14
39	Chagnon v. Syndicat de la fonction publique et parapublique du Québec	Quebec	Oct. 5
40	Mikisew Cree First Nation v. Canada (Governor General in Council)	Federal Court of Appeal	Oct. 11
41	R. v. Gagnon	Court Martial Appeal Court of Canada	Oct. 16
42	R. v. Normore	Newfoundland and Labrador	Oct. 17
43	3091-5177 Québec inc. (Éconolodge Aéroport) v. Lombard General Insurance Co. of Canada*	Quebec	Oct. 19
44	R. v. Gubbins*	Alberta	Oct. 26
45	R. v. Awashish	Quebec	Oct. 26
46	Churchill Falls (Labrador) Corp. v. Hydro-Québec	Quebec	Nov. 2
47	Callidus Capital Corp. v. Canada	Federal Court of Appeal	Nov. 8
48	Reference re Pan-Canadian Securities Regulation	Quebec	Nov. 9
49	R. v. Youssef	Ontario	Nov. 9
50	Mazraani v. Industrial Alliance Insurance and Financial Services Inc.	Federal Court of Appeal	Nov. 16
51	R. v. Ajise	Ontario	Nov. 16
52	Moore v. Sweet	Ontario	Nov. 23
53	R. v. Vice Media Canada Inc.	Ontario	Nov. 30
54	R. v. Cyr-Langlois Decision rendered from the bench (written reasons Dec. 6)	Quebec	Oct. 15
55	Brunette v. Legault Joly Thiffault	Quebec	Dec. 7
56	R. v. Reeves	Ontario	Dec. 13
57	R. v. Culotta	Ontario	Dec. 13
58	R. v. Boudreault*	Quebec, Ontario	Dec. 14
59	R. v. Quartey	Alberta	Dec. 14

☐ See Notable Decisions on page 10

*Some decisions cover more than one case. In 2018, the Court issued 59 decisions that decided a total of 64 cases. R. v. Magoon counts as two cases decided in 2017, even though reasons were issued in 2018.

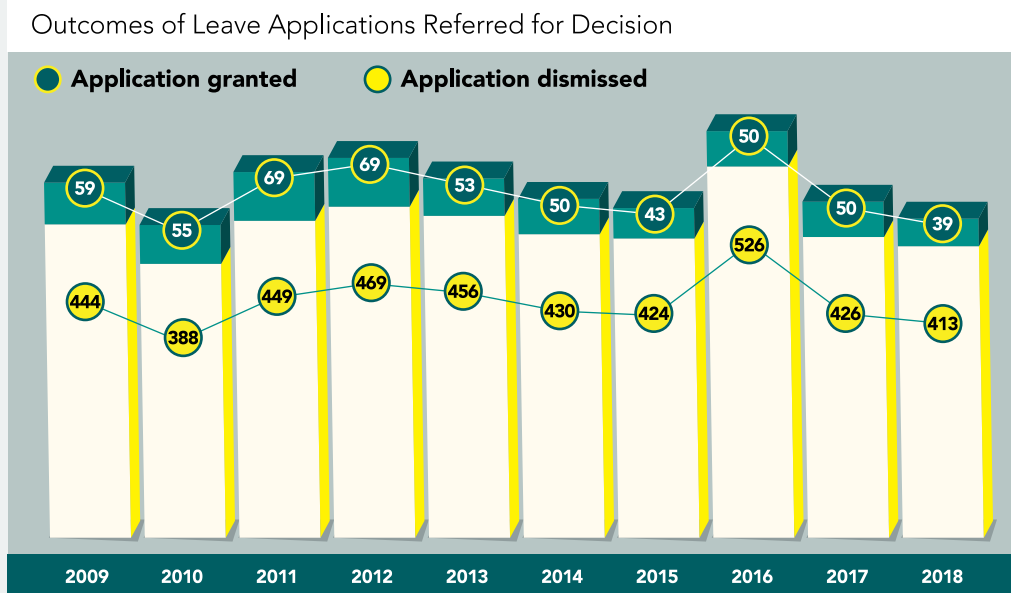
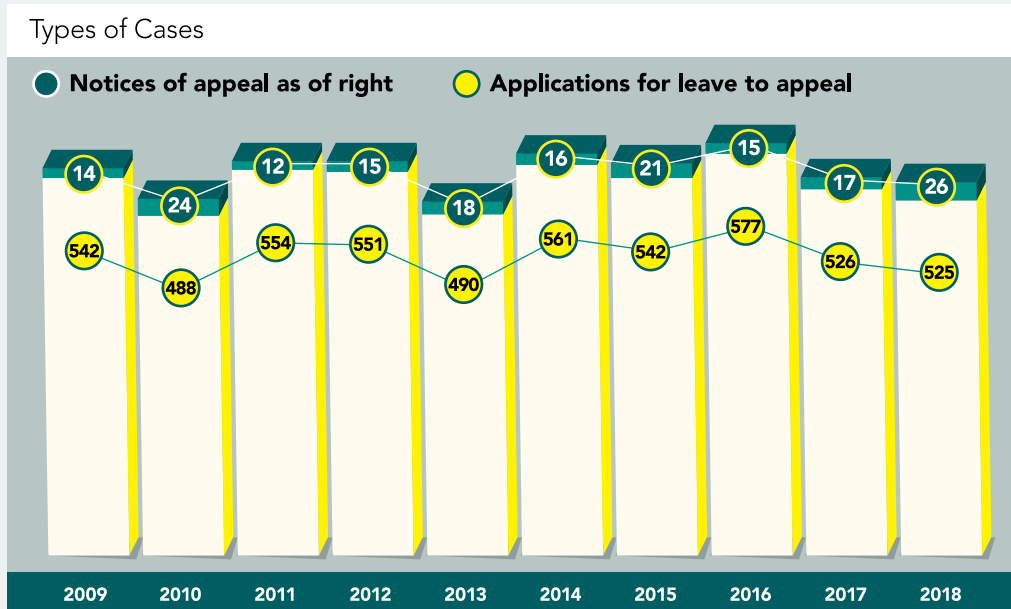


