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FIRST PROGRESS REPORT:

THE NEW TECHNOLOGIES AND THEIR IMPORTANCE IN INTERNATIONAL JURIDICAL COOPERATION

(Presented by Doctor Cecilia Fresnedo de Aguirre)

I. Background information

In its 98th Regular Session (April 5-9, 2021) the Inter-American Juridical Committee (hereinafter, CJI) approved, for inclusion in the CJI´s Agenda, the topic "New technologies and their relevance for international legal cooperation" (OEA / Ser. Q, CJI / doc. 637/21 of April 6, 2021).

The topic proposed and approved falls within the theme "Promotion and study of areas of legal sciences", contained in the Mandates of the General Assembly to the American Juridical Committee (See document sent under the title "Mandatos.AG.ES.2021.pdf"). In the Summary of the Operative Paragraphs, No. 8, the following is stated: "Request the CJI to promote and study those areas of legal sciences that facilitate international cooperation in the inter-American system for the benefit of the societies of the Hemisphere."

The objective proposed by the CJI is the preparation of a Guide of good practices in matters of international jurisdictional cooperation for the Americas, which will be useful to law operators (judges, attorneys, etc.) to obtain the maximum possible benefit from the tools offered at present by technology, when enforcing the existing conventional and autonomous instruments in the area. In this way, the current hard-law instruments could in practice be updated through soft-law instruments which for chronological reasons do not refer to the use of technology, but which in general do not prohibit it either.

As a first measure to begin working on the subject, the undersigned Rapporteur prepared a questionnaire that, within the framework of the cooperation established between the CJI and the American Association of Private International Law (ASADIP), was sent to various specialists in the region, receiving six answers in return.

II. Presentation of the topic

When proposing this theme to the CJI, I explained that it was my belief that we all agree that the pandemic caused by Covid-19 has forced us to resort to technology in order to continue operating in the most diverse aspects of life: familiar, social, professional, teaching areas, among many others. The situation has accelerated the application of technology in the practice of Law, developing some tools already in use and applying them to other areas where the use of technology had not been explored. I am referring to electronic notifications, judicial hearings - and arbitrations - either via Zoom or through the use of other platforms, and electronic communications between judicial authorities, among many others. This has shown that certain acts of international judicial cooperation can be expedited, therefore shortening times while maintaining all the necessary guarantees of authenticity and privacy.

I consider that the analysis of this issue would allow updating the mechanisms of international jurisdictional cooperation provided for in several Inter-American Conventions, for example, the Inter-American Convention on Letters Rogatory, the Inter-American Convention on Receipt of Evidence Abroad (both approved by CIDIP-I, Panama, 1975), the Inter-American Convention on the Enforcement of Precautionary Measures, the Inter-American Convention on Extraterritorial Efficacy of Foreign Judgments and Arbitral Awards (both approved in CIDIP-II, Montevideo, 1979), among other inter-American instruments, which, due to chronological

reasons, do not refer to the technological mechanisms available today. However, these Conventions do not close the doors to such innovations.

By way of example, note that art. 15 of the Inter-American Convention on Letters Rogatory or Letters Rogatory establishes that: "This Convention shall not limit any provisions regarding letters rogatory in bilateral or multilateral agreements that may have been signed or may be signed in the future by the States Parties or preclude the continuation of ***more favorable practices in this regard that may be followed by these States***" (emphasis added). The materialization of these practices can be found, for example, in the **ASADIP Principles on Transnational Access to Justice (TRANSJUS)**, which can be applied "where the parties have agreed that procedural aspects of their legal relationship shall be governed by them, unless expressly prohibited by the law of the forum ", and also [These Principles may be applied] as long as such application is technically feasible and does not result in an outcome manifestly incompatible with the fundamental principles of the applicable law (art. 1.3).

The idea is to work on the identification of the questions that are technically feasible, and which could be implemented in the practice, without the need to modify or replace the prevailing legal/conventional texts.

In this first stage, this Rapporteur has begun to explore, through the aforementioned questionnaire, among other tools, the current situation of the different countries regarding the use of technological tools in matters of international jurisdictional cooperation, in order to analyze which issues may benefit from the use of technology capable of improving practical enforcement of the aforementioned Conventions, with a view to the **drafting, by the CJI, of a Guide on good practices in international jurisdictional cooperation for the Americas**.

This Guide of good practices could indicate and enable technological mechanisms that allow prioritizing procedural speed without compromising the security and effectiveness of substantial rights over formalities, since latter´s sole reason for existing is to guarantee substantial rights. In the case of notices, for example, the content of the warrant would not be amended, because changes occur in the media on which the information is based, that is, from material hard copies to electronic communications.

In conclusion, I believe that technological progress is here to stay and that we must not only accept it but also use it with a view to improving international judicial cooperation in all matters. Without jeopardizing progress in normative matters, we can use, as far as possible, the instruments that are currently available, such as the Inter-American Conventions referred to above, but updating them in practice through the Good Practices Guide to be prepared by the CJI. This first Progress Report is a first step in that direction.

III. The questionnaire

A. Legislation

1) Is your country a party to the conventional instruments listed below?

a. Inter-American Convention on Letters Rogatory (Approved at CIDIP-I, Panama, 1975) and the 1979 Additional Protocol.

There are fifteen States Party to this Convention and its Protocol: Argentina, Bolivia, Brazil, Chile, Colombia, Ecuador, El Salvador, Guatemala, Mexico, Panama, Paraguay, Peru, the United States of America, Uruguay and Venezuela[1].

b) Inter-American Convention on the Taking of Evidence Abroad (approved at CIDIP-I, Panama, 1975) and its 1984 Additional Protocol.

There are fifteen States Parties to this Convention: Argentina, Chile, Colombia, Costa Rica, Ecuador, El Salvador, Guatemala, Honduras, Mexico, Panama, Paraguay, Peru, the Dominican Republic, Uruguay and Venezuela[2].

[1] https://www.oas.org/juridico/spanish/firmas/b-46.html (last accessed on: July 13, 2021)
[2] http://www.oas.org/juridico/spanish/firmas/b-37.html (Last accessed on: July 13, 2021)

The States Parties to the Additional Protocol, on the other hand, are only five: Argentina, Ecuador, Mexico, Uruguay and Venezuela[3].

c. Inter-American Convention on Execution of Preventive Measures (approved at CIDIP-II, Montevideo, 1979).

There are seven States Parties to this Convention: Argentina, Colombia, Ecuador, Guatemala, Paraguay, Peru and Uruguay[4].

d. Inter-American Convention on Extraterritorial Validity of Foreign Judgments and Arbitral Awards (approved at CIDIP-II, Montevideo, 1979)

There are ten States Parties to this Convention: Argentina, Bolivia, Brazil, Colombia, Ecuador, Mexico, Paraguay, Peru, Uruguay and Venezuela[5].

e. Protocol of cooperation and jurisdictional assistance in civil, commercial, labor and administrative matters (MERCOSUR, Las Leñas, 1992)

There are four States Parties to this Protocol: Argentina, Brazil, Paraguay and Uruguay[6].

f. Other instruments, bilateral or otherwise.

Some relevant Conventions on the topic under study are included herein:.

- Agreement of October 5, 1961 Suppressing the Requirement of Legalization of Foreign Public Documents

Several countries in the region are parties to this Agreement[7]

- The Hague Convention on the Notification or Transfer Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters (1965)

The following American countries are part of this agreement, among many others from other regions: Argentina, Brazil, Canada, Costa Rica, the United States, Mexico, Nicaragua and Venezuela[8].

- The Hague Convention to Facilitate International Access to Justice (1980)

Only two inter-American countries are parties to this convention (Brazil and Costa Rica), among others from other regions[9].

- Hague Convention of November 23, 2007 on the International Collection of Alimony for Children and other Family Members and Protocol on the Law Applicable to Alimony Obligations

Only one inter-American country is party to this convention (Brazil) among others from other regions[10].

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[3] http://www.oas.org/juridico/spanish/firmas/b-51.html (Last accessed on: July 13, 2021)
[4] https://www.oas.org/juridico/spanish/firmas/b-42.html (Last accessed on: July 13, 2021)
[5] http://www.oas.org/juridico/spanish/firmas/b-41.html (Last accessed on: July 13, 2021)
[6] https://iberred.org/convenios-civil/protocolo-de-las-lenas-de-cooperacion-y-asistencia-jurisdiccional-en-materia-civil (Last accessed on: July 13, 2021)
[7] See full list on https://www.hcch.net/es/instruments/conventions/status-table/?cid=41 (last accessed on: July 13, 2021)
[8] See full list on https://www.hcch.net/es/instruments/conventions/status-table/?cid=17 (Last accessed on: July 21, 2021)
[9] See full list on https://www.hcch.net/es/instruments/conventions/status-table/?cid=91 (Last accessed on: July 21, 2021)
[10] See full list on https://www.hcch.net/es/instruments/conventions/status-table/?cid=133 (Last accessed on: July 21, 2021)

- The Hague Convention of March 18, 1970 on the Securing of Evidence abroad in Civil or Commercial Matters

The following American countries are parties to this convention, among many others from other regions: Argentina, Brazil, Costa Rica, the United States, Mexico, Nicaragua and Venezuela[11].

- MERCOSUR Protocol on Precautionary Measures

Parties to this Protocol: Argentina, Brazil, Paraguay and Uruguay.

In addition, there are multiple bilateral agreements on topics on international jurisdictional cooperation that bind several States in the region.

2) Does your country have autonomous[12] regulations in force regarding international jurisdictional cooperation? Which are they?

In general, all the countries that responded to the questionnaire have autonomous regulations in force regarding international jurisdictional cooperation.

In **Argentina**, María Blanca Noodt Taquela and Julio C. Córdoba report that the autonomous regulations on the matter are contained in arts. 2610, 2611 and 2612 of the Civil and Commercial Code of the Nation, Law No. 26994, which came into force on August 1, 2015. In addition, there are 24 provincial regulations and the City of Buenos Aires on the recognition of foreign judgments; such diversity relies on the federal system of Argentina. In the case of the Civil and Commercial Procedural Code of the Nation, Law No. 17454 of 1967, amended in 1981 by Law No. 22434, the matter is regulated in arts. 517 to 519.

The CCCN regulates issues such as equal procedural treatment to foreign litigants, cases in which - in addition to the obligations assumed by international conventions -, Argentine judges must provide broad jurisdictional cooperation in civil, commercial and labor matters and international procedural assistance, among others. The Code of Civil and Commercial Procedure of the Nation regulates issues such as the recognition and execution of foreign judgments

It should be noted that the express text admits that "Argentine judges are empowered to establish **direct communications with foreign judges** who accept the practice, as long as the guarantees of due process are respected" (art. 2612 CCCN)

In **Bolivia**, José Manuel Canelas refers to the new Civil Procedure Code, promulgated in 2013, which contains a final chapter on “International Judicial Cooperation”: an important innovation in the legislation of his country.

