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**CIVIL-STATUS REGISTRATION AND POSITION OF REGISTRARS
IN SOME MEMBER STATES OF THE INTERNATIONAL COMMISSION ON CIVIL STATUS (ICCS).**

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Introduction

As in most countries, civil-status registration is strictly organised in all ICCS member States, but in many aspects the principles of such an organisation is quite different from one country to another, as are the position, training and competences of the registrars. After a short description of the organisation of civil-registration services in the various countries, I shall try to give some precisions on the position and training of civil-registrars in member States before outlining some specific duties registrars are to perform.

1. Organisation of civil-registration services, yesterday and today

Before describing the status and functions of registrars in some member States of the International Commission on Civil Status (ICCS), one should first remind that civil-status registration started in most countries long before civil-status registrars existed. Except Turkey where previously only marriages were recorded by religious authorities, in the other countries all vital events were in the past recorded first by the catholic priests, who kept a register in which they recorded the baptisms, marriages and burials occurring in their parish. These parish registers, which were later also kept by members of the clergy for other religions, were then the general mode of proof for the civil-status events. Yet the parish registers differ from the civil-status registers we know today in a major aspect: they did not content the events relating to the whole population but only those concerning their own believers.

Church Ministers maintained the registers of the vital events until that responsibility was transferred to the State. In some countries (like Belgium, Croatia, France or Luxembourg) civil-registration became a State competence at the end of the 18th century; in other countries, the competence was transferred to the State in the early 19th century (as in The Netherlands) or even only in the second half of the 19th century (as in Germany, Greece, Hungary, Italy, Spain or Switzerland). Poland had a special situation for the 1791 Constitution obliged the priests to make the entries of the births, marriages and deaths but provided that the control of these activities was to be exercised by the State. Since the registration services are State services, there is a general obligation for individuals to register vital events.

In most ICCS countries, the civil registration services are entrusted today to the municipalities, except in Spain, where the *Registro Civil* is entrusted to the judiciary bodies, and in the United Kingdom, where they materially depend upon the Local Councils. In addition to the local civil-status registration services, most countries also have a special service where they register events recorded in a foreign country, which in some cases is a completely centralised service, and in other cases a specialised department usually attached to the civil-status office of the capital of the country.

In a number of countries, the registrars exercise their functions under the control both of the prosecutor and a ministerial department, which can either be the Ministry for Justice (e.g., Belgium, Spain, France, Greece, Luxembourg, Netherlands) or the Ministry of the Interior (e.g., Italy); in other countries, they perform their duties under the control of a specific administrative authority and either a qualified Ministry (e.g., Croatia, Switzerland) or the Ministry for Internal Affairs (e.g., Germany, Austria, Turkey).

The United Kingdom has an organisation diverging from the one existing in the other ICCS member States for each of the three components of the Kingdom -England and Wales, Scotland and Northern Ireland- has its own legal system and the British civil registration is therefore governed by different Acts of Parliament. The principles governing the organisation of the civil-status registration are very similar in the three bodies, but quite diverging when it comes to the practical application. The matter is not under the supervision of a Ministry, but in each component there is a General Register Office, which is headed by a Registrar General, and responsibility is divided between the Registrar General and the Local Councils. The personnel and the buildings depend upon the Local Councils but the control of the services and of the registers is exercised by the Registrar General, helped by examiners who inspect the work of the registrars on the field. The Registrar General has statutory authority to make provisions, prescribe forms, set fees and give instructions and directions to registrars on the exercise of their functions.

2. Civil registrars and professional training

The registrars are sometimes elected officials, who will then delegate part of their functions, but they are generally local civil servants or State civil servants, especially appointed to exercise their functions.

As far as registrar's vocational training is concerned, the situation varies greatly from one country to another. In most countries, the civil registrars have a specific vocational training but this training might be more or less important according to the countries. In some countries (e.g., Croatia and Hungary), the registrars' training is very precisely regulated, with national regulations for a vocational examination and for the contents and the length of the training course. But many countries (e.g., Belgium, Greece, France,

Luxembourg, United Kingdom) have no precise regulations and appoint local civil servants having an average level of general education, people being then mostly trained by the local authorities, getting a short specific training and having afterwards the possibility of taking part in advanced trainings. Yet legislation getting more and more complex and registrars being always more confronted to international situations, it should be stressed that in several countries, and notably in Italy and Switzerland, there has been a tendency over the last years to increase the professional training for registrars and to adopt regulations in order to precise the content of such a training and to create a specific diploma.

Nevertheless, even if in bigger cities the head of the civil-status department is often a lawyer, legal studies are usually not required from registrars, except in Portugal and Spain where registrars are always lawyers. In Spain the functions of registrar are entrusted to a judge of first instance, who may delegate the functions to a Justice of the Peace in the small agglomerations where there is no court of first instance. In Portugal, a lawyer is appointed by the Minister of Justice, when passing a special examination after a specific training in civil-status matters and a practical probation. This higher legal training of the Portuguese and Spanish registrars probably explains why they have extended powers in the performing of their duties compared to their colleagues from other countries. Since a law of October 2001 the responsibility of Portuguese registrars was even extended: next to the registration of events and the up-dating of records, they are competent for various matters usually decided by a court in other countries, such as separation, divorce, conversion of the separation into a divorce, homologation of a reconciliation, granting a woman release from the waiting period, or authorising or refusing that an ex-spouse keeps carrying the name of the other one after divorce, etc. The Portuguese registrar only refers to the court in cases of conflict between the couple or parents.

