Chapter II

Legal Bases for the Operation of E-government in Hungary

BERTOLD BARANYI, ANDRÁS BENCSIK & ISTVÁN HOFFMAN

Abstract It should be emphasised that the Hungarian regulation on electronic administration has started to develop during the Millennia, and the former restrictions of the electronic administration have been eliminated, and even the practice of the Hungarian e-administration has been transformed by the ICT revolution and the new legislation. The e-administration have been extended after the reforms of 2014/2015 and it has been strengthened by the new legislation in 2023/2024. This regulatory framework and it major elements will be analysed by our chapter. As part of this examination, it should be emphasised, that the digital services are linked to Artificial Intelligence (AI) tools. However, compared to the business sector government sector has several specialties by which the application of AI is influenced. Therefore, these specialties and the possibilities of the use of AI by the Hungarian public administration is reviewed by our chapter.

Keywords: • digital services • digital citizenship • electronic administration • digitalisation • AI and public administration • Hungary

CORRESPONDENCE ADDRESS: Bertold Baranyi, Dr., Lecturer, Eötvös Loránd University, Faculty of Law, Department of Administrative Law, H-1053 Budapest, Egyetem tér 1-3., Hungary, e-mail: bertold.baranyi@baranyitimar.hu. András Bencsik, Ph.D., Dr., Habil., Associate Professor, Eötvös Loránd University, Faculty of Law, Department of Administrative Law, H-1053 Budapest, Egyetem tér 1-3., Hungary; Károli Gáspár University of the Reformed Church in Hungary, Faculty of Law, Department of Financial Law, H-1042 Budapest, Viola u. 2-4., Hungary, e-mail: bencsik.andras@ajk.elte.hu. István Hoffman, Ph.D., Prof. Dr., Full Professor, Eötvös Loránd University, Faculty of Law, Department of Administrative Law, H-1053 Budapest, Egyetem tér 1-3., Hungary; Maria Curie-Skłodowska University, Faculty of Law and Administration, Department of International Public Law, Plac Marii Curie-Skkodowskiej 5, 20-400 Lublin, Poland; Centre for Social Sciences, Institute for Legal Studies, H-1097 Budapest, Tóth Kálmán u. 2-4., Hungary, ORCID: 0000-0002-6394-1516, e-mail: hoffman.istvan@ajk.elte.hu.

https://doi.org/10.4335/2026.1.2 ISBN 978-961-7124-29-3 (PDF)
Available online at http://www.lex-localis.press.

© The Author(s). Licensee Institute for Local Self-Government Maribor. Distributed under the terms of the Creative Commons Attribution-NonCommercial 4.0 license (https://creativecommons.org/licenses/by-nc/4.0/), which permits use, distribution and reproduction for non-commercial purposes, provided th original is properly cited.

1 Introduction

Today, the digital revolution has also caught up with the administration. E-governance has many advantages. For example, clients are not tied to office hours, do not have to meet with officers, they can access information more easily, and many tools are available to help them make decisions (Bowman & Kearney, 2016: 223). The *e-government* is an umbrella term (Gaie & Karpiuk, 2024: 176-178): it covers the government innovation and the government information and services – according to the relevant literature. The aim of e-government is oftenreferred as the paperless office, which means that electronic administration converts paper processes into electronic processes (Czuryk, 2023: 46). E-government creates a lot of ways that governments and citizens can communicate with each other. As a result, clients become the actors of the administrative system (Wohlers, 2010: 89-90).

The e-services are different, and the different stages of e-administration is distinguished. Four main stages of the e-government development are distinguished. This classification is based on the integration of the different services and on the complexity of the structures and technology. The first stage is the *catalogue*, in which the online presence of the government is provided, the main tasks are catalogued, and the several forms could be downloaded. The second stage is the *transaction*, in which the services and forms are online, and the online transactions are supported by several working databases. The third stage is the *vertical integration*, in which the local systems are linked to higher systems (within similar functionalities). The fourth stage is the *horizontal integration*, in which the systems with different functions are integrated and a real one-stop-shop is provided (Layne and Lee, 2001: 124-125).

