

CIVIL REGISTRAR : TASK OF THE PAST OR CAREER FOR THE FUTURE ?

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According to Luxembourg City law, only the Mayor is an ex officio civil registrar. In such capacity, he carries out the role attributed to local authorities by Article 108 of the Constitution, in other words, the editing of civil-status records and the maintenance of registers. Until 1975, the Mayor personally signed all records drawn up in his city, and it is only from that year that he was able to delegate these functions to one or several of the civil servants working under his responsibility.

His functions are described in detail by several articles of the Civil Code. For years, the role of a civil registrar was to receive declarations, without really being able to check the exactitude of the information provided by declarants. Except in the case of marriage or divorce, he simply recorded whatever facts he was required to note, and declarations that were made to him according to the law. He had to check the authenticity of the latter only when they were related to material facts (birth or death). The family record booklet or the marriage record was the only document that could prove the exactitude of the declaration, if such a document existed. In practice, the work consisted mainly in typing the original birth record and extracts, or writing them by hand.

For a long time, citizens of foreign nationality were in the minority, knowledge of only Luxembourg law was amply sufficient. These days, the civil registrar is able to use for each declaration computerised data from his city's population register, or even from a national register. This allows him to detect better any discrepancies with information provided by declarants themselves, or even to avoid false declarations.

Luxembourg is today a multicultural State with a very high percentage of foreign nationals and more than 100 nationalities represented. Thus in Luxembourg City, foreign nationals make up 62% of the population and only 30% of marriages involve a Luxembourg national. In consequence, respect for the personal status of each citizen has become of paramount importance. It cannot be neglected by civil registrars, who must have a sufficiently good knowledge of private international law and the foreign laws most frequently encountered.

In reality, however few substantial changes in legislation have accompanied the evolution of the work in practice. Most of the change has simply consisted in adaptation over time. One might say that today a civil registrar is often at the limit of the position which is defined for him by law. He has to deal with increasingly demanding citizens, who mostly follow their own imagination, often ignoring legal constraints. Laws and instructions are seen as pointless formalities imposed by civil servants. Civil registrars find themselves in the position of having to do their best to satisfy their citizens, while respecting the law, and not losing sight of their civil, penal and administrative responsibilities.

I have been in a position to witness a great change in the general configuration of the relationship between citizens and the administration. Only a few years ago, the citizen used to apply to State or local council services, and followed the instructions he was given in order to clarify his situation and sort out any administrative problems. These days, by contrast, taking into account political volition, it is practically the opposite which is true. The administration endeavours to place itself entirely at the disposal of citizens, by attempting to simplify processes to the utmost, lengthening opening hours, and offering solutions to all of the citizen's problems.

In the event of any disagreement, the citizen may contact a mediator, who can intervene directly with the administration, attempting to solve the problem and provoking a decision. Such situations were virtually non-existent only a few years ago. In terms of marriage, for instance, the civil registrar is frequently contacted by a mediator and must often justify his decisions using legal texts or circulars. Currently, even fully informed decisions must be justified, as opposed to in the past when only unfounded decisions were called into question.

In Luxembourg, the role of a civil registrar is the result of the Mayor delegating these responsibilities to a civil servant, although the said civil servant does not receive any additional training, whether practical or legal. In fact, his training is identical to that of any council civil servant. Often, in the case of small towns, his field of action is not limited to the administration of civil status, and he also requires some knowledge of nationality, population and electoral registers. He must base his actions on professional experience acquired over the years. But given the complexity of the subject matter, he must often seek advice from judicial authorities, and can be advised by the Public Prosecutor's Department, since civil registrars exercise their functions under the supervision of judicial authorities.

It is also to remedy these gaps in the training that the Ministries, in partnership with the Public Prosecutor's Department, published, a few years back, a vast, extremely detailed circular, in order to best assist civil registrars in the execution of their daily duties.

