

PRESENTATION OF THE ICCS AND INTRODUCTION

Jean MAZARS

Judge at the Court of Cassation, Paris (F)

President of the International Commission on Civil Status (ICCS), 2008-2009

President of the French Section of the ICCS

Mister Mayor,

You have honoured us by accepting to open this colloquy organised by the International Commission on Civil Status – the ICCS for initiates. Strasbourg is the seat of better-known international organisations with wider missions than the ICCS. But we try, in our place and within our means, to contribute towards better understanding between countries and simplification of our fellow citizens' administrative and social lives. When our organisation decided to establish its seat in Strasbourg, besides the advantages of a large European city, filled with history, it saw the advantage of being so internationally-situated, infinitely open to Europe and the world. This is why, Mister Mayor, we are particularly sensitive to the honour you have done us by accepting to open this colloquy, and we thank you for accepting to be with us in this moment.

To our VIP guests,

The ICCS is grateful to you for consenting to join us as we begin our debates. Your presence, for all of us, bears witness to your interest in our organisation and our work. For this, we thank you.

Ladies and gentlemen,

You have accepted to take some precious time out from your family or professional lives in order to participate in our thoughts on civil status today and what it will become in the future. I am especially grateful to our friends from Latin America, who have crossed the Atlantic to join us. We are very glad that they did. Indeed, it would be remiss for an organisation with so much influence on life – whether daily or extraordinary in every sense of the word – to reflect only the opinions and views of a few specialists operating far from the realities with which practitioners and users are confronted daily. We are counting on all of you to remind us of the main thing: that our duty is to serve people efficiently and truthfully. It is enough to say that we hope you will find these debates informative and that, thanks to our exchanges, we will be able to respond today, and even better tomorrow, to the aspirations of our fellow citizens. That is the aim of this colloquy, and also the mission of the ICCS.

For the ICCS, which is celebrating its 60th anniversary this year, was founded in 1949 by five States: Belgium, France, Luxembourg, the Netherlands and Switzerland. It has grown, as it now includes fifteen States (as well as the founder States, we have Croatia, Greece, Germany, Hungary, Italy, Poland, Portugal, Spain, Turkey and the United Kingdom), as well as eight observer countries (Cyprus, Lithuania, Moldavia, Romania, Russia, the Holy See, Slovenia and Sweden). It cooperates with various international organisations, such as the Council of Europe, the European Union, the Office of the United Nations High Commissioner for Refugees and the Hague Conference. It has also engaged in cooperation with several States and civil-status organisations in Latin America. It has forged regular links with practitioners' associations.

The ICCS is an intergovernmental organisation, with the aim of promoting international co-operation in civil-status matters, and of improving the functioning of the services in charge of such. With this objective in mind, it compiles a documentation on legislation and case-law setting out the law of the Member States on this topic, it provides them with information and expertise, carries out legal and technical studies, and prepares conventions or recommendations. Among the instruments it has elaborated, we might mention, for instance, the International Practical Guide on Civil Status, which gives us a view of the organisation of civil-status services in its member States, and details the legislative and regulatory provisions in the area of people's status and family law. It has also drafted several multilateral conventions (26 of which are in force), mainly devoted to the exchange of information, the issue of multilingual civil-status records avoiding translation problems, the recognition of various institutions which are not always exactly the same in the various countries, for instance, as of late, registered partnerships. It has also adopted nine recommendations relating, in particular, to the harmonisation of records, how public registers are, the computerisation of civil status, cooperation in terms of administrative help for asylum seekers, or documentary fraud. It has published several summary reports on topical questions, for instance civil status, the European Convention on Human Rights and Fundamental Freedoms, transsexualism, fraud, the registration of stillborn children...

Over its 60 years of existence, the ICCS has been in a position to observe how much the preoccupations of countries and citizens change. It has found itself, and still finds itself, confronted with societal and technical changes, as well as changes in the needs of people involved.

Considerable migratory movements have taken place, putting into contact within the same territory different ways of life, values and cultures. In parallel, new trends and social institutions have appeared, such as reconstituted families or partnerships. These phenomena show the substantial link between civil status – depending on whether and how it takes these matters into account - and the state of a society, the government of a country, or the history of a people

In the beginning of this 21st Century, it seemed necessary to us to understand better the nature of these links, to have a better grasp of what we have in common and what is particular to each of us. This is why it is important to approach civil status – even if it is too approximately – not only in our Western countries, but also in civilisations which are different from our own, such as in China or in the Muslim world. Resituating our civil-status systems within the perspective of our societies' expectations, obtaining a better grasp of the missions and objectives of civil status, such is the aim of this colloquy's first morning session.

It is often under the influence or under the effect of scientific and technical progress that institutions or social needs evolve. Civil status is no exception to this. For instance, does it still allow the identification of an individual through a few events (birth, death), or a few social links (marriage, parentage, family name...) when we have the possibility to resort to biometric identification procedures? What does the mention of parentage represent in a birth record when a declared parent has access to the results of a DNA test demonstrating the absence of any biological link? Can law and the civil status it translates into ignore the scientific reality? How can they cohabit with it? How much of a role should be given to the various means for identifying individuals among a multitude of people so that they serve the purpose of better social integration, without sacrificing what cannot be reduced, i.e. individual freedoms, and without abusing anyone's privacy?

The confrontation between science and technical progress on the one hand, and judicial rules and civil-status systems on the other, which calls into question the nature of civil status, will be the object of our work this afternoon.

But science and technical progress do not only affect the substantive aspect of civil status. They also affect the way civil status works. Computerisation is making huge changes to traditional means of

establishing civil-status records or updating them. The very notion of civil-status registers has been deeply affected, perhaps even to the point of disappearance. The concepts of update, or extract, are also affected when it is possible to modify marginal notes without there being a trace of change, and when it is possible to select only the needed information.

Technological evolution also poses the problem of the storage of civil-status records, and the obsolescence of the means to read them, particularly as these records need to be stored permanently.

It is self-evident that technical progress has consequences on the functions of civil registrars. But the role of civil status, and its social and political function, have consequences that are at least equally important. So, must – can – a civil registrar simply be a witness to a person’s social life or/and must – can – he implement population administration policies and social control revealing socially acceptable conduct, or marginal, if not deviant, practices in breach of a State’s legal standards?

These questions on the evolution of the role of civil-status practitioners will be at the centre of our debates on Saturday morning.

These are the kinds of questions we will be tackling over these two days, thanks to the experts, all (or almost all) from the fields concerned, who consented to come and think about them with us, equipped with their knowledge, their thought, and their practice. I would like to thank them warmly for this: their participation guarantees the productivity of our debates. It is thanks to all of you, with your expertise, experience, and knowledge of what is at stake where these changes are concerned, that we will be able to rise up to today’s expectations, and, I hope, tomorrow’s demands. The ICCS, like all the other organisations involved, will attempt to draw lessons from this for the greatest possible benefit of our States and fellow citizens.

As you can see, we will not be short of work. This is why I suggest we waste no more time and suggest that we begin our studying and thinking.

I thank you for your attention, and in advance, for your participation.