In **Brazil**, Valesca Raizer and her team present a very extensive report that synthetically establishes that there is "a substantial set of regulations in force on international legal cooperation", and highlights those contained in the 1988 Constitution of the Federative Republic of Brazil, in the Law of Introduction to the Rules of Brazilian Law - LINDB (Decree-Law No. 4657 of 09/04/1942, amended by Law No. 12376 of 12/30/2010), "compiling various Private International Law norms, including issues related to international legal cooperation), the **Code of Civil Procedure CPC/200**5 (Law No. 13105, of March 16, 2015) that establishes "a systemic regime for international legal cooperation, provided for in Title II "On the Limits of National Jurisdiction and International Legal Cooperation”. The primacy of the conventional rules provided for in the International Treaties on international legal cooperation to which Brazil is a party is established, as opposed to the autonomous infra constitutional rules. They also mention Resolution No. 9/2005 of the Superior Court of Justice - STJ, the Internal Regiment of the

[11] See full list on https://www.hcch.net/es/instruments/conventions/status-table/?cid=82 (Last accessed on: July 21, 2021).

[12] By "autonomous norms" we understand those norms of Private International Law that emanate from the Parliament of a State, that is, that are of internal or national source, and not international, such as treaties and conventions.

Supreme Federal Court-STF, and Inter-Ministerial Policy No. 501, of March 21, 2012 between the Ministry of Foreign Affairs and the Ministry of Justice.

In **Colombia**, José Luis Marín reports that the autonomous regulations in force in his country regarding international jurisdictional cooperation are to be found in the General Code of the Process, Law 1564 of 2021 [Article 41].

In addition, the Rapporteur mentions Decree 491 of 2020, which establishes that: "In order to maintain continuity in the provision of alternative justice services, arbitration processes and extrajudicial conciliation procedures, amicable composition and personal insolvency procedures of non-merchant natural persons will be processed through the **use of communication and information technologies**, in accordance with the administrative instructions issued by the arbitration and conciliation centers and the public entities in which they are processed, as the case may be. Said public entities and centers will make available to the parties and proxies, arbitrators, conciliators, amiable compositors, **the electronic and virtual means necessary for the receipt of documents and the holding of meetings and hearings**. This will make available electronic addresses for the receipt of arbitration demands, requests for extrajudicial conciliation, amiable composition, insolvency of a non-merchant natural person, and any document related to their processes or procedures; this will also allow sending **communications and notifications electronically, as well as carrying out virtually all types of meetings and hearings** at any stage of the arbitration process, the conciliation process, the amicable solution or bankruptcy of a non-merchant natural person. In the event of not having sufficient technology to do so, the center or public entity may enter into agreements with other centers or entities to carry out and promote actions, processes and procedures." (art. 10).

Article 11 of Decree 491 of 2020 establishes the following: "During the period of mandatory preventive isolation, the authorities referred to in article 1 of this Decree that do not have a **digital signature**, may validly sign the acts, orders and decisions that they adopt by means of a mechanical autographed signature, digitized or scanned, depending on the availability of these media. Each authority will be responsible for adopting the internal measures necessary to guarantee the security of the documents executed by these means."

Decree 806 of the year 2020 is also mentioned, and Article 1 establishes that: "This decree aims to **implement the use of information and communication technologies in judicial proceedings and to streamline the judicial processes** before the ordinary jurisdiction in civil, labor, family and litigation matters - and also in the administrative, constitutional and disciplinary jurisdiction, as well as the actions of the administrative authorities exercising jurisdictional duties and in arbitration processes, during the term of validity of this decree. (…)"

Article 2 of Decree 806 of 2020 refers specifically to the use of information and communication technologies, and establishes that "**Information and communication technologies must be used in the management and processing of judicial processes** and ongoing matters, in order to facilitate and expedite access to justice, as well as to protect judicial officers and also the users of this public service

"Technological means will be used for all actions, hearings and proceedings and the parties in the process will be allowed to act in the suits or procedures through the **digital means** available, avoiding demanding and fulfilling face-to-face or similar formalities that are not strictly necessary. Therefore, the actions will not require handwritten or digital signatures, personal presentations or additional authentications, nor will they be incorporated or presented on physical media.

"Judicial authorities will publish through their websites the official communication and information channels through which they will provide their services, as well as the **technological mechanisms** employed.

"With regard to enforcement of international conventions and treaties, special attention will be paid to rural and remote populations, as well as to ethnic groups and people with disabilities who face **barriers when trying to access information and communication**

technologies, so as to guarantee that accessibility criteria are applied. It should also be assessed if any reasonable measure is required, in order to ensure the right to the administration of justice on equal terms with other people."

"PARAGRAPH 1. All necessary measures will be taken to guarantee due process, publicity and the *audi alteram partem* principle in the application of **information and communication technologies**. To this end, the judicial authorities will seek **effective virtual communication** with the users of the administration of justice and will adopt the pertinent measures so that they can become aware of the decisions and exercise their rights."

"PARAGRAPH 2. The municipalities, legal entities and other public agencies will, to the extent of their possibilities, facilitate access to virtual procedures from their own headquarters."

Dr. Marín also mentioned the jurisprudence factor, especially Decision C-420 of 2020 by the Constitutional Court.

In **Cuba**, Taydit Peña Lorenzo informed that the autonomous norms in force in her country as regards international jurisdictional cooperation are contained in the following normative bodies:

- Law No. 7, on Civil Administrative and Labor Procedure, of August 19, 1977. Official Gazette No. 34 of August 20, 1977 (Last update: April 6, 2004), including Decree-Law 241/2006, which incorporates the Fourth Book to the Cuban Procedures Law on the Economic Procedure (hereinafter LPCALE).
- The law of State Notaries, Law No. 50 of December 28, 1984, published in the Ordinary Official Gazette No. 3 of March 1, 1985.

In **Mexico**, Carlos E. Odriozola Mariscal and Nuria González Martín report that the autonomous regulations of Mexico in matters of international jurisdictional cooperation are basically "those contained in the Fourth Book of the Federal Code of Civil Procedures, namely "International Procedural Cooperation" (articles 543 to 577). These provisions are in accordance with the Inter-American Conventions adopted by Mexico on the matter, resulting from 1988 amendments to the civil legislation, thanks to the endeavors of the Mexican Academy of Private and Comparative International Law (AMEDIP). This legislation does not contain express references to the use of any particular technology, precisely in view of when it was enacted."

In **Uruguay**, the autonomous norms on international jurisdictional cooperation are contained in the General Code of Procedures (1988), Articles 91, 126, 143, and 524 that refer to the topic under study.

It is also worth mentioning more modern autonomous regulations which refer to the subject in question, such as Law No. 18,237 of 12/26/2007, which established in its sole article: " The **use of electronic file, electronic document, simple computer encoding, electronic signature, digital signature, electronic communications and the constitution of an electronic address** is hereby authorized **in all judicial and administrative cases that are processed before the Judiciary**, with the same legal effectiveness and probative effect as their conventional equivalents. The Supreme Court of Justice is empowered to regulate such use and order its gradual implementation". Joint Resolution No. 7637 of 9/16/2008 of the Supreme Court of Justice on electronic notifications issued the regulatory norms applicable to this piece of legislation, “the main purpose being to provide security to the new system against possible technical and practical difficulties."

In **Venezuela**, María Alejandra Ruiz mentions the Law of Private International Law, promulgated on August 6, 1998 (Official Gazette 36511).

B. Practice in the Jurisprudence and Central Authorities

3) With reference to the compliance with any of the conventional or autonomous regulations in force in your country, does the jurisprudence and/or the Central Authority of your country use technological mechanisms? Which are they?

All the responses received to the questionnaire to a greater or lesser extent refer to the use of technological mechanisms. In some cases, the use of these mechanisms is related to the existence of rules in force in those countries, which are generally autonomous, since conventional norms, for chronological reasons, do not expressly provide for such mechanisms, although they do not prohibit them.

In **Bolivia**, according to José Manuel Canelas, the **digital signature** is beginning to be used[13].

In **Brazil**, according to Valesca Raizer and team, "the Superior Court of Justice - STJ, responsible for the enforcement of Letters Rogatory and for the homologation and execution of Foreign Judgements uses three artificial intelligence tools: **Socrates, Athos and E -Juris. Socrates** is the early identification of legal disputes in special appeals. One of the duties of the tool is to automatically indicate the constitutional permissiveness invoked for the filing of the appeal, the legal provisions questioned and the paradigms cited that justify the divergence. In turn, **Athos** is meant to locate - even before they are distributed to the judges - the cases that can be assigned for trial under the rule of repetitive appeals. In addition, the platform monitors cases with convergent or divergent opinions between the divisions of the Superior Court of Justice - STJ, cases with notoriously relevant matters and also possible distinctions or annulments of qualified precedents. Finally, **E-juris** is used by the STJ Secretariat of Jurisprudence to extract the legislative and jurisprudential references of the decision, in addition to indicating the main successive sentences on the same legal issue. The Superior Court of Justice is developing a fourth tool, the **Unified Table of Issues (Tabela Unificada de Assuntos - TUA)**, which aims to automatically identify the subject of the case for distribution to court sessions, according to the relevant area of law. "

Furthermore, in order to facilitate the preparation of requests for international legal cooperation, the **Central Authority** (Ministry of Justice and Public Security) has adopted **guided electronic forms,** which "provide guidance on the correct compliance with the mandatory information and examples. The applicant must save and print the form, which must follow the normal procedure of a request for cooperation, with the signature of the judicial authorities and physical delivery by mail. In addition, they use the **Electronic Information System**, a document management tool and electronic processes, a system which allows external users to file electronic requests. "

In **Cuba**, Taydit Peña Lorenzo reports that the jurisprudence and the Central Authority of her country adopt technological mechanisms to send documentation via **email and telephone calls**. In view of the C-19 pandemic, **Video calls** are used in the case of notifying initiation of international procedures.

In **Mexico**, Carlos E. Odriozola Mariscal and Nuria González Martín report that the jurisprudence and the Central Authority of their country **use technological mechanisms**, not in compliance with the conventional or autonomous regulations in force in Mexico, since they do not prohibit them either. Basically, "**platforms have been developed where certain files can be accessed electronically. These platforms are also used for signing documents.**" The rapporteurs add that: "As of the pandemic, the process accelerated in some courts of federal entities such as in the State of Mexico, in Nuevo León and now in Mexico City, in addition to the Federation, with the issuance of administrative agreements allowing consultation of and access to electronic files, as well as the release of hearings and proceedings. In certain cases, for example voluntary divorce lawsuits in the State of Mexico, procedures can be solved 100% electronically. "

Finally, the informants provide examples of electronic services offered by some courts at the state level.

In **Uruguay**, Daniel Trecca reports that the jurisprudence and the Central Authority of his country employ "**institutional email accounts** for receiving and forwarding letters rogatory;

[13] Please see, for example, the website of the digital apostille https://www.cancilleria.gob.bo/apostilla/node/14

videoconferencing is also used in the case of statements rendered abroad; **electronic notifications and warnings**; and **electronic signatures** are also usual ".