In all the countries, except in the United Kingdom, there are also special registrars exercising their functions in special cases (e.g., maritime or air voyages, wars or other exceptional circumstances, prisons, hospitals or other publicly-owned establishments, places inaccessible or far away places, etc.). In the majority of the countries, the diplomatic and consular agents are also entitled to exercise registration functions of registrars for the events which occur abroad and which concern their own nationals, provided the host country authorises them to do so. One will note however that the births and the deaths which have occurred in an ICCS member State must first be declared with the local registrar, except in Greece and Turkey; in this latter country, a modification was however introduced recently: since the new law on civil status of 25 April 2006 foreigners having a right of abode of more than six months in Turkey have the obligation to register their vital events in a register for foreigners.

3. Registrars' functions and duties

The registrars' tasks are numerous. In their duties, the registrars are to register the vital events occurring in their civil-status district, to maintain the records and issue certificates thereof and to preserve their registers for a given length of time –sometimes up to 100 years- before transferring them to archives. In some countries (e.g., Belgium, Croatia, France, Luxembourg), there is a statutory obligation to keep the registers in two original copies, while in others (e.g., Greece and Portugal) registers are held in one copy only.

In all the ICCS member States, an entry made in the register cannot be changed afterwards by a registrar. Some minor corrections by the registrar are authorised in most States, but a rectification of the record generally needs a decision by an authority, either

administrative or judicial. Yet in all ICCS member States, except the United Kingdom, registrars also have the duty to keep the registers up-dated each time a vital event changes the status of a person, but this up-dating is not provided for in the same way from one country to the other. In many countries where registers are up-dated, all events and decisions that modify the personal status or the family status are to be mentioned either in the margin or at the bottom of one or several specific records or in a special register.

- In some countries –such as Belgium, Germany, the Netherlands, for example- all changes relating to parentage will be mentioned in the birth record, where as decisions concerning marriage and its dissolution will be mentioned on the marriage record. If you need to know the succession of events affecting one person's life, you will usually have to combine the two registers.
- In other countries, like Croatia, France, Greece, Italy, Luxembourg or Portugal, all events or decisions changing an individual's status are mentioned in the birth' record of that person. In these countries, even if changes affecting marriage are also mentioned in the marriage record, there is a centralisation of the various mentions in one single record and the birth certificate will give a complete photography of a person's life.
- In Turkey, the single civil-status records are not up-dated but the various mentions concerning the events and decisions affecting the status of a person are made in a family register.

In the United Kingdom, there is a general rule that once made a register entry remains unchanged, and that there is no up-dating of the records. There are again differences between the three components of the Kingdom but generally, however, the Registrar General maintains a register of corrections, in which amendments to the other registers can be entered. There are also some cases in which an entry is made in the register of corrections and a marginal note beside the original entry gives a reference to this. That happens for example in Scotland, when a court has made an order of parentage, when the subject of the entry has changed his or her name or when further information about a death has become available. The Registrar General maintains registers of adoptions and divorces notified to him by Scottish courts. Where a court makes an adoption order, the Registrar General annotates the entry in the register of births as well as making a separate entry in the adoption register. The information necessary to link the two entries is kept confidential. But where a court makes a divorce order, the entry in the register of marriages is not annotated to show the marriage is ended.

Over and above the reception of the informants' declarations, the registration of birth, marriage, civil partnership and death records, the conservation of the various registers and the issuing of various certificates thereof, civil registrars also conduct marriages in all the countries and civil partnerships in some of them. It should be noticed that this prerogative of celebrating marriages is often exercised personally by the mayor, acting as official registrar in some countries (like France or Italy) or by another member of the town council, acting on delegation of the mayor. Many countries allow a religious wedding only after a civil marriage has been concluded (e.g., Austria, Belgium, France, Germany, Luxembourg, Switzerland, Turkey), but although civil-status services are everywhere State services, quite a number of countries also authorise priests to conduct religious marriages producing civil effects (e.g., Croatia, Italy, Poland, Portugal, Spain, United Kingdom), under some conditions. In some of those countries, the marriage certificate must be transmitted to the registrar and be recorded in the register in order to produce civil

effects, but in others the absence of registration is not necessarily affecting the validity of the marriage. Some countries even appoint an individual person to conduct a specific marriage on a precise day (e.g., The Netherlands, United Kingdom). And if in many countries, marriages are still to be celebrated in statutory specified places, the tendency is to open the range of choice and to allow the celebration of marriages in an always greater diversity of places.

Conclusion

Over the past 20 years, registrars had to face great changes. They have been confronted to important social evolutions that have been translated in complex and quickly-changing national legislations. Registrars also have been confronted to an ever increasing number of complex international situations and had to deal always more frequently with a large number of foreign legislations. They had to adapt and improve their knowledge and training.

Nowadays new technologies are commonly used in most civil-status services and the new technological environment has certainly changed the registrars' duties and the way they exercise their functions in the everyday practice. Yet, even if most registrars have computerised systems of registration, only two countries among the ICCS member States have presently a fully computerised operating system for the whole territory, notably Switzerland and Turkey, and Switzerland even decided to have no longer any "paper register" but only a centralised computerised system. A third ICCS member country, Portugal, should start its fully computerised system in a few days.

There is no doubt that where a fully computerised operating system is introduced, important changes are in the same time brought to the concept of civil-status registration. Computerisation is often to bring a change in the organisation of civil-status registration and new rules are introduced, which are fundamentally quite different from the ones which existed before. The family register which was the basis of the Swiss system for updating the registers was abandoned in the reform operated in Switzerland and replaced by a system based on the individual person. The new German law which provides for a future computerised registration also plans to concentrate all information concerning a person on an individual electronic record. The notion of territorial competence, which limited registrars to perform their functions in a given civil-status district is probably to be apprehended differently if not to disappear completely. One can also notice that the introduction of a generally computerised system will tend to introduce greater centralisation, with less services and staff, but in the same time registrars will probably benefit from a greater professional training, an extended competence and a higher position.

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