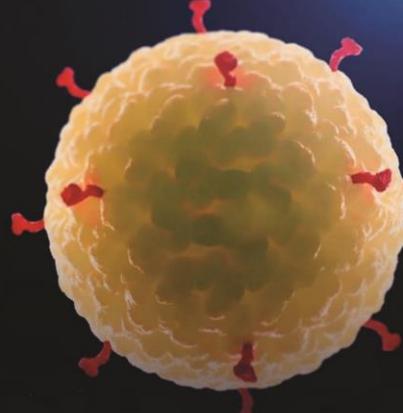




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A Review of the National Industrial Court of Nigeria (NICN) Practice Directions and Guidelines for Court Sittings 2020

JULY 2020

As a preventive measure against further spread of the dreaded novel Corona virus (Covid-19), the National Judicial Council (NJC) issued some Guidelines for Court Sittings and Related Matters in the Covid-19 Period¹. Pursuant to the said guidelines, the Chairman of the NJC and Chief Justice of Nigeria (CJN)² directed all heads of court in Nigeria to issue Practice Directions to ensure continued access to justice in the wake of the Covid-19 Pandemic. The NICN Practice Directions and Guidelines³ ("the Practice Directions") under review was part of the response to the aforesaid directive of the NJC and the general clamour for innovation/flexibility in the administration of justice in Nigeria.

The NICN Practice Directions which came into effect on 18th May, 2020, contain 11 paragraphs dealing with various issues ranging from entry protocols into and within the court premises, electronic filing and service of court processes, preparation, conduct and recording of remote proceedings, as well as adoption of written addresses and delivery of rulings and judgments, amongst others.

The focus of this review is to highlight/summarise some key provisions of the Practice Directions in order to provide guidance to Legal Practitioners, litigants and even the general public in their day-to-day interaction with the court and court officials, going forward. The review also incorporates useful comments on some provisions of the Practice Directions that should possibly be reconsidered in order to achieve the overall objectives of the Practice Directions.

¹ See the CJN's letter with reference No. NJC/CIR/HOC/II/660 dated 7th May, 2020.

² Hon. Dr. Justice I. T. Muhammad, CFR.

³ These Practice Directions and Guidelines were issued on 13th May, 2020 (with a commencement date of 18th May, 2020) by the President of the NICN, Hon. Justice B.B. Kanyip pursuant to the provisions of Section 245F(1) of the CFRN 1999 (as amended), Section 36 of the National Industrial Court Act, 2006 and Order 1 Rule 8(3) of the National Industrial Court (Civil Procedure) Rules, 2017.

#	KEY PROVISIONS	HIGHLIGHTS & COMMENTS
Para. 1	Objectives of the Practice Directions.	<p>1. To govern filing and hearing of matters during and after the Covid-19 Pandemic;</p> <p>2. To ensure continued access to justice by maintaining social distancing in court so as to curtail the spread of Covid-19; and</p> <p>3. To ensure that Remote Hearing is conducted in accordance with the Constitution of the Federal Republic of Nigeria, 1999 (as amended), applicable Laws and Rules of Court.</p>
Para. 3	Court Premises	<p>3(3)(a) – Every person wishing to go into the court premises, without exception, shall be subjected to temperature monitor reading for the determination of his/her body temperature. Whoever refuses to comply would be refused entry into the court premises and politely advised to leave the entrance immediately.</p> <p>Comment: One can only hope that this provision as well as the provision of subparagraph 3(4)(a), (b) & (c) of the Practice Directions would be enforced across board and without exception as indicated. It is common knowledge that some persons (especially Judges are usually driven straight into and out of the court premises without any restrictions whatsoever). Hopefully, all judicial officers and other VIPs would also be subjected to this mandatory temperature monitor reading at the point of entry in the interest of public health/safety.</p> <p>3(3)(d) – Any visitor to the court premises who has high temperature or who is coughing or exhibits any sign of sickness while going through the entry protocols would be refused entry and advised to seek immediate medical assistance.</p> <p>3(4)(a), (b) & (c) – Only persons with face masks would be allowed entry into the court premises, without exception; and the facemasks must be properly worn by</p>

