

ELECTRONIC ACCESS TO THE COURTS

1. The implementation of your electronic document system

- What is it hoped to achieve through the digitisation of proceedings?

A series of benefits for the users and lawyers involved in court process and that become in improving the standards of security, traceability and disposition of the judicial processes; major transparency in the handling of cases; lower costs (saving of paper, time and energy) and improvement in the interconnection of the courts with the external institutions that deal with them, achieving a more efficient and a fast processing of the causes, with expedited workflows, major knowledge and control of causes inventories; major availability of the file and improvement and optimization of internal processes.

- Must court documents be transmitted electronically?

Yes, can be presented by litigants and also sent between courts.

- If that is the case:
 - which players are involved?

All the system players: litigants, lawyers, judges and staff Court.

- are certain aspects reserved for these players?

There is legal reservation in some cases and others dictated by the judge, which may mean that some people do not have access to the cause, some document or some participant.

- what are the consequences if an application is not sent electronically?

Currently there is a legal obligation to send every judicial document electronically, with only a few exceptions that are in the same law that regulated the electronic procedure (Law Number 20.886).

- Can litigants consult their files and track their progress online?

Yes, all the cases that do not have legal reserve or that are not reserved by a resolution are published in the Judiciary Web Portal and they have free access.

- Are the application and the law firms' internal software interoperable? Is it envisaged to make them interoperable?

No, lawyers must enter to a web platform called Virtual Judiciary Office and from there make claims and send documents. For the moment it is not planned to interconnect the law firm systems, but we have interconnections with other public agencies, such as the Public Prosecutor Office and the Public Defender Office.

- What feedback have you had about the use of these methods by the litigants, practitioners and authorities?

In general the perception about the new system is good and the observations that are received are analyzed and, as far as possible, they are being incorporated as new developments to the current platform.

2. Statistics

- What percentage of applications are filed electronically per annum?

In year 2016, considering the Supreme Court and Courts of Appeals, approximately 63% of the applications were file in electronic form (external users and court interconnection). It is important to consider that the Electronic Processing Law came into force on June 18, 2016 for 13 jurisdictions of the country and on December 18, 2016 for the remaining jurisdictions.

- What percentage of users (law firms, authorities and litigants) are now using this method?

All users are using this method because it is mandatory by law.

- Have you estimated the total cost of setting up an electronic working system in your court or your type of court?

In Chile, the systems works at national level, not for each court, so all the implementation must be financed at national level. The implementation of the systems and the use of them by the courts has

been taking place gradually over the last 15 years, so it is difficult said an specific cost. However, 20.886 law made the electronic processing mandatory for all the country Courts, for that reason was necessary to improve the computer platform and system, that process had an estimated cost of \$ 3,000,000,000 (CLP). Currently, the investment continues as part of the continuous improvement of the systems that support the electronic system, which implies software and hardware costs.

3. Observing the adversarial principle

- How does your system ensure that the parties' statements are exchanged?

The parties' statements that are in writing are public in the electronic file case, and in the case of oral proceedings, this happens directly at the hearing. As a general rule everything is public, except matters reserved by law and reserved by a resolution.

- How are the parties and the court registry notified that a document has been filed or consulted by the opposing party?

The presentations are informed by a notification. The type of notification are regulated by law. For example, personally in the case of the first performance. The law also allows litigants to choose the notification by email.

- Is the authenticity of electronic documents ever challenged before the courts?

The courts do not present any inconveniences with electronic presentations, because the documents have the electronic signatures.

- Can third parties also intervene in proceedings electronically?

Yes, the access platform (Judiciary Virtual Office) allows anyone to make presentations on the causes, without necessarily being part of it. The judge through his resolution will indicate if the participation of the third party is adjusted to the law or not.

4. The acceleration of proceedings and urgent proceedings

- Have you found that cases have been processed more quickly due to the introduction of this technology?

There are no specific data regarding the fact that cases are processed faster because they are electronic, but it is possible to deduce, for example, that a letter rogatory that had previously been sent in paper from one region of Chile to another and is now sent with only one action in the system is more quickly.

