Acta Univ. Sapientiae, Legal Studies, **3**, 1 (2014) 5–15

eGovernment in the Past Few Years in Hungary

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Abstract. The world keeps changing and we also change with these processes. At the same time, our expectations change and so do certain elements of certain terms, too. Democracy does not mean the same as in the ancient states of Hellas. Citizens expect from a state more than just defending their properties or ensuring the freedom of religion. The model of commanding public administration changed in the first half of the 20th century and the primacy of the hierarchic relationships began to fade.

Keywords: eGoverment, administrative law, interchange of data across administrations, Hungarian public administration

1. Preamble

The hierarchic public administrational structure, formulated by Max Weber, was characterized by administrational professionalism and political neutralism. Its primary objective was to reach the goals settled by the state. The Anglo-Saxon model has other base of the executive authority in contrast with the European public administrational structure. In the face of the unconditional primacy of the public interest that characterizes the European model, the Anglo-Saxon model is characterized by the harmonization of the interests: it emphasizes the primacy of the balance system. Those efforts need to be mentioned which firstly raised the implementation of the economic experiences to the public administration. Just think of the rationalization and efficiency-improving researches in Fayol's and Taylor's works.[1] This development had such a significant effect on administration that it was declared in the 70s and 80s – based on scientific research work – that certain administrational tasks would be worthy to be passed on to the private sector in order to increase effectiveness. This is the beginning of the scientific movement called New Public Management (NPM) or New Governance. The

1 See, e.g., Frederick W. Taylor, The Principles of Scientific Management, New York, Harper Bros., 1911.

salient features of NPM are the systematization of the tools, aims, and experiences of processes in a scientific aspect. It also amends the practical experiences with new methods and theories. Practically, it deals with 'the modernization of the institutional system and the new ways of governance'. Its aim is to modernize the state and public administration in an economic way.

We know that the European Union does not formulate any detailed expectations in respect of the member states' public administration; the only requirements are to be transparent, reliable and to operate on the ground of democratic principles. However, the situation has changed much since this principle was formulated. The European Union's former priorities have changed and are still changing in this aspect. The enlargement had particularly unexpected effects in regard to the Union's operation as a supranational community.

Public administration and the co-operation of administrational systems play an important role in solving the problems of enlargement, the integration co-operating with the Union. As the operation of public administration has a direct effect on the everyday life of the citizens, the Union is not allowed to ignore the objective to harmonize the public administrations of the member states.

2. eGovernmental Regulation in the European Union

2.1. eEurope Programmes

Let us see the most important steps on the way to building a well-equipped e-government in the European Union. First of all, we should take a look at the eEurope Action Plan "families". eEurope is part of the Lisbon strategy to make the European Union the most competitive and dynamic knowledge-based economy with improved employment and social cohesion by 2010.[2] In eEurope 2002, there is a chapter called e-government, which contains – next to cheaper, faster, more secure Internet etc. – the following:

"EU institutions and national public administrations should make every effort to use information technology to develop efficient services for European citizens and business. Public administrations should:

– develop internet-based services to improve the access of citizens and businesses to public information and services,

– use the Internet to improve the transparency of the public administration and to involve citizens and businesses in decision-making in an interactive fashion. Public sector information resources should be made more easily available both for citizens and for commercial use.

2 eEurope, An Information Society For All, Communication on a Commission Initiative for the Special European Council of Lisbon, 23 and 24 March 2000.

– ensure that digital technologies are fully exploited within administrations, including the use of open source software and electronic signatures,

– establish electronic marketplaces for e-procurement, building on the new Community framework for public procurement."

The Action Plan introduced the draft common list of basic public services. For e-government, the following two indicators are the basis for benchmarking:

– percentage of basic public services available online,

– use of online public services by the public.

To make these indicators operational, the Member States have agreed on a common list of 20 basic public services, 12 for citizens and 8 for businesses. Progress in bringing these services online is measured using a four-stage framework:

1.) posting of information online
2.) one-way interaction
3.) two-way interaction
4.) full online transactions including delivery and payment.

