Digital Justice in the Contentious Administrative Jurisdiction: The Quickness Principle Based on ICTs as an Instrument for Judicial Decongestion in Colombia

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ABSTRACT

This paper analyzes the application of the quickness principle and its effectiveness around modernity, referring to the use of information technologies in contentious administrative processes, thanks to the modification of law 1437 (2011) through law 2080 (2021). This reform of the Code of Administrative Procedure and Administrative Litigation (2011) carries out a significant development of the quickness principle through its different precepts, including portals, web, and technological systems. The ICTs use is a necessity due to the pandemic caused by Covid 19, which has rethought the rhythm of life of all citizens of the Nation and how administration justice. For this paper, we use a descriptive methodology to fulfill the proposed objective, which allows the analysis and description of the factors and premises to conclude, using secondary and tertiary sources, such as laws, scientific documents, research papers, and other documents complying with the above. In conclusion, the relation between the quickness principle and the ICT allows them to safeguard their rights and that there are no unjustified delays due to the parties' lack of information tools or access quickly and safely.

It is a positive change that does not present many discussions because it is a step toward the modernization of judicial processes in administrative matters, which is also obviously very open so that they can be carried out more efficiently by public servants and public servants—Entities, which will be adapted to the different situations that arise.

Keywords: digital justice; quickness principle; ICTs; judicial decongestion, administrative legislation.

La justicia digital en la jurisdicción contenciosa administrativa: el principio de celeridad basado en las TIC como instrumento de descongestión judicial en Colombia

RESUMEN

El presente trabajo analiza la aplicación del principio de celeridad y su efectividad en torno a la modernidad, referida al uso de las tecnologías de la información en los procesos contenciosos administrativos, gracias a la modificación de la ley 1437 (2011) a través de la ley 2080 (2021). Esta reforma al Código de Procedimiento Administrativo y de lo Contencioso Administrativo (2011) realiza un importante desarrollo del principio de celeridad a través de sus diferentes preceptos, entre ellos los portales, la web y los sistemas tecnológicos. El uso de las TIC es una necesidad debido a la pandemia provocada por la Covid-19, que ha replanteado el ritmo de vida de todos los ciudadanos de la Nación y la forma de administrar justicia. Para este trabajo, se utiliza una metodología descriptiva para cumplir con el objetivo propuesto, que permite el análisis y descripción de los factores y premisas a concluir, utilizando fuentes secundarias y terciarias, tales como leyes, documentos científicos, trabajos de investigación, y otros documentos que cumplen con lo anterior. En conclusión, la relación entre el principio de celeridad y las TIC permite salvaguardar sus derechos y que no se produzcan retrasos injustificados por la falta de herramientas de información o de acceso rápido y seguro de las partes. Es un cambio positivo que no presenta muchas discusiones porque es un paso hacia la modernización de los procesos judiciales en materia administrativa, que además es evidentemente muy abierto para que puedan ser llevados a cabo de manera más eficiente por los funcionarios y servidores públicos-Entidades, que se adaptarán a las diferentes situaciones que se presenten.

P*alabras clave*: justicia digital; principio de rapidez; TIC; descongestión judicial; legislación administrativa.

A justiça digital na jurisdição contenciosa administrativa: o princípio da celeridade baseado nas TIC como instrumento de descongestionamento judicial na Colômbia

RESUMO

O presente analisa a aplicação do princípio de celeridade e sua eficácia em torno a modernidade, referida ao uso das tecnologias da informação nos processos contenciosos administrativos, através da modificação da lei 1437 (2011) por meio da lei 2080 (2021). A reforma ao Código de Procedimento Administrativo e do Contencioso Administrativo (2011) realiza um importante desenvolvimento do princípio de celeridade através dos seus diferentes preceitos, entre eles os portais, a web e os sistemas tecnológicos. O uso das TIC's é uma necessidade devida a pandemia provocada pela Covid-19, que mudou o ritmo de vida de todos os cidadãos da Nação e a forma de administrar justiça. Para este trabalho, é usada uma metodologia descritiva para cumprir com o objetivo proposto, que permite a análise e descrição dos fatores e premissas a concluir, utilizando fontes secundárias e terciárias, tais como leis, documentos científicos, trabalhos de investigação e outros documentos que cumprem com o mencionado anteriormente. Em conclusão, a relação entre o princípio de celeridade e as TIC's permite salvaguardar seus direitos e que não se dê atrasos injustificados pela falta de instrumentos de informação ou de acesso rápido e seguro das partes. É uma mudança positiva que não apresenta muitas discussões porque é um passo para a modernização dos processos judiciais em matéria administrativa, que também é evidentemente bem aberto para que possam ser realizados de maneira mais eficiente pelos funcionários e servidores públicos-Instituições, que se adaptarão as diferentes situações que se apresentem.

P*alavras-chave*: justiça digital; princípio de celeridade; TIC; descongestionamento judicial; legislação administrativa.

INTRODUCTION

This paper is part of the research entitled: H*ow did orality implemented with law* 1437 *of* 2011 *contribute to the quickness of the processes presented before the administrative judges of the circuit of the city of* M*onteria*?, which is a work of the COEDU research group of the P*ontificia* B*olivarian* U*niversity - M*onteria*, and whose purpose is to analyze the application of the quickness principle and its effectiveness around judicial decongestion through the use of Information and Communication Technologies [ICT], in contentious administrative processes. For this, a theoretical approach to the concepts of digital justice and the quickness principle is contrasted with that implemented by law 1437 (2011) and Decree 806 (2020) to arrive at what is proposed by law 2080 (2021), which raises a significant development of the quickness principle through its different precepts, which includes the use of web portals and technological systems for the administration of justice. The descriptive methodology is used to meet the stated objective, which allows the analysis and explanation of the factors and premises to conclude, using secondary and tertiary sources, such as laws, scientific documents, research papers, and other documents complying with the above.

In that sense, Information and Communication Technologies [ICT] have stood out as one of Colombia's most efficient instruments for all people to access justice administration. In this context, the implementation of the concept of digital justice has been strengthened and perfected due to the current global health emergency caused by COVID-19, since in all political, statutory, economic, and judicial sectors, this instrument has allowed more excellent communication and informational hierarchization after the mandatory preventive isolation, in a way that indirectly allowed work from home with the creation of different systems and platforms. About the above, the importance that digital transformation has had and should have in the justice system cannot be ignored since it allows the search for constant improvement of ICTs within the framework of justice and subsequently generates a bilateral benefit for both judicial officials and users since it reinforces the use and advantages that these tools possess.

Therefore, including information technologies is a positive tool for any field in favor of people. Still, procedural terms facilitate this realization, preventing delays, expiration times, and other negative consequences that can be handled by implementing these systems. In the case of contentious administrative justice, it has been regulated by law 1437 (2011) and modified by law 2080 (2021). In the latter, many changes were introduced around the quickness principle with the application of information technologies and modifications that present essential benefits for citizens regarding procedural guarantees, fundamental rights, and legal security.