		<p>everyone within the court premises to cover the mouth and nose at all times. Whoever refuses to comply shall be politely advised to leave and escorted out of the court premises by security personnel.</p> <p>3(5)(b) – Visitors to the court premises must maintain social and physical distances (not less than 2 metres or 6 feet apart from each other) and must avoid congregation or assembly of more than 20 persons within the court premises (including the court rooms).</p> <p>3(5)(t) – The court shall ensure the availability of sanitizers in bottles and/or dispensers, liberally mounted and placed in strategic and easily noticeable and accessible locations within the court premises for use of all visitors and court Personnel.</p>
Para. 4	Filing of Processes	<p>4(1) – Electronic Filing: Where feasible, the court shall receive processes for filing electronically. All processes to be filed electronically shall be scanned or converted to PDF Format and forwarded to the Registry via designated email address or WhatsApp. Every process filed shall be signed and sealed by Counsel.</p> <p>Comment: <i>This provision appears to have glossed over instances where sworn affidavits are to be filed electronically along with other processes. There is no indication anywhere as to how such affidavits would be sworn as required by law. In view of the fact that no Practice Directions of court can amend the provisions of the Oaths Act and Evidence Act⁴, I would suggest an amendment to this provision to specifically state that it shall be the responsibility of parties to ensure that all affidavits meant to be filed electronically are duly sworn to before a Commissioner for Oaths or a Notary Public before filing.</i></p> <p>4(2) & (3) – Manual Filing: Where it is impracticable to file processes electronically, they may be filed manually at the court Registry. The dropbox⁵ method may be used as appropriate.</p>

⁴ See the provisions of Section 109 of the Evidence Act, 2011 and Section 6 of the Oaths Act, Cap. O1, LFN, 2004 which specifies persons before whom oaths and affidavits must be taken.

⁵ The Dropbox method requires that any party filing a process manually should put the process in a sealed envelope and clearly indicate the suit number, names of the Parties and the description of the process being filed on the envelope. The sealed envelope is then left in a designated