In **Venezuela**, María Alejandra Ruiz reports that " **electronic documents** and **electronic signatures** are frequently used in State agencies," and refers to the *Infogovernment Law* that regulates the **use of information technology** in the Public Administration. Article 26 of said law indicates that "the electronic files and documents issued by the Public Power and the People's Power, containing electronic certifications and signatures, have the same legal validity and probative effect as files and documents in physical form."

4) Are technological instruments, tools or mechanisms, such as those indicated in the following list, or others, used in your country?

All the responses received refer to the use of some of the technological instruments, tools or mechanisms listed in items a) to h) of this question, some more than others, as outlined below.

According to José Manuel Canelas, in **Bolivia** there is a legal possibility to use technological instruments, tools or mechanisms, "although in practice this currently does not occur."

In **Brazil**, according to Valesca Raizer and her team, "**Law no. 11419**, of December 19, 2006, established **the computerization of judicial processes, communication of orders and transmission of procedural documents** in the country (art. 1). (…) In addition, **the 2015 Code of Civil Procedure**, in Article 193, establishes that **procedural acts may be totally or partially electronic, while** Article 246, Item 1 addresses **the possibility of electronic summons and notifications.** "

In **Colombia**, José Luis Marín informs that in his country electronic files, documents and signatures are being used, as well as electronic communications, notifications and summons of orders, resolutions and sentences (alone or with documents attached), as well as electronic court injunctions. However, neither the digital signature nor the constituted electronic address are currently in use.

In **Cuba**, Taydit Peña Lorenzo reports that in her country electronic documents, digital signatures, electronic communications and notifications and summons of orders, resolutions and sentences (alone or accompanied by documents) are in use.

In **Venezuela**, María Alejandra Ruiz reports that electronic files are not used in her country, but that "physical documents are still in use, although communicating by email is allowed." Electronic documents are used as well as electronic signatures, communications and addresses (although only for tax purposes; according to the Organic Tax Code, the use of an electronic fiscal address can be requested). Similarly, notices and summons of orders, resolutions and sentences (alone or accompanied by documents), as well as judicial summons, can be delivered by electronic means. Digital signatures are not used for the time being.

a. Electronic records/files

In **Argentina**, María Blanca Noodt Taquela and Julio C. Córdoba report that in some jurisdictions **the electronic file system is used, but this is not the case in most situations**. "The Civil and Commercial Code of Procedures of the province of Corrientes, adopted on April 21, 2021 as Law No. 6556/2021, provides for electronic files and notifications, but not in international cases."

In **Bolivia**, José Manuel Canelas reports that Article 99 of the Code of Civil Procedures establishes that: "Case records start with the first presentation or initial brief, subsequent actions are incorporated chronologically and successively, and further **procedures may be electronic**."

In **Brazil**, according to Valesca Raizer and her team, "**electronic files are used in electronic processes, while audio** files, photos, conversations on social networks, among others, can be used as proof of evidence'. In the case of physical processes, these files can also be used and stored on CDs or pen drives".

In **Mexico**, Carlos E. Odriozola Mariscal and Nuria González Martín report that electronic files are used in some states, such as Nuevo León, the State of Mexico, Mexico City, and the Federal Judicial Branch.

In **Uruguay**, Daniel Trecca informs that electronic files are used and regulated in Law 18237 and in Decree No. 7637 of the Supreme Court of Justice.

In **Venezuela**, María Alejandra Ruiz reports that electronic files are not used in her country, since files are still in physical format. However, corresponding by email is allowed.

b. Electronic documents

In **Argentina**, María Blanca Noodt Taquela and Julio C. Córdoba report that electronic documents are being used.

In **Bolivia**, Canelas reports that Article 144 (II) of the Civil Procedure Code states that: "(…) documents and digital signatures and email-generated documents are considered legal means of proof, subject to conditions provided for in the Law."[14]

In turn, Section III states: "The parties may use any other means of proof not expressly prohibited by law, and which they consider conducive to the demonstration of their claims. These means of proof will be promoted and judged applying by analogy the provisions relating to similar means of evidence contemplated in this Code and, failing that, in the manner provided by the judicial authority. "

Law 1173 on criminal procedural abbreviation establishes similar provisions in the case of criminal procedures[15]. Telecommunications Law No. 164 of 2011 also indicates that documents in electronic media are considered as valid evidence and proof[16].

In **Brazil**, according to Valesca Raizer and team, electronic documents are used by the Brazilian judiciary, especially in electronic processes. The certificates and procedures carried out, mainly by notarial clerks, are all done electronically, according to the system adopted by each Court, as indicated above. In relation to the documents prepared by the parties, they are normally digitized and attached to the electronic process or are even produced entirely in digital media. Since 2020, notaries have an online service managed by the Notarial Digital Authentication Center (Cenad), through which documents can be digitally notarized and then forwarded by email or by other forms of online communication. To do so, operators simply need to complete the online registration form on the website https://cenad.e-notariado.org.br/."

In **Mexico**, Carlos E. Odriozola Mariscal and Nuria González Martín report that electronic documents are used in some states, such as Nuevo León, the State of Mexico, Mexico City and the Judicial Branch of the Federation.

In **Uruguay**, Daniel Trecca informs that electronic documents are used and that they are regulated by Law No. 18237.

In **Venezuela**, María Alejandra Ruiz reports that electronic documents are used.

c. *Electronic signature*

In **Argentina**, María Blanca Noodt Taquela and Julio C. Córdoba report that electronic signatures are used.

In **Brazil**, according to Valesca Raizer and team, "the electronic signature has legal validity, being recognized by the legislation. Provisional Measure No. 2200-2 / 2001 establishes the Brazilian Public Keyword Infrastructure (ICP-Brazil) and recognizes digital signatures and other electronic means of proof on the authorship and integrity of documents. Law No.

[14] See also Art. 150 (IV).
[15] See Art. 9 and the Fourth and Ninth Transitory Provisions.
[16] See, among others, Art. 6 (IV).

14063/2020, in turn, deals with the use of electronic signatures in interactions with public entities of the country. In addition, Decree No. 10543 regulates the use of this tool in the federal public administration. It is important to emphasize that in Brazil documents bearing a digital or physical signature enjoy exactly the same validity. "

In **Mexico**, Carlos E. Odriozola Mariscal and Nuria González Martín report that the electronic signature is used in some states, such as Nuevo León, the State of Mexico, Mexico City and the Judicial Branch of the Federation.

In **Uruguay**, Daniel Trecca informs that the electronic signature is used and that it is governed by Law 18237.

In **Venezuela**, María Alejandra Ruiz reports that the electronic signature is used in her country.

d. *Digital signature*

In **Argentina**, María Blanca Noodt Taquela and Julio C. Córdoba report that digital signatures are used.

In **Brazil**, according to Valesca Raizer and team, “the digital signature, also known as qualified electronic signature, enjoys high reliability and requires a digital certificate issued by a Certification Authority, in accordance with Provisional Measure No. 2200-2. Law No. 14.063 / 2020, as mentioned above, establishes that the digital signature is allowed in any electronic interaction with the public”.

In **Mexico**, Carlos E. Odriozola Mariscal and Nuria González Martín report that the digital signature is used in some states, such as Nuevo León, the State of Mexico, Mexico City and the Judicial Branch of the Federation.

In **Uruguay**, Daniel Trecca informs that the digital signature is used and that it is regulated by Law 18237.

In **Venezuela**, María Alejandra Ruiz reports that the digital signature is not used in her country.

e. electronic communications

In **Argentina**, María Blanca Noodt Taquela and Julio C. Córdoba report that electronic communications are being used.

In **Brazil**, according to Valesca Raizer and team, “both the Code of Civil Procedure and Law No. 11419 establish the possibility of processing both subpoena and summons by electronic means. However, it is necessary for the parties to be duly registered in the system to which the electronic process is inserted. Accordingly, in Brazil, parties are normally summoned by mail, using the Notice of Receipt (AR) solution. In relation to summons, these are generally processed by electronic means, given the need for lawyers to register in the systems. Other communications, as well as any clarification, can also be made virtually through institutional emails. However, the possibility of making such communications in person or by phone is not excluded."

In **Mexico**, Carlos E. Odriozola Mariscal and Nuria González Martín report that electronic communications are used in some states, such as Nuevo León, the State of Mexico, Mexico City, and the Federal Judicial Branch.

In **Uruguay**, Daniel Trecca informs that electronic communications are used and that they are governed by Law 18,237.

In **Venezuela**, María Alejandra Ruiz reports that electronic communications are used in her country.

f. Electronic address for service

In **Argentina**, María Blanca Noodt Taquela and Julio C. Córdoba report that electronic addresses for service are used.

In **Bolivia**, Canelas reports that Article 72 of the Civil Procedure Code indicates that the parties "may also communicate to the judicial authority that they have electronic means (...) such as the address for service, in order to receive notifications and summons."

Law 1173 on the abbreviation of criminal procedures establishes similar provisions in such cases[17].

In **Brazil**, according to Valesca Raizer and team, "all judges and public servants of the Judiciary working with electronic processes have a registry enabling them to carry out their activities and procedures electronically, as well as communicate with each other. In addition, they also have professional email accounts that allow communication with the parties and their attorneys, exclusively through digital means, with face-to-face and telephonic services. The Public Ministry, the Public Defender's Office and other attorneys must also register in the system to be able to send judicial documents, documents in general, as well as to receive summons. In addition, the Public Ministry has its own system that allows communication between employees."

In **Mexico**, Carlos E. Odriozola Mariscal and Nuria González Martín report that the electronic address for service is used in some states, such as Nuevo León, the State of Mexico, Mexico City and the Judicial Branch of the Federation.

In **Uruguay**, Daniel Trecca informs that the electronic address for service is used and that it is regulated by Law 18237 and by Decree No. 7648 of the Supreme Court of Justice.

In **Venezuela**, María Alejandra Ruiz reports that in her country the electronic address for service is used, although only for tax purposes. According to the Organic Tax Code, petitioners can request an electronic tax address.

g. Notifications and summons of orders, resolutions and sentences (alone or accompanied by documents) by electronic means

In **Argentina**, María Blanca Noodt Taquela and Julio C. Córdoba report that Notifications and summons of orders, resolutions and sentences (alone or accompanied by documents) are processed by electronic means, and that:

"The Civil and Commercial Procedure Code of the province of Corrientes, enacted on April 21, 2021, through Law No. 6556/2021, provides for electronic notifications:

> *Article 108. Electronic notification. The notification will proceed ex-officio to the electronic address, only for the following resolutions: […]*

However the Code does not include electronic means in the case of notification to a defendant who is domiciled abroad.

> *Article 445. Defendant domiciled abroad. If the defendant resides outside the Republic, the judge will establish the type of notification and the term in which he/she has to appear, taking into account the distances and the available possibility of communication*.