Taking the preceding into account, it is necessary to analyze whether the quickness principle is guaranteed with the modifications of the new law since, on many occasions, new rules are imposed that, although they do not contradict the

Constitution (1991), are ineffective or insufficient to be able to comply with the precepts that it has, because it is well understood that said norms must tend to yield in a way that guarantees citizens the principles established in it and that in this case, it is the essential purposes of the State. In addition, it is necessary to understand if it guarantees this purpose in terms of decongestion.

A descriptive investigation will be carried out in this paper, allowing the study of the norms, making comparisons, and establishing whether it meets the objectives set. To achieve this, secondary and tertiary sources must be used, containing scientific, legal, and informative documents that contribute to understanding the different concepts and laws to conclude.

1. THEORETICAL APPROACH TO THE RELATIONSHIP BETWEEN DIGITAL JUSTICE AND THE QUICKNESS PRINCIPLE

Justice has been one of the fundamental pillars for democracy and people's freedoms to materialize. The justice sector is in charge of guarding, watching over, and protecting the guardianship of the Constitution and the Law. For this reason, by paralyzing justice, the essential purposes of the State are endangered. With this, we highlight the importance of the right to due process, legality, and access to the administration of justice, pointing out that the use of information technologies and communications is of great importance to guarantee the continuity of the service providers in the administration of justice.

Adequate access to the administration of justice is a right that all people have by the provisions of the Political Constitution (1991), which implies that citizens can have the necessary guarantees and the opportunity to start the judicial apparatus to assert their rights thus. In this understanding, accessing this allows the possibility of solving your conflicts through means that are expressly enshrined in the law (Gómez & Riaño, 2020).

Through time and after 50 years of violence in Colombia[1], the judicial system has presented different problems. One of them is congestion, judicial delay, and the barriers to access to the administration of justice coupled with officials with an excessive workload, resulting in a low quality of judicial decisions. In this sense, the various issues cannot be mitigated solely through regulatory reform but also require management tools that ICTs bring us (Cepeda Espinosa & Otálora Lozano, 2020).

The search for progress and advancement within the post-conflict period has remained a constant threshold of elevation within different contexts, where politi-

[1] When it is stated that violence has existed in Colombia for 50 years, it is not unaware that the conflict in Colombia is a response to the lack of correct provisions both in the institutional design for citizen participation and in answer to social problems, especially those of a rural type that originated in the 19th century and that this is systematic state violence (Gallo Callejas, Hernández Tirado, & Orozco Poveda, 2021)

cal, economic, and social advance prevails, in a way that all this has required the implementation of new tools and methods that determine and establish a better closeness between the State and the citizens[2]. Per the modernization of the State in the technological field has been strengthening over the years. Still, it is essential to maintain a constant in favor of accelerating ICT use. It covers simple connectivity and facilitates access for citizens and the authorities in charge of providing the service of justice. Under this point, information and communication technologies are essential for bringing society closer to all public bodies and institutions that provide services.

In other words, one of the main objectives of the Judicial Branch in terms of the development of modernization in judicial and administrative management is the digital transformation, whose primary purpose is the access of all people to the administration of justice without any form of anomalies or failures that violate the rights of people. In this sense, digital transformation encompasses a series of projects that are aimed at perfecting, strengthening, and gradually improving the service of administering justice through the use of information and communication technologies so that all citizens can access the justice service and, in turn, have a full assurance that there is total transparency in the provision of the service. On the other hand, digital transformation brings many advantages to the justice sector since it facilitates the work of those in charge of providing the service. The user's attention can be carried out through data messages. It decongests the Judicial Offices as long as the use of technological means in the administration of justice is perfected in all possible aspects (Superior Council of the Judiciary, 2020).

Consequently, in recent years the Judicial Branch has evolved towards improving judicial management, encompassing access to the service to all citizens through technological means. Therefore, there are currently different computer systems for judicial oversight, where it is possible to find specific tools that provide solutions to people's needs for access to justice. For this reason, every day, we seek to improve and evolve towards an institutional unit in charge of facilitating the use of ICTs for public servants and users who wish to access the justice sector.

According to the concept of digital justice, proposed by Quiroz Monsalvo (2020), this can be defined as the implementation in terms of the use of the tools provided by information and communication technologies, within the jurisdictional function, through two essential components, which are: **i) online litigation:** these platforms are in charge of solving out of court any conflict that has reference to purchases on the Web or online, and **ii) the electronic file:** these are documents of a digital nature, which allow judges and magistrates to have prompt solutions since these systems have constant accessibility (Judicial Branch, 2020).

[2] It is then that Colombia is a democratic State whose democracy is nourished by participation beyond representation; that is, the citizen becomes fundamental in the construction of collective development (Hérnandez Tirado & Orozco Poveda, 2018).

Digital justice is an instrument implemented over the years that guarantees and ensures the effectiveness of access to the administration of justice. It has been strengthening due to the country's current situation of suffering from the pandemic by Covid-19, which allows justice not to stop and causes judicial congestion[3]. This guarantees that those involved in judicial proceedings can access justice promptly, at any time, and efficiently. The incorporation of ICT in the justice sector refers to the use of technologies as a method to be able to have a relationship between citizens and the administration of justice, promote citizen participation, in turn, seek to eliminate any barriers that make it impossible to access justice, and in general to be able to provide a better service promptly and efficiently (Acosta, 2020).

Digital justice, as it belongs to a public policy, must coordinate with legal reforms, financial means, and social reality to guarantee all users access to the judicial administration. In this sense, the aim is to replace the physical document, such as paper, with a digital record and alternate the presence of users with communication through virtual media. Therefore, support should be sought from all technological tools that facilitate and help to be more efficient in accessing the administration of justice (Álvarez Casallas, 2010). The use of information and communication technologies has implied over the years an improvement in work activity, in terms of the quality of work and a significant increase in production, since this helps to have greater ease and agility in position, the creation of databases, and interaction through virtual means both for people who work in the administration of justice and for those who want to access it (Barrios Medina, 2015).

Likewise, the main objectives of the use of information and communication technologies are to increase the transparency of all judicial actions, as well as to have a more practical approach by users to the administration of justice and to tend to their participation, to improve and effectively improve all procedural acts through technological means (Álvarez Casallas, 2010).

Justice has been of great importance as far as the progress of the judicial processes is concerned. In practice, it has been fundamental to carry out the hearings and proceedings that were previously carried out in person. Consequently, the technological means have helped to hold the hearings and maintain a record of the audience, guaranteeing the immediacy of each party within the process and the integrity and security of the file. On the other hand, the inclusion of technologies within the judicial system must be linked to systems engineering.

[3] In the case of Colombia, the Covid-19 pandemic only increases judicial congestion since historically close to 20 percent of patients cannot be evacuated the same year that they arrive and are lagging, with an inventory of processes that in 2019 reached 1.884.088 (Justice, 2020).

