

QUESTIONNAIRE

ELECTRONIC ACCESS TO THE COURTS

CZECH REPUBLIC

Preliminary note:

The electronic system we use at the Supreme Administrative Court is quite specific.

The system used for receiving and delivering documents (so called “Data Boxes”) is a specific data medium operated by the Ministry of Interior.

Apart from this, we have an independent information system for all our cases and documents, which was specifically designed for our court and is only used by us.

Therefore, whenever a question is addressing the sending and receiving, the answer refers to the first mentioned software, whereas when it addresses the case files, access to documents etc., answers refer to the second one.

1. The implementation of your electronic document system

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

Generally, the main reasons for digitalisation are to allow judges as well as employees of the court to have quick access to different files without need to have them in material form. It allows e.g. to use remote access for working or to have a quick chance to consult files in similar cases regarding applicability of final judgement to the current cases. Regarding future development it might also mean better access to justice for the parties.

Must court documents be transmitted electronically?

It is not a duty for the parties that are not public law bodies, to provide the documents electronically, however the parties have the right and the possibility to do so. The parties that are public law bodies, are obliged to use system of Data Boxes. The court is obliged to deliver the documents through the system of Data Boxes if the participant has a Data Box.

~~If that is the case:~~

~~–which players are involved?~~

~~–are certain aspects reserved for these players?~~

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

Can litigants consult their files and track their progress online?

Currently they do have access to some basic information regarding the progress of the process, but it is not possible for them to access the files via our website. The file can only be consulted at the court.

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

We have no such knowledge.

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

Generally we would say that they welcomed the possibility to use the electronic way of transferring documents. It is definitely faster, cheaper and less complicated for them than

using „old-fashioned“ postal services; plus the system is available for them 24/7 which makes it even more comfortable.

2. Statistics

What percentage of applications are filed electronically per annum?

When it comes to cassation complaints, approximately one third is usually filed via the electronic system of Data Boxes or via e-mail.

When it comes to all correspondence relevant to cases (various statements, demands etc.), then around 90 % is filed electronically.

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

Data Box is created to some persons automatically so they cannot decide if they will use the system for receiving electronic documents, while using it for sending documents is still optional, except of public law bodies. Therefore 100% of following users have Data Box: public law bodies, all subjects in the Commercial Register (most of them are joint stock companies and public limited companies), attorneys-at-law, tax advisers, statutory auditors, insolvency administrators. Beside those persons other categories of physical as well as legal persons can have Data Box created optionally. In these categories there are approximately following percentages: 10% of legal persons not registered in the Commercial Register (e. g. NGOs, apartment building owners associations, churches), 10% of tradesmen (physical persons carrying business on their own), 1% of physical persons for private usage (not for business reasons) (counted from overall population of the country including babies).

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

Regarding the cost of Data Boxes, we have not, as the system we are using for transmission of documents was provided for by the government.

The initial cost of our own information system was 2 879 000,- CZK (approximately 110 000 EUR), but it has to be noted that this is a complex system that merges vast amount of functions (court management documentation, massive database of case law, separate database for all of our cases etc.). In addition to that the overall value of the information system has risen in time, as we have been developing and improving it ever since.

3. Observing the adversarial principle

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

The court is in charge of informing all parties about the statements issued by the other parties. It is not done through automatic system but based on orders of judges or their assistants.

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

The court registry is the office that processes everything that is filed before our court, therefore they are actually the first ones to know, and it is them who notify the competent chamber.

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

It could be challenged, but it very rarely is.

Can third parties also intervene in proceedings electronically?

Yes.

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?

Definitely yes as the process of sending and receiving mail is much easier this way.

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?

Consequences were both positive as well as negative.

Positive: the evidence of all cases is automated and well arranged, the system has accelerated many processes at the registry, and the research among the documentation is faster and more effective.

Negative: there is a need for a higher qualification for the employees at the registry, the expenses on the electronic signatures, necessary technology and what might be shocking, even higher expenses on paper (as all the documentation sent and received electronically still needs to be printed out for the case files).

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)?

It depends which mean of electronic communication is used. If is used a regular e-mail then in most of the cases is received by the court's electronic system (which is done automatically). In these cases therefore the sender bears the risk that there will be some problem during delivery and the e-mail will be delivered after procedural time limit. When the sender uses system of Data Boxes then is legally delivered at the same moment in which it was send to the system by the sender.

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?

If any malfunction appears in the system for delivering and receiving of documents, it is usually sorted within several hours, maximum of one day.

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

Malfunction would possibly cause a delay in processing of the case, but we have not experienced a malfunction that would exceed 24 hours (there was only one caused by a global transition to a completely different information system), which is a period that does not cause any significant problems.

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

Mainly disputes related to time limits in conjunction with the moment when the document is delivered.

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 parties are always responsible themselves for complying with the time limits. In several cases it is possible for them to apply for the waiver of the lapse of time, and then it is up to the deciding judges if they do grant this.

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?

The security of information transmitted electronically is ensured using appropriate software. Access is authorised restricted to specific employees and it is always possible to trace all the steps of the process.

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?

Is it possible for the judges and their assistants to access the court's information system from outside the court, but only on their dedicated professional computers and using a smart card specifically designated to an individual person.

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

Majority of documents is available to everyone, however there are some exceptions, for example the documents from disciplinary cases have restricted access, as well as the documentation of the court management.

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?

Yes – to the parties that use the electronic system of Data Boxes (see question 2), no to the parties that communicate via traditional mail.

If it is notified electronically via Data Boxes, then the recipient – public body is deemed to have taken the cognisance as soon as the document is delivered to their electronic mailbox, and if the recipient is a different party, then the crucial moment is when they log in to their electronic mailbox (however if they do not log in within 10 days, the decision is deemed to be delivered the tenth day).

If a decision is notified electronically via e-mail, then the recipient has to confirm receiving it, otherwise it has to be sent again via traditional mail.

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

It probably would be possible, but we have not experienced such a situation yet.

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 documents need to be provided in formats that we are capable of working with – this is vast majority of common formats, however it is not possible to send for example .jpg files.

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

Since the system for delivery of documents is available 24/7 and it is possible to do a submission basically from anywhere at no cost, it is now also easier for the participants of the proceedings to access the court. Therefore the amount of caseload has definitely risen.

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

Work of the whole court is definitely faster since everything is available electronically. From the financial point of view, there have been saves in some areas (for example the cost of mail) as well as extra costs in other areas (software, cost of paper etc.).