The Civil and Commercial Code of Procedures of the province of Chaco, approved by Law No. 559 of 2016, published on March 8, 2017, refers to the topic:

> *Article 166: Notification by electronic means. The Superior Court of Justice will issue the regulations that determine through which virtual means the intervening parties and their legal assistants can be informed of the different procedural acts carried out in the records, and will be able to adapt them by the same means according to the technological advances produced*. "

In **Bolivia**, Canelas reports that Article 82 of the Civil Code of Procedures states: "*After the summons with the claim and the counterclaim, the judicial actions in all the instances and*

[17] See footnote 3.

phases of the process must be immediately notified to the parties by the Court or Tribunal clerk or by electronic means, pursuant to the provisions in this Section" [18].

Law 1173 on the abbreviation of criminal procedures establishes similar provisions in the case of criminal procedures[19].

In **Brazil**, according to Valesca Raizer and the Brazilian team, "both the Code of Civil Procedures and Law No. 11419 establish the possibility for both summons and subpoena to be made through electronic means. However, it is necessary for the parties to secure registration in the system in which the electronic process is inserted. Therefore, in general, parties in Brazil are summoned by mail, by means of a communication with a Notice of Receipt (AR). In relation to summons, these are more usually delivered electronically, given the need for attorneys to register in the systems. However, there are some notifications and injunctions of orders, resolutions and judgments that require personal compliance, through the court officer, for example, as in execution processes, so that the debtor's assets are duly registered."

In **Mexico**, Carlos E. Odriozola Mariscal and Nuria González Martín report that notifications and intimations of orders, resolutions and sentences (either alone or with documents attached) by electronic means are used in some states, such as Nuevo León, State of Mexico, Mexico City and the Judicial Power of the Federation. However, coercive procedures such as liens or searches continue to be processed personally.

In **Uruguay**, Daniel Trecca informs that notifications and summons of orders, resolutions and decisions (either alone or accompanied by documents) are delivered by electronic means and that they are regulated by the Resolutions of the Supreme Court of Justice Nos. 7637, 7644 and 7648.

In **Venezuela**, María Alejandra Ruiz reports that in her country, notifications and intimations of orders, resolutions and sentences are delivered (alone or accompanied by documents) by electronic means.

h. judicial summons

In **Argentina**, María Blanca Noodt Taquela and Julio C. Córdoba report that judicial notifications are made by electronic means.

In **Brazil**, according to Valesca Raizer and team, "all these tools are used to some extent in the judiciary. It must also be said that, due to the Covid-19 pandemic, the use of these tools has intensified enormously, making them accessible to a greater number of people."

In **Mexico**, Carlos E. Odriozola Mariscal and Nuria González Martín report that judicial injunctions can be notified electronically in some states, such as Nuevo León, the State of Mexico, Mexico City and the Judicial Branch of the Federation, as long as they do not involve judicial proceedings of a coercive nature such as liens or searches, which continue to be filed personally.

In **Uruguay**, Daniel Trecca reports that judicial injunctions are in use and that they are regulated by the Decree No. 7644 of the Supreme Court of Justice.

In **Venezuela**, María Alejandra Ruiz reports on the use of electronic judicial injunctions in her country.

5) For the purposes of communications, notifications, intimations and so on.

a. Are individuals required to have special institutional emails, or are they delivered to their personal email accounts?

In **Argentina**, María Blanca Noodt Taquela and Julio C. Córdoba report that personal emails can be used in such cases.

In **Bolivia**, Canelas reports that the jurisprudence shows that notifications are made by WhatsApp or through personal email accounts[20].

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[18] See also Article No. 83.

[19] See footnote 3.

[20] See, for example, Constitutional Sentences 0114/2021-S3, and 0131/2021-S3.

In **Brazil**, according to Valesca Raizer and team, “the members of the Judiciary must use institutional mail accounts for communications, notifications and judicial summons. However, when it comes to parties in a dispute and attorneys, no special email account is required."

In **Colombia**, José Luis Marín informs that in his country “a private email account is not required, because a notification can be made to personal or institutional email addresses, depending on the interested party, who must provide an email account regardless of whether it is personal or institutional, that is, it all depends on the choice of the party."

In **Cuba**, Taydit Peña Lorenzo reports that the above communications can be delivered to personal email accounts.

In **Mexico**, Carlos E. Odriozola Mariscal and Nuria González Martín report that “in some states, such as Nuevo León or the State of Mexico the Court provides an institutional email account. In Mexico City and the Judicial Branch of the Federation, this is done through private email accounts."

In **Uruguay**, Daniel Trecca informs that: "In accordance with the provisions of SCJ No. 7637," every person, body, or professional must provide an electronic address, for the judicial matters being processed or to be processed and for the administrative procedures that are aired before and/or linked to the judicial activity." To this end, the Judiciary installed an exclusive electronic mail system for electronic notifications in judicial processes, this being the only means admitted for this purpose."

In **Venezuela**, María Alejandra Ruiz reports that individuals are not required to have special email accounts, they simply need to indicate their personal e-mail addresses.

b. Is the electronic address system regulated in your country, and specifically the electronic contractual address?

In **Brazil**, according to Valesca Raizer and team, “the Electronic Tax Address (DTE) is regulated, which allows the registration of cell phones and email addresses to receive notices. This system guarantees total security to users. In addition, in some states, such as São Paulo, the Taxpayer's Electronic Address is regulated by Law No. 15406/2011, which establishes the communication between the Municipal Finance Secretariat and the citizen. There is no specific regulation on the electronic contractual address."

In **Cuba**, Taydit Peña Lorenzo informs that in her country the electronic address, and in particular the electronic contractual address, are not regulated.

In **Mexico**, Carlos E. Odriozola Mariscal and Nuria González Martín report that “the courts mentioned allow electronic addresses to be provided for procedural purposes, but coercive proceedings require a physical address. In the legislation, digital means and email addresses are allowed for receiving notifications, but the validity of a transcendent notification, for example a summons, is not yet duly regulated, nor is it duly recognized by jurisprudence."

In **Uruguay**, Daniel Trecca informs that: "The electronic address established for processes before the Judiciary is regulated by Law No. 18237 and by various Decisions of the SCJ, among them decisions 7637, 7644 and 7648."

In **Venezuela**, María Alejandra Ruiz reports that the electronic address is not regulated in her country. However, it is possible for the parties to agree to it by virtue of the principle of the autonomy of the will of the parties.

c. Are they carried out at the contractual electronic address established abroad?

In **Argentina**, according to María Blanca Noodt Taquela and Julio C. Córdoba, communications, notices, summons and other notifications can be delivered to the contractual electronic address abroad.

In **Brazil**, according to Valesca Raizer and team, "there is no regulation on the electronic contractual address but, in contracts between absentees, the place of formalization is considered to be the address of the offeror which, in international electronic contracts, for example, is the place where the server of the home-page is situated. In the case of Court procedures, the domicile of the defendant is considered to be the court of jurisdiction."

In **Cuba**, Taydit Peña Lorenzo informs that communications, notifications, summons and others are not made at contractual electronic addresses established abroad.

In **Mexico**, Carlos E. Odriozola Mariscal and Nuria González Martín report that "According to the enforcement of Mexican regulations, digital media and email addresses are recognized for receiving notifications, but the validity of a transcendent notification, for example a writ of summons, is not yet duly regulated, nor duly developed by the jurisprudence."

In **Uruguay**, Daniel Trecca informs that communications, notifications, summons and others are not made at a contractual electronic address established abroad.

d. Does your country have management systems and adequate computer support to guarantee the minimum requirements that allow validation of notifications, communications, summons and others, such as the authenticity of the documents, the assurance that the document or the warrant comes from the authority they claim they come from, etc.?

In **Bolivia**, Canelas reports that, although he cannot provide a clear answer, he would like to "highlight the creation of the Agency for the Electronic Government and Information and Communication Technologies, which reflects the State's efforts to modernize public administration. This entity must "manage, articulate and update the Electronic Government Implementation Plan"[21] proposed by the Government as a 2017-2025[22] agenda. Likewise, the Digital Citizenship Legislation (Law No. 1080), approved through a web platform by Congress in 2018[23], for the purpose of deepening the Electronic Government and granting digital credentials to the citizen[24] I worthy of mention. This rule states that "documents or applications generated through digital citizenship, or digitally signed, must be accepted or processes by all the public and private institutions that provide public services, with applicable sanctions for "responsibility for the public function."[25]

Between 2017 and 2018, two online portals have been created for procedures involving the State, which should become a substantial improvement in the structure of interoperability between government entities. On the one hand, the "State Procedures Portal" was established, under the direction of <https://www.gob.bo/)>; and, on the other hand, the "Digital Company Platform" <https://empresadigital.gob.bo/>, to constitute a single point of contact for companies and other entities of economic nature[26].

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[21] See Article 7 of Supreme Decree 2514 that creates this institution.
[22] See report available at https://tinyurl.com/e7h74nac
[23] El Deber. (Diario Nacional). "Representatives approved the digital citizenship law using a web platform", Santa Cruz, 2017, https://tinyurl.com/y32zx9ua
[24] See, for examples, Articles 1 and 8.
[25] Article 8 (II).
[26] Informative Dissemination by AGETIC; https://tinyurl.com/y23tpswh - The AGETIC has informed that the "Digital Entreprise Platform" could include the blockchain technology; https://tinyurl.com/y23tpswh

In 2018 the Digital Archive[27] was created, which was set up to be "[a] decentralized registry for data chronological order and integrity and digital documents. (…)." The data stored in the archive "will have full legal validity regarding their integrity and duration in the case of court and administrative matters, including those to be executed and controlled by the Government."[28]

In **Brazil,** according to Valesca Raizer and her team, the mechanisms referred to in the question already exist. "The processing of the request for legal cooperation by the Central Authority has a management system and adequate computer support that guarantee the authenticity of the documents and even allow it to be used as a valid means of evidence in legal proceedings. In Brazil, the Department of Asset Recovery and International Legal Cooperation, an agency of the Ministry of Justice, is the central authority responsible for sending and receiving requests. As of April 5, 2021, this body began to receive requests for international legal cooperation through the use of the digital petition resource in the Electronic Information System - SEI."

> "This platform allows external users to send their requests, follow the process, enter petitions, sign and file digital documents and other facilities, thereby contributing to the efficiency of actions taken. The SEI eliminates the physical processing of documents and reinforces precautions related to the protection of information, avoiding risks such as loss of documents and eliminating the use of hard-copies, printers and electricity. Agencies will be able to check the immediate receipt of the document and avoid the uncertainty of receiving the request, and the attachment of documents will also be facilitated. The SEI will also produce records on the progress of the process, allowing consultations, verifications and audits. In addition, it will increase the efficiency of the processing activities, since the system itself automatically makes documents and processes available to the specialized technical area, dispensing filtering and forwarding procedures. "

The Brazilian report adds that "the DRCI also coordinates the National Network of Technology Laboratories against Money Laundering - Rede-Lab.", And that "Brazil approved and promulgated The Hague Convention Abolishing the Requirement of Legalization for Foreign Public Documents: The Hague Apostille Convention, a certificate of authenticity issued by the signatory countries of The Hague Convention attached to a public document to certify its origin (signature, position of agent, seal, or stamp of the institution)."