Figure 1. Advantages and disadvantages of digital justice

Advantages	Disadvantages
•Greater efficiency and capacity in case processing. •It facilitates inter-institutional work by allowing the strengthening of communication between different entities. •Accelerates the processing of internal procedures within the courts. •Online files streamline the work of lawyers who have a form of access that does not require transfer to the judicial offices.	•Access to updated technologies and a stable network is required, which implies an impediment for people with limited resources or whose domicile is in rural areas where such services have not yet been implemented. •The Publicity principle of the processes may be affected. •The loss of the immediacy between the judge, lawyers, parties, and other participants. •The lack of uniformity in the different offices and circuits in the application of virtuality.

Source: own elaboration adapted from Acevedo Rehbein (2020).

Therefore, it is essential to be clear about the advantages and disadvantages that this new system brings so that the operators of every one of the inconsistencies that may arise in the implementation, and for this, a complete work team is needed, where systems engineers must be included, to correct errors and failures that may originate in the application of digital justice.

Understanding that digital justice brings institutional changes that involve different modifications to the legal system and its organizational part to guarantee better access to public administration. Therefore, the necessary conditions for justice to become digital efficiently require the following parameters:

Figure 2. Conditions for justice to become digital

Legal frameworks:

- Legal regulations had drawn up legal frameworks when everything was done on paper, and the forms of communication were always in person. A clear example is that, before the health emergency was declared in our country, the regulations required that certain documents be signed by hand and that some must-have stamps, such as a power of attorney, be granted to a lawyer. In this sense, with the implementation of legal norms with access to the use of ICT, it was necessary to modify specific laws that conditioned certain documents for their presentation.

Adequacy of the system:

- It is essential to be clear that the simple digitization of the file will not completely solve the system's failures; that is why it is necessary to ensure that what is digitized must be optimized. This is to adapt programs to be performed more efficiently.

Autonomy of the institutions that administer justice:

- For digital justice to function efficiently, the collaboration of the bodies that participate in the administration of justice is required. In this sense, it is necessary to coordinate between the institutions so that the digital judicial system becomes completely efficient. The Ministry of Justice, judicial councils, courts, and tribunals, among others, must have harmony regarding implementing digital justice to avoid possible violation of rights.

Source: own elaboration adapted from Cordella & Contini (2020).

There is no doubt that information and communication technologies have become a fundamental tool to streamline judicial processes; in the same way, the high congestion that currently exists in judicial offices shows us that it is essential to efficiently incorporate the use of ICT, which includes both the electronic file, which has complete authenticity, as well as all those actions aimed at providing security, clarity, and promptness in judicial processes (Álvarez Casallas, 2010).

In Colombia, digital justice has become the set of measures that, through ICTs, would achieve judicial decongestion and the materialization of the quickness principle incorporated from the Political Constitution (1991) and law 1437 (2011). It has been established that this principle must be applied as a guiding principle of procedures and processes, eliminating unnecessary procedures, speeding up the resolution terms, and reducing the stages that only cause an unjustified delay to citizens seeking a solution to their disputes.

In that order of ideas, quickness is understood as the principle that "imposes on the Administration its impulse *ex officio* by the head of the administrative unit in charge, which is the one who must accept the necessary measures to avoid delays and anomalies in the processes" (Office of the Overseer of Spain, 2018). While for Ricardo Ortega Rivero (2010), the quickness principle has been related to the notion of good administration, seen then as a requirement for the observance of the functions of public administration. In other words, by the quickness principle, the resolution of the administrative action must be resolved in a timely, agile manner and within reasonable times, which are determined by law. However, taking its foundation as a constitutional precept, quickness should not only be applied in terms of the time factor, but it should also be predicated on the different instances, steps, and acts that involve the entire administrative procedure, that is to say, that when speaking of quickness, it is not only spoken of time but the type of procedures within the processes (Quintero Chinchilla, 2016).

Therefore, the quickness principle is ratified as a mandate of optimization that can be demanded of the public administration, however, underlining the urgency in the observance of the terms so that one can speak of quickness as a value or principle of good administration (Díaz & Díaz, 2011), since this is a basic budget that, following the perception or valuation index, is presented through the temporal pattern imposed by the deadlines. Meeting the deadlines, in addition to verifying a legal requirement, is a manifestation of good administration.

By the aforementioned, compliance with the quickness principle is considered a duty of public management, unavoidable for the correct guarantee of its objectives. Consequently, following the previous, it is interpreted as a guarantee for citizens to exercise their rights. Now, Enrique Véscovi (1984), invoking the principle of procedural economy or quickness of the process, states that, although regulated operations

consume a fixed time of action, the procedural economy principle is focused on: "(...) avoiding that loss of time, of efforts, of expenses using resolution formulas aimed at (...) the suppression of incidents and resources that have no other purpose than to delay the process" (p. 58). Thus, the principle of quickness represents the peremptory nature of the deadlines, the *ex officio* impulse, the increase in the powers of the judge, especially to give the procedure an adequate march, reject incidents, appeals, and evidence of simple delaying purpose, the reduction of resources, especially those of suspensive effect, the provisional execution of the sentence, the automatic notification, the introduction of abbreviated processes, whether they are summary, etc.

Based on the explanation raised, it was noted that the actions and formulas that the governing rule of the process brings as control points or instances for its impulse are formulated as a criterion for a due application of the quickness principle. In addition to the dynamism that the intervening parties have to set, the regulations should outline goals translated into tools for the parties whose purpose is to promote the process. It is also necessary to indicate that the execution of the controls obeys the interest of the intervening parties and the dynamizing task of the judge or the public entity, depending on the situation.

However, the quickness principle is attributed as a mandate to the Public Administration, necessary for properly achieving its goals. Consequently, those mentioned above translate into guarantees for citizens to exercise their rights, considering that we are discussing a constitutional principle. "(...) the quickness principle imposes an agile development of the procedure, claiming the support of other principles that inform the administrative procedure, such as the principle of officiality or the principle of flexibility and anti-formalism" (Nevado-Batalla Moreno, 2010, p. 548).

Per the principle mentioned above, what is sought is a dynamic fulfillment of the functions of public servants, for which the administrative authorities must have internal control to provide prompt and timely service to users in the terms established by law, eliminating the extension of the terms and guaranteeing the efficiency in the administration of justice, through the agile fulfillment of its public obligations, to fulfill its duties for the benefit of the community and the purposes indicated by the Condition.

The Constitutional Court has expressed itself on this principle several times, highlighting its importance and the need for its practical application.

