

LINGUISTIC CHALLENGES OF INTEROPERABLE REGISTERS IN THE CONTEXT OF E-GOVERNMENT SERVICES

Petra Lea LÁNCOS*

professor of law (Pázmány Péter Catholic University)

Abstract

E-administration requires, among others, interoperability between registers kept by authorities. Databases hold data clustered around concepts stemming from the different legal acts governing the procedures of the various authorities. Owing to the conceptual and terminological incoherence pervasive throughout legal acts, the intended interoperability between databases and registers will fail. This paper sheds light on the need for a conceptual consolidation in applicable national law on the example of registers kept by Hungarian authorities and the legislation governing them.

Keywords: interoperability, registers, terminology, definitions, inconsistency

1. Introduction

Budai defines e-government as “the knowledge-based transformation and rationalised, service-oriented reorganisation of the public sector’s interconnection system through the public utility-like use of info-communication technology applications,”¹ which includes multi-channel, electronic and automated administration.² The electronic automated administration of government services requires the digitisation of relevant

* ORCID: <https://orcid.org/0000-0002-1174-6882>

¹ BUDAI, Balázs Benjámín: *Az e-közigazgatás elmélete*. [The theory of eGovernment] (2nd, revised edition). Budapest, Akadémiai Kiadó, 2014. 47.

² BUDAI, Balázs Benjámín: *Az e-közigazgatás fogalma, jogi és stratégiai keretei*. [Concept, legal and strategic framework for eGovernment]. Budapest, Dialóg Campus, 2017. 6.

data and the exchange of this data between different bodies. According to Budai, “interoperability ... guarantees standardisation and interoperability both within a state, and between administrations and services of the Member States. If there were no common standards, the exchange of data between institutions would be impossible. Interoperability greatly enhances the competitiveness of the state because it leads to faster and more transparent procedures. Consolidating the data landscape improves the reliability of the data and makes it easier for right holders to access them.”³ Interoperability is therefore about increasing the efficiency of administrative activity by enabling the exchange of data between registers that have hitherto operated in isolation from each other, created as registers by different administrative actors for different public authority functions.

In the context of domestic e-government efforts, Act CCXX of 2013 on the General Rules for the Cooperation of State and Local Government Registers (IoPtv.) was the first milestone in achieving the interoperability of registers kept by public administrations. According to Section 1(1) of the IoPtv, the Act shall be applied *in order to ensure the interoperability of the registers (...) established by public bodies in the course of or in connection with the performance of their public tasks, which contain data specified by law and have a statutory procedure for the transfer of changes in the data to the registers.*⁴

According to Budai, the basic principles of the regulation under the IoPtv. included

- “a coherent definition that is appropriate to the legal system”, and that
- “the design, development and management of registers should be carried out with due regard to the needs of the administration and the interoperability requirements of the systems”.⁵

Bausz defines the linguistic conditions for achieving interoperability as follows: “In order to operate e-government, the task of standardising and harmonising Hungarian terminology must be solved in this system, the relationships between the various concepts must be established, described and linguistic markers must be attached to each concept. The system thus constructed shall be based on, and describe a hierarchical structure of terms, using information technologies”.⁶ As Felber points out in his paper, “semantic interoperability allows data to be processed everywhere for other purposes by means of the same format. In these cases, the computer system can also interpret the data, i.e. it receives information that can be processed and interpreted by the computer system”.⁷

³ Ibid.

⁴ The provisions of the IoPtv. have been incorporated into Act No. CCXXII. of 2015 on the general rules of electronic administration and trust services.

⁵ BUDAI (2014) op. cit. 44.

⁶ MAJZIKNÉ BAUSZ, Ágota: Az e-kormányzat, e-közigazgatás problémái és terminológiai vonatkozásai Magyarországon. [The problems and terminology of e-government and e-government in Hungary]. *Magyar Terminológia*, vol. 1. no. 1. (2008), 60.

⁷ FELBER, Zsófia: Útban az interoperabilitás felé. [Towards interoperability]. *Pro publico bono*, vol. 2., no. 1. (2014), 158.

In this vein, and in line with the scope of the IoPtv, I will examine the categories (linguistic markers) and definitions of data recorded in the registers managed by Hungarian public authorities, as defined by the legislation, and the interoperability challenges related to these registers. In my analysis, I will not address the data protection aspects of the exchange of data between administrative records; instead, I will examine the types of terminological and definitional challenges that may arise in creating interoperability between registers created for the purposes of implementing different pieces of legislation.

In the course of my research, I compared the designation, i.e. term referring to the specific data covered by data provision or data collection obligations, on the one hand, and their definitions, on the other hand, by analysing the following laws:

- Act LXVI of 1992 on the Registration of Personal Data and Address of Citizens (hereinafter Nytv.);
- Act LXXXIV of 1999 on the Road Traffic Register (hereinafter referred to as Kknyt.);
- 326/2011 (XII. 28.) Government Decree No 326/2011 (28.XII.) on road traffic administrative tasks, the issue and withdrawal of road traffic documents (hereinafter: Driving Licence Decree);
- Act No. I of 2010 on Civil Registration Procedure (hereinafter: At.).

2. Inconsistent definitions: terms with the same substance, but different designation

In the course of my research, I found several definitions in the legislation examined which, although having the same semantic scope, were presented in different forms in the various legislative provisions. These discrepancies can pose challenges in terms of creating categories in the register and retrieving information.

For example, the Driving Licence Decree defines a third-country national as follows (Section 2(1) 3)):

3. third country national:

- 3.1. a person subject to the Act on the Entry and Residence of Third Country Nationals, and
- 3.2. a member of the family of an EEA national who is a national of a third country and who is a national of an EEA State subject to the Act on the Entry and Residence of Persons with the Right of Free Movement and Residence.

