

Supreme Court of the Republic of Korea

Answers to the IASAJ Questionnaire: “Electronic Access to the Courts”

ELECTRONIC ACCESS TO THE COURTS

1. The implementation of your electronic document system

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

[ANSWER]

(1) To improve efficiency and reduce cost by submitting and delivering documents electronically

(2) To enhance public confidence in the judiciary by improving transparency in trial procedures

- Must court documents be transmitted electronically?

[ANSWER]

The principle is that litigants who agreed to use electronic litigation procedures should submit documents to the court in electronic document formats (digital copies). However, in case there are system failures in the electronic information processing system, parties can submit paper documents (hard copies). In addition, documents such as complaint, preparatory documents, etc. are provided in fill-in-the-blank forms, offering selection for litigants to submit documents either by filling out the given forms or uploading file attachments.

In case one party did not agree to use electronic litigation procedures while the other party did, the party who did not agree can submit documents in paper forms to the court, and can receive hard copies of documents that were electronically submitted by the other party who agreed to use electronic litigation process.

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

[ANSWER]

Regardless of whether the party is a plaintiff or defendant, those who agreed to use electronic litigation procedures must electronically submit documents to the court. For electronic litigation cases, the court must electronically service documents to the parties as well.

- are certain aspects reserved for these players?

[ANSWER]

Parties can choose to write documents in fill-in-the-blank forms or by attaching files. If a party chose to upload files as attachments, the document must comply with the format, composition, size and other rules provided in the public notice on the use of electronic litigation system formulated by the Minister of National Court Administration. However, the electronic litigation system supports various file formats, so litigants can choose to write documents in many different word processing programs.

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

[ANSWER]

If a party who agreed to use electronic litigation process submitted a document in paper form without valid reason, the document is deemed to have not complied with the legal rules and therefore is not effective in the proceeding. In this case, the court clerk or a court official informs the party to resubmit the document in electronic format. If the party does not follow the requirement for electronic document submission, an additional document with explanations on such reasons will be drafted and attached onto the submitted document and delivered to the presiding judge to request for his/her decision on whether to hold the document effective in the trial.

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

[ANSWER]

Yes, parties who agreed to use electronic litigation procedures can sign onto the e-Litigation website to track the litigation progress and view all the electronic documents submitted by the other party and the trial chamber as well as his/her own documents.

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

[ANSWER]

At present, the court's case management system and the law firms' internal software are not directly interoperable, though we provide API links for some documents. However, we are making considerations to establish a direct connection for the interoperability in the future.

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

[ANSWER]

We provide a menu on the e-Litigation website where users can send their suggestions and opinions on the electronic litigation system. We then gather various user opinions, i.e. the supported file formats, document composition, size, etc., and review them to reflect in the course of making improvements to the system. In addition, as the largest group of users of electronic litigation system is the lawyers and legal professionals, we have commissioned a policy research on <The Achievements of and Future Issues on the Implementation of Electronic Litigation: The External Users' Perspectives> in 2013 to the Korean Bar Association to reflect in the user perspectives when we make improvements to the system.

2. Statistics

- What percentage of applications are filed electronically per annum?

[ANSWER]

[Table] Statistics on electronically filed litigations for first-instance civil cases

(* The statistics below reflect the data collected during the period of 2011-2016 since the commencement of civil case electronic litigations on 2 May, 2011.)

Year \ Type	Number of Litigation Filings		
	Number of Electronically Filed Litigations	Total Number of Litigation Filings	Percentage of Electronically Filed Litigations (%)
2011	146,733	985,533	14.9
2012	389,823	1,044,928	37.3
2013	476,718	1,095,915	43.5
2014	610,620	1,136,935	53.7
2015	611,550	1,006,592	60.8

2016	641,436	973,310	65.9
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- What percentage of users (law firms, authorities and litigants) are now using this method?

[ANSWER]

Law firms: 3.73%; Corporations: 11.7%; Government offices: 2.5%; Individuals and others: 82.0% (* Based on the user registration data to e-Litigation website)

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

[ANSWER]

The total cost of the establishment, improvements and maintenance of the electronic litigation system for the period 2009-2015 was approximately 89 million dollars (600 trillion won). The above cost for the establishment and advancement of electronic litigation system is not for particular individual court but for all electronic litigation and electronic working systems except for criminal cases applied in all nationwide courts under the judiciary.

3. Observing the adversarial principle

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

[ANSWER]

The parties do not directly send their electronic documents to the other party but submit their documents on the court's electronic litigation system. Once a document is submitted, the court will check the content of the document, upload it on the electronic litigation system, notify the person who is to be serviced with the upload via email, text message or other means, and provide the document and notification histories on the electronic litigation website. Especially the complaint, preparatory documents and other documents on substantive matters must go through the above servicing process to take effect as evidentiary documents in court pleading sessions.

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

[ANSWER]

Once a document is submitted, the court will check the content of the document,

upload it on the electronic litigation system, notify the person who is to be serviced with the upload via email, text message or other means and provide the documents and notification histories on the electronic litigation website. However, the system does not provide information to the other party or the trial chamber on whether or not a party viewed and checked the document.

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

[ANSWER]

The National Court Administration does not collect information on whether authentication issue becomes a problem in actual trials. The trial chambers follow the standard rules to address authenticity issue, by informing the parties to keep the original copy of electronically converted document submitted to the court, so that the court can order the parties to submit the original copy if the authenticity of electronically submitted document is challenged in the proceedings.