> Remember that one of the issues discussed in the National Constituent Assembly discussions regarding the Administration of Justice was precisely the need to introduce the principle of quickness in this field of state activity since it is known by all that one of the greatest evils that afflict the administration of justice is late payment in the provision of this public service. Processes of a criminal, civil, labor, and contentious-administrative nature take a considerable time in the respective offices, making the Administration of Justice null and void and causing dire consequences of all kinds to the social coexistence of citizens. (Judgment C 534, 2011)

The Judgment above also pronounces the consequences of the lack of quickness in the face of judicial processes and the infringement of a fundamental right, in the understanding that the lack of urgency in the administration of justice is a violation of the fundamental rights to due process and access to justice and, in that sense, it is not only legitimate for the State to design mechanisms that make more efficient judicial processes, but it is a constitutional obligation of the same, insofar as it must guarantee the whole exercise of fundamental rights.

With all that has been stated and described above, it is undeniable that quickness is essential for due process. The fulfillment of the vital purposes of the State is derived; due to this, its application must be materialized through the procedures and the elimination of these. In addition, the inclusion of technologies is a way to streamline the stages of judicial processes. In this sense, the Statutory Law of Administration of Justice (1996), in its article 95, indicates that the Superior Council of the Judiciary must make possible the incorporation of the use of ICTs, which must be at the service of the administration of justice, which leads to evolving normatively within the framework of digital justice.

The judicial branch has advanced in using information and communication technologies to clarify the different legal precepts that speak to us about digital justice. It thus can have better internal optimization of judicial management and access to justice through ICT for all citizens. This also drives the judicial servers and the users towards the tasks virtually without moving from one place to another. This, in turn, facilitates the construction process that leads to transformation and modernization. Therefore, the advances they have implemented are essential since they help decongest judicial offices, dependencies, and High Courts.

2. THE BEGINNING OF DIGITAL JUSTICE IN THE CONTENTIOUS ADMINISTRATIVE JURISDICTION

In Colombia, there is an essential regulatory framework that, over time, has conditioned the use of technologies that must be available in the administration of justice and which, in turn, have been refined through the latest procedural reforms, which help us and give us more "flexible" access to processes that are digitized. However, the normative regulation that facilitates digital justice must be a step toward the transformation experienced in the 21st century. With this, all people's right to their due process and access should not be ignored by justice.

The incorporation of the use of ICTs in Colombia began to be implemented first through Law 270 (1996), or the Statutory Law of the Administration of Justice, which authorizes the Superior Council of the Judiciary, as has been mentioned previously, to implement the use of technologies at the service of justice, and at the same time, it allows it to regulate all the judicial actions that must be carried out in each of the judicial offices of Colombia.

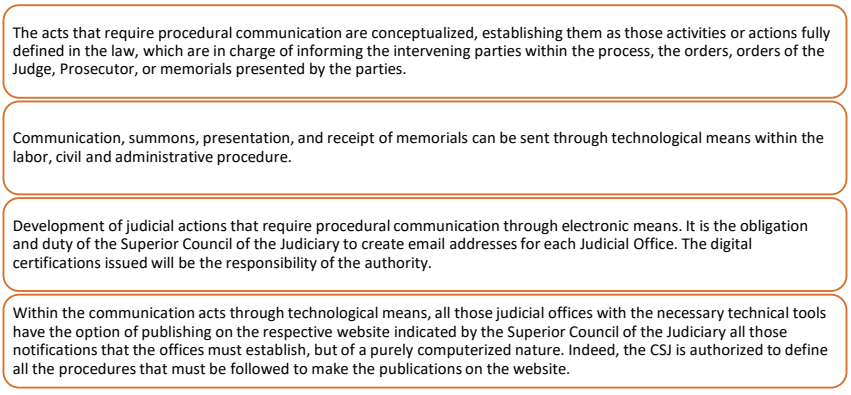
The Statutory Law of Administration of Justice (1996) mentions the incorporation of "advanced technology" to serve justice. Its focus is mainly on the creation, conservation, and reproduction of records and improving the practice of the test.

The Constitutional Court ruled concerning judgment C 037 (1996), determining that the Superior Council of the Judiciary [CSJ] is obliged to issue all the necessary tools for the use of technological means in all judicial proceedings, which guarantees the right of all people to reserve their data and the right to privacy, which are somehow affected by public knowledge, as mentioned above. For its part, the ruling states that the authorization granted to the CSJ must not allow any modification that affects guarantees regarding access to the administration of justice, that is, that avoids in all possible ways violations of fundamental Rights as due process and the right to defense, since its regulation must be sole of an administrative nature.

Next, within its regulation, Law 527 (1999) established the principle of validity that electronic documents and signatures have and their importance with those used in a traditional way, such as physical or printed documents on a sheet of paper. In this way, the law mentioned above creates necessary tools so that users can present actions before the administration of justice through information and communication technologies. In this sense, it grants validity to all those documents presented in electronic form. Law 527 (1999) makes an essential description of digital signatures, which must be presumed authentic, to generate greater confidence in readers through the entity or person issuing the document.

Subsequently, the Superior Council of the Judiciary issued Agreement No. PSAA06-3334 (2006), which regulates the efficient use of technological means within the administration of justice, established the following characteristics:

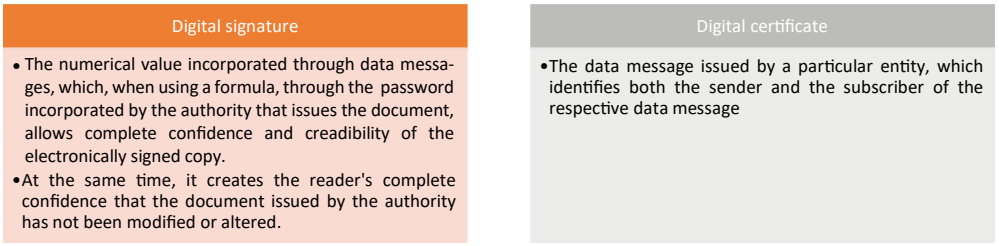
Figure 3. Characteristics of the efficient use of technological means in the administration of justice in Colombia



Source: own elaboration adapted from the Agreement No. PSAA06-3334 (2006) issued by the Superior Council of the Judiciary.

Subsequently, and in compliance with the Agreement's provisions, the Judicial Branch Judicial Documentation Center issued the Technical Regulations to use certificates and digital signatures in the Judicial Branch.

Figure 4. Conceptualization of the use of certificates and digital signatures in the Judicial Branch



Source: own elaboration adapted from Ibáñez Parra & Rincón Cárdenas (2015).

Decree 2364 (2012) regulates article 7 of Law 527 (1999), which complements the necessary means to authenticate electronic documents. In effect, the decree defines criteria of reliability and appropriability regarding the use of authentication mechanisms, establishes a direct relationship between gender and species of the electronic signature and the digital signature, and determines criteria for the credibility and authenticity of the electronic signature, among other vital aspects established by the decree in question. The Decree above creates the necessary conditions that provide security for electronically signed documents, which previously generated risks in terms of the information received, resulting in insecurities for users.

