

## **ELECTRONIC ACCESS TO THE COURTS**



### **INTERNATIONAL ASSOCIATION OF SUPREME ADMINISTRATIVE JURISDICTIONS**

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#### Introductory Questions

##### **1. The implementation of your electronic document system**

For the past twenty years, the Mexican Federal Administrative Court<sup>1</sup> has actively used Information and Communication technologies to bring efficiency to the proceedings that are under its scope, related with the administration of federal justice in Mexico.

Aware of the benefits that these ITC tools may bring to the Federal Administrative Proceeding, the Court has developed various systems not only for consulting filing information or resolutions, but also to achieve the possibility of holding electronic trials through an online internet-based platform.

Throughout the past years, the Mexican Court developed an internal system that was finally launched in 2000, named “Integrated System of Monitoring and Control<sup>2</sup>”, such system has the main purpose of registering the entrance and monitoring the jurisdictional activity of all files inside the Court. With this system, all the trial proceedings are recorded, digitalized and uploaded for the revision and control of the magistrates and other Court authorities.

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<sup>1</sup> Tribunal Federal de Justicia Administrativa (TFJA by its acronym in Spanish).

<sup>2</sup> Sistema Integral de Control y Seguimiento de Juicios (SICJ by its acronym in Spanish)

In this respect, the electronic trial<sup>34</sup> started operations in August 2011. The Online Justice System (e-justice) is a system created by the Mexican Court to substantiate and solve a federal administrative proceeding through an online based platform. This system allows all parties (authorities and litigants) to access, review and interact with the Court regarding a given administrative proceeding. The security features of this platform allows the Mexican Court to upload all the proceeding acts, notify the parties and have service 24 hours 365 days a year. In this same date, a summary trial was implemented, this trial is processed by paper, however, time periods are quicker as they solve low sum matters.

In 2016, another system was implemented as consequence of the reforms to the Federal Law of Administrative Procedures<sup>5</sup>, allowing the use of email addresses to notify any act during a given proceeding. The Electronic Universal Notice (NEU) is an efficient way to notify the parties through the email addresses that each one of them appointed. For such purposes, an internal communication system was implemented having a strong connection with the SICJ.

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

The efficiency, and celerity of the actions and notifications of the Court, leading to the reduction of the length of the trials until resolution. Also, the proceedings are very short and straight forward.

- **Must court documents be transmitted electronically?**

As a general rule, the court documents should be transmitted electronically for the purpose of registration in the internal system SICJ. However, as mentioned above, this system is for internal use only.

In addition to the SICJ, it is necessary to mention that after the 2016 reform (NEU reform), the parties must appoint an email address for the purpose of electronic

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<sup>3</sup> Juicio en Línea in Spanish

<sup>4</sup> This modality of the administrative proceeding is optional to the claimant party. If this option is elected, the lawsuit must be filed through the electronic platform and the authority is compelled to continue through the electronic trial, as chosen by the claimant.

<sup>5</sup> In July 18, 2016.

notice, then, the electronic file mentioned above will also be used to notify the parties through the NEU.

In case of e-justice trials, any and all acts and communications of the Court or of the parties during the proceeding must be transmitted electronically. Therefore if any of the parties do not send their communications through the online system, such document will not be deemed as duly filed.

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

In the electronic trial, both, litigants and authorities can consult their files and track their progress online, through the official platform. Otherwise, in case the parties appointed their email addresses for notification purposes, the proceedings will be digitalized and send to them (NEU notices), as a way to track their progress online.

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

No, and due to the high level of security of the electronic trial platform, interoperability with law firms is not a feasible feature the Court expects to have. However, the Court has entered into an agreement with the Supreme Court of Justice of Mexico which main purpose is to create an interoperable platform that includes the e-justice system and the Supreme Court's system.

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

These are very helpful tools. There is an entire helpdesk area for electronic trial that provides advisory and real-time problem solving for litigants, practitioners and authorities.

## **2. Statistics**

**What percentage of applications are filed electronically per annum?**

In 2016, the Court received more than 185,000 new cases; almost 2000 were filed as electronic trials. This means that 1.07% of the Court's cases are filed electronically. And the 98% remaining uses the NEU notice as an electronic tool to efficient notifications.

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

The track of the electronic files in the e-justice system are not classified by law firms or litigants, but by the name of the claimant party.

Regarding the authorities, as mentioned above, this type of trial (e-trial) is mandatory for the authorities upon election of the claimant party, therefore they have no election whether to use the electronic platform or not.

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

As the system is already implemented and installed in the Mexican Court, we do not have to estimate costs of setting up.

### **3. Observing the adversarial principle**

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

The administrative justice in Mexico is a written-based system. Therefore, it is the Court's obligation to ensure that any and all of the writs filed by the parties are duly notified to the other.

For such purposes, the Court has implemented a public Newsletter<sup>6</sup> where the recent activity in a certain trial is published, so that the parties are able to come to the Court and review their physical file. When such parties appoint an authorized email address for notice purposes, then the Court will digitalize any inter party communication and send to them through the registered email.

