

Julianna Béndek

## Best practices of e-Justice in civil matters in Hungary

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An overview of some of the electronic procedures and tools available for citizens and legal professionals in civil procedures in Hungary (electronic court proceedings, payment order procedure, e-management of enforcement cases, online land registry services, electronic registers of judicial experts, mediators, attorneys and civil law notaries).

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## 1. Introduction

[Rz 1] Our experiences with electronic tools developed to promote judicial co-operation or support administrative and judicial procedures at national level or across borders have shown that a great number of legal practitioners as well as citizens use them regularly. This article intends to highlight some examples of electronic procedures which have been put in place in the field of civil justice in Hungary in recent years.

## 2. The use of e-systems in civil proceedings

### 2.1. Electronic communication between the court and the parties in a civil lawsuit

[Rz 2] Pursuant to Article 394/B of Act III of 1952 on the Code of Civil Procedure in proceedings initiated after 1 January 2013, submissions to the court by the parties can be made electronically in first instance proceedings within the competence of regional courts<sup>1</sup>. In this case, all correspondence with the court will be managed electronically, including the service of documents on the claimant. A paper-based copy of the claim submitted electronically will be served by ordinary mail on the defendant who, in turn, can choose to submit his/her rejoinder electronically or on paper. The electronic system is operated by the National Office for the Judiciary (OBH).

[Rz 3] From 1 July 2014 onwards companies will only be able to submit the claim, the rejoinder and all other documents through the electronic system and the courts will serve all documents by electronic means as well. In the case of natural persons, if they are represented by a legal

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<sup>1</sup> In Hungary, justice is administered by the following courts: the Curia, the regional courts of appeal, the regional courts, the district courts and the administrative and labour courts.

representative, the legal representative will also have to conduct all correspondence with the court by electronic means. If the party has chosen electronic proceedings, paper-based documents can still be submitted to the court e.g. if digitalisation of the paper-based document would constitute an unnecessary burden to the party due the large volume of the documents or if the authenticity of the paper-based document is disputed.

[Rz 4] Parties cannot file their submissions electronically in proceedings following a payment order procedure and in proceedings of the district court transferred to the regional court. The service of judicial documents by electronic means is not possible in proceedings before district courts.

[Rz 5] Besides the rules of electronic procedure describe above, in proceedings not initiated electronically, the parties, the prosecutor and other persons involved may request that documents be forwarded electronically to their email addresses (Article 119 (5) of the Code on Civil Procedure).

### **2.1.1. E-service of judicial documents**

[Rz 6] The service of judicial documents by electronic means is effected directly by the court. To be able to communicate with the court by electronic means, the party has to register at the governmental portal reserved for citizens» administrative matters<sup>2</sup>. The court will serve on the party the documents generated during the proceedings through the electronic service system operated by the National Office for the Judiciary to the party's personal storage space at the governmental portal. Parties are informed of the service of a judicial document in an email sent to their email address given when registering to the portal. The party will have access to the judicial document through an electronic link to the document, the opening of which automatically constitutes the acknowledgement of receipt. The document is presumed delivered on the sixth working day following the service of the document on the party's personal storage space.

### **2.1.2. E-service of extrajudicial documents**

[Rz 7] Extrajudicial documents are served by electronic means in the electronic payment order procedure administered by the Hungarian National Chamber of Civil Law Notaries and in the electronic enforcement procedure based on a legally binding payment order administered by the Hungarian Chamber of Judicial Officers.

## **2.2. Domestic payment order procedures**

[Rz 8] Unlike in other European countries, payment order procedures in Hungary are conducted by civil law notaries since 1 June 2010. Domestic payment order procedures without cross-border relevance and claims for enforcement can be processed electronically as foreseen by Act L of 2009 on the Payment Order Procedure. Claims may be presented orally, on paper or electronically. Due to the relatively small number of cross-border cases (480 cases in 2012 and 291 cases in the first half of 2013<sup>3</sup>), the European Payment Order Procedure cannot be initiated electronically.

