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*E-Justice in Hungary With Special Regard to Administrative-Court Cases**

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ABSTRACT The development of information-technology forces players to innovate in all areas of life, and this is no different in the Hungarian public-administration and judicial sector. How this will affect the judiciary and transform the work of lawyers and clients is currently a big question, and several reform ideas have emerged at the international level. The present study cannot undertake to collect these ideas, its basic objective is to explore the extent to which digitalization has permeated the operation of the Hungarian public administration and courts, focusing on the judicial review of administrative decisions in which digital tools were used in the making of official decisions.

KEYWORDS: E-Justice in Hungary - Digitalisation in administrative court cases - Digitalisation in administrative proceedings - Limited system of precedents in Hungary

1. *Introduction*

As one The Hungarian Parliament has adopted three new procedural acts not so long ago: Act CXXX of 2016 on the Code of Civil Procedure (hereinafter: Code of Civil Procedure), Act I of 2017 on the Code of Administrative Court Procedure (hereinafter: Code of Administrative Court Procedure) and Act CL of 2016 on Administrative Proceedings, which all entered into force on 1 January 2018. These new procedural acts followed the recodification of many substantive laws such as the Civil Code and the Criminal Code.

The Hungarian Government in its Government Decree 1267/2013. (V.17.) on Codification of Civil Procedure initiated working on a comprehensive modernisation of civil procedural law, namely the Act III of 1952 on the Code of Civil Procedure. The immediate objective of this review was to create a modern civil procedural code complying with international practice and standards, which ensures effective operation of substantive laws. An additional purpose was, that the new Civil Procedure Code, based on the results of caselaw and legal practice, shall regulate civil procedural relations in a perspicuous and coherent manner, attentively to technological achievements, thus facilitating professionals and citizens seeking legal advice. The role of the new Code of Civil Procedure is outstanding, the Act V of 2013 on the Civil Code re-regulated substantive civil relations and the strengthening of substantial law falls within the scope of civil procedure code.

Codification works were multi-threaded, and the most essential elements and results can be summarised as follows. The Government on its meeting that took place on 14 January 2014, accepted the Conception of New Code of Civil Procedure (hereinafter: Conception), in which it laid down the statutory-regulatory objectives and basic principles to be implemented. In May 2015, on the basis of Government Decree 1267/2013. (V.17.) 14, a Working Committee was set up to draw the proposal for text of the new Code of Civil Procedure in line with the principles laid down in the Concept. In October 2015, an Expert Committee was set up within the framework of Ministry of Justice, which shall finalise the text of the new Code of Civil Procedure, make the final decision on uncompleted professional disputes, and discuss professional materials supplied by Working Committees.

After a three-year long preparatory process, The Hungarian Parliament adopted the new Code of Civil Procedure on 22 November 2016. The Code replaced the Act III of 1952

* Article submitted to double-blind peer review.

on the Code of Civil Procedure, which had served for 65 years as the basic point of reference for all litigious and non-litigous civil and administrative-court cases. The new Code of Civil Procedure shall be applied in civil proceedings initiated on or after 1 January 2018.[1]

The Code of Administrative Court Procedure has brought some notable changes. In fact, this Code's existence as a separate act is an innovation, since before the rules of administration litigation were incorporated into the Act III of 1952 on the Code of Civil Procedure.

The Code of Administrative Court Procedure's stated goal is to provide an 'unbroken' system of judicial protection, whereby full review of administrative decisions by the courts is possible in all cases. The Code also foresees a situation where an administrative authority has infringed the law by failing to perform certain actions, rather than by adopting an unlawful decision.

The Code aims to reduce the length of administrative proceedings and litigation. It does so, inter alia, by giving courts broader powers to modify administrative decisions rather than just referring the case back to the administrative authority.

As the final step of the reform of the central administration, the Hungarian Parliament has adopted the Act CXXX of 2018 on Administrative Courts. According to the original text, the Act was supposed to enter into force on 1 January 2020, but the Hungarian Parliament postponed its entry into force for an indefinite period. The goal of the new legislation was to 'restore the prestige of the administrative courts' which Hungary abolished in 1949. Since then, no separate administrative-court system had existed, rather it was integrated first into civil courts, later into labour courts.