Likewise, in the contentious-administrative jurisdiction in charge of settling matters, conflicts, and controversies that arise with the State (represented by institutions and public officials), the legislator is aware that the State may be subject to actions or omissions that generate damages or affectations to citizens, and creates a system where you can resort to the administration of justice to claim compensation for those damages caused. Currently, this jurisdiction is governed by the Code of Administrative Procedure and Administrative Litigation (2011), which promotes an oral trial with the use of some technological tools such as electronic files, metadata as evidentiary tools, and the use of specialized equipment to record audio and video in the practice of hearings and evidence. Consequently, with the Law above, a transformation of the judicial function of the administrative regime begins, where orality and ICTs allow processes to be more agile and expeditious.

It should be noted that Law 1437 (2011) establishes a hybrid procedural system (which does not seek to eliminate the written system completely but instead seeks to balance the proceedings, including both written and oral parts), which is based on hearings that will govern all processes which do not have a particular procedure. The

first hearing[4] ranges from the filing of the claim to the initial hearing; the second, from the end of the previous one until the end of the hearing of evidence[5]; and the last hearing, from the termination of the preceding one, comprising the hearing of allegations and judgment and culminating with the notification of the judgment.[6]

In this order of ideas, the Superior Council of the Judiciary has been implementing over the years what we now call *JUSTICIA XXI WEB (TYBA)*, which helps all users to access judicial files in a prompt and timely manner.

Within the framework of the State of Economic, Social and Ecological Emergency that Colombia is experiencing as a result of COVID-19, Legislative Decree 806 (2020) was issued, which adopts measures that are aimed at the immediate implementation of the use of the information and communication technologies for all legal proceedings, as well as the complete digitization of files, and the attention of users of the online justice service. With this, it seeks to guarantee access to the administration of justice effectively and thus prevent the spread of the virus through face-to-face access to the justice service. In this sense, the implementation of this Legislative Decree is intended to streamline judicial procedures without delay, making it impossible to promptly access the administration of justice, thereby complying with constitutional guarantees.

In that sense, some of the advancements that are vital in terms of the digital transformation process are:

[4] The initial hearing is an instrument that the new oral scheme gives to the judge or magistrate so that the processes reach decisions on the merits and clean up the processes before ending them, putting at risk the right of access to the administration of justice, this enshrined in article 180 of the law 1437 (2011).

[5] This hearing is where the Judge will rule on the request for precautionary measures. Suppose this has not been decided where the evidence requested by the parties and third parties can be decreed, provided that they are necessary to demonstrate the facts about the disagreement. Law 1437 (2011), in article 181, establishes the hearing of evidence; in this case, the proof requested and decreed in the initial hearing is collected using information and communication technology if necessary. The judicial operator in this action must commit to the principles of immediacy and concentration (Judgment T 205, 2011) that this system requires to materialize the quickness principle and finally achieve judicial decongestion.

[6] The hearing of allegations and judgment is found in article 182, law 1437 (2011).

Figure 5. Advancements in the digital transformation process

JUSTICIA XXI WEB (TYBA)	**SIRNA**	**SIERJU**	**Digital guardianship**
• It is in charge of managing the judicial processes and the administration of the documents of the Judicial Branch in a virtual way, thus guaranteeing that all citizens can access their files in a virtual way, through their digitization. In this sense, all judicial offices must be registered in this system.	• This system is created for the national registry of lawyers. Through the implementation of the Legislative Decree 806 (2020), the lawyers who present the powers to act in certain proceedings must mention their email address, which must be registered in the SIRNA system.	• It is the Statistical Information System of the Judicial Branch. Through this, we find a set of data, procedures, tools and processes, whose main objective is to control by the Administrative Chamber of the Superior Council of the Judiciary, all the processes carried out by each Judicial Office and each one of its actions, in civil, criminal, constitutional matters, among others.	• This virtual system was created as a consequence of the health emergency caused by COVID-19. The Superior Council of the Judiciary was in charge of developing this application for the receipt of guardianships and habeas corpus, in which it is intended to present this type of actions of Virtual way without the need to send them from the emails enabled as a judicial office in the country.

Source: own elaboration adapted from the Agreement No. PCSJA20-11631 (2020) issued by the Superior Council of the Judiciary issued Agreement.

Taking the preceding into account, in terms of digital justice, progress has been made to improve information and communication technologies. In this sense, the use of virtual platforms has helped people to be able to exercise their rights and access justice quickly. This is the case with the following virtual tools:

Figure 6. Virtual Tools in the administration of justice in Colombia

Collaborative Management Tools (Office 365)
• They facilitate judicial offices for the management of virtual hearings, reception of memorials by users, recording of virtual hearings, saving documents without having to travel to the headquarters of the judicial unit, keeping control of the programming of virtual hearings, maintaining virtual contact both with the personnel who work in a particular agency and with those of other judicial agencies, among different types of functions that are important for the development of digital justice in Colombia
Electronic signature
• The judicial branch has promoted thicopys web application, and its primary purpose is the authenticity and digital identity of the documents made by the judicial offices. Therefore, it has gained incredible momentum due to the current virtual work environment. This platform has a validation module through a link sent to users to access the document made and thus verify its integrity and authenticity. To verify the electronically signed copy, it must be uploaded through the Judicial Office link to the users and enter the verification code that appears in the same document. At this point, it should be noted that the electronically signed copies individually have a different validation code from the other documents.
Judicial deposits
• Through the web portal of Judicial Deposits in coordination with the Superior Council of the Judiciary and the Banco Agrario de Colombia, the judicial offices carry out virtually every one of the judicial titles that, by a process, belong to a specific person. In this sense, the law firms must carry out the judicial titles through this portal, indicating the parties, the filing of the process, the number of the judicial title, and the beneficiary of this.

Source: own elaboration adapted from the Agreement No. PCSJA20-11631 (2020) issued by the Superior Council of the Judiciary.

Despite all these tools, the Colombian Association of System Engineers (2020) establishes that the implementation of digital justice has not been entirely complete since certain types of technical problems have arisen; in this sense, they are not given the budgets required so that all stages, actions, and everything that access

to justice entails is conserved in a comprehensive manner. There are doubts regarding the support or proof that said entity or person had received the document via email. There is often no option of acknowledging receipt by the person who will receive it or the judicial office.

