UNIVERSITY OF MISKOLC
FACULTY OF LAW
DEÁK FERENC DOCTORAL SCHOOL OF LAW

dr. Orsolya Kárpáti

The place and role of electronic civil registration in the Hungarian public administration
Theses of PhD dissertation

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1. The subject and objectives of the dissertation

The subject of my dissertation is the place and role of electronic civil registration in the Hungarian public administration.

From ancient times, keeping civil registers has been an extremely important task in the functioning of states. This register ensures that states have access to fundamental personal data about their citizens.

The civil registers contain the vital events of the citizens [birth, marriage, establishment of a registered partnership (hereinafter referred to as RP), death]. With the first civil registry event, which is the birth, on the one hand, the person is entered in the civil registry and then in the other personal records of the public administration on the basis of notification of the registry. By providing a framework for life events, after the registration of a death, the processing of the deceased's data is completed, first in the civil registry and then, – upon the notification of the civil registry – in the other administrative registers. The primary source of personal data in state registers (surname at birth, forename at birth, surname following the marriage, forename following the marriage, place and time of birth, mother's name at birth, marital status) is the civil registry.

State civil registration was introduced in Hungary on October 1, 1895. The record-keeping solution of the paper-based civil registration changed once, on January 1, 1907, with the introduction of column-based registries. The electronic civil registry solution has been used since July 1, 2014. In the case of electronic civil registration, I consider it necessary to explore the record-keeping solutions that can ensure similar stability in electronic civil registration as in the case of paper-based civil registration. The fundamental goal of my dissertation is to develop suggestions and solution alternatives that can help achieve this stability.

Laying the groundwork for my proposals, first I place the civil registry in the system of administrative records, and then I review the historical development of civil registry. Building on these funds, I analyse **the following principal topics** and propose solutions to the existing problems.

The current **legislative trend** follows the accelerated economic and social changes, the rapid development of infocommunication technical (hereinafter referred to as ICT) devices and technologies. In line with this, civil registry legislation is amended an average of 3-4 times a year. Rapidly changing legislation often does not meet the general and field-specific requirements of legislation. In this case, the requirements of norm clarity, professionalism, intelligibility, transparency, legal certainty, and the preservation of civil registration traditions. Inadequate enforcement of legislative requirements makes the legislation contradictory and difficult to interpret. In the dissertation, I highlight where there are deficiencies, legal gaps and anomalies in the civil registry law and I propose a de lege feranda proposal to improve the current legal environment.

With the introduction of electronic civil registration **the organizational order of civil registry administration** changed, adapting to the opportunities provided by ICT technologies. Bodies that have not had such a competence so far have also acquired the right of civil registration such as the civil registration supervisor, the consular officer, and the civil registration organ responsible for the name change. As a result, a more proportionate and client-friendly division of labour is emerging compared to the era of paper-based civil registration. In my dissertation I propose to further expand the range of these bodies, to expand and modify the competencies of the existing bodies.

Electronic administration has a broad range of possibilities in civil registration procedures initiated both for the report and application of the client and for the report and notification of the body, as well as for the obligatory data transfer to be performed by the civil registrar, the civil registration body. Despite the fact that the registration process has been electronic since 2014, the civil registration procedure is mostly based on paper administration in the management of documents, receiving reports, client applications and notifications dispatch. In the field of electronic administration, civil registry procedures need to be improved. Based on the possibilities provided by the ICT devices and the electronic administration legislation, the electronic administration model of civil registration must be developed, and in my dissertation I define the basic elements of the electronic administration model of civil registration.

In my view, **the time has come for the reform of the current personal record system**. The basic personal records [civil registry, population registration (hereinafter referred to as SZL)] are electronic registers. Personal professional records also switched to electronic record keeping. However, the relationship between the personal records and the data content of certain registers retained the previous paper, territorially divided register structure. Personal records are redundant databases for basic personal data. The requirements to be presented, which have been imposed on the registers, demonstrate that the current registration system needs to be renewed. In line with the topic of the dissertation, I summarize the steps of managing the redundant data register and the consolidation of the registers in relation to the relationship between the civil register and certain personal records.

The most important **objective** of my dissertation is to perform the analyses on various topics (theoretical foundations, history of civil registration administration, analyses of various aspects of electronic civil registry) to the extent necessary to verify the hypotheses set out in Chapter „*3. Determination of hypotheses and theses*" of this thesis booklet and to define the theses. In addition, one of my objectives is to formulate proposals and solutions that can be used to improve electronic civil registration. I set the expectation of adherence to the **principles of simplicity, transparency, and gradation**, against the suggestions and solutions explained in the dissertation.

2. Structure of the dissertation

The dissertation consists of 6 chapters. Apart from the chapters „*Introductory Thoughts*" and „*Conclusion*", there are 4 main structural units that summarize three topics. These topics are: registers (Chapter 1), personal (basic) records (Chapter 1), and the main topic of the dissertation is the civil registry (Chapters 2-4).