The reason for the separation of rules of administrative and civil-court proceedings was that administrative law has a different internal logic compared to civil law. Government experts expect that the new system will be capable of contributing to the development of administrative law and caselaw and outbalance the dominant position of the public administration in litigation proceedings.[2]

To sum up the results of Hungarian codification: a separate code regulates the procedural rules of civil and administrative proceedings. However, the judicial system is unitary, there are no special courts with special jurisdiction in Hungary, and there are no separate administrative courts. Judicial review of administrative decisions is carried out by ordinary courts.

2. *E-government in Hungary*

Technological developments nowadays enable public administrations to deliver decisions with high quality, large amount of data and fast decision-making, supported by electronic means. The top-level strategic frameworks of Hungarian e-public administration developments are defined by the strategic documents of the European Union and Hungary, which may affect all levels of public administration. The domestic strategies related to the digitalisation of public administration partly draw on European strategies and partly reflect domestic social needs. Sectoral and territorial strategies can be developed below the level of national strategies, in order to fully consider and take into account citizens' needs. The content of Hungarian e-government strategies is rather general, typically they do not contain a specific, month-specific action plan for e-public administration.

In the Hungarian-government structure, this area of law has several owners at the same time – typically the Prime Minister's Office and the Ministry of Interior – and does not have operational professional management. A common need and objective is to speed up the decision-making process.

The most significant milestone of digital government decision-making in Hungary so far can be considered the *Integrated Legislative System (IJR)*. The project, launched in 2016, "aimed to better serve the

[1] See more information about new rules of Hungarian civil procedure: A. Nagy, *Reform of the Hungarian Code of Civil Procedure with special regard to rules of taking evidence*, in T. Barzó, C. Csák, B. Dmitro, L. Yaroslav and B. Sibilla (eds.): M*odern Researches: Progress of the legislation of Ukraine and experience of the European Union - Part 1-2*, Miskolc, Magyarország, Riga, Lettország: Miskolci Egyetem, Állam- és Jogtudományi Kar, Izdevniecība "Baltija Publishing", 2020, 1, 103-116; Z. Wopera, *Az új polgári perrendtartás elvi alapjai*, in *Jogtudományi Közlöny,* 4, 2017, 153-154.

[2] See more K.F. Rozsnyai, *Current Tendencies of Judicial Review as Reflected in the New Hungarian Code of Administrative Court Procedure,* in *Central European Public Administration Review*, 1, 2017, 7-23.

better regulation process". As the main module of the electronic legislative preparation system (IJR), the PRA serves the 3 main specialist systems (GovLex, ParLex, LocLex) by creating a structured legal document. The PRA establishes a system to support the drafting (codification) of legislation and non-legislative acts. Codification is largely automated, drawing on the single legal repository developed during the project, in accordance with Regulation 61/2009 of 14 December 2009 on drafting legislation.

Act CL of 2016 on the Administrative Code refers in several provisions to procedural legal institutions based on electronic and info-communication technologies and their applicability. The starting point is one of Administrative Code principles: the principle of efficiency. It states: 'In the interests of efficiency, the Authority shall organise its activities in such a way as to minimise costs for all participants in the proceedings and, without prejudice to the requirements for clarification of the facts, to bring the proceedings to a conclusion as quickly as possible using advanced technologies. Based on this provision, it can be stated that the 'use of advanced technologies' speeds up the 'conclusion' of the procedure, or, at best, the taking of a decision on the merits. In its procedure, the Authority must prioritise the use of advanced technologies, first and foremost, of course, it must organise its own work as efficiently as possible, using the achievements of electronic administration.

Digitally-supported authority decision-making can be divided into *front office* and *back office*. The front office mediates the data processed and managed by the back office. The back office is responsible for processing the data, while the front office is responsible for transmitting the data, accordingly, contacts with the client pertain to the front office. Many clients expect personalised, simplified and automated services that can be used through the channels that work best for them in an increasingly less location-specific way. Clients increasingly require to be able to carry out various administrative matters, services and related activities electronically, without any place and time constraints.