Ten-Year Trends

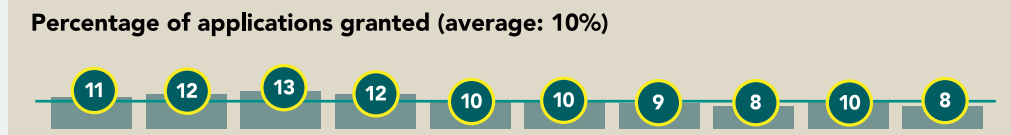
The following pages show statistics and trends over the past decade. The Court previously published these statistics as a stand-alone document. They will now be published as part of the annual Year in Review.



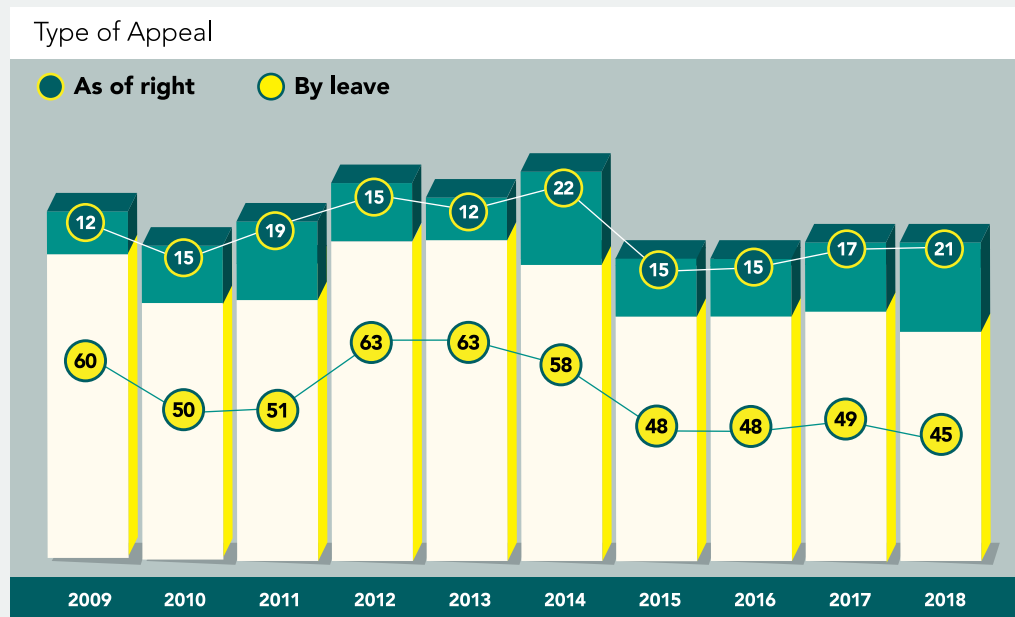
Breakdown of Cases Filed with the Court



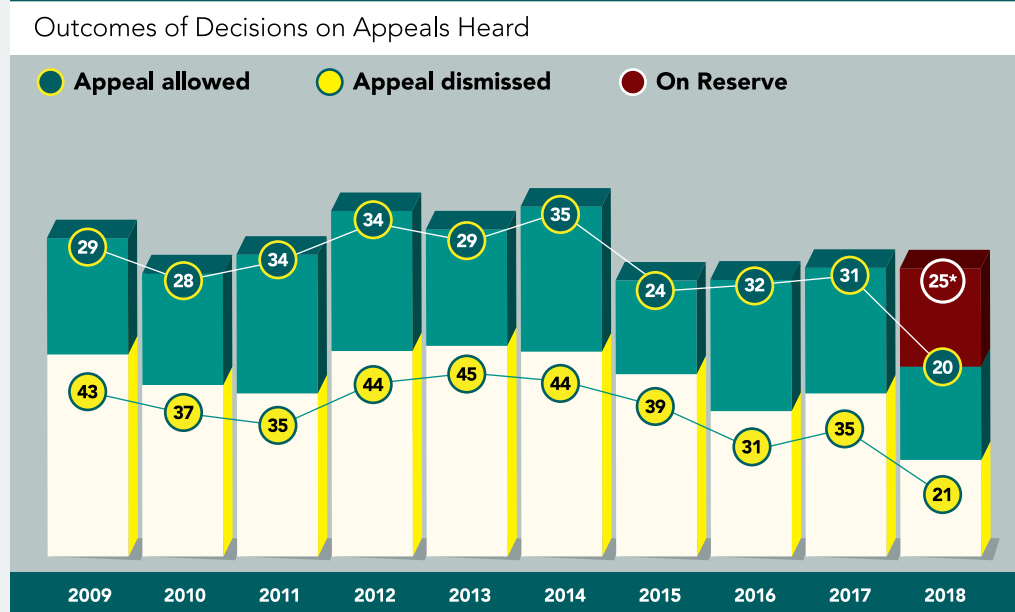
Note: Statistics don't include cases that were sent to a lower court, discontinued, quashed, adjourned, or where a request for time extension was not allowed.



Breakdown of Appeals Heard



Note: Not all appeals heard in one year are decided in that year. Some cases may be decided in the year after they are heard. Statistics about appeals *heard* and appeals *decided* will therefore be slightly different. Also, appeals that have issues in common may be heard separately but decided in a single judgment.



Note: Appeals where a rehearing or remand was ordered or that were discontinued after hearing are not counted, nor are opinions on references under s. 53 of the *Supreme Court Act*.

*There were 25 appeals still on reserve (that had not been decided) on December 31, 2018.