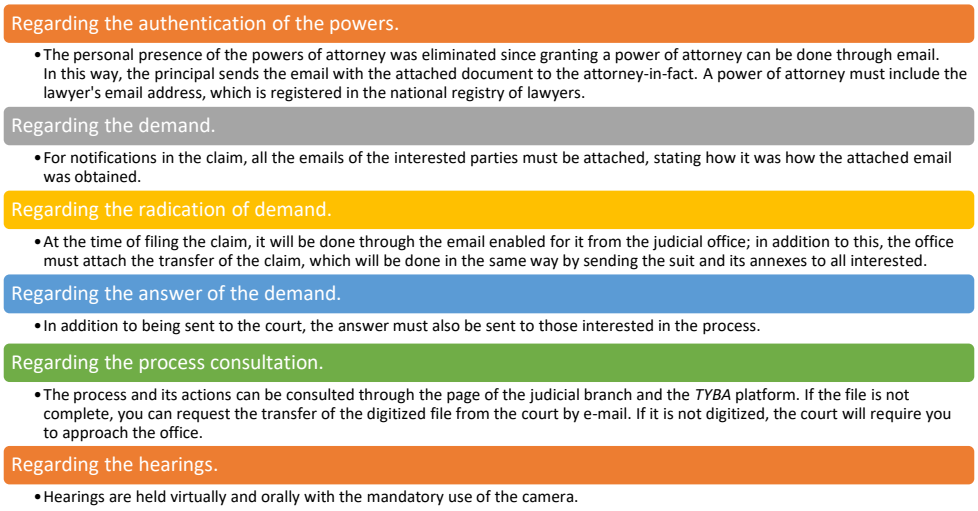
3. LEGISLATIVE DECREE 806 (2020) IN RECOGNITION OF ICTS AS A MATERIALIZATION OF THE QUICKNESS PRINCIPLE AND DIGITAL JUSTICE

Legislative Decree 806 (2020) is a regulation that seeks to solve a specific problem – avoid paralysis and reactivate the administration of justice _ caused by the Covid-19 pandemic. This provision establishes the implementation of information and communication technologies in all legal actions, given that biosafety restrictions prevent the holding of hearings and any face-to-face action due to the imminent risk of contagion. In turn, it creates parameters that must be considered during the two-year term. This Decree introduces significant changes in judicial proceedings into Colombian legislation, with the primary objective of guaranteeing due process, access to justice, the right to defense, contradiction, and publicity through digital tools. One of the main changes brought by the decree has been the modification regarding the presentation of the claim as a requirement for admission, which must indicate the virtual channel through which the people involved in the process must be notified. It also emphasizes that all actions that are carried out, whether hearings or any other diligence, will be carried out virtually, considering the means required for this purpose (Acosta, 2020).

For the presentation and filing of special powers in any judicial action, these can be granted through data messages without the need for the grantor's signature, so they are presumed authentic. What differentiates it from the legal norms before the decree?

In summary, a power of attorney requires the signatures of both the principal and the person to whom the power is granted and its personal submission. On the other hand, a power of attorney must contain the lawyer's e-mail address, which must coincide with the one registered on the National Registry of Lawyers page. (Decree 806, 2020). The personal notification has had changes since the implementation of the new decree. It is made by sending the respective ruling through email in the notifications section. In this sense, within the lawsuit, it must be stated under the gravity of an oath that the referred email address is the person's property to be notified, including evidence of how it is obtained. The notifications that must be provided through states will be sent electronically, including the ruling, except those in reserve as preventive measures in which minors are included. Previously, notifications by the state were posted in each Judicial Office in a printed document, where users in person could review them (Decree 806, 2020). The concerned person's obligation to publish in print is eliminated; the person's inclusion in the National Registry of Emplaced Persons is only required to be in a virtual platform whose purpose is that registration (Decree 806, 2020).

Figure 7. Modifications were implemented in the contentious-administrative process



Source: own elaboration adapted from Decree 806 (2020).

The hearings will be conducted virtually, where all the procedural subjects will participate. In this sense, the Office's officials, with the Judge's authorization, can communicate to the parties about the virtual means used in the respective hearings (Decree 806, 2020).

However, the improvised[7] implementation of these technological tools raises some problems and questions related to this modification; among them is the lack of connectivity and, therefore, the impossibility of access to different internet platforms and the low digital literacy of the population.

An email notification can be classified as a regulatory advance in the system. A change that attends to existing and accessible technologies that people have daily and responds to the exponential increase in population worldwide with internet access is a reflex of the quickness principle. It can also be seen as an alternative that shortens the time and cost of further communications by not paying a certified mail company to send the communication. Shorten the times under the assumption that the reception of messages is instantaneous. The probability of loss or non-reception is less and less due to the guarantees offered by technological advances. Additionally, it is a system that allows it to be consulted from anywhere, as long as there is internet access.

> (...) Internet access is a fundamental prerogative with which each person is assured, not only the possibility of receiving and storing that information that they previously perceived in an analog way but also the materialization of exchanging

[7] Although there were already regulations, they were slow and progressive in implementation; the Colombian legal system still depended on the presence and written documentation.

> ideas with other users of cyberspace, regardless of the distance in which each one is. (Supreme Court of Justice, Civil Cassation Chamber, Judgment STC3610, 2020)

Similarly, it should be noted that the application of Decree 806 of 2020 in terms of notifications, even when pursuing plausible purposes, is questionable whether those purposes remain simply in theoretical terms and cannot be put into practice. The Decree in question ignores the reality of the Colombian citizen, as evidenced by the worldwide study on the quality of digital life carried out annually by the Surfshark company, where 85 countries are rated on five fundamental pillars that define the quality of digital life; these are (i) internet accessibility, (ii) internet quality, (iii) electronic infrastructure, (iv) electronic security, and (v) electronic government. Colombia participated for the first time in 2020, resulting in being among the worst countries with internet access, ranking 62 out of 85 (Surfshark, 2020).

In this sense, Decree 806 (2020) violates the principle of contradiction and the guarantee of adequate access to the administration of justice, under the understanding that a significant percentage of Colombians cannot access this service due to lack of connection and other so many do not have a digital literacy that allows them to make good use of this system[8]; Therefore, in principle, this regulatory advance does not recognize the reality and the current Colombian context. In addition to the above, the current situation of connectivity and technological means in Colombia, from the outset, calls into question the formality of communications, understanding formality as the requirements that the legislator establishes to give legal effects to a specific action and, in the most significant measure, possible measure, guarantee and legal security to the parties, taking into account that it is a matter of legal relationships and not the passing of the day-to-day of the people (Mesa González, 2021).

Under all of the above, the Colombian legislator considers it necessary for the provisions of Decree 806 (2020) to be more binding, and, for this, it carries out an amendment to Law 1437 (2011) in response to the need to adapt to constant global changes both social and institutional, to strengthen the quickness principle in the Council of State as the highest Court of the Contentious-Administrative Jurisdiction and body of Jurisprudential Unification from the implementation of information and communication technologies.

[8] An example of this, and that makes the situation more pressing, can be seen in Supreme Court of Justice, Civil Cassation Chamber Judgment STC7284-2020, where the lawyer of one of the parties requests the rescheduling of the hearing due to a lack of "technological knowledge and access to the file," the situation is facing to which it has a refusal by the court. The said hearing dictates a sentence; in this regard, the Supreme Court says that the court should have established a new date, and since it was not like that, it annuls the action. The hearing is renewed with the intervention of the judicial representative.