It is highlighted by the literature, that significant investments are required to fulfil these aims, and the costs of these investments are partly related to the cybersecurity issues (Heeks, 2006: 107). But the e-government technologies have several prerequisites. After Layne and Lee three vital condition should be fulfilled to implement a successful e-government reform: universal access to the e-government tools, the defence of privacy and confidentiality and – last but not least – the citizen focus in government management. (Hoffman & Cseh, 2020: 200-202). Our chapter will be based on the analysis of the legal framework of this system.

The analysis of the digital public services and electronic administration has been based on the methods of jurisprudence because the regulatory environment of this phenomena has been analysed. Our chapter focuses on the analysis of the regulation, and it focuses on the analysis of the legal norms, soft law documents and partly the policy papers. Because these issues have a limited judicial practice, therefore, the judgements are just narrowly reviewed by our chapter (Evans et al. 2015).

The major challenges and results of the transformation of the regulation have been summarised by the chapter, as well. The primarily impact of the reforms and the application of AI on the government sector has been similarly analysed by the chapter.

2 Regulatory framework

By the adoption of Act CIII of 2023 on the Digital State and Certain Rules for the Provision of Digital Services (hereinafter: DCA), a *horizontal approach* was established, similar to Act CCXXII of 2015 on electronic administration (EAA) (Baranyi et al., 2018: 35-37), by which this area was previously regulated. In terms of its position in the legal system, it has similarities with Act CL of 2016 on the Code on General Administrative Procedure (CGAP).

Each procedural code may lay down different or additional rules on electronic administration to the general rules of the DCA, within the scope set out therein (Baranyi, 2018: 235). The CGAP, in line with its regulatory logic, contains few rules on e-government, while Act I of 2017 on the Code of Administrative Court Procedure (CACP), although providing for some rules, basically refers back to the rules of the Act CXXX of 2016 on Code on Civil Procedure (CCP). Different or additional detailed rules on electronic case management may be laid down in sectoral legislation within the scope of the DCA or the procedural codes.

The general rules for electronic administration are detailed in government regulations implementing the DCA. The DCA does not only regulate the electronic administration of administrative procedures, including those of administrative authorities. Under the Act, its provisions on e-government apply to the electronic handling of matters with customers by bodies providing digital services.

The scope of the *organisations providing digital services* is very broadly defined in the law. In addition to the bodies listed in detail, all legal entities authorised by law or government decree to exercise the powers of an administrative authority are also covered by the Act. The only public authorities excluded are those bodies which are statutory bodies of local government, unless they voluntarily undertake to provide electronic administration. Any legal entity, whether private or not, may voluntarily undertake to provide a digital service for the management of any matter, whether social or economic, which is not contrary to public morality. In return, they become entitled, under certain conditions, to use the services and tools available to the bodies responsible for providing mandatory eGovernment services.

The law also defines the scope of *clients* very broadly. In electronic administrative proceedings, the client is not only the client under the CGAP, but also other participants in the proceedings, i.e. the witness, the official witness, the expert, the interpreter, the holder of the object of inspection and the representative of the client. Accordingly, the

rights and obligations associated with electronic administration of the case are also vested in and imposed on these participants to the proceedings. The rules of the Eüsztv. relating to the client shall also apply in cases in which the body providing electronic administration participates as client, witness, interpreter or expert, and, mutatis mutandis, in administrative proceedings.

The DCA also defines the scope of *cases and jurisdiction* broadly. It covers not only administrative proceedings, but all public authority proceedings falling within the competence of an e-government body, and even matters relating to services provided by an e-government body under the law, such as the use or cancellation of public services, simply on the basis that the e-government body provides these services. It is up to the legal entities that voluntarily undertake eGovernment to determine the matters for which they undertake eGovernment.