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<sup>2</sup> <https://ugyfelkapu.magyarorszag.hu/>.

<sup>3</sup> Data of the Hungarian Chamber of Civil Law Notaries.

[Rz 9] In a domestic payment order procedure, the acting civil law notary uses computerised data processing accessible through the integrated electronic system of the Hungarian Chamber of Civil Law Notaries (hereinafter referred to as MOKK) made available through the internet to civil law notaries and other parties to the proceedings (hereinafter referred to as the MOKK electronic system).

[Rz 10] Electronic claims may be submitted directly, by entering data into the MOKK electronic system, with a qualified electronic signature and a time stamp. If the claim has not been submitted electronically, the civil law notary enters the data into the system.

[Rz 11] Claims are distributed automatically by the system equally between the seats of the civil law notaries (every civil law notary has competence over the whole territory of Hungary).

[Rz 12] The contents of the paper-based and electronic documents drawn up in payment order procedures and the procedural steps taken are processed in the MOKK electronic system. The system authorises the civil law notary to execute the operations reserved for civil law notaries following identification and maintains a log of such operations. Processing the particulars of a submission, following identification, may be carried out by an employee of the civil law notary's office.

### **2.2.1. Initiating a payment order procedure and the issuance of the payment order**

[Rz 13] Legal persons and persons represented by a legal representative can only initiate a payment order procedure through the electronic system. The law sets out exceptions from the requirement of using electronic means when the party (a legal person or a person represented by a legal representative) attaches an annex to his or her (i) application for discount on the procedural costs, (ii) application for justification of missing a deadline, (iii) application to rebut the presumption of service, (iv) application for authorisation of payment in instalments, (v) application for deferred payment or (vi) application related to the interruption of proceedings (Article 11(3) of Act L of 2009 on the Payment Order Procedure).

[Rz 14] Claimants are required to register in the e-system and should dispose of qualified electronic signature with time stamp to be able to place their claims. Natural persons without a legal representative can also initiate the paper-based procedure. A procedural fee has to be paid, which can be paid electronically.

[Rz 15] If the claim has been submitted electronically, the payment order has to be issued within three working days of the receipt of the claim. A pre-examination is done by the civil law notary before the issuance of the payment order – if the deadline is missed, the system issues automatically the payment order.

### **2.2.2. Service of the payment order and legal effects**

[Rz 16] The payment order is printed from the system and is served by mail on the defendant. The payment order can also be served by the judicial officer.

[Rz 17] The civil law notary's decision on the issuance of a payment order, which contains the name and address and the seal of the acting civil law notary is an authentic instrument and is valid without his/her signature. If the defendant fails to file a statement of opposition against the payment order in due time (within 15 days), the civil law notary enters *res judicata* on the payment order, and will have it served on the claimant, also through the electronic system. If, following an

opposition by the defendant, the payment order procedure turns into court proceedings, the civil law notary sends the paper-based documents printed from the electronic system to the court, or can forward the file electronically if this is made technically possible by the court. If no opposition is made, the order is enforceable.

[Rz 18] The proceedings conducted by the civil law notary have the same effect as court proceedings. Pecuniary claims which do not exceed HUF 1 million (approx. EUR 3,300) can only be recovered through a payment order procedure provided that other conditions apply, i.e. the defendant has a known address or habitual residence or a registered office or a business representation in Hungary, and the claim does not originate from an employment or civil service relationship.

### **2.3. Enforcement of the legally binding payment order**

[Rz 19] A claim for enforcement, based on a legally binding payment order, is submitted by the claimant to the civil law notary through the MOKK electronic system. The civil law notary will issue the enforcement order also through the e-system. Legal persons and parties represented by a legal representative are obliged to submit the appeal against the claim for enforcement by electronic means (except if the appeal contains annexes). In the case of an appeal, the civil law notary can choose to send the documents printed from the electronic system to the court or can forward the file electronically.