4. ANALYSIS OF LAW 2080 (2021) AND ITS MODIFICATIONS REGARDING THE QUICKNESS PRINCIPLE IN JUDICIAL PROCESSES CONTAINED IN LAW 1437 (2011)

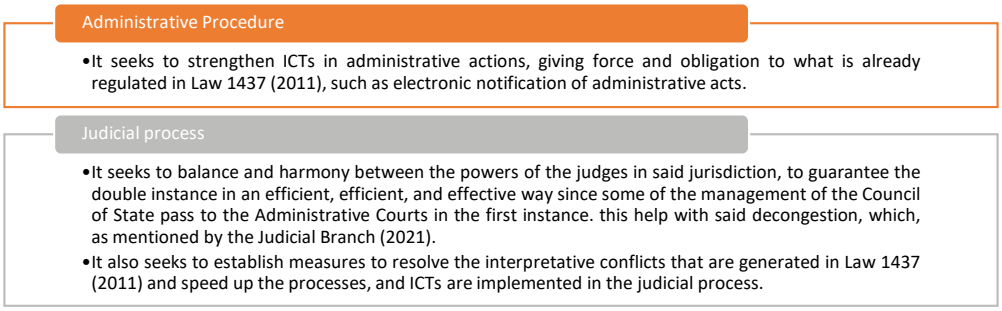
On January 25, law 2080 (2021) was sanctioned, the primary intention of which is to "constitutionalize" administrative law, that is, according to Aguilera-Martin & Aponte-González (2017) "the recognition of fundamental principles (equality, legal security, due process), the reinforcement of the coherence and efficiency of the system, and the revaluation of jurisprudence as a source of law" (page 90); law 2080 (2021) reformed the law 1437 (2011) to guarantee the quickness principle in the procedures; modified the jurisdiction of the Council of State in sole instance to the Administrative Courts; strengthen and develop jurisprudential unification; aims to streamline and achieve efficiency through the use of digital and electronic media in contentious-administrative processes and each of its instances and phases; clarifies contradictions and ambiguities contained in the previous regulations; and the use of information and communication technologies through which it is intended to bring citizens closer to the jurisdiction, guaranteeing in this timely manner access to justice and effective judicial management, as well as ensuring that the parties in the processes appropriate the new technologies and their use to meet not only the challenges of the reform but also the challenges to which we are faced with globalization, such as closing the gap in access to information and reducing operational, economic, cultural, and geographical barriers.

This reform of law 1437 (2011) required covering the current needs and ambiguities both in the administrative process and in executive actions, a project which was carried out listening to magistrates of the Council of State, administrative judges, legal professionals, and citizens in general. This problem was urgent to be addressed and resolved in the new reform, such as the problem of congestion in judicial offices concerning contentious-administrative processes throughout the country and the existing antinomies in Law 1437 (2011) that gave rise to various interpretations.

Regarding the validity of law 2080 (2021), it is divided into two transition regimes: the first, defers to one (1) year, in which a new distribution of jurisdiction is opened; and the second, since its publication, this is on January 5 of 2021, whose transition regime regulates the expert opinion in processes governed by law 1437 (2011) in cases in which evidence has not been decreed, as well as the other regulations per articles 40 of Law 153 (1887) and 624 of the General Process Code (2012) in terms of appeals, notifications, evidence, hearings, and proceedings initiated are governed by the regulations in force at the time the process began.

The primary purposes of the reform of Law 1437 (2011) through Law 2080 (2021) are the following:

Figure 8. Direct purposes of law 2080 (2021)



Source: own elaboration adapted from Reyes Espinosa (2020).

Consequently, due to globalization and constant changes, both in the social, political, economic, and cultural spheres, and especially the technological one, the legal system implemented tools and instruments offered by ICTs. Even though law 1437 (2011) contained its use for notifications of judicial decisions, presentation, and answering of lawsuits, among others, government entities should have foreseen the changes and the need to use electronic and digital tools to apply within the principle of speed in administrative actions and procedures (which is the very purpose of the reform). In all procedural steps carried out in Colombia since the Covid-19 pandemic, the suspension of the judicial apparatus and the significant existing problem of adapting the system to the use of new technologies and limiting access to them by citizens was further evidenced. Due to this, the State did not have the necessary infrastructure to protect the parties' constitutional rights and citizens' access to information and justice.

For this reason, the most significant amendments to law 1437 (2011) include new advancements regarding the use of technological means, recognizing people's rights before the authorities (Constitutionalize Administrative Law), as well as how the registry for the benefit of electronic media must be provided to the administration; as well as establisheing the possibility of accessing notifications in the single portal of the State, which will function as an access portal. Electronic files must, in turn, guarantee conditions of authenticity, integrity, and availability.

Regarding the reform in the matter of administrative procedure, it can be established that with law 2080 (2021) those norms are deployed that allow the essential purposes of the state to be met, where due process is included, which must be guaranteed through a fair, effective and by its closed or opportune position because unjustified delays are causes of degradation of the rights of the parties.

Consequently, law 1437 (2011) is the normative basis of law 2080 (2021). Among its differentiating and novel factors is the inclusion of technologies and application of the quickness principle in different administrative procedures and actions. Due to the preceding, when making a comparative description, it is established that those sections of law 1437 (2011) modified and added by law 2080 (2021) are relevant to the quickness principle.

Article 1 of the law 2080 (2021) modified numerals 1 and 9 and added numerals 10 and 11 in article 1 of the law 1437 (2011). First, it was established that respectful requests could be made by any means of unified access to the public administration any day, including non-business days. In number nine, people have the right to interact with the authorities by any electronic or technological means; In the case of the following paragraph, the prerogative that people have the right to identify themselves by any means of digital authentication and, subsequently, any other established by the Constitution and the laws were added.

In article 6 of law 2080 (2021), a paragraph is added to article 49 of law 1437 (2011), which defines the term of 15 days to deliver the final administrative act in a fiscal sanctioning process. On the other hand, Article 8 of law 2080 (2021) adds Article 53 to law 1437 (2011), where electronic means in administrative actions are added when the process provides. Next, in article 9 of law 2080 (2021), paragraphs 1 and 2 of article 54 of law 1437 (2011) are modified. It is specified that prior registration by people for the use of electronic media must be carried out at no cost.

Article 10 of law 2080 (2021) modifies article 56 of law 1437 (2011), which regulates the use of electronic means for notifications regarding some exceptions, including that their practice will be through the electronic service offered by the entity. Then, articles 12 and 13 of law 2080 (2021) modify article 60 and add article 60A in law 1437 (2011). The first defines the electronic headquarters, consisting of each competent authority's official electronic address of ownership, administration, and management. In the second-mentioned article, the conceptualization of shared electronic headquarters is defined as a single portal of the Colombian State. Citizens will access the contents, procedures, and procedures available to the authorities.