	<p>4(3)(a) – Hard copy of processes to be filed should be sanitised with alcohol-based sanitizers by dedicated court official(s) as soon as they are brought to the Registry and left in secure facilities immediately thereafter, without processing, for a minimum of 120 hours, i.e., 5 days.</p> <p>Comment: <i>In the absence of any strict arrangements for proper acknowledgment and/or tracking of processes left at the Registry for processing by court officials, there might be mix-ups and even cases of missing court processes due to poor handling. This writer is not unaware of numerous instances where processes handed over to court Registrars were misplaced, thereby stalling proceedings. I am also of the considered view that the quarantine period is rather too long and this may compromise certain urgent and sensitive matters. Forty-eight 48 Hours (2 days) should be sufficient.</i></p> <p>4(3)(c) – The processes shall be brought out from the secure facilities and processed at the expiration of the quarantine period. It shall be the responsibility of the Parties to monitor and follow up with the court officials on the filing processes in respect of their respective filing, right up to completion.</p> <p>Comment: <i>To ensure expeditious/seamless filing of court processes and in order to enhance the e-filing initiative, the court Registry should be responsible for contacting/notifying parties via email, WhatsApp and text message after expiration of the quarantine period to proceed with payment of the assessed fees. The implication of this is that there would be no need for parties to physically visit the court for follow up. This would invariably lead to a reduction in human traffic to and within the court premises.</i></p> <p>4(3)(a) – Date of Filing: Notwithstanding the procedures specified in subparagraphs 4(3)(a) & 4(3)(c) above, the date of filing</p>
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	<p>shall be the date that the filing fees were paid by the filing party pursuant to and in terms of the applicable rules of court as complemented by these Practice Directions.</p> <p>Comments: It would appear that this laudable provision has been watered down by subparagraph 5(3) which provides that the processes shall be deemed to have been filed when verified by the court. There is no indication anywhere as to how and when this verification would occur. To that extent, one wonders whether it can correctly be said that the date of filing shall be the date that the filing fees were paid. Is it that all verified documents would bear the date for payment of filing fees irrespective of the actual date of verification? If this is the intention, the Practice Directions should be amended to state so specifically.</p> <p>4(4) – Further Directions/Guidelines on E-Filings</p> <p>4(4)(a) – Where processes are filed electronically, parties and Counsel shall ensure that they contain the email address and mobile telephone number of the Counsel or contact person where parties are not represented by Counsel.</p> <p>4(4)(b) – The designated officer shall assess and communicate the fees payable by Parties either by email, WhatsApp or text message.</p> <p>Comment: There should be a <u>time frame</u> within which this electronic assessment is to be done and communicated to the Parties by the designated officer. It is suggested that this provision should be amended to read: "The designated officer shall assess the fees payable by Parties and notify the party filing by email, WhatsApp or text message within twelve (12) working hours after receipt of the electronic process"</p> <p>4(5) – Documents howsoever filed by any party must be marked distinctively before it is filed or accepted for filing. Any paragraph of the pleadings or sworn depositions of the</p>
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		<p>parties referring to any part of the marked documents filed must refer to the specific part of the marked documents relied upon as evidence. The effect of non-compliance with this procedure/requirement is that such document shall be regarded as having been dumped on the Court.</p> <p>Comment: <i>It should be sufficient if this provision is limited to Witness Statements on Oath alone. Extending it to pleadings might blur the demarcation between pleadings and evidence. The law is that facts and not evidence should be pleaded.</i></p>
Para. 5	Payment of Filing Fees	<p>5(1) – Parties shall pay all assessed fees electronically via the appropriate Remita account.</p> <p>Comment: <i>Payment of court related fees through the Remita platform has been posing a lot of challenges in recent times. Evidently, poor internet network and heavy traffic on this payment platform are contributory factors. The court should create and publish details of other accounts/channels through which payments of assessed fees can easily be made using short codes, mobile or internet banking. Thankfully, the courts have now been granted autonomy to manage their own finances.</i></p> <p>5(2) – A copy of the electronic receipt issued shall be forwarded to the designated officer for verification.</p> <p>5(3) – The Processes shall be deemed to have been filed when payment is verified by the Court.</p> <p>5(4) – The court shall publish to Counsel the acceptable methods for sending such e-payment evidence to the Court official e.g. e-mail, SMS, WhatsApp, etc., with the requisite email addresses and mobile numbers included in such publication. Counsel may call the nominated court officials on telephone to confirm receipt of such e-payment evidence.</p> <p>5(5) – The email address and contact telephone of the Court's Divisions/Registries can be found at the Court's Website.</p>