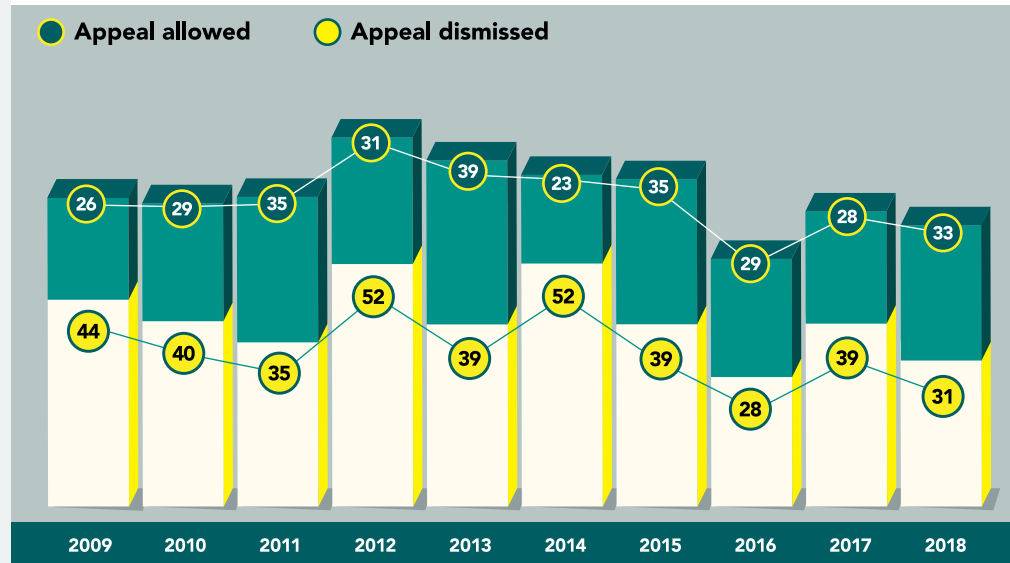
Number of hearing days





Breakdown of Cases Decided

Outcomes of Cases Decided



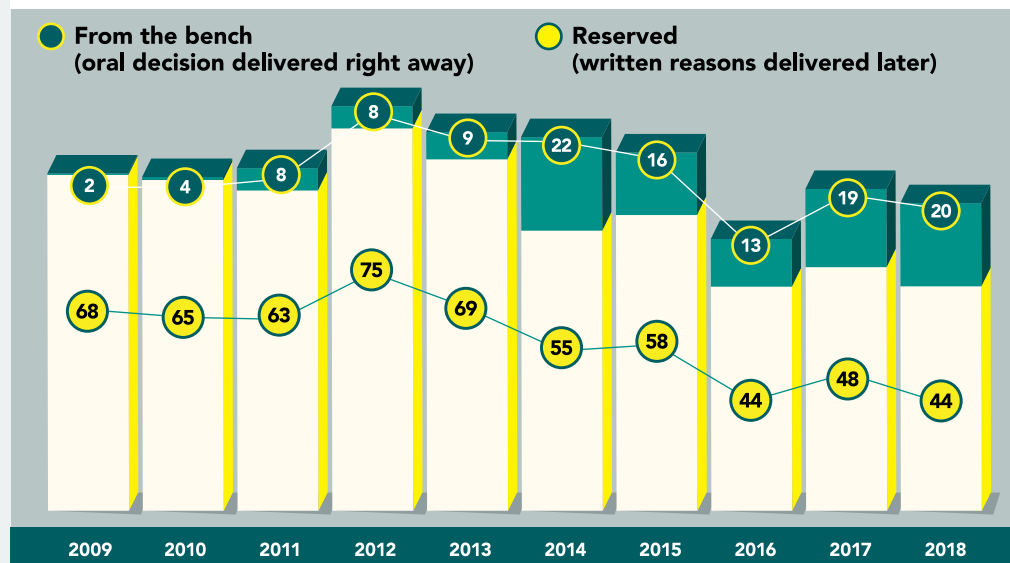
Note:

The appeals to which the judgments relate may have been heard in a previous year. Opinions on references under s. 53 of the *Supreme Court Act* are not included.