3 Principles of electronic administration

In addition to the general principles of the legal system as a whole (i.e. good faith, fairness, mutual cooperation, proper administration of justice, protection of personal data, public interest and public disclosure of data of public interest), the DCA also sets out *specific* principles that are enforceable and even directly invocable: 1) *the right to electronic administration* is the fundamental basis of all client rights related to electronic administration; 2) the essential content of the *principle of technological neutrality* is that clients may choose any suitable means and solution for electronic administration and, in particular, they may not be obliged to use any means or IT system which entails additional costs; 3) *the principle of electronisation of the entire administrative process* means that electronic administration should not be designed by replacing some elements of traditional administration with their electronic counterparts, but by re-optimising the entire administrative process in the light of modern ICT solutions; 4) *presumption of lawful use of electronic* means of communication and means of electronic communication defined by the legal regulation: a) on the one hand, it creates a presumption that the customer is acting lawfully if he or she is contacting you in the manner and by the means specified in the law, b) on the other hand, the customer shall be deemed to be making lawful use of the means and means of contact specified, unless proven otherwise; 5) *the principle of positive discrimination in favour of electronic administration* in order to promote the application of electronic administration allows, for example, that the body providing digital services undertakes to take a decision sooner than the legal deadline in the case of electronic administration.

4 Digital citizenship and right to electronic administration – and its limitations

The obligation to provide e-government as part of digital services is seen as an entitlement to e-government on the client's side, which can also be seen as part of digital citizenship. The right to e-government, as the mother of procedural rights of the client, is not unlimited, as are other rights. *The most important limitations are defined are set by the DCA itself:* 1) a natural limitation of electronic administration is when it is not meaningful for the procedural act in question. Obviously, for example, a forensic expert cannot take a blood sample electronically, nor can a case be sealed electronically; 2) some of the rights of the detained person, including the right to electronic administration, may naturally be restricted to the extent strictly necessary for the execution of the sentence, measure or coercive measure; 3) the rules of the Act on the Protection of Classified Data do not apply to classified data, the electronic transmission of such data is only possible if the requirements set out in Act CLV of 2009 on the Protection of Classified Data are met; 4) where this is precluded by an international treaty or a directly applicable binding act of the European Union of general application, electronic administration shall not be used, mutatis mutandis, for any procedure or procedural act.

In addition to the following general conditions, electronic communication *may also be excluded by law or by government decree* under the original legislative power: 1) the exclusion of electronic administration may only apply to procedural acts, not to complete cases or groups of cases; 2) electronic administration may be excluded for a given procedural step only if the performance of the procedural step requires the submission of a document by means other than electronic means or the personal appearance of the client; 3) the non-electronic presentation of the document or the personal appearance of the client cannot be replaced or substituted by any other means.

5 The obligation of electronic administration and the consequences of failure of the fulfilment of the above-mentioned obligation

Entities obliged to participate in eGovernment. The DCA requires three categories of clients to apply electronic administration as a digital service. The first group includes business entities, which are defined in Article 7(6) of the CCP. Public entities, such as the State, municipalities, budgetary bodies, public prosecutors, notaries, public bodies and all other public authorities, are also obliged to administer their affairs electronically as customers. The third group of clients subject to the e-administration obligation includes legal representatives (attorneys at law, legal counsellors). The DCA includes in the definition of legal representative, on a subsidiary basis, a lawyer, law firm or attorney at law (including European Community lawyers and European Community law firms) acting on behalf of a client. These representatives are considered legal representatives even if legal representation is not mandatory in the public procedure. However, a lawyer, law firm or barrister cannot be considered to be legally represented if he is not acting as

a representative but is acting in his own interest. Accordingly, a law firm (as a business entity) is obliged to conduct its own affairs electronically, whereas an individual lawyer and a barrister are not.

In addition to the above, compulsory electronic administration *can be exclusively made mandatory by an Act of Parliament.*

Exceptions to mandatory electronic administration. Just as a client is not entitled to electronically administer a procedural step for which electronic administration is not meaningful; he is by analogy not obliged to do so for such a procedural step. Although there is an obligation to administer a case electronically, the legal consequences of failure to do so do not apply where the client or legal representative who is obliged to administer the case electronically does not do so because: 1) the body responsible for providing electronic administration does not comply with this obligation; 2) the necessary electronic administration or other services are not available; 3) the statutory form cannot be accessed electronically due to the failure of the body providing electronic administration.

