

What to watch for with Brazil's new rules on electronic service of court documents

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The "Electronic Judicial Domicile" (*Domicílio Judicial Eletrônico*) is a system created by Brazil's National Council of Justice ("CNJ" – *Conselho Nacional de Justiça*) to concentrate all communications issued by Brazilian courts in a single channel, allowing users (lawyers and parties) to receive and monitor service of process, summonses, and other notifications electronically. Such system will soon be used by all Brazilian courts, except the Supreme Federal Court.

According to the timetable set out in CNJ Directive 46/2024, all large and mid-sized private companies had until May 30th to register on the Electronic Judicial Domicile. Those who have not registered will be compulsorily registered by the CNJ itself, based on data provided by Brazil's Federal Revenue Service.

For individuals and small businesses that have an e-mail address registered within the Redesim integrated system (a federal system created to simplify and streamline registration of new businesses), registration is optional, according to article 246, §5, of the Brazilian Code of Civil Procedure (BCCP) and articles 16, §2, and 17 of CNJ Resolution 455/2022.

This change in the way the parties receive court communications deserves careful examination. Although the computerization of proceedings will speed up the resolution of claims, and the use of a unified system can facilitate access to information, errors by users in managing service of process, summonses and other notifications could cause important procedural time periods to start running, and if not properly monitored, deadlines could be missed.

For example, when receiving service of process, under article 246, §1, of BCCP a company must acknowledge receipt through the system within three working days. If service is not confirmed within that period, process will then be served by other means. However, the absence of a good cause for failing to acknowledge electronic service of process may lead to the imposition of a fine of up to 5% of the value of the case.

The rule is different for other notices and summonses. If receipt of notices or summonses is not confirmed electronically, the user will be deemed to have been notified via Electronic Judicial Domicile on the expiry of 10 calendar days, according to article 20, §4, of CNJ Resolution 455/2022, and the procedural time period will start to run.

The system will allow companies to opt for e-mail alerts every time they receive new court communications. Nevertheless, opening e-mail alerts will not constitute acknowledgement of receipt of service of process, summonses

and other notifications, which must be confirmed via the Electronic Judicial Domicile system, according to article 20 of CNJ Resolution 455/2022.

With all these changes, the expectation is that the Electronic Judicial Domicile will help courts to process claims more speedily, especially in service of process on parties involved in legal proceedings. Court communications that previously depended on the post office or even a court official can now be made digitally, at the speed of an e-mail.

All this new technology and speed comes at a price, though. With service of process occurring at greater speed, there will be less time for defenses, so clients will need to be quick in engaging legal counsel, especially in highly complex cases. In addition, it is essential that companies' legal departments monitor the Electronic Judicial Domicile system closely, not just to avoid fines, but more importantly to avoid the risk of missing deadlines or even inadvertently causing a time period to start running earlier than planned.

Companies should also be careful with keeping their contact data up to date, especially e-mail addresses used with the Brazilian Federal Revenue Service, and establishing rules on which users and e-mails will have authorization to access the Electronic Judicial Domicile system and receive court communications. The creation of specific e-mail addresses, with automatic forwarding to groups of people, can also be a good alternative for ensuring that notifications are not missed. Lastly, whenever companies open an electronic notification, it is highly recommended that they immediately reach the lawyers responsible for the case, to avoid unwanted procedural impacts on their case.

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