On the other hand, the introduction of computers has, once more, fundamentally altered the work of civil registrars. In fact, in a sense, computers represent a register parallel to the real register, with all the legal obligations that this implies. In 2005, Luxembourg introduced a new format for civil-status records, moving away from the literary form which was in force for centuries, without omitting or changing indications relevant to records and defined by the Civil Code.

All data entered when a declaration is made are stored in a computer database, allowing the issue of any type of record, whether it is an entire copy, or following the ICCS-standard international template. Marginal annotations must also be entered in order to guarantee that the data remain up to date. The civil registrar must check the exactitude of the data and, most importantly, he must avoid any incoherence between this 'virtual' register and the paper register.

All of this data-handling requires a certain amount of computer skills. These programmes must remain user-friendly and flexible, in order to be readily adaptable to changes in legislation. And the experience of the civil registrar as a practician is indispensable to the good development of such applications.

The necessary synthesis between 200-year-old legislation and modern technology has met many challenges over the last few years. In fact, I do not believe that evolution will stop here. Internet and the administrative tasks which will soon be available online are sure to change work methods further in the near future. A lot of application forms (for instance, for family allowances) are already available electronically, and it is possible to order civil-status records online. Also, on this level, the civil registrar has to ensure the confidentiality of the data and the publicity of all types of civil-status records. Many projects to this end are being carried out in Luxembourg, and often the approach of IT technicians has to be tempered by the civil registrar, with regard to the legal context. Only a few months ago, you might have read in Luxembourg newspapers that the online birth declaration had just become available! In fact, this referred only to certain forms relating to newborn babies.

Personally, I believe that the role of civil registrar still has a certain charm, as it links the past to the future without being an outdated activity. Experience has demonstrated that it is perfectly possible to combine old documents with modern data entry, consultation and storage methods, without having to redefine everything already in existence. One of the advantages of the current work method is that many of the more fastidious tasks of the past, for instance the manual elaboration of annual and ten-yearly indexation tables, have disappeared. Another improvement is that the repetitive nature of the data to be recorded, still very much a feature of the civil registrar's daily work only a few years ago, has come to an end thanks to computers.

In the end, one wonders what direction the development of civil status will take in the future.

The crucial question will be to know whether the practice of printing out an authentic record will be preserved, or whether it will be replaced by the simple provision of information necessary to establishing identity. This latter route has already been taken by several European countries. Information could even be communicated directly, electronically, by the citizen, who would be identified by his electronic signature. An ulterior validation by administrative or State services would finalise the declaration. For certain countries, such as Luxembourg, this would represent a radical change in culture and in custom. It would be necessary to adapt, or even fundamentally alter, the Civil Code, and redefine the field of action and the competencies of civil registrars. Personally, I believe it would be possible to preserve a large part of current working methods, preserving the issuing of authentic records, while simplifying civil-status-related

administrative procedures as much as possible, such as the communication of information to other departments or other local councils, claims for family allowances, or residency declarations for newborn babies. For citizens confronted with a death, the most fastidious part of the process is not the declaration itself, but rather all the other administrative processes triggered by the declaration.

Besides updating registers and archiving, a civil registrar must deliver civil-status records to any person demanding them. This service sometimes amounts to a large amount of daily work, and depends on the size of the town and the number of records per year. In Luxembourg, the use of civil-status records is not limited to family events: a birth record is often required in support of a job application, or even a sports licence. Currently, each town council archives its own civil-status records. More often than not, these records are computerized and thus available electronically. I could imagine, even in the short term, the creation of a national database, with centralised archiving of computerized civil-status records, including those from all town councils in Luxembourg. All administrations, as well as any other identifiable applicants, should be able to obtain an extract from a record without having to involve the person concerned by it or the administration of the town council concerned. Courts, which are legally obliged to update and archive copies of town council registers, would also be able to benefit.

Finally, and by way of conclusion, I would say that the job of the civil registrar still has many days ahead of it. With such complex subject matter, experience and know-how take precedence over knowledge of new technologies. Even computerized records will have to be maintained and updated by responsible, competent people.