Para. 6	Service of Processes & Hearing Notices/Electronic Mode of Service	<p>6(1) – The Nigerian Bar Association (NBA) shall at no cost to the Court supply to the court the publication on a State-by-State basis of Counsel Directory, complete with addresses, email and telephone numbers (including telephone numbers with functional WhatsApp capabilities) to which filed processes and hearing notices may be served by the court and opposing Parties. Such directories shall be updated by the NBA periodically and supplied to the court, at no cost.</p> <p>6(2) – Counsel shall include in all filed processes their email addresses and telephone numbers (including telephone numbers with functioning WhatsApp capabilities) to which filed processes and hearing notices may be served by the court and opposing Parties.</p> <p>6(3) – Where Counsel has a functional Legal Mail address, he shall furnish such email address and where a Counsel does not have a functional legal mail address, he shall furnish the court with any other functioning email address.</p> <p>6(4) – Electronic Service of Filed Process is Mandatory at the NICN during the Covid-19 Period: Notwithstanding the provisions of Order 7 of the NICN (Civil Procedure) Rules, 2017, parties shall be <u>mandatorily</u> required to serve their filed processes on opposing party by sending such processes to both the opposing parties email addresses and WhatsApp telephone numbers that are contained and specified in filed processes and/or directories pursuant to subparagraphs (1) and (2) of this paragraph or as may otherwise be directed by the court.</p> <p>Comment: While it may be possible to serve some court processes like Motions, Hearing Notices and Written Addresses by WhatsApp, it has to be appreciated that it might not be practicable to serve certain court processes especially, originating processes by WhatsApp due to the bulky nature of some of these originating processes. In fact, certain bulky documents can only be sent as google drive</p>
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	<p>links or by iCloud (and not as mere attachments to an email). Perhaps, service by WhatsApp should be restricted to court processes of a <u>specified size</u>.</p> <p>The party effecting service shall also send SMS notification of the service to the opposing parties and copy the Court Registrar on the telephone number(s) as may be published by the Court.</p> <p>6(5) – Service of Hearing Notices shall be done electronically via email, WhatsApp, text messages or as directed by the Court.</p> <p>Comment: <i>To forestall any complaint of non-service/non-receipt of Hearing Notices, it is crucial to ensure that service is done by a combination of all the stated means, i.e., via email, WhatsApp and text messages to ensure that the notice is received by all means.</i></p> <p>6(6) – Service shall be deemed completed and delivered, and hence proper, once the electronic device shows notice of delivery. A printout shall be sufficient proof of service and in the case of service by text message, by sighting the word “delivered” in the delivery status of the electronic device by the Judge in court.</p> <p>Comment: <i>Although, the Supreme Court has validated service of hearing notices by SMS⁶, care must be taken to ensure that the practical purpose of serving hearing notices (which is to notify parties of hearing dates) is not defeated.</i></p> <p><i>Perhaps, this provision should be amended to state that “service shall be deemed completed and delivered and hence proper, once the recipient acknowledges receipt of the notice in writing”</i></p> <p>6(7) – Where an electronic mode of service is employed, time shall begin to run from the date the process was sent.</p>
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⁶ See the case of **C.E. & M.S. Ltd v. Pazan Services Nigeria Ltd.** (2020) 1 NWLR (Pt 1704) 70 where it was held that “... at this age of information technology superhighway, it would be foolhardy for any litigant to insist on being served with hard copy hearing notice. Once a notice is sent to the GSM numbers supplied by the litigants, that is sufficient”