Consequences of failing to comply with the mandatory electronic administration. The DCA sets out the legal consequences of failure to comply with the statutory obligation to administer public affairs electronically, i.e. by using non-electronic or inappropriate electronic means, in a subsidiary but general way, including in relation to administrative procedures and administrative litigation. Such *procedural acts are null and void*, i.e. they have no legal effect. The body providing digital services does not incur any obligation as a result of such an act of administration and does not take it into account in the administration of the case. A client who has not carried out a procedural act by electronic means, despite being obliged to do so, fails to comply with the time limit laid down by law or the body responsible for the procedure.

The DCA allows for the possibility of imposing *a different legal consequence* for failure to comply with the electronic filing requirement. The CGAP does not avail itself of this option. In administrative proceedings, failure to file an application or appeal electronically is not a case of ineffectiveness, but of *refusal.*

6 Rights and obligations of the clients. Obligations of bodies providing digital services

The right to digital services is an obligation on the side of the body providing digital government services, and client obligations often generate obligations on the side of the body acting. It is therefore worth considering them together, as distinct from the legal division.

Electronic identification. Although not all electronic transactions necessarily require the identification of the customer, this is unavoidable in administrative procedures and in

administrative litigation. The body providing digital services must ensure that, at least at the choice of the customer: 1) by means of an electronic administration service provided by the Government [for example, by means of a (new type of) ID card with a storage element], by means of a client gateway identification or by means of a so-called partial code telephone identification; 2) by means of an electronic identification service mutually recognised by Member States pursuant to Article 6 of Regulation (EU) No 910/2014 of the European Parliament and of the Council of 23 July 2014 on electronic identification and trust services for electronic transactions in the internal market and repealing Directive 1999/93/EC (this ensures interoperability between the electronic administration systems of the Member States) identify yourself.

Prohibition of data verification. The main driver for IT cooperation between e-government bodies is that they should obtain the information (data and documents) they hold electronically from each other and not from the customer. The customer has the right to choose whether or not to provide this available information in the course of the administration of the case, except, of course, for the data necessary for his identification. Which data can be obtained from which digital service provider body is indicated in the register of information sources.

Closely related to this is the obligation for the body providing electronic administration to connect to the register in order to ensure the information self-determination of customers. The purpose of this register is to ensure interoperability between the identification codes used by the different bodies, so that each body only knows the data it can process. The service (and the law) also provides the possibility for the customer to identify himself by an identification code that the body is not authorised to manage.

Usability of a certified electronic copy. In order to remove obstacles to electronic administration, the client has the right to use a certified electronic copy made by an authorised person (such as a notary, a lawyer or, under certain conditions, the client himself) instead of the original document, which must be accepted by the body providing electronic administration. Exceptions to this rule are: 1) electronic administration is excluded; 2) it is otherwise expressly excluded by law or government regulation; 3) if the original deed is invalid or has been revoked for any other reason (in which case the original deed cannot be used).

The body providing digital services may require the original document to be produced in case of doubt.

The client's right of disposal. The DCA's basic idea is to provide the widest possible range of electronic means of electronic administration, or even to develop them on a market basis, from which the customer can choose the most appropriate one according to his/her individual interests and life situation. This is reflected in the *concept of digital citizenship* as defined by the DCA. The right of choice is therefore about the right to choose, where,

for some overriding reason, the means of administration is not defined or limited by law, the means of administration available (including the means of carrying out each act of administration), as long as this right is not abused. In order to ensure that the customer's administrative arrangements are known and taken into account by the digital service providers, a so-called *register of arrangements* made electronically, in person or even by telephone is kept, which the digital service providers are obliged to take into account.