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

[ANSWER]

Yes, the legal provisions and system allow third parties such as witness, assessor, conciliation commissioners, etc. to use the electronic litigation system to electronically submit documents.

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?**

[ANSWER]

The electronic litigation system helps prevent the delays in processing cases as the trial panel can immediately check the submitted documents, and shorten the case disposition time by simplifying the document service process. According to our comparison analysis on the single-judge civil case disposition times of electronic and paper litigations in 2013, the average case disposition time of paper-based litigations was 165 days while the electronic litigations took only 152 days, confirming that electronic litigations are more expeditiously processed than paper-based litigations.

- **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?**

[ANSWER]

The electronic document service system simplified the document service process, eliminated the need to transfer paper document stacks from and to the judges' chambers or courtrooms, and significantly reduced the physical space to store trial documents. The technology is especially helpful for the dedicated and thorough hearings, as the collegiate panels composed of three judges can simultaneously access and review the trial documents. It also provides the foundation to work in remote location or at home in the future, by removing the time and location constraints to access trial documents.

- 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)?

[ANSWER]

The Civil Procedures Act provides that civil judgment should be delivered within five months from the date when the litigation is filed; and the said period in electronic litigation begins when the complaint is submitted onto the electronic litigation system, which is when the litigant writes his/her electronic signature and clicks the 'Submit' button on the electronic litigation website.

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?

[ANSWER]

There had not been any unavailability of electronic document submissions for several days due to technical malfunctions in the overall system. Most malfunctions occur only partially and are promptly recovered.

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

[ANSWER]

There is almost no possibility that technical malfunctions in the case management system (CMS) would cause a temporary suspension to hold trials. However, the Korean law provides provisions for the possible inability to electronically submit document due to technical malfunctions: in case the parties are unable to electronically submit documents by the court-designated deadline due to system malfunctions, the document submission deadline is postponed for certain period of time after the system is recovered.

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

[ANSWER]

There have been disputes on the document submission time, whether to receive or submit documents electronically, etc. In such cases, the litigant makes information request or enquire for factual verification to the trial panel, and the court makes relevant data analysis to provide response on the factual grounds.

- 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?

[ANSWER]

If a technical malfunction is the reason, the party can visit the court to submit documents, and the Korean law provides provisions for the possible inability to electronically submit document due to technical malfunctions: in case the parties are unable to electronically submit documents by the court-designated deadline due to system malfunctions, the document submission deadline is postponed for certain period of time after the system is recovered.

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?

[ANSWER]

We manage the electronic signatures of those who submit documents for the authenticity and integrity, and save and manage all logs on each task for the traceability. Access to all files and documents on the system are controlled and monitored by a security application program and they are basically only accessible by the litigants and the trial panel assigned of the case. We do not have security clearance degrees to control access to documents.

- 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?

[ANSWER]

We have installed virtual desktop infrastructure (VDI) technology for members of the court to access electronic documents with internet connection. A mobile program

is also available to view the electronic documents on mobile devices.

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

[ANSWER]

Judges and other members of the court can only access the electronic documents of the assigned cases. The access is controlled with an access control software.

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?

[ANSWER]

Yes. When the court uploads its decision onto the electronic litigation system, the upload is notified to the litigant(s) who agreed to use electronic litigation procedures via email or text message. In case the recipient does not check the decision, the court deems that the recipient has received the decision after one week from the date when the notification is sent.

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

[ANSWER]

The Korean law on electronic litigation procedures does not provide any particular restriction to bring an action for negligence; thus if a party was damaged by malfunctions in the court's electronic litigation system, he/she can institute damage compensation lawsuit against the state.

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?

[ANSWER]

The users are required to submit electronic document in conformity with the technical standards provided in the court rules, and most of the users comply with the

standards. Information on the technical standards is provided in the electronic litigation website and upon document submissions so that users can properly submit electronic documents without any troubles.

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

[ANSWER]

1. The electronic working did not cause significant changes in the fundamental roles of administrative courts. It, however, contributed to better perform the administrative courts' roles to hold hearings and deliver judgments in much easier and thorough ways. For example, parties should be able to efficiently use and access trial records for effective oral hearings in courtrooms, and the electronized records of administrative litigations is highly convenient as they can be easily shared in courtrooms. The efficient use of diagrams, photographs and other materials is also helpful in drafting judgment.

2. Conversion of paper-based trial records into electronic document formats brought changes in the judges' work process and the trials in courtrooms. The need to transfer paper document stacks between doors and the spatial limitations of storage are now eliminated. The courtrooms and trials also became smarter with the access to electronic documents on electronic devices without having to flip over paper records.

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

[ANSWER]

We can confidently say that the collegial working became much more efficient. Judges in collegiate panels (three-judge panel) can access the assigned trial records at any time, allowing them to overcome the time and physical constraints existed in the paper litigation system where the judges had to take turns to read over the case records. As for the members of a trial panel, i.e. judges, court clerks and assistant court clerks, the electronic working system saved the time and cost of transferring paper document stacks between offices and courtrooms. The electronic approval system also expedites the work process by simplifying the former approval procedures. When the court receives an application/filing, a court clerk had to take the application document to the judge's chamber for approval and then bring the document back to the clerk office; after drafting the court decision, the clerk again took the printed draft to the judge's chamber to obtain approval and brought the decision paper back to the clerk office. And because one side of the parties in administrative cases are always 100% obliged to use the electronic litigation process, administrative cases are distinguished from other civil cases that all litigations are

electronically processed, and it redoubles the above efficiency.