

## Electronic Access To The Courts

### The Implementation of your electronic document system

#### 1. What is hoped to achieve through the digitization of proceedings?

The objective is to improve efficiency and effectiveness of administrative justice as well as to reduce costs.

#### 2. Must Court documents be Transmitted electronically?

Yes, any document related to a new proceeding filed to the Court must be submitted electronically since January 1st 2017. Furthermore, according to art. 7 d.l. n. 168/2016 along with the electronic submission parties must also submit at least one hardcopy of the main documents filed (e.g. the act of appeal, pleadings and briefs), until January 1st 2018.

#### 3. Can litigants consult their files and track their progress online?

Once their file has been loaded into the database litigants may consult any document within that file and, they can check any documents filed by the opposing parties as well as follow the progression of the proceedings.

#### 4. Are the Application and the law firms' internal software interoperable? Is it envisaged to make them interoperable?

The software applications in use are easy to purchase commercially and are used throughout Italy thus allowing firms to adapt without significant difficulties to the new digital system.

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

The recent implementation of the new electronic proceedings has been enacted slowly by the judicial bodies in order to make such a major transition as smooth as possible, however, it is too soon to verify any solid feedback on how well litigants, practitioners and authorities have accepted these changes.

Statistics

#### 1. What percentage of applications are filed electronically per annum?

All applications must be filed electronically.

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

Any law firm, authority or litigant that wants to file an application is obliged to conform to the new electronic proceedings regulations and therefore all of the subjects must file their applications electronically.

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

So far no exact estimate has been calculated as the electronic working system is part of an implementation plan of several years which is still ongoing, concerning the entire national electronic system. Although, no exact estimate can be drawn it is safe to say that such an implementation has had significant costs.

Observing the adversarial principle

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

The parties can extract a copy of the other parties' briefs if they have been successfully uploaded into the file of the proceedings.

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

The parties are not notified if a document has been filed or consulted by the opposing party, but they can check in any moment if any document has been filed.

**3. Is the authenticity of electronic documents ever challenged before the courts?**

Currently, no such incidents regarding the origin or author of a document has ever been challenged before the Court.

**4. Can third parties also intervene in proceedings electronically?**

Those who think to be interested in the proceeding can intervene and become party of it. The intervention has to be done electronically.

The Acceleration of proceedings and urgent proceedings

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

The rules on electronic proceedings have been in effect as of January 1, 2017 and, it is therefore too soon to draw any conclusions on whether or not cases have been processed quicker than usual.

**2. 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 organization of the court?**

Every member of the court from staff members to judges has had to adapt to such innovative changes very quickly and is still undergoing a period of transition to improve efficiency on enacting properly the new regulations. The immediate consequences to such change have mainly affected practical aspects. For example, it is no longer necessary to go to an office to either sign or review documents within a file.

**3. When a procedural time limit 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)?**

When a term to submit an application or a document is foreseen, it is to be considered the date in which the file is uploaded and is accepted by the system.

The Technical aspects of your electronic document system

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

So far no major technical malfunction has occurred.

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

Various number of effects may occur, from the destruction of the uploaded files to missed processing of the incoming files. According to art.1 Co. 1 lett. C-bis law number 197/2016 in exceptional circumstances the Court may authorize the parties to submit their documents only on hardcopies.

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

Yes, so far disputes have dealt with issues regarding formal aspects such as, failure by the applicants to file correctly any electronic document with the correct format, failure to sign the special power of attorney with the electronic signature or the correct electronic signature format.

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

Unless, the court grants an additional fixed time limit to file any documentation, failure to respect such limits will cause the proceedings to be dismissed. However, additional time limits will be granted only if the party proves to have incurred in an excusable error, meaning that the failure to respect the time limit granted was caused by external forces.

Keeping information secure

**1. 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 authorization or clearance?**

There is a sole electronic platform on which the justice systems operates, there is a digitalized signature system and Certified email. Further, there are access restrictions based on employment levels making the system more secure.

**2. 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 and other members of the court can access the electronic files only from a professional computer and only by inserting their personal working credentials in order to identify the user.

**3. Are Judges and other members of the court able to access all the electronic files dealt with by their court?**

No, Judges may only view cases directly assigned to them in which they are either the reporting judge or part of the judicial panel responsible for the decision.

Notification of decisions to the parties

**1. Are decisions notified through the court's electronic system? If so, when are the parties deemed to have taken cognizance of the decisions?**

Decisions are notified to the parties by a certified electronic emailing system where once the notification has been sent to the correct PEC address ( a certificated e-mail) and the mail box has received it the notification is complete.

**2. Is it possible to bring an action for negligence if the Court's electronic document service malfunctions?**

Yes.

The Influence of electronic document systems on the courts' operating methods

- 1. 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?**

Yes.

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

No, the role is identical however the method of work has slightly changed.

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

Yes, it allows for an immediate consultation of documents within a file as well as the possibility to sign provisions even from a remote location.

Moreover, the new method led to a stronger/closer between the President and the rapporteur relationship.

However, such changes have not affected the way collegial proceedings occur which are still held in public hearings and in judicial chambers.