Public Services for Citizens:

1.) Income taxes: declaration, notification of assessment
2.) Job search services by labour offices
3.) Social security contributions (3 out of the following 4):
– unemployment benefits
– family allowances
– medical costs (reimbursement or direct settlement)
– student grants
4.) Personal documents (passport and driver's licence)
5.) Car registration (new, used and imported cars)
6.) Application for building permission
7.) Declaration to the police (e.g. in case of theft)
8.) Public libraries (availability of catalogues, search tools)
9.) Certificates (birth, marriage): request and delivery
10.) Enrolment in higher education / university
11.) Announcement of moving (change of address)
12.) Health-related services (e.g. interactive advice on the availability of services in different hospitals; appointments for hospitals.)

Public Services for Businesses

1.) Social contribution for employees
2.) Corporation tax: declaration, notification
3.) VAT: declaration, notification
4.) Registration of a new company
5.) Submission of data to statistical offices
6.) Customs declarations

7.) Environment-related permits (incl. reporting)
8.) Public procurement

As it is seen, the European Union can be much more characterized by the strengthening of service-providing character and not by the definition of such requirements that make us use the attainments of e-government in each segment of the public administration. The European Administrative Space plays a significant role by the change of its duties enabling the member states' legal system to accept this way of thinking. There appears also a new approach in the European Union. Nowadays, the long-term plan is that the public administrational services should be accessible on a same high level in each member state of the European Union. This means that the uniformity should be worked out from the view of the services, not from the view of organizations.

In the next significant step, eEurope 2005 Action Plan included among the key targets the interactive public services, accessible for all and offered on multiple platforms. Under the eEurope 2002 Action Plan, the Member States agreed to provide all basic services online by end-2002. The proposed actions of eEurope 2005 were the following:

– broadband connection for all public administrations;
– interoperability framework to support the delivery of pan-European eGovernment services to citizens and enterprises;
– interactive public services;
– electronic public procurement;
– Public Internet Access Points;
– culture and tourism – e-services to promote Europe and to offer user-friendly public information.

As seen in the list above, much has been achieved in this area, but many services still have limited interactivity.

2.2. Interchange of Data across Administrations

The IDA (Interchange of Data across Administrations) programme was started in 1995 as a result of a Community Decision that helped set up the IT infrastructure, establish common formats and integrate business processes across the EU. In 1999, two interrelated Community Decisions signalled the start of a second phase of the IDA programme, referred to as IDA II. The purpose of the programme, which was managed by the Directorate-General for Enterprise, was to support rapid electronic exchange of information between Member State administrations. Its mission was to co-ordinate the establishment of trans-European telematic networks for the public administrations in the participating countries.

With an annual budget of about € 24 million, IDA II set about encouraging the application of information technologies to sectoral policy areas and promoting

the interoperability of national infrastructure. Initially pursuing a predominantly back-office focus, towards the end of its life span in 2004, the programme began to concentrate on the development of services aimed at businesses and citizens.

The second phase of the IDA Programme (IDA II) entered into force following adoption by the European Parliament and the Council of Decisions Nos 1719/1999/EC and 1720/1999/EC (The Guidelines and Interoperability Decisions) on 12 July 1999. In total, IDA II financed projects of common interest in nineteen different policy areas. The EU's data interchange requirements cannot be met efficiently by uncoordinated actions from individual Member States. There was, therefore, a need to ensure overall co-ordination in order to achieve the integration of the administrative systems across the EU.

By Decision of the European Parliament and of the Council (the IDABC Decision), the five-year programme on interoperable delivery of pan-European e-government services to public administrations, businesses and citizens (the IDABC programme) was launched on 1 January 2005 as a follow-on to the IDA and IDA II programmes.[3]

The objective of the IDABC programme is to identify, support and promote the development and establishment of pan-European eGovernment services and the underlying interoperable telematic networks. It is designed to help to achieve targets set in the area of eGovernment by

– continuing to promote the introduction of information technologies to policy domains, especially where this is facilitated by legislation;

– building a common infrastructure for cross-border information exchanges between public administrations in order to ensure efficient communications;

– encouraging the emergence of novel services for businesses and citizens.