The chapter „*1. Foundation*"

This chapter can be considered as a general part of the dissertation, as it contains the terminological basis on which the place and role of the civil registry in public administration can be presented and analysed. I set up the theoretical framework by defining the general knowledge of registers, basic concepts (register, authenticity), classifications (register types), and the requirements for registers. The focus of the analysis is on administrative records, including personal records.

The chapter forms the theoretical basis for the following chapters.

Related hypothesis: H4

Research method: dogmatic method

The chapter „*2. History of civil registry administration*" c.

In order to get to know the legal institution of the civil registry and to formulate proposals for further development, it is necessary to review and analyse the history of civil registration, especially the history of Hungarian state civil registration. As the main aim of the dissertation is to propose an amendment to the legislation on electronic civil registration on the basis of the current regulations, I disregard the detailed analysis of the history of civil registry administration and present only the main milestones.

In this chapter, I analyse the milestones in the history of state civil registry administration from the aspects of organizational order, registration, and procedural order. Based on these three aspects, I summarize the findings that can be drawn from the development of civil registration at the end of the chapter, and I propose to amend the current regulations. My conclusions presented here form the basis of the analysis to be performed in the next chapter.

Related hypothesis: H1, H2, H3

Research method: method of historical review, dogmatic method, descriptive method, critical examination method

The chapter „*3. The place and role of electronic civil registration in the Hungarian public administration*"

The aim of the chapter is to present the place and role of electronic civil registration in the Hungarian public administration. The study focuses on ICT technologies and electronic administration.

Accordingly, in this chapter I deal with the appearance of ICT technologies in state civil registration, examine the alternatives of access to the system of civil registries, propose the development of an electronic administration model for civil registration procedures, and the reform of the relationship system between the civil registry and the SZL, as well as between the civil registry and the personal professional records.

The chapter relies on the theoretical knowledge of the previous chapters and the conclusions drawn in connection with organizational order, registration, and procedural order.

Related hypothesis: H3, H4

Research method: method of historical review, dogmatic method, descriptive method, comparison method, critical examination method

The chapter „*4. Verification of hypotheses, determination of theses*"

In this chapter, I determine the theses related to the hypotheses of the dissertation and perform the verification of the hypotheses based on the analyses performed in Chapters 1-3.

Related hypothesis: H1-H4

Research method: critical examination method

3. Determination of hypotheses and theses

In accordance with the objectives set out in Chapter „*1. The subject and objectives of the dissertation*" of the thesis booklet, I formulate the following hypotheses and theses.

H1: The legislation on electronic civil registration is inconsistent with regard to the recipient of the competence and data content of the register. Inconsistency in the application of law raises problems of legal interpretation, which is incompatible with the constitutional requirements of the rule of law.

T1: The use of the civil registrar and the civil registration body as generic terms causes problems of interpretation of the rules of competence. It can be stated that the existing competency provisions in many cases do not meet the requirements of the legislation. In order to eliminate this, I consider it necessary to review the use of the generic term and to name the recipients of the competence accordingly. In my opinion, the same terminology can only be used to designate bodies with the same competence.

T2: A further reason for the difficulties of legal interpretation is that currently three legislation the Act I of 2010 on civil registration procedure (hereinafter referred to as CRA), the Government Decree 429/2017 (20 December) on detailed rules for the performance of civil registration tasks (hereinafter referred to as CRD), and the Government Decree 174/2017 (30 June) on the procedure and appointment of civil registrars and civil registration bodies and on the qualification requirements for civil registration [hereinafter referred to as 174/2017 (30 June) Gov. Decree] define the recipient of civil registration competence. For the sake of clear separation, the rules of competence can only be contained in the CRA, and all the provisions designating the recipients of the competence can be contained in the 174/2017 (30 June) Gov. Decree.

T3: I still consider it justified to maintain the mixed registration model, but the statutory definition of the registration data content of the electronic civil registry needs to be amended. In my judgement, after denominating the data content of the record of personal identification data of the electronic civil registry, the data to be registered and the data to be recorded in connection with the event must be denominated and itemized the for each civil registry events, and separating the data, data changes, the primary or secondary data source of which is the given civil registry event.

H2: The organizational order of the civil registry administration has developed a lot in recent years with the goal of a proportionate and streamlined workload. However, this goal has not yet been fully achieved, so it is time for another reform of the organizational order.

pH2.1: The functions and powers of the municipal civil registrar shall be placed at the district level. With the incorporation of the civil registrar into the organizational system of the

district office, the administration of the civil registry and the exercise of civil registry supervision would become simpler and faster.