	<p>Comment: This is another problematic provision. Under the subsisting rules of court, time only begins to run upon actual receipt of the processes. There is an obvious conflict with the rules. This provision should be amended to align with the provisions of the rules as follows: "where an electronic mode of service is employed, time shall begin to run from the date the process is received"</p> <p>6(8) – The provisions of subparagraph 4 of this paragraph do not replace the statutory service provisions in the Rules of Court; they complement those statutory provisions and are especially mandated for the Covid-19 period.</p> <p>Upon being served with the filed processes as mandated by subparagraph 4, the served party shall follow up with the Court Registry for service on them of the hardcopy versions of the filed processes.</p> <p>Comment: This is a clear attempt to shift the responsibility of the court Bailiffs (where service fees have been paid) or the party who filed the process (where an undertaking to effect service was filed) on the party being served. It should not be the business of a party that is being served to follow up with the Court Registry to ensure that he is served. This provision should be amended to state that it shall remain the responsibility of the party that filed the process to ensure that it is duly served. However, the served party may visit the Court Registry to collect the hardcopy of the filed process.</p> <p>The served party has the responsibility of examining and ensuring that the electronic version of the filed processes served on him are the same with the hardcopy versions in the Court's files.</p> <p>6(9) – It shall be unprofessional conduct deserving of being reported to the Legal Practitioners Disciplinary Committee if Counsel serves on opposing party or sends to the court an electronic version of a filed</p>
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		<p>process that is different from the filed hardcopy version.</p> <p>6(10) – In the event of conflict between the hardcopy and the electronic copy, the hardcopy shall be preferred.</p>
Para. 7	Virtual or Remote Court Sitting/Preparation for Hearing.	<p>7(1) – The court shall avoid physical sitting in courtrooms during the Covid-19 period as much as possible.</p> <p>Physical court sittings shall be <u>limited</u> to only time bound, extremely urgent and essential matters that may not be heard by the court remotely or virtually.</p> <p>The President of the Court shall determine and publish the list of cases (which may be reviewed from time to time) that fall within these set boundaries for the information of Judges, litigants, Counsel and members of the public.</p> <p>7(2) – As much as practicable and in order to encourage and promote remote court sitting, all matters that do NOT require taking of evidence shall be conducted via remote hearing. All judgments, rulings and directions may be delivered and handed down by the court in and through remote court sittings.</p> <p>7(3) – Remote hearing may be by video conferencing or any other method approved by the court.</p> <p>7(4) – Save for extremely urgent and time bound matters, contentious matters that require the calling of evidence in a physical courtroom setting should not be called by the court at this time unless same can be done through remote hearing.</p> <p>7(6) – Notice of a remote hearing shall be stated on the cause list and on the Court's Website.</p> <p>7(7) – Remote hearing would be accessible to members of the public unless it involves <i>ex parte</i> application or other proceedings required by any extant law or Rules of Court to be conducted in Chambers.</p>

	<p>7(8)(b) – Except with the consent of the court or prior written agreement of the parties, it is not permissible for any of the parties to a matter that is being heard virtually to be in the courtroom with the Judge(s) during the virtual court sitting while the other party or parties to the same matter join the proceedings remotely.</p> <p>7(8)(c) – Judges may conduct virtual court sittings from their respective Chambers.</p> <p>7(8)(d) – For the purposes of delivering judgments or rulings, the Judge may liaise with the Court officials and conduct the virtual court sitting from any location, provided the requisite facilities are available in such locations. This provision is applicable to a Judge who may need to deliver time bound judgments or rulings but is stranded in a location other than his Judicial Division following any lockdown or travel restrictions imposed on account of Covid-19.</p> <p>7(8)(e) – Further to subparagraph 8(d), where a Judge is stranded outside his Judicial Division and remote hearing is not possible, the Judge may, upon obtaining a fiat of the President of the Court, deliver the judgment or ruling that is time bound or urgent in the physical courtroom of any of the Divisions of the Court closest to his location. The provisions regarding physical sittings of the court shall apply in all respects to such sitting of the court for the delivery of the judgment or ruling.</p>
	<p>7(9) & (10) – In order to host online court sittings, the Court, Litigants and Counsel must ensure availability of:</p> <ol style="list-style-type: none"> <li data-bbox="695 1664 1400 1731">Fast speed, pervasive and reliable internet connectivity; <li data-bbox="695 1731 1400 1843">End-user hardware/devices, i.e., desktops, laptops, tablets, smartphones – any one of these or a combination thereof; <li data-bbox="695 1843 1400 1956">Collaborative platforms e.g. MS365 (which incorporates Microsoft Teams), Zoom, Google Meetings, etc.; and <li data-bbox="695 1956 1400 2025">Stable power for the end-user device and ancillary equipment for the duration of the