Percentage of appeals allowed

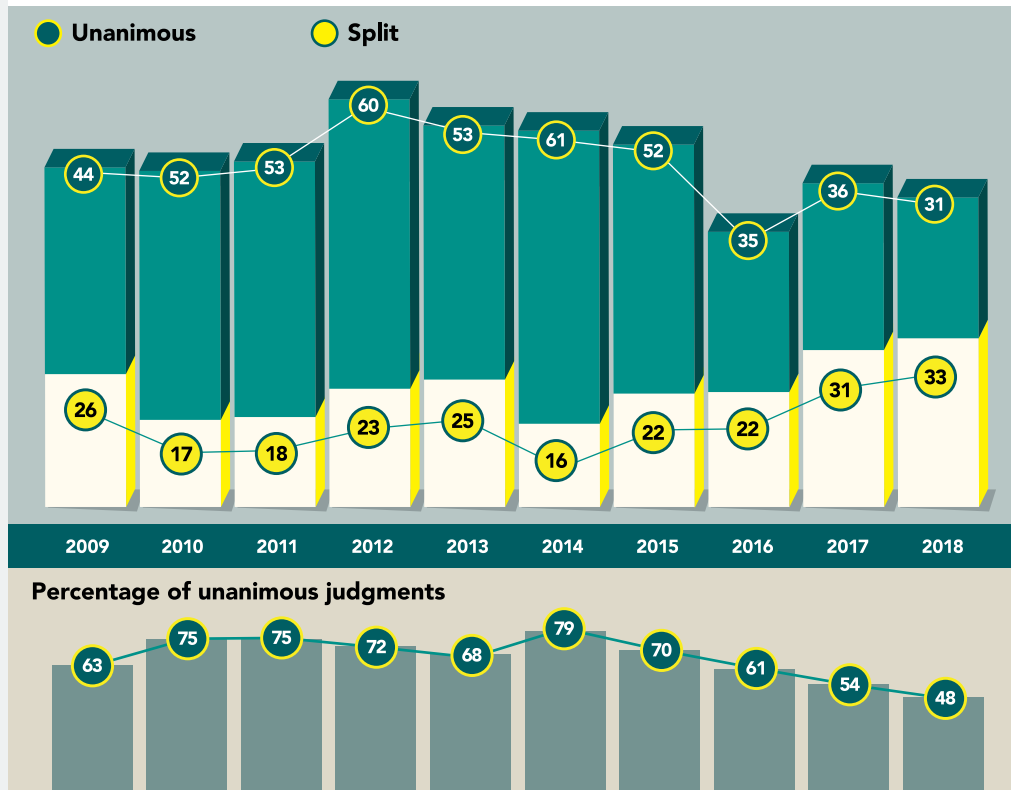


Delivery of Decision on Case

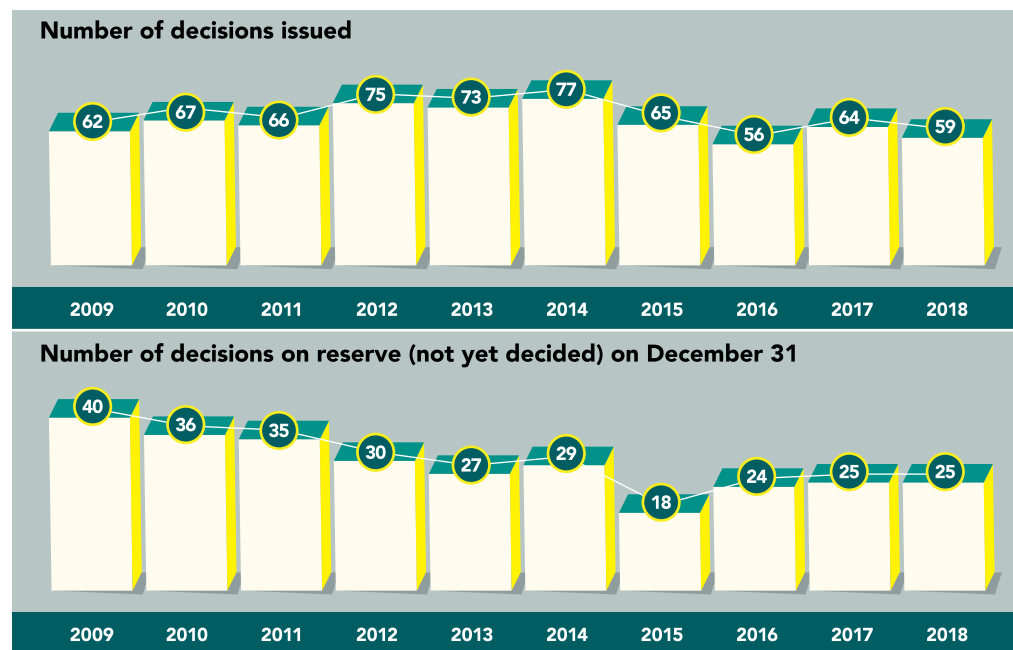


Breakdown of Cases Decided (continued)