#### **2.3.1. The electronic enforcement procedure**

[Rz 20] The electronic enforcement procedure is conducted by the judicial officers. The civil law notary (or the court) issuing the enforcement order conveys electronically the enforcement order to the judicial officer who communicates with the party by means of the electronic system operated by the Hungarian Chamber of Judicial Officers if the party has chosen to use electronic communication or if the party is required to do so by the law. Based on Act LIII of 1994 on Judicial Enforcement, documents produced during the enforcement procedure are served on the parties and on other persons participating in the procedure by electronic means.

[Rz 21] The contents of the documents produced in the enforcement procedure and procedural steps are recorded in the e-system. The system is encrypted to ensure that only those whose access rights are provided for by the law can have access to the respective documents. Operations by all users are logged in the system. Authentic electronic instruments are electronically signed and time stamped by the judicial officer. Documents to be sent to the judicial officer by other users of the system also need to be signed electronically and time stamped.

[Rz 22] In the execution phase of the enforcement procedure, the judicial officer communicates with the parties by electronic means if so required by the party or if it is required by the law. The request for electronic communication should be submitted to the judicial officer in the form of an electronic document signed with an advanced electronic signature and a time stamp, who – after verification of the party’s identity and domicile – will give authorisation for the use of the e-system. The service of paper-based documents can be authorised by the judicial officers if it is reasonable due to the large volume of documents or for other reasons.

## **2.4. E-management of judicial enforcement cases**

[Rz 23] Communication between the civil law notary and the judicial officer is conducted electronically. The civil law notaries' electronic system collects and processes electronic files issued by the civil law notaries on a daily basis. Orders for enforcement and payment orders to be served by the judicial officers are sent to the e-system of the Hungarian Chamber of Judicial Officers at the end of the day. The system unlocks the encryption of the documents received, checks the digital signature and that the file has been received in the correct format, and sends a return receipt to the sender on the successful submission or an error message on eventual deficiencies or problems with the documents. The electronic system of the Hungarian Chamber of Judicial Officers, by processing the data contained in the file, allocates the case to the competent judicial officer on the basis of the previously determined case allocation order. The file is added to the mailbox of the judicial officer, ready to be downloaded the next day.

[Rz 24] The number of allocated cases through the case allocation system of the Hungarian Chamber of Judicial Officers was as high as 40,000 in March 2013 and the number of documents served through the system was 167,787 in July 2013. Since the launch of the system, 776 896 cases have been allocated automatically<sup>4</sup>, saving considerable human and financial resources previously devoted to case allocation and filing.

## **3. Company Registration Proceedings**

### **3.1. Electronic submission of documents**

[Rz 25] According to Act V of 2006 on Public Company Information, Company Registration and Winding-up Proceedings, company registration proceedings fall under the competence of regional courts acting as courts of registration. Proceedings can be initiated and conducted electronically only, all documents attached should be in electronic form with a qualified electronic signature and a time stamp. Both the courts of registration and the Company Information and Electronic Court Registration Service of the Ministry of Public Administration and Justice are involved in the process. Documents submitted to the court of registration are examined by the Company Information Service of the Ministry from a technical aspect. The decisions of the court adopted during the procedure are also communicated in electronic form.

[Rz 26] On the site of the Company Information Service consultation of the business register is free concerning a limited scope of (existing or deleted) information related to companies, however, a fee has to be paid for real-time and authentic business data. The portal of the Hungarian Company Register was visited in search for company information 6,688,567 times between December 2012 and November 2013<sup>5</sup>.

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<sup>4</sup> Data of the the Hungarian Chamber of Judicial Officers.

<sup>5</sup> Statistics are available at <http://www.e-cegjegyzek.hu/statisztika/index.html>.

### **3.2. E-reporting**

[Rz 27] The e-reporting system (the system to process the balance sheet data of companies) is also operated by the Company Information Service of the Ministry of Public Administration and Justice. The uploaded balance sheets are available for free viewing via the website of the Company Information Service and they are also forwarded to the National Tax and Customs Administration of Hungary. This service is very popular as it considerably reduces administrative burdens and costs for both sides.