	<p>court sitting.</p> <p>7(11) – There shall be a weekly publication (in its usual manner) of matters that would be heard remotely by the court for that week.</p> <p>7(12)(b) – The court shall have discretion in the allotment of time to Counsel for making submissions or adopting addresses, subject to the provisions of the Rules of Court.</p> <p>7(12)(c) & (d) – The court shall make use of collaborative platforms (MS365, Zoom, Google Meetings, etc.) for the recording of the proceedings in addition to any other recording methods that the court may wish to deploy; and CTC of such virtual proceedings shall be made available to parties, upon application and parties shall be bound by such Court's records.</p> <p>7(12)(e) – Counsel may apply and the Court may permit the recording of any virtual court proceedings by such Counsel for his personal use and records, using the electronic recording functionality in the Counsel's end-user device. Where such permission is granted to a Counsel by the court, all other Counsel in the proceedings shall be deemed to have been given the same authorisation by the court. The court's records shall at all times indicate the application of Counsel for such independent recording and the consequential grant of the application.</p> <p>7(12)(f) – Counsel shall ensure that their respective locations from where they participate in the virtual court sitting are devoid of distractions and interferences to the proceedings. Counsel shall be responsible to the court for ensuring that his clients comply with this provision in the event that the client(s) join and participate in the proceedings from different location(s).</p> <p>7(12)(h) – Except with leave or as may be directed by the court, Counsel shall be properly robed for any and all virtual court sittings and shall at all times address the court in a posture as may be determined by the Judge.</p>
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	<p>Comment: The requirement that Counsel shall be properly robed for all virtual court proceedings is not completely in tandem with the flexibility that should characterise this technological innovation. Formal dressing should suffice. Furthermore, the indication that the Court would determine the posture of Counsel when addressing the court remotely is rather confusing. Ideally, Counsel should be allowed to sit when addressing the court.</p> <p>7(12)(j) – The court shall give directions to parties on the conduct of the proceedings, including the time to be allotted to each case. Provided the time allotted in each case shall <u>not exceed one (1) hour.</u></p> <p>Comments: This provision should have anticipated the pervasive challenge of technical glitches⁷ associated with video conferencing tools. The Practice Directions should specifically state that: "where there's a disruption of any remote court proceedings due to poor internet connectivity or inability of any key participant to re-join the proceedings within 15 minutes after an involuntary exit from the proceedings, the court shall adjourn the proceedings and communicate the details of the next adjourned date to all the parties accordingly"</p> <p>Reference to key participants herein shall be reference to the Parties, Counsel for both parties and the Registrars.</p> <p>7(12)(k) – Parties are encouraged to utilize the trial by record procedure as set out in Order 38 Rule 33⁸ of the NICN Rules, 2017 especially, where they rely on the processes and exhibits frontloaded thereby dispensing the need for oral evidence. In such a case, written addresses shall be filed starting with</p>
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⁷ Despite the supposed availability of state-of-the-art facilities (including reliable internet) at Aso Rock, Abuja, it was widely reported that the President of the Federal Republic of Nigeria, H.E. President Muhammadu Buhari was prevented from giving a speech at a scheduled UN event on 26th May, 2020. See Sahara Reporters online publication of May 28, 2020 available at https://saharareporters.com/2020/05/28/technical-problems-prevent-president-buhari-giving-speech-un-event_and accessed on 01-06-2020 and Punch Newspaper publication of May 28, 2020 available online at <https://punchng.com/covid-19-technical-hitch-disrupts-buharis-speech-at-un-event/and> accessed on 01-06-2020..

⁸ Order 38 Rules 33(1) of the Rules provides that "*In any proceedings before the court, the parties may by consent at the close of pleadings agree to a trial by records where they rely on documents and exhibits frontloaded and thereby dispense with the need to oral testimony and/or cross-examination*"