In **Colombia**, José Luis Marín reports that his country has adequate management systems and that computer supports are also provided.

In **Cuba**, Taydit Peña Lorenzo reports that "the Court, as well as the International Commercial Arbitration Court, enjoy the necessary support for this and for the Registries of branches and foreign representations attached to the Chamber of Commerce of the country. "

In **Mexico**, Carlos E. Odriozola Mariscal and Nuria González Martín report that in the states where the use of technologies has been developed (some states, such as Nuevo León, the State of Mexico and Mexico City), the Judicial Branch of the Federation and the Federal Court of Administrative Justice, have adequate management systems in operation, as well as computing aids that guarantee the minimum requirements to validate notifications, communications, summons and other items, such as the authenticity of the documents, thus assuring the claimed origin of the document or the warrant, among other items.

In **Uruguay**, Daniel Trecca informs that his country has management systems and adequate computer supports in operation that guarantee the minimum requirements to allow validating notifications, communications, summons and others, such as the authenticity of the documents, the security that the document or the letter rogatory come from the authority

[27] According to Supreme Decree 3525 of 2018.
[28] Article 16 16.

mentioned, etc. He adds that "the judges issue their letters rogatory with electronic signatures, which are verifiable through a QR code."

In **Venezuela**, María Alejandra Ruiz reports that her country does not have such a system, although it does have a legal basis encouraging the use of technology. On the other hand, they lack adequate equipment or management systems and computer support.

*d. How **does** communication between judicial authorities and/or between Central Authorities operate by electronic means?*

In **Brazil**, according to Valesca Raizer and her team, the Federal Justice "instituted COOPERA, a program of the Federal Council of Justice, an agency of the Superior Court of Justice, in association with the Department of Asset Recovery and International Legal Cooperation, in turn an Agency of the Ministry of Justice to allow federal judges to send and receive requests for international legal cooperation through guaranteed access by digital means. Based on the request made by the judicial authority, this agreement between the Federal Council of Justice - CJF and DRCI - allows for communications between judicial and central authorities. These communications are processed swiftly by electronic means."

In **Colombia**, José Luis Marín reports that this issue is regulated by Law 527 of 1999.

In **Cuba**, Taydit Peña Lorenzo reports that "Communication is done by email messaging and by telephone. Official authorities do communicate with some computerized Registries, as is the case of Registries for Acts of Last Will and the Registry of criminal records."

In **Mexico**, Carlos E. Odriozola Mariscal and Nuria González Martín report that "It is not yet customary to use electronic means in Mexico for the transmission of letters rogatory, although some courts such as the State of Mexico are already issuing them. When Mexican Foreign Ministry is asked to proceed with communications through electronic means, the response is invariably that they lack internal protocols to do so."

In **Uruguay**, Daniel Trecca reports that: "The Central Authority of Uruguay has an electronic mailbox issued by the Judicial Power, through which notifications/notices are sent.

Likewise, it has institutional electronic mailboxes, from which letters rogatory are sent or received. In the case of civil cooperation, the box used is cooperacioncivil@mec.gub.uy; in the case of criminal cooperation, the box used is cooperacionpenal@mec.gub.uy and for requests for international return of minors, visitation and food benefit, procedures are implemented through menor@mec.gub.uy box ".

e. How do notifications, summons and others, forwarded by judicial authorities and/or Central Authorities to the parties operate through the use of electronic means?

In **Argentina**, María Blanca Noodt Taquela and Julio C. Córdoba report that:

"Cases of jurisprudence in which notifications by electronic means have been admitted:

In a case of unilateral divorce, the Court ordered the notification by email to the spouse domiciled in England, due to the impact of the COVID 19 pandemic and border closures ordered by the Argentine government and other countries. (Family Court No. 1, Tandil (Province of Buenos Aires) 07/29/2020, G., EA v. W., B. s. Unilateral Divorce filing, published by Julio Córdoba in DIPr Argentina and commented by AB Zacur and F. Robledo in RIDII 13, December 2020 and by N. Rubaja and C. Iud in LL 03/12/2020 http://fallos.diprargentina.com/2020/12/g-e-c-w-b-s-divorcio-por-presentacion.html?m=1

The notification of the divorce claim by unilateral presentation by email or WhatsApp messaging to the defendant domiciled in Spain was also authorized, taking into account the unprecedented health crisis caused by COVID-19 (Chamber of Appeals in Civil and Commercial of Morón (province of Buenos Aires), Panel II, 04/13/2021, MJ-JU-M-132497-AR | MJJ132497 | MJJ132497).

In another case in which the determination of provisional alimony had to be notified to the debtor domiciled in Canada, the National Civil Chamber authorized it to be carried out

through a WhatsApp message (N.Civ.Ch., Holiday Panel, 01/25/21, BL, VP and others c. D., CS s. Alimentos: Modification, published by Julio Córdoba in DIPr Argentina in:

http://fallos.diprargentina.com/2021/03/b-l-v-p-y-otros-c-d-c-s-s-alimentos.html?m= 1

In **Brazil**, according to Valesca Raizer and her team, "Article 246, V, of the Code of Civil Procedure, establishes that notifications and summons will be made electronically, as regulated by the legislation. Article 246, paragraph 1, of the Code of Civil Procedures of 2015, establishes that, with the exception of micro and small companies, public and private companies are obliged to keep a record in the electronic systems in order to receive summons, which will preferably be made by such means. **Law No. 11419/06 regulates the electronic process** in Brazil. Electronic communication of procedural acts is provided for in Articles 4 to 7 of Law No. 11419/06. The Courts will create Electronic Justice Bulletins, available on the Internet for the publication of their own judicial and administrative acts, as well as for communication in general. Article 9 of the Law establishes that all notifications and summons, even from the Public Treasury, will be made by electronic means. In trials with appointed attorneys, notices and summons are carried out by means of the publication of the act in the electronic newspaper and by the email account previously informed to the Court."

In **Colombia**, José Luis Marín reports that this point is regulated by Law 527 of 1999.

In **Cuba**, Taydit Peña Lorenzo reports that "E-mail messaging is generally used. In this case, Instruction No. 207 of the Supreme People's Court of 2011 authorizes the Economic Chambers of the Provincial People's Courts to use email messaging to send the parties the "notice of notification" of Court decisions. Video Calls have been authorized, especially in these times of the COVID 19 Pandemic. We had a specific case of international abduction in which email messages were used."

In **Mexico**, Carlos E. Odriozola Mariscal and Nuria González Martín report that "Notifications can be made electronically in some states, such as Nuevo León, the State of Mexico, Mexico City and the Judicial Branch of the Federation. But in the case of coercive proceedings, such as search and seizures, they continue to be processed personally."

In **Uruguay**, Daniel Trecca informs that: "Each party, at the time of filing in a legal case, must establish an electronic address, at the electronic address provided by their sponsoring attorney/notary and also provided by the Judiciary. Henceforth, all notifications are made to the aforementioned box.

> "If the notification is accompanied by existing hard-copy documentation, following electronic notification the recipient has 3 working days to retrieve the documents in question. If the interested party fails to withdraw the documents within this period, the notification will be deemed to have been made when these three days expire."

In **Venezuela**, María Alejandra Ruiz informs that in her country the notifications, summons and others made by the judicial authorities and/or the Central Authorities to the parties are made through email, text messages or WhatsApp messaging.

6) When the country is a party to the Inter-American Convention on Letters Rogatory:

a. Do judicial authorities and Central Authorities use "the most favorable practices", such as those contained in the TRANSJUS Principles, in accordance with art. 15 of the Convention?

In **Bolivia**, Canelas reports that: "At least in administrative matters, article 4 (j) is worth mentioning, as it refers to the principle of effectiveness, and states that" all administrative procedures must fulfill their purpose by avoiding undue delays." If certain procedures (including Private Law procedures) can achieve the same targets as certain actions of the public administration, then it is worth questioning whether they should not be equally effective in legal terms in Bolivia."

In **Brazil**, according to Valesca Raizer and her team, "among the procedural communication practices with the use of technology provided for in art. 4.7 of the TRANSJUS

Principles, telephone calls and videoconferences, electronic messages and any other means of communication can carry out the cooperation requested."

In **Mexico**, Carlos E. Odriozola Mariscal and Nuria González Martín report that "Notifications can be made electronically in some states, such as Nuevo León, the State of Mexico, Mexico City and the Judicial Branch of the Federation. But in the case of coercive proceedings, such as embargoes (search and seizures), they continue to be processed personally."

In **Uruguay**, Daniel Trecca reports that: "The Central Authority of Uruguay uses the practices agreed between the Central Authorities, either in Central Authorities Forums or in Good Practices Guides."

In **Venezuela**, María Alejandra Ruiz provided a negative response.

b. Are electronic means or other technologies applied, for example, in the processing of warrants?

In **Brazil**, according to Valesca Raizer and her team, the Federal Justice instituted COOPERA, as already explained above, regarding question 5) e.

In **Colombia**, José Luis Marín reports that:

"Indeed, Article 103 of the Code of General Procedures [Law 1564 of 2021] establishes that:

> "USE OF INFORMATION AND COMMUNICATION TECHNOLOGIES. In all judicial proceedings, the use of information and communication technologies should be sought in the management and processing of judicial processes, in order to facilitate and expedite access to justice, as well as to expand its coverage".
>
> "Legal actions may be carried out through data messaging. The judicial authority must have mechanisms that allow generating, filing and communicating data messages.
>
> "Provided they are compatible with the provisions of this Code, the provisions of Law 527 of 1999, and those replacing or modifying it, and its regulations, shall apply."

In **Cuba**, Taydit Peña Lorenzo reports that: "On this matter, the Cuban procedural norm in the second paragraph of Article 14 regulates the course of the procedure through the Ministry of Foreign Affairs, adapting its format to the provisions issued by said Ministry. To this end, the Governing Council of the Supreme People's Court, through Instruction No. 214 of March 27, 2012, approved the Methodology for processing requests for Cooperation, by means of which the process and intervention of the judicial body is ordered, regarding the various procedures that may be carried out through International Legal Cooperation and Verbal Notes. The Independent Department of International Relations of the Supreme People's Court is assigned the task of receiving, controlling and promoting all Requests for International Legal Cooperation and Verbal Notes, establishing that in all cases they will be processed through the Ministry of Foreign Affairs or through the designated Central Authority, with due observance of the agreements signed and, failing that, by virtue of the principle of international reciprocity."

In **Mexico**, Carlos E. Odriozola Mariscal and Nuria González Martín report that "warrants can be transmitted and notifications made electronically in some states, such as Nuevo León, the State of Mexico, Mexico City and the Judicial Branch of the Federation. But in the case of coercive proceedings, such as embargoes/searches/seizures, they continue to be processed personally."

In **Uruguay**, Daniel Trecca reports affirmatively regarding the use of electronic means.

In **Venezuela**, María Alejandra Ruiz reports that: "Currently the Judiciary is opting for the use of technology; however, this modality having begun due to the pandemic, there is little information regarding the processing of letters rogatory by electronic means."