The evaluation report of the IDABC programme was largely positive, describing the programme as being in line with the eGovernment policy priorities of the European Commission as expressed in the i2010 strategy. The programme plays a unique role to foster the integration of Europe through interoperable public administration, and it is on track when assessing the implementation. However, the report on the IDABC programme also offers some suggestions for improvement for future programme management to be taken into account during the implementation of the follow-on programme (ISA – Interoperability Solutions for European Public Administrations).

3 Corrigendum to Commission Decision 2004/387/EC of 28 April 2004 — Decision 2004/387/EC of the European Parliament and of the Council of 21 April 2004 on the interoperable delivery of pan-European eGovernment services to public administrations, businesses and citizens (IDABC).

2.3. The Action Plan of the Commission

The European Commission's eGovernment Action Plan 2011–2015 supports the provision of a new generation of eGovernment services. It identifies four political priorities based on the Malmö Declaration:

– Empower citizens and businesses
– Reinforce mobility in the Single Market
– Enable efficiency and effectiveness
– Create the necessary key enablers and pre-conditions to make things happen[4]

The Action aims at helping national and European policy instruments work together, supporting the transition of the eGovernment into a new generation of open, flexible and collaborative seamless eGovernment services at local, regional, national and European level.

The main goal is to optimize the conditions for the development of cross-border eGovernment services provided to citizens and businesses regardless of their country of origin. This includes the development of an environment which promotes the interoperability of systems and key enablers such as eSignatures and eIdentification. Services accessible across the EU strengthen the digital single market and complement existing legislation in domains like eIdentification, eProcurement, eJustice, eHealth, mobility and social security, whilst delivering concrete benefits to citizens, businesses and governments in Europe. The Commission will lead by example in further implementing eGovernment within its organization.

The objective is to increase the take-up of eGovernment services: the target is that by 2015 50% of citizens and 80% of businesses should use eGovernment services.

3. Hungarian Public Administration and the Modern Technologies

3.1. "Electronic Administration" – A New Definition

The most difficult task is to determine the definition of electronic administration because it is an evolving section of law without recognized concepts shared by the majority of experts. Creating a definition is complicated because the "classical" notions of administrative law cannot be used without modification in the area of electronic administration. The reason for it is the feature of electronic administration (shortly e-administration or eGovernment), that it is not only a concept of administrative law, but it appears in courts – e.g. during the registration

4 Ministerial Declaration on eGovernment approved unanimously in Malmö, Sweden, on 18 November 2009.

of companies – and in every other field where the services offered by the state are combined with the elements of public law.

Before reviewing the prevailing rules of electronic transaction of affairs, we should examine the place of these rules within the legal system. On the one hand, our task is simple as these regulations are in connection with administrative law, so they belong to public law. But, on the other hand, it is not such an evident issue if we examine the question from the point of info-communication law. In this regard, this section of law is a part of jurisprudence, but it is not a separate branch of law which incorporates all provisions of electronic administration.

In order to provide a comprehensive view of electronic administration, we have to examine the relevant notions. According to the preamble of the Act on Administrative Procedures, "The concept of eGovernment has become a universal factor of improving the prospects for the future. Its scope is wider than the central governmental administration; it covers the whole system of administration." János Verebics created the broadest concept. According to him, the electronic administration is "the utilization of info-communication technologies and information tools by state organs".[5] Although this definition is suitable for examining all matters belonging to this subject, this concept is too general. Gábor Polyák defined electronic administration as follows: "The widest sense of electronic government is the utilization of digital information and communication technologies in the relationship between the government and the society. The realization of eGovernment is a modernization process affecting all levels of administration, where the quality of relationships is transformed based on technological development."[6] This concept is precise enough and not too excluding; however, the concepts of government and administration are used as synonyms. So, the final definition is based on this notion: in a wide sense, electronic administration is the adaptation of info-communication technologies in the relationship between the state and the society, while in a narrow sense it is the entirety of legal rules governing the electronic transaction of affairs. Hereinafter, we will examine the latter, to be precise, the provisions of the Act on Administrative Procedures (Ket.).[7]