		<p>the Claimant.</p> <p>Comment: Rather than leave this to the agreement/discretion of parties, the Practice Directions should have gone a little further to specify the types of cases that would qualify for this trial by record procedure. Better still, the court can designate a competent officer to screen and designate matters that should be tried by this procedure at the point of filing the initiating processes. This means that parties would be aware from the point of filing the action that there would not be need for any oral evidence in the matter.</p> <p>7(13)(a) & (b) – In order to satisfy the Constitutional requirement for public hearing, the court shall as practicable as possible ensure that there is live streaming of all virtual proceedings through a publicised Uniform Resource Locator ("url" or "web address") of the court or any other social media channel to enable members of the public observe the proceedings.</p> <p>Details of the virtual court sittings shall be published in the usual manner that the Court generally publishes its regular sittings provided that such publications shall specify the nature of the sitting, i.e., remote proceedings and shall indicate the web address or social media channel where they would be live streaming of the proceedings.</p>
Para. 8	Physical Sittings/Court Attendance	<p>8(2)(a),(b) & (c) – The various containment guidelines (including but not limited to avoiding physical contacts with other persons, wearing of face masks, maintain social and physical distances, etc.) published by W.H.O. and NCDC shall be strictly enforced within the court premises, courtrooms, offices, registries and the Chambers of Judges.</p> <p>Not more than twenty (20) persons (including the Judge, court officials, litigants, Counsel and the Security Personnel) shall be allowed into any courtroom at any time during any court sitting.</p> <p>8(2)(a),(d),(e),(f) & (g) – Attendance in court shall be limited to not more than two (2) Counsel for each litigant, or the litigant</p>

		<p>and one other person where the litigant is not represented by Counsel.</p> <p>Where there are more than two (2) Claimants and/or Defendants in a matter, not more than two persons representing each party shall be allowed into the courtroom.</p> <p>Where evidence is to be taken, only the witness to testify should be in court.</p> <p>A Senior Advocate of Nigeria shall not appear with more than two (2) lawyers.</p> <p>8(2)(j), (k) &(i) – Matters with multiple parties where the aggregate attendance (including the Judge, Counsel, court officials and security) would exceed 20 should not be listed by the Judge at this time, particularly where it is impossible or impracticable to limit the number of Counsel and other attendees.</p> <p>Everyone (including the Judge, Court Registrars, Counsel, litigants, security personnel and all other court attendees) in the courtroom must wear face masks and on no account should the face mask be removed by any person while in court and after the court sitting.</p> <p>The court shall deploy temperature monitors at the courtroom entrances and any person with high temperature or symptom of illness e.g. cough or fever would be politely turned back or directed to leave, if already in the courtroom.</p>
Para. 9	Computation of Time	<p>9 - The period of the lockdown⁹ shall not count in the computation of time and fees for the doing of any act or taking any step specified in the NICN Rules, 2017.</p>
Para. 10	Adoption of Written Addresses	<p>10 - Adoption of Written Addresses shall be in compliance with Order 45 of the Rules of Court. However, it shall in addition be sufficient for Counsel to write a letter or send an email to the Court formally adopting or deeming the Written Address as adopted so as to avoid physical presence of Counsel in Court.</p>

⁹ The lockdown imposed by the Federal government in Lagos, Ogun and the FCT lasted from 30th March, 2020 to 4th May, 2020. See para. 34 of the address of H.E, President Muhammadu Buhari dated 29th March, 2020 (available online at <https://businessday.ng/lead-story/article/full-text-of-president-buharis-broadcast/> as well as his addresses 13th April, 2020 and 27th April, 2020, respectively.