7) If your country is a party to the Inter-American Convention on the Taking of Evidence Abroad, are electronic means used to receive evidence from abroad, such as holding virtual hearings?

In **Argentina**, María Blanca Noodt Taquela and Julio C. Córdoba report that:

"Yes, they are used for taking evidence, in particular for holding hearings. In the case of international restitution, it is quite usual.

The Civil and Commercial Code of Procedures of the province of Corrientes, approved on April 21, 2021 as Law No.6556/2021 provides the following:

Article 297. Witnesses domiciled outside the jurisdiction of the Court. In the offer of evidence, it will be indicated if the witness must testify outside the place of the process. In this case, the declaration will be sought by the most suitable technical means.

A publication in the mass media refers to a case of virtual conciliation:

A young man of Colombian nationality who died in Campo Largo during the first days of last year, had no relatives in Argentina. The young man rented an apartment in town. After successive communications, and through documentaries forwarded in digital form, a virtual conciliation hearing was held (by means of the WhatsApp platform), between the owner of the property, who was domiciled in Campo Largo, and the relatives of the deceased young man in Colombia and Brazil. It was agreed that the delivery of the movable property and personal belongings of the deceased man would be made to a third party. In this way, the property was vacated and made available to the landlord, and the family members were able to receive the personal belongings of the dead relative. The sentence was released by the Court of Peace and Misdemeanors of Campo Largo, in charge of Judge José Luis Haetel. This note was published at https://www.diariojudicial.com/nota/88828

As reported by Valesca Raizer and her team, "**Brazil**, despite having signed the Inter-American Convention on the Taking of Evidence Abroad in 1975, has so far not ratified it."

In Colombia, José Luis Marín reports that:

"Paragraphs 2 and 3 of Article 103 of the General Procedures Code read as follows: SECOND PARAGRAPH. Notwithstanding the provisions of Law 527 of 1999, memorials and other communications between the judicial authorities and the parties or their lawyers are presumed to be authentic, when they originate from the email account provided in the claim or in any other act of the process.

"THIRD PARAGRAPH. When this code refers to the use of email accounts, electronic address, magnetic means or electronic means, it will be understood that other systems for sending, transmitting, accessing and storing data messages may also be used, provided they guarantee the authenticity and integrity of the exchange or access to the information. The Administrative Chamber of the Superior Council of the Judiciary will establish the systems that comply with the previous budgets and will regulate their use".

In **Mexico**, Carlos E. Odriozola Mariscal and Nuria González Martín report: "We are not aware that electronic means are employed by applying the Inter-American Convention, but such means are used in federal bankruptcy proceedings via the procedures of international cooperation mechanisms contained in Articles 278 to 310 of the Commercial Bankruptcy Law."

In **Uruguay**, Daniel Trecca reports that electronic means are used to receive evidence produced abroad. The SCJ 7784 Agreements Nos. 7902 and 7815 were given the same value as the obligatory panel decisions (Acordada) to the Ibero-American Agreement on the Use of Videoconferencing.

"Likewise, Article 539 of Law No. 19924 added Article 64-BIS to the General Code of Procedures, which authorizes the use of videoconferencing or other suitable telematic means for holding any judicial hearing."

In **Venezuela**, María Alejandra Ruiz reports that: “Currently the judiciary is opting for virtual hearings; however, as this is a solution that began to be implemented due to the pandemic, there is little information regarding the reception of evidence produced abroad."

8) Are electronic means or technologies used in the enforcement of other Conventions to which your country is a party?

In **Brazil**, according to Valesca Raizer and her team, “within the scope of The Hague Convention on the International Collection of Alimony for the Benefit of Children and Other Family Members, all requests must still be made by physical means, by means of forwarding printed documents, with their respective translations, at the address of the central authority (Ministry of Justice, through the Department of Asset Recovery and International Legal Cooperation - DRCI). The system called *iSupor*t (Electronic Communication System for Process Management and Security) is still being implemented in Brazil, without a defined launching date and/or to what extent it will impact common citizens in the forwarding of the necessary forms (if the possibility of sending forms by digital means becomes real, for example). On the other hand, an email account is made available to the citizen to search for information or to access the necessary forms."

In **Colombia**, José Luis Marín reports that:

"Law 527 of 1999 [By means of which access and use of data messages, electronic commerce and digital signatures are defined and regulated, and certification entities are established and other provisions issued] establishes that:

Article 5. LEGAL ACKNOWLEDGMENT OF DATA MESSAGES. The legal effects, the validity or the binding force will not be denied to all types of information for the sole reason that it is presented in the form of a data message.

Article 7. SIGNATURE. If any rule requires the presence of a signature or establishes certain consequences in the absence of such, in a data message, said requirement shall be deemed satisfied if:

a) A method has been used to identify the initiator of a data message and to indicate that the content has been approved;

b) The method is both reliable and appropriate for the purpose for which the message was generated or communicated.

The provisions of this Article shall apply whether the requirement established in any regulation constitutes an obligation, or if the regulations simply foresee consequences in the absence of a signature.

Article 8. ORIGINAL. When the norm requires the information to be presented and preserved in its original form, that requirement will be satisfied with a data message, if:

a) There is some reliable guarantee that the integrity of the information has been preserved, from the moment it was first generated to its final format, as a data message or in some other way;

b) If the information is required to be presented, can it be exhibited to the person whose presence is required.

The provisions of this Article shall apply whether the requirement established in any regulation constitutes an obligation, or if the regulations simply foresee consequences in the event that the information is not presented or preserved in its original format.

Article 10. ADMISSIBILITY AND PROBATORY FORCE OF DATA MESSAGES. Data messages will be admissible as means of proof and their probative force is as granted in the provisions of Chapter VIII of Title XIII, Third Section, Second Book of the Code of Civil Procedure.

In any administrative or judicial action, no efficacy, validity or mandatory or probative force will be denied to all types of information in the form of a data message, given that it is a data message or because it has not been submitted in its original format.

Article 11. CRITERIA FOR PROBATORY ASSESSMENT OF A DATA MESSAGE. For the assessment of the probative force of data messages referred to in this Law, the rules of sound criticism and other legally recognized criteria for the appreciation of evidence will be taken into account. Therefore, the following must be taken into consideration: the reliability in the way in which the message has been generated, archived or communicated; the reliability in the way in which the integrity of the information has been preserved, and the way in which its initiator is identified and any other pertinent factors.

Law 270 of 1996 [Statutory Law of the Administration of Justice]

Article 95. Courts, tribunals and judicial corporations may use any technical, electronic, computer and telematic means to carry out their duties.

The documents issued by the aforementioned media, whatever their support, will enjoy the validity and effectiveness of an original document as long as its authenticity, integrity and compliance with the requirements demanded by procedural laws are guaranteed.

Processes that are handled with computer support will guarantee the identification and exercise of the jurisdictional function by the body exercising it, as well as the confidentiality, privacy, and security of the personal data that they contain, according to the terms established by law.

Law 962 of 2005

Article 25. - Use of mail messages for sending information. Modified by art. 10, Law 962 of 2005. Public Administration entities must facilitate the receipt and delivery of documents or requests and their respective responses by certified mail. In no case can the requests or reports sent by natural or legal persons that have been received by certified mail through the National Postal Administration be considered inadmissible, unless the regulations require their personal presentation. For the purposes of expiration of terms, it will be understood that the petitioner submitted the request or responded to the request of the public entity on the date and time provided by the certified mail company, with indication of date and time and the respective shipping receipt. Likewise, petitioners may request that their documents or required information be sent by mail to the public entity.

Law 1437 of 2011, by which the Code of Administrative Procedure and Administrative Litigation is issued."

a. Is Article 4.7 of the TRANSJUS Principles taken into account, for example, as regards favoring the use of new information and communication technologies (ICTs)?

In **Bolivia**, Canelas reports that: "The Constitution, in Article 103, indicates that the State must adopt policies to promote new information and communication technologies."

In **Brazil**, according to Valesca Raizer and her team, “although the ASADIP Principles of Transnational Access to Justice (TRANSJUS) are not yet prevailing in general terms in the Brazilian judicial practice, the facilitation of the use of information and communication technology represents, as stated above, a growing reality. Several tools, such as telephone calls and videoconferences, electronic messages and other means of communication are promoted within the legal limits already mentioned, for the purpose of promoting international legal cooperation and transnational access to Justice by the Brazilian judiciary."

In **Cuba**, Taydit Peña Lorenzo reports that: “Unfortunately [*Article 4.7 of the TRANSJUS Principles]* is not taken into full consideration, although the pandemic has some what prompted its use; however, we still do not have safe technological means to guarantee their efficacy and safety. We can guarantee that we are working on this. As I mentioned earlier, video calling or video conferencing has been used for notifications and negotiation attempts. Telephone communication has also been used between Central Authorities, as well as between the latter and the judicial authorities, in addition to email messages and diplomatic messaging."

In **Mexico**, Carlos E. Odriozola Mariscal and Nuria González Martín report: “Although that international instrument is not specifically being enforced, warrants can be transmitted and notifications can be made electronically in some states, such as Nuevo León, State of Mexico,

Mexico City, and the Judiciary of the Federation. But in the case of coercive proceedings, such as embargoes/searches, they continue to be processed personally. "

In **Uruguay**, Daniel Trecca informs that, for example, Article 4.7 of the TRANSJUS Principles is taken into consideration in terms of favoring the use of new information and communication technologies (ICTs).

In **Venezuela**, María Alejandra Ruiz reports that the TRANSJUS Principles are not taken into account.

b. Is the Ibero-American Protocol on International Judicial Cooperation taken into account? (the Protocol was approved at the Plenary Assembly of the XVII Ibero-American Judicial Summit, held in Chile from April 2 to 4, 2014). If so, how and in what cases?

In **Brazil**, according to Valesca Raizer and her team, "as well as the principles of the ASADIP, the principles established by the Ibero-American Protocol on Judicial Cooperation are not yet being put into recurrent effect by the national judiciary."

In **Mexico**, Carlos E. Odriozola Mariscal and Nuria González Martín report: "Although they are not carried out in the specific terms of that international instrument, warrants can be transmitted and notifications made electronically in some states, such as Nuevo León, State of Mexico, Mexico City, and by the Judiciary of the Federation. But in the case of coercive proceedings, such as embargoes, they continue to be processed personally."

In **Uruguay**, Daniel Trecca reports that the Ibero-American Protocol on International Judicial Cooperation is taken into consideration. He adds that "Although Uruguay has not ratified it yet, the SCJ has incorporated it, giving it the value of an obligatory panel decision (Acordada) by means of the 7815 Panel Decision (Acordada). It is frequently used for video-conferencing."

In **Venezuela**, María Alejandra Ruiz reports that the aforementioned Protocol is not being taken into consideration.

C. Doctrine (the opinion of academics/experts)

9) What are the doctrinal positions in your country regarding the issue addressed in this questionnaire?