Applications optimized for mobile phones (applications) have come to the fore, with which complete administration can be realized. Among the latest applications in Hungary we can find, for example, the e-Construction Log Mobile app developed by the Lechner Knowledge Center, or the mobileFARMER program, a mobile device application of the Hungarian State Treasury related to agricultural and rural-development subsidies, which facilitates communication between farmers and the Treasury. It should be noted that these applications require a special "Client Portal Registration" for substantive administration.[3]

Since July 2020, Nébo, the chatbot of the National Food Chain Safety Office (Nébih), has been operating, appearing on the Office's Messenger and Facebook interfaces. This application also uses machine learning to improve its capabilities and can be developed according to client needs. Within the framework of the KIOSK project, a self-service administration terminal ("kiosk") is already operating in four government windows on a pilot basis, where one can apply for a certificate of good conduct or start replacing a lost driver's license. The poles are equipped with cameras, microphones, fingerprint and document readers, loudspeakers, printers and signature surfaces, and 400 are planned to be installed in government offices across the country.

The government also plans to introduce the Automated Administrative Decision-Making (AKD) model. This would include the development of a complex, AI-based system that would allow complete cases to be handled automatically. Examples include speeding cases falling within the scope of strict liability. These can be done without human intervention: the camera takes a picture of the car exceeding the speed limit, the system searches for the operator based on the license plate number, calculates, determines and imposes the penalty, sends out the fine, and uploads the footage to the website.[4]

In connection with the digitalisation of Hungarian public administration, the possibility of an *automatic decision-making procedure* regulated in Section 21 of Act CIII of 2023 on the Digital State and Certain Rules

[3] A. Fábián and P. Stankovics, *A közigazgatási döntéshozatal támogatása elektronikus eszközökkel, különös tekintettel a hatósági eljárásra*, in *Közigazgatás Tudomány*, 1, 2022, 71–84.

[4] D. Samu, *Mesterséges intelligencia a közigazgatásban,* in *Infojegyzet (Országgyűlés Hivatala, Közgyűjteményi és Közművelődési Igazgatóság*, *Képviselői Információs Szolgálat),* 73, 2021, 3–4.

for the Provision of Digital Services should be highlighted. Under the conditions laid down by law, the body providing electronic administration conducts the procedure by automated decision-making. In the case of automated decision-making, the body providing electronic administration shall make its decision and communicate it to the client based on the data available to it and obtained through automatic receipt of information, without human intervention. In this sense, automated decision-making can be said to exist if:

- the conditions laid down by law are met,
- the data are available or have been obtained by automatic receipt of information,
- an electronic administration body takes the decision without human intervention and communicate it to the client.

Guarantee rule related to the automatic decision-making procedure is that within 5 days of notification of the decision thus taken, the client may request that the authority consider his/her application again, in a complete procedure, if there is no right of appeal against the decision. This quasi-form of legal remedy does not require justification, it leaves wide scope for the client to remedy his/her grievances in the procedure.[5] This legal provision also means that in Hungary cases may not be brought directly before the court if they have been decided in the framework of an automatic decision-making procedure and have not been reviewed with human intervention by means of the legal remedy provided for in the administrative procedure.

3. *Digitalisation in Hungarian Courts*

In point 1 of this study, we highlighted that in Hungary the judicial review of administrative decisions is carried out by courts of general jurisdiction. In this chapter, we detail what digitalization developments have taken place in Hungarian courts in recent years and to what extent they result in an improvement in the efficiency of judicial activity.

In the field of court administration, significant developments have been made in Hungary in recent years. These include all IT applications and tools available to judges, clients and administrative staff. Among these, we distinguish between those that specifically support the work of the judge and the judicial process, from those that support clients. The former category includes form-filling programs, which currently automatically fill out summons forms for example.

The work of judges is also supported by an application that monitors deadlines and limitation periods. With its help, the judge receives an automatic message about the most important procedural events subject to deadlines, indicating, for example, the expiry of the limitation period, the deadline for the minutes of the hearing, the deadline for writing the decision, or even the date of the decision on the termination of proceedings in case of suspension.