		<p>Comment: It is not clear whether the addresses of both parties would automatically be deemed adopted once a Counsel to one of the parties writes to the court to adopt or deem his Written Address as adopted. Perhaps, this should be subject to the written consent of both parties and/or their respective Counsel to forestall any possible objection on denial of fair hearing. Alternatively, the provision could be amended to state that both parties shall, at the time of filing their written addresses, write a letter formally requesting the court to deem their addresses as adopted.</p>
Para. 11	Delivery of Judgments and/or Rulings	<p>11(1) & (2) – The Judge may deliver his judgment/ruling by video conferencing or in the courtroom.</p> <p>Where a case has been reserved for ruling and it becomes practically impossible for the Judge to deliver such ruling or judgment in his Judicial Division, the Judge shall apply for a fiat from the President of the Court to deliver such ruling or judgment in any other Judicial Division where the Judge is present. Provided that the court shall, through the Registry, notify Counsel and/or parties by email, text message or WhatsApp of the date reserved for the delivery of the judgment or ruling.</p> <p>Comment: The provision of paragraph 11(2) appears to be in conflict with paragraph 7(8)(d) which is to the effect that the Judge may liaise with court officials and conduct virtual court sittings from <u>whichever</u> location the Judge is present for purposes of delivering a time bound ruling or judgment. Section 7(8)(d) which is discretionary should be amended to align with subparagraph 11(2) which makes procurement of the fiat of the President of the Court mandatory before a Judge can deliver any ruling or judgment in a Judicial Division other than his own.</p>
	Citation	<p>These Practice Directions and Guidelines may be cited as National Industrial Court of Nigeria Practice Directions and Guidelines for Court Sitting of 2020.</p>

CONCLUSION

The issuance of these Practice Directions by the President of the NICN is a commendable step which would no doubt ensure continued access to justice during the period of this global pandemic and even beyond. As evident from the comments, there are aspects of the Practice Directions that may require a second look to ensure harmony and the realisation of the overall objectives of issuing the same.

It is worthy of mention that there have been arguments¹⁰ for and against the constitutionality or otherwise of remote or virtual court sittings especially, as it relates to the mandatory provisions of section 36(3)¹¹. Whilst it is not intended to delve into such arguments in this review, it might be necessary to pursue the on-going efforts by the National Assembly to amend the provisions of **section 36(3) & (4)**¹² of the Constitution to specifically accommodate remote or virtual court hearings to its logical conclusion. Of course, I am of the considered opinion that there is nothing unconstitutional about conducting court proceedings remotely (using modern video conferencing tools such as Zoom, Microsoft Teams, Skype, Google Meetings, etc.) in the 21st Century.

Pending conclusion of the ongoing constitutional amendment process, it is most unlikely that the Supreme Court would turn around to nullify proceedings conducted remotely on the ground that such proceeding does not satisfy the requirement of section 36(3). The reason for this position is that the National Judicial Commission (NJC) headed by the Chief Justice of Nigeria (CJN) actually mooted the idea of remote hearings and directed all heads of court to issue practice Directions in that regard in the wake of Covid-19 Pandemic.

This paper was authored by [Paul Omaidu, Esq](#) who carries on his legal practice at the Law Firm of Femi Atoyebi & Co.

¹⁰ See for instance: “Are Virtual Court Hearings Constitutional? (Part 1)” published online at <https://www.thisdaylive.com/index.php/2020/05/26/are-virtual-court-hearings-constitutional-part-1/> on 26th May, 2020 and accessed on 27th May, 2020; “Is a Constitutional Amendment for Virtual Court Hearings Really Required?” authored by Kemi Pinheiro, SAN, published online at <https://www.thisdaylive.com/index.php/2020/05/19/is-a-constitutional-amendment-for-virtual-court-hearings-really-required/> on 19th May, 2020 and accessed on 27th May, 2020, etc.

¹¹ Section 36(3) of the Constitution of the Federal Republic of Nigeria, 1999 (as amended) provides that “The proceedings of a court or the proceedings of any tribunal relating to the matters mentioned in subsection (1) of this section (including the announcement of the decisions of the court or tribunal) shall be held in public”

¹² See the Constitution of the Federal Republic of Nigeria (Alteration) Bill, 2020 (SB. 418) sponsored by Senator Opeyemi Bamidele, Chairman of the Senate Committee on Judiciary, Human Rights and Legal Matters. Also see This Day Newspaper of May 19, available online at <https://www.thisdaylive.com/index.php/2020/05/19/bill-seeking-to-legalise-virtual-court-proceedings-for-seco>, accessed on 27th May, 2020.