In **Brazil**, according to Valesca Raizer and her team, in the opinion of **Fabrício Polido**, "The reality of the Internet and new technologies in general collides with the traditional models of international legal cooperation between States. This in part is due to the fact that most of the treaties were concluded before the emergence of new information and communication technologies and the spread of the Internet as it is conceived today[29]."

> "It is in this sense that **Davi Oliveira** and other academics/experts affirm that international cooperation is not necessarily a new phenomenon, given that "Brazil, for example, is a signatory of cooperation agreements in force dating from the 1950s, years before the emergence of the internet, and even before its popularization for civil use)"[30].
>
> "There is still a long way to go regarding the use of networks and technologies in the operation of existing international cooperation mechanisms to assist the courts and administrative bodies of the States in transnational cases. Despite the advances in the implementation of new technologies, many international legal cooperation mechanisms are still mediated by analogical means and notarial instruments."

[29] POLIDO, Fabrício Bertini Pasquot. *Direito internacional privado nas fronteiras do trabalho e tecnologias: ensaios e narrativas na era digital. Rio de Janeiro*: Lumen Juris, 2018. p. 76

[30] OLIVEIRA, Davi Teófilo Nunes et al. *A Internet e suas repercussões sobre a Cooperação Jurídica Internacional: estudo preliminar sobre o tema no Brasil. Instituto de Referência em Internet e Sociedade*: Belo Horizonte, 2018. Available on: http://bit.ly/38Dxpt0. Accessed on: 09/06/2021. p. 6.

"It is understood that the interaction of these mechanisms is fundamental for the preservation of the minimum procedural guarantees – for example a broad, contradictory defense, due legal process - in treaties and constitutions. For this reason, the interaction between transnational process and international legal cooperation must be referenced in the consolidation of legal and communicational interoperability mechanisms between States, organizations and players of the Internet, and also in the observance of the values of global justice and transnational due process[31]."

"With the aim of investigating the influence of the Internet on the reality and practice of international legal cooperation in Brazil, the "IRIS - Instituto de Referência em Internet e Sociedade [Reference Institute for the Internet and Society] carried out a preliminary study evaluating the agreements signed by Brazil on this matter, one of its limits being the agreements that use the Internet to give effect to international legal cooperation measures in transnational litigation". "The studies carried out showed that the influence of this new tool occurs in at least 36 of the cooperation agreements signed by Brazil. Observing the high numbers, it can be seen that most of the objects of cooperation measures (48%) have to do with obtaining evidence, while the majority of agreements that provide reciprocity (88.2%) in criminal matters (66.1%) are bilateral. 58.3%), with 9 from the United States and 8 from Switzerland. Provisionally, it can be affirmed that the Brazilian Judicial Power, in matters of international legal cooperation, is still not fully adapted to the new forms of communication and possibilities of interaction offered by the Internet"[32].

"Con el objetivo de investigar la influencia de Internet en la realidad y la práctica de la cooperación jurídica internacional en Brasil, el "Instituto de Referência em Internet e Sociedade" (IRIS) realizó un estudio preliminar que evaluó los acuerdos sobre esta materia suscritos por Brasil, teniendo como uno de sus límites los acuerdos que utilizan Internet para dar efecto a medidas de cooperación jurídica internacional en litigios transnacionales." "Los estudios realizados mostraron que la influencia de esta nueva herramienta se da en al menos 36 de los convenios de cooperación firmados por Brasil. Observando los mayores números, se observa que la mayor parte de los objetos de las medidas de cooperación (48%) tiene que ver con la obtención de pruebas, mientras que la mayoría de los acuerdos prevén reciprocidad (88,2%), en materia penal (66,1%), es bilateral. (58,3%), con 9 de Estados Unidos y 8 de Suiza. Provisionalmente, se puede afirmar que el Poder Judicial brasileño, en materia de cooperación jurídica internacional, aún no se adapta a las nuevas formas de comunicación y posibilidades de interacción que presenta Internet"[33].

"Regarding the data found and their respective analysis, the study indicates that:

"The Internet is conceived, in these agreements, for the purpose of sharing specific information for or about a given case (securing of evidence). From the profile, it can be seen that the countries that use the internet mostly in agreements (which allows them to use it in cooperation practices in processes) are countries of the global North, that is, they share a high participation rate in industrialization and financial assets. The interest in criminal matters also predominates, and this opens the hypothesis that perhaps most of the agreements signed refer to this matter in general terms, so that the use of the Internet would be profuse in agreements of this nature. In addition, reciprocity is highly frequent and this can be seen as a positive aspect, since use of the Internet becomes more effective, that is, a very widespread tool that allows everyone involved the same technical possibility of using it. Considering the effective date, we can conclude that the year with the highest number of agreements was 2008, with 6 agreements; the frequency of agreements in this regard

[31] POLIDO, Fabrício Bertini Pasquot. Op. cit. p. 92.
[32] OLIVEIRA, Davi Teófilo Nunes et al. Op. cit. p. 24.
[33] OLIVEIRA, Davi Teófilo Nunes et al. Op. cit. p. 24.

> subsequently decreased. Most of the agreements entered into force before that year, with 24 agreements between 1960 and 2008. Thus, the international legal cooperation scenario regarding the use of the Internet in their performances is lacking more up-to-date forecasts"[34].
>
> "In the same sense, author **Carmen Tiburcio**, a reference in the study of Private International Law in Brazil, points out that international legal cooperation instruments can be quite effective when they make use of technological resources[35]. Considering the Brazilian case, national legislation, despite not being explicit, contains elements that allow us to understand the possibility of using technological resources to serve requests for international legal cooperation. This is due to the fact that the Code of Civil Procedure approved in 2015, which entered into force in 2016, in Article 26, paragraph V, establishes spontaneity in the transmission of information to foreign authorities as a principle applicable to legal cooperation. Therefore, in the Brazilian legal system today there is an open path for legal operators to use technological tools in the fulfillment of requests, whether active or passive, for the benefit of international judicial cooperation."
>
> "Speaking on the transformations in the field of direct communications and their implications for international legal cooperation, **Mônica Sifuentes** considers that:
>
> "It is clear that one of the most vigorous, if not the best advance in terms of technology in recent years is due to the communication field. We live in a world within a network, so that phenomena such as globalization and flexibility of borders in most countries are making the classic forms of international cooperation (the use of letters rogatory) obsolete. The anachronistic mechanism used by judges to request help or cooperation from a foreign authority through diplomatic channels, which took months or years to be fulfilled, seems to have its days numbered. In order to facilitate communication, greater transparency and mutual trust, the scope of international cooperation has ended up promoting the creation of new mechanisms and tools that appear to be more agile and consensual vis-à-vis our new current state of interaction"[36].

"The article by **Inez Lopes** on private international law and information technologies: *Facilitating International Legal Cooperation* addresses international legal cooperation in civil and commercial matters as one of the bases for international access to justice and for the resolution of transnational disputes. One of the effects of globalization is the increased movement of people and goods beyond the borders of the States, which favors the emergence of cross-border disputes. This increases the need for States to cooperate with each other in an environment of mutual trust in order to comply with certain judicial and administrative acts."

> "This cooperation constitutes a form of reciprocal legal assistance between the countries, allowing them to enforce a series of measures necessary for the development of processes that are handled in the territory of one State but depend on the fulfillment of certain procedures in another. Legal cooperation is based on bilateral or multilateral treaties and, in the absence of an international instrument, it can take place on the basis of reciprocity of treatment. To a great extent, the object of cooperation includes the implementation of services abroad, the location of a person or property, the securing of evidence, information on foreign law,

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[34] Ibidem. p. 23.

[35] TIBURCIO, Carmen. The current practice of international co-operation in civil matters. Recueil des cours. v. 393 (2018). p. 266.

[36] SIFUENTES, Mônica. *Uso das comunicações judiciais diretas na Convenção da Haia de 1980: nova ferramenta de cooperação jurídica internacional*. In: RAMOS, André de Carvalho; ARAÚJO, Nadia de (Org.). *A conferência da Haia de direito internacional privado e seus impactos na sociedade: 125 anos (1893-2018)*. Belo Horizonte: Arraes Editores, 2018. p. 180-181.

precautionary or emergency measures and the recognition of arbitration decisions or foreign judgments[37].”

“The article shows how the use of information technologies has contributed to facilitate and speed up communications between state authorities. Increasingly, electronic media such as videoconferences, email messaging, telephone and Internet networks (Iber-Red) are used as tools for international legal cooperation. These technologies allow the creation of databases on the profile of countries on certain issues of private international law, such as the international kidnapping of minors (INCADAT). The article also analyzes the use of an Internet communication system through a government platform for the exchange of information between central authorities (iSupport)."

“In the framework of transnational family law, international legal cooperation is essential for the recognition and application of transnational family rights. In this specific case, Professor Inez Lopes[38] analyzes the phenomenon of migration and its influence on the formation of transnational families. It shows how international legal cooperation is a fundamental principle that ensures access to transnational justice and facilitates the resolution of disputes arising from issues related to family law as they spread and extend through space, such as in the case of divorce or separation and the collection of alimony/maintenance pensions."

“Lopes briefly studies the importance of international cooperation to guarantee the rights of transnational families and the importance of harmonizing private international law. In international civil procedural matters, the text studies issues relating to international jurisdiction in family matters and the current rules of the Code of Civil Procedure. It presents the main mechanisms of international legal cooperation in general, and their application in family matters such as letters rogatory, direct assistance, the ratification and enforcement of foreign judgments and urgent protection. It analyzes international administrative cooperation and the role of central authorities, international cooperation networks between authorities and the different techniques of international cooperation in family matters, such as techniques of model forms in international agreements, guides to good practices, the Incadat and iSupport."

“In this context, SIFUENTES describes how the facilities that direct communication between judges, with the use of technological mechanisms facilitating the flow of information, can be effective in the context of international legal cooperation in the Hague Convention on International Abduction of Children and Adolescents. It is imperative to highlight that her reflections expose the state of the art in the use of direct communication mechanisms between judicial bodies of the most diverse sovereignties; however, a national doctrinal perspective reveals a position of openness of the Brazilian legal system regarding the acceptance of technological tools designed to improve national cooperative practices. On this point, on the legal bases existing in Brazil for the achievement and promotion of technological mechanisms in direct communication, the author formulates some reflections” that are available in the report[39].