The Decree refers in point 3.1 to Act II of 2007 on the Entry and Residence of Third Country Nationals, which defines a third country national as *a non-Hungarian national and a stateless person, with the exception of persons falling under paragraph 1(3)*. Based on the exception under paragraph 1(3), the Act does not apply to *persons with the right of free movement and residence*.

By contrast, Section 3(v) of the At. defines a third-country national as *any person other than a Hungarian national who is not an EEA national, including a stateless person*. Although 'EEA nationals' do indeed have the right of free movement and

residence, and thus the definitions of the category of third country national used by the Driving Licence Decree and the At. are identical in substance, the two laws, and even the 2007 Act II of 2007 cited by the Driving Licence Decree, have formally defined the same concept differently, which points to inconsistent definitions of the concept in the different legislative acts.

A similar inconsistency may be discovered between the definition of ‘address’ in the Nytv. and the Driving Licence Decree. According to Section 5(4) of the Nytv., the address of a citizen is the address of his/her registered residence or place of abode (hereinafter together referred to as address). By contrast, Section 2(1)(5) of the Driving Licence Decree defines address as *the residence or place of abode of a natural person party, or, in the absence thereof, the place of accommodation of the party*; i.e. the latter definition includes the party’s place of accommodation under the scope of address. Although the Nytv. 5(2) of the Nfv. includes the term accommodation in the definition of the place of residence of the citizen, the two legal acts use different definitions for the term ‘address’.

Likewise, in Nytv. Section 5(13) of the definition of *citizen’s signature: the spelling of his/her maiden or married name and surname as used and recognised by him/her* does not necessarily correspond to the requirements under Kknyt. Section 11(d): *a handwritten signature*. Yet even if it were to refer to the same substance, the inconsistent wording may impede interoperability.

As regards the data category of ‘mother’s name’, which is often used for personal identification purposes, the different pieces of legislation under scrutiny refer to it in different ways: the Kknyt.’s Section 32/B (2) (dc) and point 4 of the Annex 5 to the Driving Licence Decree simply use the term ‘mother’s name’, whereas the At.’s Section 3 uses the phrase ‘mother’s maiden name and surname’ and Section 29/J(1)(b) of Nytv. uses the phrase ‘mother’s maiden name’. While the terms used in the At. and Nytv. are clearly identical in substance, they are expressed differently in the legislation. Meanwhile, the designation ‘mother’s name’ in the Kknyt. and the Driving Licence Decree does not contain the adjective ‘maiden’. Thus, although administrative practice clearly refers to the mother’s name at birth, the wording of the two pieces of legislation not only differs from the wording of the At. and Nytv., but is also imprecise.

3. Terminological confusion: concepts with the same designation but different meanings

A complete opposite of the problem examined above, but a challenge critical from the perspective of interoperability, is the use of terms with the same designation, but different substance.

For example, there are inconsistencies, gaps or contradictions in the definition of ‘relative’ used in the legislation under scrutiny. While the Civil Code uses the concept of a relative, the Driving License Decree defines a *relative of a member of the foreign armed forces* by reference to the concept of relative under Section 2(2) of Act XXXIV of 2011 on the Registration of International Military Headquarters and their Personnel and Certain Provisions Relating to their Legal Status (Küfetv.). This

concept of relative may differ from the definition in Art. 8:1(1) points 1) and 2) of the Civil Code. Indeed, it may be the same, narrower, or possibly broader in scope than the definition of a relative under the Civil Code, depending on the legislation of the state of nationality or permanent residence of the person concerned falling under the scope of Küfetv. According to Section 2(2) of the Küfetv., a *member of the staff of an international military command* is considered to be a relative if they are

a) *the spouse,*

b) *dependent children, including children by blood, adoption, foster or stepchildren, and*

(c) *a person defined as a dependant by the law of the State of nationality or permanent residence,*

if living in the same household with him/her in Hungary.

Finally, although the Nytv. uses the term ‘relative’, it does not specify whether it is used in the meaning of the Civil Code or possibly according to the broader definition of the Criminal Code, which includes the civil partner under the scope of the term relative. The latter conceptual discrepancy may create legal uncertainty, and the differences in the definition of ‘relative’ in other legislative sources may create further challenges when it comes to the automatic exchange of data. Interoperability is a key objective in order to render data exchange between the registers managed by public administrations effective. However, if different data is recorded in the various registers under the same data categories (represented by identical designations, e.g. relative), the efficiency of automated administration will be compromised.

4. Conclusions

“In situation where e-government and e-administration are becoming commonplace in Hungary, parties and authorities should use the same concepts and the relationship between these can be established through language. At the moment however, we do not see this happening.”⁸ Agreeing with Bausz, it can be confirmed that the stated goal of interoperability may be greatly hampered by the terminological and conceptual differences detailed above. Only human intervention in the process of the retrieval of data can correct inaccuracies resulting from the use of concepts with the same form but different substance. By contrast, the use of concepts with the same substance but different designations may cause problems due to differences in data categories. This may prevent interoperability between the registers managed by public authorities. Under such circumstances, the unimpeded exchange of data cannot be achieved or can only be achieved with the serious risk of inaccuracy. Consequently, the objective of using coherent definitions – which forms part of the regulatory principles of the now repealed IoPtv, i.e. harmonising the terminology of legislation in order to achieve interoperability of the registers created to implement legal rules – should be achieved as soon as possible.

⁸ MAJZIKNÉ BAUSZ op. cit. 59.