The so-called Digital Court project includes the drafting and unification of court decisions, as well as the development of their publication and anonymization. It is a long-standing demand on the part of clients and lawyers turning to courts that decisions should be presented in a transparent structure and in an understandable manner, and that there should be no differences in structure and wording that differ from one tribunal to another or from region to region. The first step in publishing court decisions is anonymization, which has been done on paper for a long time, creating a serious obstacle to their rapid publication. The new IT solution automates this, thereby effectively shortening the process.

Currently, nearly 900 speech recognition software in Hungarian courts help judges to write audio automatically without human intervention. Following further developments, this can reach a level where it completely replaces the typing function during the writing of protocols and decisions, thus shortening administrative and procedural times.

To facilitate access to justice, support developments have been made to facilitate the submission of pleadings, electronic communication with courts and other information-online interfaces have been developed. Among these, the development of

[5] Z. Czékmann, G. Cseh-Zelina and E. Rito, *Az automatikus döntéshozatal helye és szerepe a hatósági eljárásban*, in *Közigazgatás Tudomány,* 2, 2022, 35-47, DOI: https://doi.org/10.54200/kt.v2i2.34; Z. Czékmann and E. Czibrik, *Nagyító alatt az automatikus döntéshozatali eljárás*, in Török, Bernát – ZŐDI, Zsolt (eds), *Digitalizálódó társadalom: Tanulmányok az új technológiák társadalmi-jogi hatásairól*, Budapest, Ludovika Egyetem Press, 2023, 21-30; Z. Czékmann, and G. Cseh-Zelina, *Hungarian regulation of e-government in the light of EU legislation*, in *Balkan Social Science Review*, 22, 2023, 29-49.

electronic communications should be highlighted, in connection with which considerable legislative work lasting ten years can be shown. In most court proceedings, legal representatives or legal persons may submit documents initiating proceedings and subsequent submissions only electronically, and the court sends its own decisions in the same way. This legislative and technological development has drastically reduced the duration of litigation and has also given rise to practical problems arising from the previous general rule, service by post.

To inform the parties turning to court, an online service (*duration calculator*) provides information on the expected duration of each type of litigation, with the help of which citizens can see, based on statistical data from previous years, how long it takes on average to deal with each type of case in the given court (based on statistical data from previous years). Another advantage of the application is that in civil proceedings where the claimant can choose from several courts where to sue, he/she can find out in advance and compare the average time requirement.

Thanks to another development, clients can *submit complaints related to the operation of courts online*, which also makes the processing and handling of complaints more efficient and transparent.

One of the oldest and most concrete obstacles to access to justice is physical distance from the court building. If clients have to travel to another country or county, this can cause serious organizational and work difficulties. One of the most spectacular developments in Hungarian courts in recent years has been the establishment of the *remote hearing system*.[6]

In civil, administrative and criminal cases initiated after 1 January 2020, electronic access to court files has become possible with the introduction of the *court E-file*. The system primarily serves the convenience of the subjects of the proceedings, who can consult the case file anywhere and anytime, there is no need to travel, and they can also save on the fee for copies of documents.

Act XVII of 2024 created the possibility of *E-hearing*, which the Code of Civil Procedure calls the simplified telecommunication presence. This mode of communication allows simultaneous participation in a procedural act by ensuring communication using widely used electronic means (e.g. Skype, Google Meet, etc.) without the need to appear at the scene of the procedural act. Practical experience confirms the effectiveness of this form of contact and justifies its extension to civil proceedings (it was already possible in Hungarian criminal proceedings).

In the case of a simplified telecommunication presence, the hearing of the litigant, witness or expert does not take place in the office of the court, but the person to be heard may use the electronic means and programs available to communicate with the court.

In the case of a simplified telecommunications presence, only the person to be interviewed by simplified telecommunications presence, such as a party, and a person whose presence is otherwise permitted or required by law may be present in the room where the hearing takes place. Such persons may be, for example, interpreters, legal representatives or supporters. If the court has doubts as to the voluntariness of the participation of the person to be heard in the procedural act or as to the absence of influence of his/her testimony or statement, the hearing with simplified telecommunications presence shall not take place.