T4: The power of the civil registrar cannot be transferred to the district level. Incorporating the civil registrar into the organizational structure of the district office would have a minimal positive impact on the civil registry activity. Government windows could be integrated as „*one-window units*" for perform of civil registry procedures, but this integration could be achieved without the civil registrar being taken to the district level. The exercise of supervision by the capital and county government offices would be simplified only with regard to personal inspections. In addition, the presence of the civil registrar in the settlements would still be necessary, as some of his tasks (marriage, establishment of the RP, opening hours, participation in family events) are connected to the settlement.

pH2.2: In order to achieve a proportionate and streamlined workload, the time has come for reform with regard to the functions and powers of the ministers involved in the civil registry administration (Minister of Interior, Minister of Prime Minister's Office, Minister of Foreign Affairs and Trade).

T5: Professional management and operation of the electronic civil registration system (hereinafter referred to as EAK or EAK system) are closely related tasks, as it is necessary to be able to perform civil registry operations in the electronic system that meet professional expectations. The simplest and most transparent solution for professional management and operation of the system would be to merge powers and transfer them to a minister.

T6: It is proposed to transfer to the Ministry of Foreign Affairs and Trade the power of professional supervision over the civil registration activities of consular officers, as it still carries out supervision over consular activities and has the necessary expertise for professional supervision of civil registration.

H3: In accordance with the regulations in force the civil registration procedures do not comply with the requirements set out in the Act CCXXII of 2015 on general rules for electronic administration and trust services (hereinafter referred to as eAdministration Act).

pH3.1: With regard to electronic administration, Section 15 of the CRA restricts the client from exercising his right to electronic administration. The data source bodies of the EAK system, the civil registrar and the civil registration body fulfil their data transfer obligations by post, thus not complying with the eAdministration Act's electronic communication and automatic information transfer obligations against records.

pH3.2: Despite the fact that the civil registry has already been converted into an electronic record, the use of paper-based administrative tools in civil registry proceedings is still in the vast majority. The EAK system is a hybrid solution for electronic administration, as the range

of electronic administration options is gradually expanding in parallel with the development of the EAK system, although paper-based administration is still dominant.

T7: By fulfilling their notification/reporting obligations by post, the data source bodies do not comply with the requirements specified by the eAdministration Act, such as the electronic communication and automatic information transfer obligations imposed on the records. The civil registrar, the civil registration body, fulfils the obligation to transfer data by post, disregarding the same electronic administration requirements. In my opinion, the unlawful situation can be restored with the following solution alternatives:

- building a system connection,
- providing direct access to the EAK system,
- send a notification to the office storage.

T8: According to the eAdministration Act, in Hungary the client has the right to electronic administration. However, the CRA excludes - with a few exceptions - the possibility for the authority to communicate electronically with the client in the civil registration procedure. In view of the aforementioned principle of electronic administration, I consider it justified to amend the CRA. As a general rule, in the case of procedures where applications may be submitted by post, electronic way must also be provided. Initiation of proceedings involving personal appearance should be kept only for proceedings in which personal presence is justified in order to ensure lawfulness and to prevent misuses. In addition to the development of electronic administration, a model of electronic administration must also be developed.

T9: Electronic decision communication - the basic document of which is the electronic civil registry public deed - must be developed taking into account the requirements of the eAdministration Act. The electronic civil register public deed is an electronic public deed which must be issued in the EAK system and which meets the strictest authentication requirements specified by the Act CXXX of 2016 on the Code of Civil Procedure. The introduction of this type of document provides an opportunity for an automatic decision-making process in clear judgment certificate issuance procedures.

T10: The digitisation of paper-based civil registries and paper-based documents is unavoidable in order to increase the EAK's service capacity. Without digitisation, the full implementation of electronic administration, the proportional distribution of workload and the reduction of deadlines are inconceivable.

H4: In the age of electronic records, mass-maintained personal records result in data inconsistency. The time has come to consolidate the records.

pH4.1: Thanks to the transformation of the civil registry into an electronic record, there is no longer any justification for having two personal basic records with similar registration data content. The two personal basic record must be integrated into one registration system.

T11: Apart from the data of the personal identification, the address and the identity card, the data registered by SZL are included in the civil registry as the primary source of information. Taking advantage of the possibilities provided by ICT devices, EAK and SZL should be integrated into one record system, creating the electronic personal basic registration system. The two records become subsystems of one registration system. The record of personal identification data of the electronic civil registry becomes an independent registration subsystem, the registration subsystem of personal identification data. Only the record data content of this subsystem would be the personal data that is currently the record data content of both EAK and SZL.

pH4.2: For basic personal data which, in addition to the personal basic records, also constitute the data contents of the personal professional records, a common part of the register should be established to which both the personal basic records and the personal professional records have access.

T12: The primary data source of the basic personal data of professional records (personal identification data, address) is the EAK and the SZL. Taking advantage of the possibilities offered by ICT devices, a common part of the register should be created for the data that constitute the data content of both the basic and personal professional records. A precondition for the establishment of a common register part is the integration of the EAK and the SZL systems. Following the consolidation of the basic records, the system connection must be established between the personal professional records and the registration subsystem of the personal identification data named in Thesis T11.

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