## **4. Information to Citizens**

### **4.1. Land registry**

[Rz 28] In Hungary the land registry is operated in an integrated system i.e. the map section (cadastral map of real estates) and the legal section (title-based registration, property sheets) are maintained and managed together in a fully computerised system.

[Rz 29] In line with Act CXLI of 1997 on Land Registration the land registry is public and citizens can access information about the content of the property sheets. Registered users (requiring bulk data, e.g. banks, offices of public administration, local governments, civil law notaries, attorneys etc.) can use the online services of the land registry<sup>6</sup>, data service is subject to a fee. Registered users can only pay the procedural fee by bank transfer. The fees and the cases of cost-free service are determined in the relevant legislation.

[Rz 30] Depending on their rights of access, users can have online access to all registered data of Hungary's lands and other properties. For certain priority users (courts, judicial officers etc.) it is obligatory to use this online access.

[Rz 31] Search in the land registry is enabled on the basis of the municipality and the parcel number or postal address of the plot. Users having special rights (police, tax authorities, judicial officers etc.) can search the register according to the name and personal data of the owner and/or entitled person. Besides the copies of property sheets copies of digital maps are also available online.

### **4.2. Recent developments of the online land registry services**

[Rz 32] A linear trend can be observed in the growth of user numbers since the start of the online services in 2003. By 2013, there are over 13,000 registered users and, by the end of October 2013, users of the online services have requested approx. 3,8 million copies of property sheets.

[Rz 33] In 2005 a new function, the change monitoring service was introduced which allows users to be informed quickly about any changes to the property sheet of their registered land, house or apartment by e-mail and/or SMS. Since 2010 the copy of land lease sheets are also available online.

[Rz 34] Since 2011 citizens can reach the online services of the land registry via a newly designed system called Land Registry Online directly through the internet, after registration at the governmental portal. The conditions for citizens to access information are the same as in the case of

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<sup>6</sup> The register is available at <http://en.foldhivatal.hu/>.

registered users (i.e. for a fee). There is one limited service free of charge where only descriptive data of the properties (the first part of a property sheet) are available. There have been 150,000 users of the online service so far.

### **4.3. Registers of attorneys and civil law notaries**

[Rz 35] The website of the Hungarian Bar Association<sup>7</sup> offers a Find-a-lawyer function (search engine) and a legal credentials check function. The search engine provides the possibility to search for an attorney-at-law according to given criteria (name, seat and regional bar). The legal credentials check function allows users to check the status of the legal credentials of an attorney-at-law (and also of trainee lawyers, assistant attorneys and foreign legal counsels practising in Hungary) on the basis of the attorney's registration number and the serial number of the attorney's license.

[Rz 36] A search tool for finding a civil law notary on the basis of the civil law notary's name or the municipality where he or she is practising is available at the website of the Hungarian Chamber of Civil Law Notaries<sup>8</sup>.

### **4.4. Registers of forensic experts and mediators**

[Rz 37] Both registers<sup>9</sup> are available from the website of the Ministry of Public Administration and Justice free of charge. The registers are administered by officials of the Ministry. Search for experts, expert companies or institutions in the register of forensic experts is enabled on the basis of the expert's name, field of expertise, county of operation, or registration number. Search in the register of mediators dealing with out-of-court settlement of civil law disputes is possible on the basis of the mediator's name, language skills or county of operation.

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JULIANNA BÉNDEK, Legal Advisor, Ministry of Public Administration and Justice, H-1055 Budapest, Kossuth tér 2-4, Hungary, julianna.bendek@kim.gov.hu, <http://www.kim.gov.hu>.

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<sup>7</sup> <http://www.magyarugyvedikamara.hu/>.

<sup>8</sup> <http://www.mokk.hu>.

<sup>9</sup> The register of forensic experts is available at <https://szakertok.kim.gov.hu/szakertok>. The register of mediators is available at <https://kozvetitok.kim.gov.hu/kozvetitok>.