In article 14 of law 2080 (2021), article 61 of law 1437 (2011) is modified regarding the receipt of electronic documents by entities, and the expression "having an electronic document registry" was added. The term "information systems" is incorporated, repealing the previous "email box." The new provision extends the possibility of receiving electronic documents from the authorities through various communication channels, storage, and digital security.

Similarly, article 15 of law 2080 (2021) modifies article 65 of law 1437 (2011), where the third paragraph establishes a means of disclosing any channel enabled by the entity

to declare general administrative acts. Now, article 20 of law 2080 (2021) modifies article 150 of law 1437 (2011), referring to the issuance of orders that will be done in a different way than the previous one, where the judges will pronounce the cars and sentences; and the chambers, sections, and subsections regarding those judgments that decide on whether or not knowledge of matters of legal, economic and social relevance is advocated; those that resolve the impediments and challenges; those that determine appeals, those that decree *ex officio*; those that decide on the merits the requests for extension of jurisprudence, demands against acts of election and those of electoral content, the decision of appeal of numerals 1, 3, and 6 of article 243 of law 1437 (2011); the appeal of an order that decrees or modifies a precautionary measure.

In addition to the above, the magistrate will be competent to dictate the other interlocutory and substantiation measures in any instance, including the one that resolves the complaint appeal. In article 35 of law 2080 (2021), the numeral seven is modified, and the numeral 8 of article 162 of law 1437 (2011) is added. In the case of numeral 8, it is established that when filing procedural actions, a copy of it must be sent electronically to the parties, except when preventive measures are requested.

Next, in article 37 of law 2080 (2021), numeral 7 of article 175 of law 1437 (2011) is modified. Previously, the electronic address was not mandatory for individuals, with what is currently established public entities, and individuals must indicate their digital channel. Article 39 law 2080 (2021) modifies article 179 of law 1437 (2011); this includes the possibility of issuing an oral sentence at the initial hearing in cases of pure law where evidence is unnecessary.

Article 46 of law 2080 (2021) modifies article 86 of law 1437 (2011), where the heading was changed to "actions through information and communication technologies," this is because its actions through technologies of information and communications and not actions through electronic means. The second subsection dealing with the imposition of the duty to be supplied through the activities carried out in writing was added.

In addition to the above, the parties must carry out the proceedings and attend hearings and proceedings through information and communication technologies. In addition, they must provide a digital channel where they will receive notifications. The superior council of the judiciary is required to implement information and communication technologies. Finally, the paragraph was changed entirely; it establishes the possibility for the judge to carry out the judicial action by changing the presence and use of information and communication technologies.

In article 50 of law 2080 (2021), paragraph 3 of article 201 of law 1437 (2011) was modified, where notifications by the state will be sent virtually with reversal of the ruling and the printing, the signature of the secretary, and the proof of a signature at the foot of the ruling will not be necessary. Subsequently, Article 51 of law 2080 (2021)

added article 201A to law 1437 (2011), where transfers were regulated according to the provisions corresponding to information and communication technologies.

Article 52 law 2080 (2021) modified article 295 of law 1437 (2011) in numeral 2, which clarifies the ruling and the terms, which will begin to run from the next day after two business days have passed since the message was sent.

Law 2080 (2021) is extensive in modifications and additions to the Code of Administrative Procedure and Administrative Litigation (2011). Still, it should be noted that information technologies have quite a few positive inclusions for the system, which significantly facilitates the various existing procedures for the parties and even judges.

In addition to the above and part of the modernization that the world and society are going through is the pandemic caused by Covid 19, which has shown the importance of technologies within judicial processes. However, it was already known that since the publication and dissemination of information through technological platforms is much more effective, there is a need for operations to be managed in a more unified way through these channels, which all people and entities are making use of, but that must be expressly stipulated in the law so that implementation is made entirely and adequately.

The Council of State had highlighted the importance of the law 2080 (2021) and the inclusions that it brings, which it expressed through a press release the following:

> Thanks to these modifications, the role of our corporation as the supreme court of the Administrative Litigation Jurisdiction (JCA) and unifying body will be strengthened. Procedures will also be streamlined since the main contradictions and ambiguities of the Code, which hampered the study of cases, are resolved, and using ICT in the procedures becomes a user right. In addition, a greater rapprochement of the jurisdiction to the citizen is encouraged. (Council of State, 2021)

It is necessary to clarify that the application of technology in the new law has been highlighted, as a way to comply with the quickness principle, because it has been shown that it is a functional component of it; that is, it is not only about eliminating unnecessary steps but also have those tools that allow access to information quickly and efficiently, and in the same way, the delivery of them to public servants and in a contrary manner to citizens, which saves much more time and creates an accurate record of the same, which can be verified through identity recognition systems, such as the issue of information channels, which in the same Law stipulates the application of the Data Protection Law.

CONCLUSIONS

The use of technology has become essential in any process in today's society; it is a tool that allows the development of different actions more efficiently to reduce the amount of time invested in any procedure. However, regarding judicial processes in

recent years, their need has become visible, mainly due to the current pandemic caused by Covid 19, which has shown that a digitized system must be established to be able to develop the different procedures, stages, and actions, which were truncated by the lack of information technologies, evidencing the lack of modernization. We are currently immersed in a new phase of modernization of the public sphere. Technologies reduce the distance between the administration and citizens and enhance the effects and functions of public institutions because they allow more and better to achieve their objectives. In the field of justice, this should be no different.

For this reason, the quickness principle has gradually materialized over the years, based on the so-called digital justice. In the case of Colombia, this implementation began with the issuance of the Statutory Law of Administration of Justice (1996). Certain powers were granted to the Superior Council of the Judiciary to begin regulating the use of technologies in the management judicial, which means that, since then, it has been sought to perfect and improve the use of ICTs in the judicial framework. For its part, as already explained before, Legislative Decree 806 (2020) made digital justice be implemented definitively during its validity, where all kinds of actions that must be carried out in the justice sector, from the simple presentation of writings, such as the holding of hearings, or a simple question that is presented to any user, must be done virtually, either through virtual platforms, emails or by telephone communication.

Most of the contentious-administrative processes are between individuals and the State, which generates a closer relationship; apart from all the management, governance, and services provided by the State, the part of the judicial processes is a form of connection between the individual state.

The decision of the legislator through law 2080 (2021) to make a change of this magnitude has to do with the fact that the public has shown the need for the inclusion of technologies to streamline processes. Processes to safeguard their rights and that there are no unjustified delays due to the parties' lack of information tools or access quickly and safely. It is a positive change that does not present many discussions because it is a step toward the modernization of judicial processes in administrative matters, which is also obviously very open so that they can be carried out more efficiently by public servants and public entities, which will be adapted to the different situations that arise.

Finally, it is pertinent to mention that with the pandemic, the need for a modernization process in the Colombian justice became evident, which was abruptly truncated by the mitigation measures of the health crisis, which could have been shaped differently if already there was a technological system that could have prevented the processes from being in a state of stagnation, where legal security and the fundamental rights of citizens and those involved were affected.

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