“In turn, Valesca Raizer Borges Moschen, in an article on international legal cooperation in the matter of transnational families, when explaining the Brazilian procedural system, mentions that the new regime inaugurated by the Code of Civil

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[37] LOPES, Inez. *Direito Internacional Privado e Tecnologias da Informação: Facilitando a Cooperação Jurídica Internacional* In: 5º Congresso de Direito na Lusofonia, 2018, Braga. Direito e Novas Tecnologias. Braga: Editora Escola de Direito da Universidade do Minho, 2018. p.145 -154

[38] LOPES, Inez. *A Família transnacional e a cooperação jurídica internacional* In: Cooperação Jurídica Internacional. ed. São Paulo: Thomson Reuters Brasil, 2018, p. 83-114

[39] Ibidem. p. 183-185

> Procedure meets the advances in the harmonization of the international civil procedure legislation in matters of international legal cooperation in the following:
>
> "The new Brazilian procedural regime legitimized by the search for cumulative global access to justice, based on procedural guarantees and on the principles of effectiveness and promptness of jurisdictional supply, is developed from two dimensions: a) spontaneity of acts of cooperation and the greater performance of the central authority in the management of cooperation; and b) the option for the promotion of direct assistance, as an instrument for revitalizing cooperation proceedings. The characteristics of the spontaneity of the acts of cooperation and the greater performance of the central authorities are related to the search for speed and efficiency in the jurisdictional supply. (...) Regarding both the principle of spontaneity and that of efficiency, two other issues can be incorporated into the debate: a) that of direct communication networks between judges and the consequent use of technology for the speed of the duties of cooperation and b) the promotion of the instrument of direct assistance[40]."

"In relation to the existing legislative sources in Brazilian law for direct judicial communications, the author continues stating that:

> "Although direct judicial communications do not find a legislative basis from an internal source in Brazil, in addition to the conventional one that authorizes and regulates their use, their legality is circumscribed in the various principles of the 2015 CPC, such as the *authority of the judge* that commands the procedure and collects evidences, according to Article 13; the principle of the *cooperation of the judge*, Article 6, characterizing the new procedural model, which is called "cooperative process", in which greater activism is foreseen in the resolution of the dispute, as well as the lack of the need for strict observance of form; and, of course, the very principle of the spontaneity of transmission of information to foreign authorities of Article 26, which also serves as the basis for the legitimacy and legality in Brazil of the use of modern communication tools, such as the Internet[41]."

"Especially with regard to the use of technological mechanisms to achieve cross-border interjurisdictional dialogue, MOSCHEN states the following:

> "As an example of instruments that facilitate access to justice by promoting procedural speed in the field of international legal cooperation, it is still worth mentioning the technique of model electronic forms, encouraged by the harmonization of private international law, in particular that of the legal cooperation in the field of family law, as exemplified by INCADAT and ISUPPORT. Both instruments were developed by The Hague Conference system on Private International Law as examples of digital platforms, in terms of an agile, safe and effective form of cooperation. The first of them focusing on the compilation of legal data on international child abduction available to the operators of the law "to promote a uniform interpretation on the matter", and the second with the aim of facilitating the cross-border collection of maintenance/alimony obligations processed within the scope of the of The Hague Convention on the International Collection of Maintenance of the year 2007[42]."

Finally, the informant highlights the reports from the Asset Recovery and International Legal Cooperation Department (DRCI) on the use of electronic mechanisms in the process of operationalization of cooperation requests.

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[40] MOSCHEN, Valesca Raizer Borges. *El caleidoscopio de la armonización del derecho internacional privado en materia de derecho procesal civil internacional*. In: FRESNEDO, Cecília e LORENZO, Gonzalo (Org.) *130 Aniversario de los Tratados de Montevideo de 1889: Legado y Futuro de sus soluciones en el concierto internacional actual*. Montevideo: Instituto Uruguayo de Derecho Internacional Privado, 2019. p. 470-471

[41] Ibidem. p. 472-473

[42] Ibidem. p. 473.

The report adds that: “In these terms, it should be noted that, in this year (2021), the 7th Civil Chamber of the Tribunal of Justice of the State of São Paulo, in case No. 2071616-69.2021.8.26.0000, authorized the summons, in a alimony collection procedure, of the party residing abroad by means of the WhatsApp application, under the justification of the greater-than-usual delay for Letters Rogatory by virtue of the COVID-19 pandemic. However, it is necessary to affirm that the authorization of notices, summons and notifications by an instant messaging application must be seen as an exception, also from the perspective of the legality of the national legal system, and the possibility of using [the messaging application] refers to the extreme necessity posed by the specific case, in order to avoid delays [that would be caused] by carrying out the notices, summons and/or notification through a Letter Rogatory, by virtue of the COVID 19 pandemic, as this would generate damage that is difficult or impossible to repair.”

In **Cuba**, Taydit Peña Lorenzo reports that: “In general, the doctrinal positions proposed consider that the use of the information technologies and communications is no longer an option but has become a necessity, a key tool for legal operators and authorities linked to legal activities in general. They are used to increase effectiveness in this field of action.

> "Given its nature and its constant development, we consider that the situation of national laws and international conventions adopted to regulate a highly sensitive event on a world scale is insufficient”.
>
> "At present, regulations, international assistance and cooperation through electronic means require the integration of the domestic legislation, embracing the most advanced literature on the issue and developing the sphere of information technology and communications in order to grant uniformity and progress in the regulation of the new kinds of relationships developed on a transnational scale”.
>
> “Legal relationships in the various areas of private life very often cross Cuban borders, a situation that gives them internationality and considerable increase in people’s insecurity. This gives rise to inequality between the legal systems where its effects unfold. Faced with this reality, there is an urgent need to ensure the effectiveness and guarantee people's rights in these relationships. Therefore, international judicial cooperation by electronic means plays an essential role, supporting various key aspects directly linked to security and speeding up these international private processes. Voices have been raised to highlight some elements of analysis that, in our opinion, should be taken into account to rethink and formulate legal solutions that our system is demanding. "

In **Mexico**, Carlos E. Odriozola Mariscal and Nuria González Martín report the following: “In Mexico there were constitutional reforms in 2017 that ordered Congress to issue new legislation on civil and family procedures. This legislation, unique and federal, will abrogate the current Federal Code of Procedure as well as state (provincial) procedural codes. "

> “The Supreme Court of Justice of the Nation has ordered that said regulations must be issued no later than December 15, 2021. Currently, the Commission of Justice of the Senate of the Republic resumed the legislative work aimed at setting up the Exclusive Legislation for Civil and Family Procedural Matters. See http://reformajusticia.senado.gob.mx "
>
> An analysis on the subject can be seen at:
>
> ODRIOZOLA MARISCAL, Carlos Enrique, “Apuntes en torno a la regulación de la cooperación procesal internacional en el pretendido Código Nacional de Procedimientos Civiles y Familiares" Hacia un Derecho Judicial Internacional. Ponencias al XLII Seminario Nacional de Derecho Internacional Privado y Comparado”, Pereznieto Castro, Leonel (Ed.) Poder Judicial del Estado de México y Academia Mexicana de Derecho Internacional Privado y Comparado, A.C., 2019, México, pp. 115-131 (*Free translation: Notes on the regulation of international procedural cooperation in the forthcoming National Code of Civil and Family Procedures. Towards an International Judicial Law. Presentations at the XLII National Seminar on Private and Comparative International*

Law ", Pereznieto Castro, Leonel (Ed.) Judicial Power of the State of Mexico and Mexican Academy of Private and Comparative International Law, AC, 2019, Mexico, pp. 115-131.").

In **Uruguay**, Daniel Trecca provides a list of doctrinal articles on the subject.

In **Venezuela**, María Alejandra Ruiz reports that:

"Although since 2001 we have a legal framework that encourages the use of technology, in general terms the use of technology in the Judiciary is incipient. The Decree enacted with Force of Law on Data Messages and Electronic Signatures (2001) was the first instrument that incorporated the notions and basic principles of Law and Technology into the Venezuelan legal system, being inspired by the UNCITRAL Model Law on E-Commerce (1996). In addition to this, the Law on Access and Electronic Exchange of Data, Information and Documents between State Bodies and Entities was enacted, also known as the "Interoperability Law" (2012) and the Law on Info-Government (2014), the latter aimed at regulating the use of technology in the Public Administration. Venezuela seemed to be (normatively) prepared to face advances and the technological acceleration that is being experienced worldwide. However, in practice, there was no significant progress until the pandemic.

"This is partly due to the fact that we do not have i) a technological culture, and ii) adequate computer systems and supports. Thus, author Gabriel Sira Santana (2016) pointed out that "these normative instruments must be accompanied by public policies to facilitate their performance; otherwise, they will only serve as references. That is, they will be "dead-letter legislation" - lacking coercive power - since the rights and duties that they provide will not be enforceable by any of those involved, due to the lack of adequate enforcement mechanisms. This is a common assumption regarding Venezuelan legislation. "In the same sense, María Alejandra Vásquez Sánchez (2012) concluded that there are sufficient bases for the judicial process to be carried out electronically. However, two elements must be configured to allow the use of electronic tools in court processes in Venezuela, namely: "In the first place, the digital electronic signature system for judicial officials; and secondly, a program allowing the use of electronic notifications, guaranteeing their reception and reading by the notified party. " (p.25)

"The pandemic has forced the authorities to create solutions allowing the application of technological tools in the Judiciary. However, they are limited to the use of email messages for the delivery and receipt of documents, such as proceedings and writs/petitions/briefs, as well as holding virtual hearings. It is important to note that even though documents can be sent and received by email, writs/petitions or briefs have to be submitted in the form of hard copies, so that they may be attached to the records. Therefore, it does not seem to be a very effective solution. The truth is that our progress has been very limited so far.

"As these are changes that only recently have been enforced, little information can be found regarding their efficiency in matters of International Legal Cooperation. Furthermore, so far only a few authors have addressed the subject. However, in matters involving minors, technological tools are used more frequently, due to the importance and urgency of this type of questions. "

IV. Conclusions and continuation of the work

The conclusions of this first stage of research are that new technologies have been used in international jurisdictional cooperation since even before the pandemic, and their use has rocketed since the sharp rise of the C-19 outburst. In addition, it seems unquestionable that the use of technology in this area will continue to take roots and grow, even when the pandemic ends.

There are different situations in the different countries, due to the existing availability in terms of the necessary technologies and also in terms of advances in regulatory matters. We note that some countries have issued norms that expressly regulate the use of new technologies, while others resort to broad and flexible interpretations of pre-existing norms. Finally, others have chosen to maintain more conservative attitudes.

The proposal of this rapporteur regarding the continuation of this work is the following:

- To seek the opinion of the Members of the Inter-American Juridical Committee.
- To collect the responses of the experts to whom the questionnaire was sent and who have not yet answered it (they were given a new deadline until the end of the year).
- To investigate the norms, jurisprudence and doctrine of the countries from which information has not yet been received.
- To analyze in depth the norms, practice and doctrine of the countries that did send information and responded to the questionnaire.
- To analyze the conventional instruments in force in the region, the autonomous norms and soft-law instruments to identify what solutions could be developed with the use of technology in the area of international jurisdictional cooperation.
- Eventually, and if possible before the next 100th session of the CJI, to make progress in the preparation of a first draft of a Guide of Good Practices on international jurisdictional cooperation for the Americas, which, as stated at the beginning of this first progress report, will be useful for law operators (judges, lawyers, etc.) to obtain the maximum possible benefit of the tools offered by current technologies to enforce the conventional and autonomous instruments on the matter. In this way, the current hard-law instruments could in practice be updated through soft-law solutions, which for chronological reasons do not refer to the use of technology, but which generally do not prohibit it either.

All of the above would constitute the Second Progress Report, to be presented at the 100th session of the CJI.

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