For electronic trial, this exchange is more efficient, as the online system registers the communications and automatically notifies all the corresponding parties which can also access to the platform to review the uploaded writ and keep track of the progress.

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

For electronic trials, when a communication is uploaded to the online platform a notice is given to the parties through email, requesting them to access and review their electronic file, specifying the precise time and date of receipt and notice.

The notification will be deemed as duly made when the online justice system issues an automatic proof of the time and date when the parties accessed their electronic file. If the file is not accessed within three days after the email notice was sent, another notice will be published in the official Newsletter and the notification will be deemed as duly made, notwithstanding if the parties have already accessed their electronic file or not.

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

The online justice system uses an electronic signature<sup>7</sup> and a user and password to verify and control the veracity of the parties and their communications.

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<sup>6</sup> Boletín Jurisdiccional in Spanish

<sup>7</sup> This electronic signature is the same that the taxpayers obtain before Mexican Tax Authorities for tax purposes.

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

Yes, only when there is a third party that is called to trial. In such case the third party must register in the online justice system.

**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?**

Efficiency is precisely the main objective of the implementation of the electronic trial in Mexican Court, this modality of trial allows the Court to process and solve a given file in less than 230 days, this amount represents a reduction of almost 20% of time length with respect to the traditional trial.

Likewise, with the implementation in 2016 of the NEU, the notification times have been reduced in 50% and the Court has saved an important amount in paper, shipments and other related costs.

**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?**

Besides the cost savings and the time length reduction that the Court had from the implementation of technologies in the substantiation of procedures; the internal processes have been proved to be more effective and the technologic tools are user-friendly, therefore the work and tasks of magistrates and other members of the Court has become easier as they now possess the required means to be more efficient in processing and solving the 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)?**

Most of all the procedural acts of an administrative trial, are subject to a time limit, for e-trials such time limit begins to run when a Court's document is put online and notified to the parties.

## **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?**

As all electronic platforms, there have been certain minor incidents throughout the years of operation of the system, however such incidents have not lasted for more than eight consecutive hours. Additionally, our platform has developed a disaster program that backups all the information in case of a flood, fire or any other natural disaster.

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

All acts between the parties are subject to a procedural time limit, so therefore, when the online justice system is affected in any way, the parties are unable to upload their communications, situation that may lead to the loss of their procedural right. However, as mentioned before, the Court's helpdesk handles this type of incidents by issuing a technical ticket and manually registering and admitting any and all promotions that are entered during a technical breakdown of the system.

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

As mentioned above, the electronic trial is an optional modality to process a federal administrative procedure, therefore there have been no disputes in this respect. However the NEU notice is mandatory since the reform came into force.

## **6. Keeping information secure**

**□ How are the security, confidentiality, integrity and traceability of the exchanges ensured?**

The online justice system uses a sophisticated security software that ensures the security and traceability of the exchanges between the parties. First of all, each of the parties has a unique user name and a confidential password that will be requested upon logging. Additionally, the communications must be validated with the user's electronic signature before uploading, furthermore, the system will issue a specific barcode that will identify the reception of any document. This guarantees the trustworthiness of all communications.

**□ 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 authorization clearance method that is used by the Court to ensure the reliability of the identity of the parties is, as mentioned, the username and password for accessing the system and the electronic signature for uploading documents. This method has proved effectiveness as for the last six years there has been no unauthorized access or infiltration.

**□ 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?**

For the magistrates and Court's members, the access is also ensured with a user name and password that has to be logged in a special software therefore, they cannot interact or sign the electronic files outside the Court's premises. However, they can, as all users, access and just review files from any remote location.

For signing resolutions or Court's documents, the magistrates must use their electronic signature and in addition, through a biometric system, they must stamp their fingerprint and their autograph signature.

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

In this respect, it is important to mention that upon the implementation of the electronic trial in 2011, the Mexican Court has created specialized tribunals with specialized magistrates in electronic trial. Therefore, only the personnel associated to such tribunals are allowed to access to the online justice platform.

#### **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?**

For the final resolution that is issued for each case, the same notifying principle explained in number 3 above is applied.

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

In this case, there is no specific action against the negligence of the Court's electronic system, as there are official technical guidelines that were issued to show the litigants or authorities what to do during a service malfunction, in addition to the tickets or reports that can be raised through the helpdesk and that may suspend a procedural time limit.

#### **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?**

Currently, this system is optional and is used only for federal administrative proceedings raised before the Federal Administrative Court. When appealing a resolution issued by this Court before the Mexican Federal Supreme Court of Justice, the electronic file has to be entirely printed for remitting it to the Supreme Court.

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

The electronic trial and the NEU system of notification, has strengthened the trust and reliability of the litigants and authorities in this institution, as now, our processes are faster, easier and our resolutions are issued in less time than before.

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

Our internal processes have become more efficient, and with all these electronic tools the collegial working is agile as the magistrates can immediately send the resolution projects for discussion to the other magistrates in order to ease the voting process.