Among other things, the customer *may have the right to:* 1) a choice between electronic and non-electronic administration; 2) a choice of electronic means of administration (including means of identification); 3) the provisions governing the representation of the client (e.g. power of attorney); 4) notification of official electronic contact details.

Electronic information and payment. The clients have the right to be informed electronically or non-electronically about the electronic handling of the case, and even to be informed digitally about the non-electronic handling of the case. The digital services cannot be complete if the payment obligations related to the procedure (fees, administrative service charges, advance costs, etc.) cannot be executed electronically. Under the DAC, the business entity is obliged to make all payments electronically as a customer, and all other customers are, as a general rule, entitled to do so. Electronic payments can be made by bank transfer, simplified electronic payment or by credit card. To facilitate electronic payments, the Government operates an electronic payment and clearing system.

7 Rules on digital communication

Administrative procedures and administrative litigation can be described as a set of procedural acts. These procedural acts are, to a large extent, the declarations of the parties to the proceedings. Electronic communication is the making of statements by electronic means between the body providing electronic administration and the client. Accordingly, one of the most important elements of the right to electronic administration is that the client is entitled, and the digital service provider is obliged, if the client so decides, to make his or her statements electronically.

Choosing how to contact you. The choice between electronic and non-electronic means of communication, and between the different electronic means of communication, should be based on the following principles: 1) if an Act of Parliament specifies the method of contact, that method of contact shall apply; 2) where the law does not specify the means of contact or where several means of contact may be used, the client may choose either to be contacted in a simple manner or to specify this in the administrative provision; 3) if the customer and the law do not specify the means of communication, the digital service provider shall choose one of the possible means of communication.

However, the right to vote is not unlimited, it can only be exercised in good faith and in the proper exercise of the right, and the administrative authority is also bound by the requirement of a cost-effective procedure.

Submission of applications. In principle, the general rules on communication in the CGAP do not limit the electronic means of communication that may be used, but according to Section 35 (2) of the Public Act, applications may only be submitted in writing or in person, unless otherwise provided by law or government decree. Accordingly, requests may only be submitted by the client in written form, i.e. by electronic means that ensure the identification of the declarant and the integrity of the electronic document delivered. In addition, many laws require the use of an electronic form. For example, in administrative proceedings, statements of claim and other pleadings may be submitted electronically using a form only.

Communication and publication of the decision and other official documents. Likewise, any means of contact for the communication of an administrative decision or other official document may not be used.

In the case of written communication, the decision may only be notified by the electronic means referred to above, which are considered to be written. The CGAP also allows for oral communication of the decision, which is equivalent to communication by electronic means that ensure voice communication (e.g. by telephone or voip service). The restriction is that the administrative authority must either record the conversation or send a summary of it to the client, and the oral communication has the legal effect of communication only if the client does not object within 3 working days of receipt.

In administrative court proceedings, if the statement of claim is not served on the defendant, it is served on the defendant whose electronic contact details are not known on paper and the court invites the defendant to contact him or her electronically.

Official electronic contact. Electronic communication requires that both the customer and the administrative body have an official electronic contact address suitable for electronic communication. Such contact details shall be a so-called secure delivery service address or other contact details which, in a manner necessary to ascertain the legal effects of service, ensure: 1) that the message can only be received by the authorised person; 2) proof of successful or unsuccessful delivery and the date of delivery; 3) the integrity of the message delivered.

Business organisations, as they are obliged to administer their affairs electronically, are obliged to maintain official electronic contact details and register them in the register of provisions, while natural persons are in principle only able to do so but cannot communicate electronically without them.

For delivery to an official electronic contact, DCA will switch to a delivery fiction: 1) the consignment is deemed to have been delivered on the certified date of receipt; 2) if the addressee refuses to accept the delivery of a consignment received at the official contact address, the legal effect (fiction) of delivery is attached to the certified date of refusal; 3) there is a delivery fiction even if the consignee business entity does not receive the consignment at the certified time of the second notification, despite a second notification to that effect having been made to the official contact details.