4. *Artificial intelligence in the Hungarian justice system*

The transfer of judicial decisions to artificial intelligence leads to the emergence of digital courts, which is when we can speak of a digital court in the true sense of the word. In Hungary, we cannot talk about this in the judiciary yet, for the time being automated procedures have been introduced in certain areas, such as the order-for-payment procedure or the company-register procedure. However, we can say that the development of digitalization will not leave the judicial organisation untouched, since computer data processing and digital working culture have already become commonplace in the social environment of the judiciary – companies, banks, public administrations, etc.[7]

DARÁK, Péter ex-President of the

[6] A. Osztovits, *Online bíróságok és az igazságszolgáltatáshoz való jog - esély vagy veszély?,* in *Magyar Jog,* 11, 2020, 627–628; E. Róth, in *Miskolci Jogi Szemle*, 1, 2020, special issue, 253-261.

[7] T. Gyekiczky, *Jogrendszerek a Digitális Társadalomban* – VI, at https://jogaszvilag.hu/vilagjogasz/jogrendszerek-a-digitalis-tarsadalomban-vi.

Hungarian Curia emphasized in spring 2017, despite international achievements, that adjudicating activities cannot be entrusted to artificial intelligence. Artificial intelligence can be applied in certain areas of justice, helping to save time by automating certain – less interesting, more technical – work steps (e.g. filling out forms or collecting court decisions). But at the moment, we can say that artificial intelligence is not suitable for making decisions on legal issues, so it will not replace lawyers and judges anytime soon. The main reason for this is that judgment cannot be seen as technology. Citizens and businesses bring conflicting human relations to the courts, some of which are property law, while others are related to personal status or may be personal, such as the publication of a defamatory article. Judicial adjudication also carries an evaluative element which puts the judge at the centre. Decisive psychological processes take place in the judge: cognition in connection with the facts and the development of persuasion in the weighing of evidence. The judge's procedure is a creative operation using established traditional methods.[8]

At the same time, it is necessary to draw attention to the thoughts of SUSSKIND, Richard: "Those who reassure themselves that a machine will never be able to understand legal matters in a sufficiently complex way and therefore will not be able to make responsible decisions completely misunderstand the principle of how artificial intelligence works." The professor cites the computer chess programs as an example: they analyse all potentially possible moves with unimaginable speed, and finally make the decision that is most likely to win without emotion. Meanwhile, they are not aware of whether they are playing "smart" or "beautifully", but at the same time they do so with ruthless efficiency. Decision-making ability is best based on knowledge of past cases and written rules.[9]

5. *The latest challenge to the Hungarian judiciary: the limited system of precedents*

Pursuant to Article 25(3) of the Hungarian Fundamental Law, the priority task of the Hungarian Curia is to ensure the unity of the application of the law by the courts. Due to this legal provision, the Curia is responsible for directing the application of law and for creating and maintaining legal unity. To accomplish this task, several tools are at its disposal, among which a significant change occurred in 2020, which is described in the Hungarian literature as the introduction of a limited system of precedents. This year, in 2024, this legal institution celebrated its fourth birthday.

The legal unity procedures and legal remedies falling within the competence of the Curia were amended on 1 April 2020 with the entry into force of Act CXXVII of 2019. This legislation amended, among others, the relevant provisions of Act CLXI of 2011 on the organisation and administration of courts, Act XC of 2017 on criminal procedure, Act I of 2017 on the Code of Administrative Procedure and Act CXXX of 2016 on the Code of Civil Procedure.[10] There have been fundamental changes in the obligations of Hungarian courts, and we can say that the Curia has expanded the most in terms of its tasks – and ultimately its responsibilities. The term "limited system of precedent" cannot be found in Hungarian legislation, we can only find this term in the ministerial explanatory memorandum published in connection with the amendment act. The intention of the legislator was clearly to maintain uniformity of caselaw.