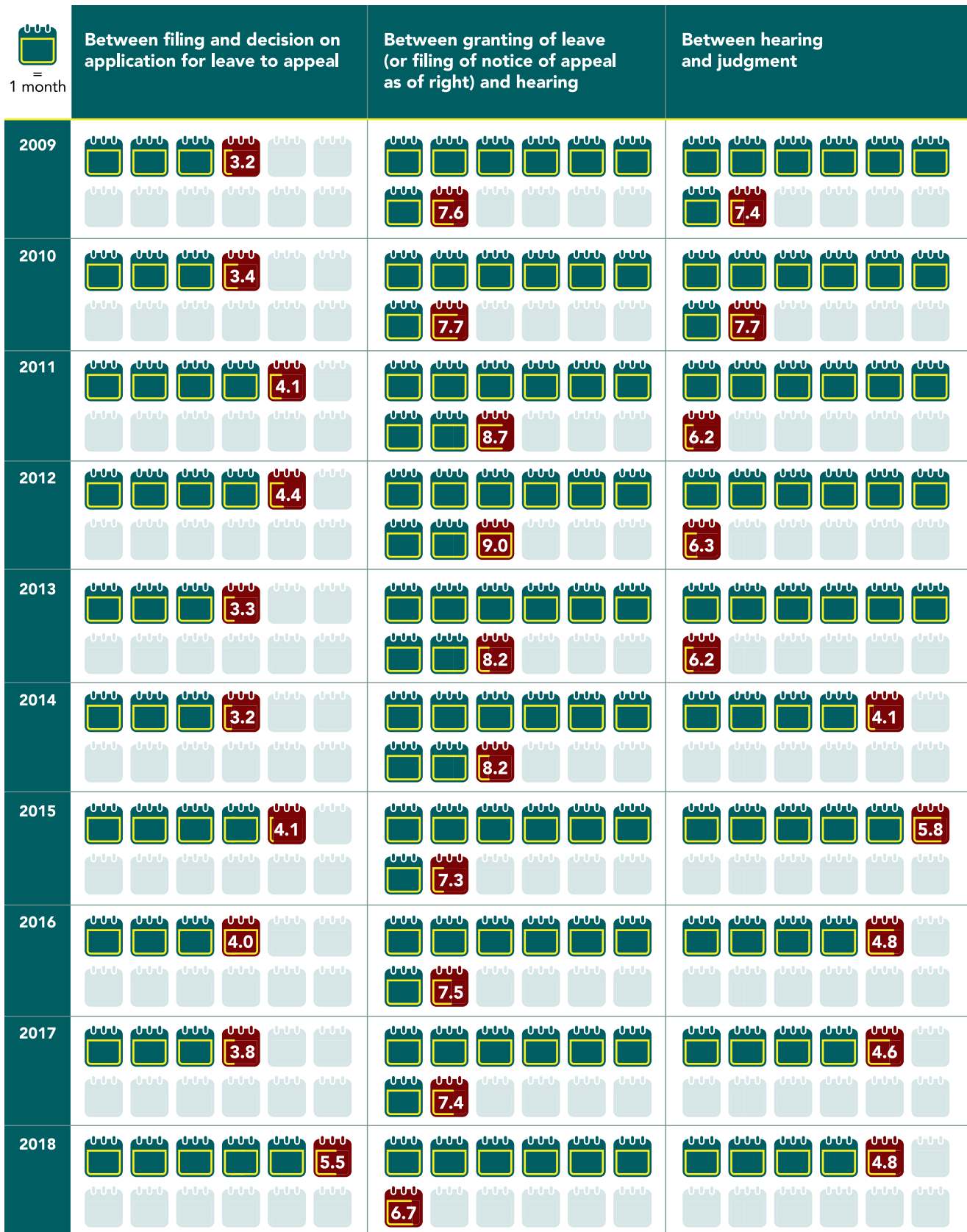
Unanimous vs. Split Decisions



Yearly Overview of the Court's Appeal Decisions



Average Time (in Months)



2018