- What have been the consequences, on the work of the courts, for the staff of the court registry, for the judges and other members of the court, and for the organisation of the court?

They have been able to automate several of their functions and also the workload has been reduced, to digitize it and to associate it to the corresponding cause. At the moment it is the part that presents must do it in digital form and directly in the cause that corresponds. On the other hand, it reduces the spent time searching for a file to be able to access and resolve it. Also now is fully guaranteed that the file will not be lost as could happen with the paper. When the case is online, fewer users come to the court and that means that the staff Court can dedicate themselves to other tasks associated with the files and their processing.

- When a procedural time limit is subject to a limitation period, when does it begin to run (when a document is put online or when it is actually seen by the staff of the court registry or by the judge or other member of the court)?

All deadlines are counted from the presentation of the document by the litigant in the electronic system, not since it is seen or resolved.

5. The technical aspects of your electronic document system

- Have you experienced any major technical malfunctions (e.g. non-availability of the application for several days)? How did you tackle the problem?

There have been no problems that lasted more than a day, usually hours or minutes. For these cases, the law itself considered a mechanism of exception that allows paper presentations for the users.

- What consequences can malfunctions have on the proper running of proceedings?

When the system is not running properly the consequences are the possible delay in the presentations or the impossibility of the judge to access to the case and resolve it.

Have courts had to deal with disputes relating to the use of the electronic document system? If so, of what type?

We don't have knowledge in this matter.

- If it is impossible for a party to file a statement or other documents for practical reasons, what does the court do with respect to the time limits within which documents must be submitted?

The law establishes exceptional cases where people can file documents by paper, but there is no rule that allows the late file for practical problems of electronic processing. In case of this situation, the general rule of obstruction should be considered, which depends of the judge discretion.

6. Keeping information secure

- How are the security, confidentiality, integrity and traceability of the exchanges ensured? How do you control access to the files and documents that pass through the system? Have you put in place degrees of authorisation or clearance?

For the presentation of documents through the Judiciary Virtual Office, security, confidentiality, integrity and monitoring are guaranteed through various mechanisms, including access to the system with a unique password, encrypted connection by HTTPS protocol, log of positive and failed attempts to enter documents, generation of certificates with date and time for successful presentations and support of the information entered. The access to any system of processing cases of the Judicial Branch are profiled, that is to say, regardless of whether it is an internal or external user, access is only possible through a valid account, which also has restrictions to view information or perform tasks under Of the role / profile assigned to that account according to the user's position. Tasks defined as sensitive and requiring a greater degree of authorization are audited, in order to generate a log that allows to analyze who performed each action.

- Are judges and other members of the court able to access the electronic files in their own homes? on a dedicated professional computer or on a personal computer? from any location?

Yes, judges have the option to use a VPN platform to work from their homes or others computers outside the Judiciary network.

- Are judges and other members of the court able to access all the electronic files dealt with by their court?

Yes, except in those cases where a special reservation has been issued.

7. Notification of decisions to the parties

- Are decisions notified through the court's electronic system? If so, when are the parties deemed to have taken cognisance of the decisions?

The law incorporates electronic notification mechanisms only if the users request it and the court accedes to it, usually using electronic mail, but no legal modifications have been made to traditional types of notification.

- Is it possible to bring an action for negligence if the court's electronic document service malfunctions?

There isn't a specific rule regarding electronic documents, so any negligence of the court should be dealt according to the general rules.

8. The influence of electronic document systems on the courts' operating methods

- Does the use of an electronic document system cause the supreme administrative court or the ministry of justice to require users to comply with technical standards relating to the adoption of administrative measures?

The users are required to be presented in certain formats and with a maximum weight per document.

- Has electronic working contributed to a change in the role of the administrative courts?

Chile does not have Administrative Courts. However, the use of electronic working has brought benefits to all who use it.

- Has electronic working contributed to a change in the working methods of the administrative courts? Particularly collegial working?

Chile does not have Administrative Courts, however, in all courts where electronic working has been incorporated, internal work procedures have had to be modified.