If an economic operator does not have an official electronic contact, despite the legal obligation of the client, the official documents generated in the procedure must be served on paper, at the same time a legal compliance procedure must be initiated against the operator, and in administrative proceedings a procedural fine must be imposed on the operator (Csatlós, 2024: 191-193).

8 The role of artificial intelligence in Hungarian public administration

The public administration (including its organisational structure, its operational mechanisms and its staffing framework) does not (or cannot) remain unchanged, cannot be independent of the trends of the contemporary world, and thus it can be said that public administration is constantly in flux.

IT solutions (also) used in AI-based public administrations have shown varying degrees of effectiveness in different developed countries (Mezei & Träger, 2025: 144-146). Looking at examples from abroad, it can be highlighted that both machine learning and the use of expert systems are not alien at international level, with the Anglo-Saxon countries in particular leading the way in this field. Machine learning is the basis for the OPSI and BIT technologies, among others, which have been in existence since 2017, while examples of successful use of expert systems can be found in the UK (ESI), Australia (IVAG), New Zealand (CSLC) and the US (e-HASP2).

In addition to the need to keep up with technological advances, it is also evident that the challenges of recent years (e.g. pandemics, war, restrictions on fundamental rights, etc.) have forced public administrations to proactively exploit these existing infrastructures. An example of this in the Hungarian documentary administration is the effort to reinforce the so-called customer call kiosks in the district offices with artificial intelligence, which, at least according to plans, will in the near future enable the online initiation and issuance of documents of a decision nature (e.g. identity card, proof of address, driving licence, passport, etc.) without the involvement of human beings.

The other aspiration that pervades the domestic related legislation is to use artificial intelligence as (one of) the means to shorten the administrative time. To illustrate this, one can cite the automatic decision making institutionalised by the former Administrative Procedure Act and further developed by the Act CL of 2016 on the Code of General

Administrative Procedure (hereinafter: CGAP). The basic idea is that a decision is taken or communicated within 24 hours of the initiation of the procedure, provided that the facts are clear and the necessary information is available to the authority. It should be mentioned that the sectoral legislation was originally modelled on ex officio procedures for certain traffic offences, but was later extended to procedures on request and to other sectors (e.g. certain family allowances, the issue of an inauthentic title deed, etc.). The scope of this chapter does not allow for a comprehensive evaluation of this legal instrument established by the CGAP, so we would just like to add that – according to the conceptual coordinate system of the GDPR regulation – this cannot be considered as a real automated decision, since under the current regulation, the human factor is required to intervene approvingly to reach the actual decision (Wachter et al. 2018: 844-846). Similarly, this legal instrument cannot be considered as a pure application of artificial intelligence, even though the nature of the legislative act (i.e., the issuing of a legally binding act) would allow for the application of full automatism.

Finally, we would like to emphasise, in addition to the classical public authority activities, there is also the possibility of using AI in the context of public service organisation (once the guaranteed framework is in place). Examples of possible sectors include the organisation of public transport (which could be based on the operating mechanisms of Uber's existing platform) and the linking of so-called basic registers with administrative planning (e.g., birth registers could be used to draw automated conclusions from the number of children born in a municipality in order to plan the number of places in nurseries and kindergartens).

As a conclusion, the benefits of digitalisation of public administration (in this context, the use of artificial intelligence) in terms of increasing efficiency or reducing administrative costs are undisputed, but it should also be stressed that bringing the administrative location closer to the citizen has not resulted in the decentralisation of tasks and competences. On the contrary, the digitalisation of public administration has reinforced the principle of centralisation, so that the cautious rise of AI in Hungary can be identified with the process of centralisation (Bencsik, 2024: 14-16).

9 Conclusions

The digitalisation and the e-administration are important issues of the public administration reforms of the last decades. The challenges of the new, digital ages resulted the transformation of the traditional administration. As we reviewed, the Hungarian regulation on eGovernment and on the digitalisation of the public administration transformed significantly. The regulation was focused on the development a horizontally integrated e-administration. Following the 2013-2015 reforms the new act, the DCA establishes a framework for the electronic and digital public administration services.