The Hungarian system of precedent is limited because only decisions of the Curia have a precedent effect and bind lower courts. On the other hand, it does not constitute an absolute obligation to follow previous decisions of the Curia and, on points of law, deviations from the previous legal interpretation may be made subject to the obligation to state reasons. However, if the deviation was not justified or the lower court did not justify its different legal interpretation, the Curia will remedy in the framework of a review procedure, or if there is an unjustified deviation in the case of a Curia decision, it may be remedied within the framework of the legal-unity complaint procedure. Thirdly, the limitation can be grasped in the fact that changes in legislation affect and, in some cases, eliminate the precedent effect of an

[8] P. Darák, *(Mesterséges) bírói intelligencia*, 1. At, https://kuriabirosag.hu/sites/default/files/sajto/z_dr_darakpeter.pdf.

[9] Átformálja a mesterséges intelligencia az igazságszolgáltatást, at https://jogaszvilag.hu/atformalja-a-mesterseges-intelligencia-az-igazsagszolgaltatast/.

[10] Z. Varga, *A precedensrendszer és az EU-jog*, in *Európai Jogakadémia,* 5, 2021, 48.

earlier decision in the Hungarian continental legal system, since the decision of the Curia does not qualify as a source of law, but only acts as a source of interpretation.[11]

The 2019 amendment act gave precedent to all decisions of the Curia issued after 1 January 2012 and published in the *Collection of Court Decisions*. Before the amendments, only the legal-unity decisions of the Curia had such binding force. The courts are therefore obliged to follow the legal interpretation of the Curia of Hungary. However, this rule must not have the effect of prejudicing the independence of the judges hearing the case. Therefore, procedural laws allow deviations from the legal interpretation of the Curia if necessary for the circumstances of the case or for compliance with the Fundamental Law. However, the difference must be specifically justified in the judgment. The parties may contest the merits of the derogation, for which ordinary and extraordinary remedies provided for in the Code of Criminal, Civil and Administrative Procedure are primarily suitable. If the parties no longer have access to legal remedies because they have already been exhausted or the use of such means is excluded (including if the chamber of the Curia has deviated from the caselaw), the amendment act introduced the legal-unity complaint as a new means of redress.[12]

In Hungary, the Collection of Court Decisions is currently available on the *birosag.hu* website. Most of the Hungarian literature suggests that the search engine related to the Collection of Court Decisions is not fundamentally bad, but it is not the most modern either. In the era of digitalization, the further development of the search engine at an appropriate level represents the greatest challenge in the Hungarian justice system. It is a fundamental issue that all precedent decisions related to the interpretation of a legislative provision can be collected, and that precedent decisions with contradictory content should not be published. At present, however, the biggest problem is that it cannot be indicated in the database if the Curia has indicated the legal interpretation contained in a previous Curia decision as no longer to be followed.

6. *Final remarks*

In Hungary, the digitalization of procedures and the possibility of applying artificial intelligence are markedly present in public-administration procedures. In the spirit of the recently announced digital-citizenship project, we can expect even more results in the near future. The Hungarian legislator created the possibility of correcting these decisions primarily in the administrative procedure, not in the framework of administrative-court proceedings, during the procedural phase before the court.

Digitalisation developments are constantly taking place in the Hungarian justice system, and we are not in a bad position compared to the members of the European Union. These processes primarily concern technical procedural aspects and not judicial decision-making. However, the limited system of precedents will only work properly in Hungary if a modern and advanced search engine including elements of artificial intelligence is developed and made available to the lawyers and clients for the Collection of Court Decisions.

[11] K. Ficsor and A. Patyi, *A jogegységi panasz eljárás mint a jogegység biztosításának eszköze a Kúria gyakorlatában*, in *Kúriai Döntések,* 8, 2022/8, 1313; A.Zs. Varga, *Tíz gondolat a jogegységről és a precedenshatásról*, in *Magyar Jog*, 2, 2020, 81-87.

[12] Final explanatory memorandum of Act CXXVII of 2019, explanation to Sections 65-74. The practical significance of the legal unity complaint is shown by the fact that in 2020, the year of its introduction, only 6 cases were submitted to the Legal Unity Complaint Council, while in 2023 there were already 72 cases.