3.1.1. Electronic Documents in Authority Proceedings

The provisions of the Ket. are milestones in establishing electronic administration in Hungary. However, we have to be aware that the former act, the Act on State Administration, did not exclude the requisition of the electronic way

5 Verebics János, Elektronikus kormányzat és jogi szabályozás. In: Infokommunikáció és Jog, 1. szám, 2004. június, p. 5.

6 Dósa Imre – Polyák Gábor, Informatikai jogi kézikönyv, Budapest, KJK-Kerszöv, 2003.

7 2004. CXL. törvény a közigazgatási hatósági eljárás és szolgáltatás általános szabályairól – Act CXL of 2004 on the General Rules of Administrative Proceedings and Services.

theoretically after the adoption of the Act on Electronic Signature (hereinafter called Eat.).[8] Still, the most important step in making the operation of electronic transaction of affairs possible was the recognition of validity and conclusive force of electronic statements by the Parliament through adopting the Eat. This act came into force on 1 September 2001 and amended some provisions of the Act on State Administration at the same time in order to ensure the prevailing of the advantages of authentic electronic communication in administration.

As far as our topic is concerned, one of the most important provisions of the Eat. was the incorporation of the followings in the procedural act: "...legislative provisions shall ensure the option for submitting applications in electronic documents". Besides altering the regulations for applications, the possibility of adopting electronic documents occurred within provisions in connection with documents and resolutions of administrative organs. In contrast with the prevailing rules at that time, the completely electronic arrangement of affairs was exceptional because it required the permission of legislative provisions.

The Ket. views the electronic transaction of affairs from a completely new point. The electronic conduct of administrative authority affairs is the general rule and the traditional transaction of affairs – based on paperwork – is exceptional. These exceptions shall be declared only by acts, decrees of government or local government. Therefore, certain sectors cannot avoid meeting the obligation of establishing electronic administration by departmental orders.

However, excluding all exceptions is unfeasible and the reasons for this are various: one cause is digital illiteracy, particularly among old people in regions lagging behind. Similarly, in underdeveloped regions, the parties concerned are not equipped with suitable technological instruments and internet connection, which are basic and essential conditions of electronic transaction of affairs. Besides these factors, legal rules can also prohibit the exclusive adaptation of electronic documents, e.g. in the section of family law and law of succession.

Local governments are also empowered to prohibit the electronic conduct of issues in some cases by decrees because a great number of Hungarian settlements are not properly equipped with technical tools to establish communication systems with clients in electronic way.

3.1.2. Contacting Administrative Organs

In an electronic transaction of affairs, the recognition of the validity and conclusive force of statements made via electronic way is of crucial importance. But these statements and electronic documents have to meet certain conditions. They have to be appropriate for the authentic personal identification of the client submitting the statement or application and have to ensure the unchangeability

8 2001. évi XXXV. törvény az elektronikus aláírásról – Act XXXV of 2001 on Electronic Signatures.

of documents. It means that the supervision of the content of sent and received documents shall be ensured as well as that statements and these contents cannot be gainsaid (undeniability).

The electronic signature ensures the above-mentioned criteria. In information and communication technology, the public key infrastructure makes them possible and their legal conclusive force is the same as that of the paper ones. In legal regulations, the principle of technology neutrality shall prevail, which means that statements of legal force can be made with any technological process meeting the requirements declared by law; however, there is not known a more appropriate method for these purposes than the public key infrastructure. Now we have to examine the different conclusive forces of electronic documents. The Eat. and the law of civil procedure set up three levels according to the conclusive force. The first category comprises the "simple" electronic signature, which does not have a stated conclusive force. In litigation, the appreciation of the document is based on the free discretion of the court. The client can independently create such an electronic signature. The second category includes the electronic signature of advanced security. It can only be created with the help of an independent organ, the so-called authentication provider, whose task is the identification of the user (by issuing and registering a certificate belonging to the signature) and the insurance of the appropriate technical instruments. Its conclusive force is not declared by law, but a document with this signature is considered as a written document if the writing form is required for the validity of the statement.

The third category is the qualified electronic signature. In technical terms, it is an electronic signature of advanced security, but its certificate is issued by a qualified authentication provider, which has to meet stricter conditions and security requirements. The National Communication Authority registers all authentication providers and supervises their operation. Documents signed by qualified electronic signature have the same conclusive force as private documents representing conclusive evidence. When an authority issues an electronic document with qualified electronic signature in connection with its operation, it has to be regarded as a public/notarial document.

In order to arrange authority cases in electronic procedures, one has to possess at least an electronic signature of advanced security.

Those who have an electronic signature of advanced security can directly get in touch with the authority in electronic way. Besides this option, the client can submit the application via the central electronic system of the Government. Clients, who are not supplied with an electronic signature of advanced security or a qualified electronic signature but would like to arrange cases in electronic way, have to utilize this central system.

3.1.3. The Client Gate

As we could see, it cannot be required that everybody possess electronic signature of advanced security, but accession to electronic transaction of affairs must be ensured for anybody. In order to solve this problem, the client gate was established in the central system. It is an information instrument which ensures the identification of the client and its safe connection with organs providing electronic administration and services through the central system.

The central system can be reached through a website called *www.magyarorszag.hu*. On this site, we can find affairs sorted according to the main topics, offices and types of affairs. To be able to commence administrative authority proceedings, we have to enter the client gate. While entering, we are required to give our user name, registered in advance, and the password belonging to it.

To obtain the above-mentioned user name and password, our personal attendance is necessary at the central organ keeping records of private data and residences or at the document bureau operated by the notary public in charge of district duties or at other organs defined by a government decree. The document bureau is easily accessible by citizens; so, it is frequently visited to initiate the establishment of a client gate.

For the establishment of a client gate, the identification of the client is essential. The client shall prove his identity by an official certificate appropriate for personal identification and give his natural identification data (e.g. his name, place of birth and date, his mother's name etc.). In the case of foreigners, their passport is suitable for identification.

The statutory duty of the client is to give his e-mail address in the course of identification that can be utilized for the electronic transaction of affairs. The authority will send all electronic mails to this address for the transaction of affairs, so it has to be suitable for utilization in official cases. The client is responsible for the disadvantageous consequences deriving from choosing his address improperly.

Following the identification, the registration procedure is as follows: the client may give a user name, which cannot match any other user name given previously. The client shall be given a code via e-mail that can be used only once. The client can only enter with it for the first time, and then he creates a new password. This new password and user name (together with the client gate) is valid for a maximum period of five years. The client can define a shorter period of validity. The password can be changed for an unlimited amount of times within this period and after the termination of the client gate with repeated, personal identification.

In the Ket., it is not explicitly declared that this specific identification code is confidential, but it is stated that the client shall bear the responsibility if the specific identification code is revealed by a third person due to the fault on the

part of the client and if this third person misuses this code. Therefore, it is not obligatory but advisable to keep this identification code in private.

For the electronic transaction of affairs, no other data may be requested from the client getting in touch with the authority through the client gate, but this shall not concern the obligation to provide the data necessary for the conducting of the procedure, as provided for by the rules of law. So, after identification, in the electronic proceeding, the client is handled in the same way as he would be personally attending a certain authority.

In the Ket., the electronic transaction of affairs is the general rule, but electronic administration cannot be applied in some cases – as the Act defines. We have to remark that legislative provisions can make exceptions of these rules, and therefore these affairs can also be conducted electronically.

Conclusions

We tried to present the regulation which can be considered a milestone in the world of administrative law. Beyond the general rules – because of the character of the area –, many partial rules have been created, which were not presented in the study though, but the cognition of the fundamental provisions is the most important step for recognizing the development opportunities. We must not believe that the only way of modernizing public administration is exclusively a question of technology.

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