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Registration of Business Activity by Natural Persons in the CEIDG System (Central Register and Information on Economic Activity): Proposals of Changes

Rejestracja działalności gospodarczej przez osoby fizyczne w systemie CEIDG (Centralnej Ewidencji i Informacji o Działalności Gospodarczej). Propozycje zmian

ABSTRACT

This article is of a scientific and research nature. The subject of the research is the registration of business activity by natural persons in the CEIDG system (Central Register and Information on Economic Activity). As a result of the analysis of the system, significant inefficiencies were identified, causing significant negative effects for individuals registering, including lack of transparency of the registration process, which could lead to potential legal sanctions for these individuals. In addition, the analysis found insufficient integration of the CEIDG system with the systems of state institutions, the lack of a single "electronic place" with complete and comprehensive information about civil law partnerships, and the foreseeable congestion of the system during periods of increased traffic. The article points to specific modifications to the system in question that could improve the functionality of CEIDG. The paper is of cognitive value for science, in particular for the practical functioning of this area of reality.

Keywords: Central Register and Information on Economic Activity; CEIDG; economic activity; business law

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INTRODUCTION

The rationale underlying the implementation of the Central Register and Information on Economic Activity (CEIDG; in Polish: *Centralna Ewidencja i Informacja o Działalności Gospodarczej*) into Polish law was the result of the necessity to reform the existing business activity register system maintained by municipal authorities. At the time, the advantages of the new system included the streamlining of the registration procedure and the option to register a business electronically. On 1 July 2011, the CEIDG replaced the register of economic activity, which had previously been maintained by each municipality, with the consequence that the mutual flow of information was significantly hampered. Furthermore, the former registers were often not computerised. It is widely accepted that the establishment of CEIDG can be regarded as a significant milestone in the realm of economic reform.[1] Municipal bodies acted as registration authorities for entrepreneurs who were registered in the business activity registers before 31 December 2011 and these bodies were also statutorily obliged to transfer this data to CEIDG.[2]

The electronization of the area in question, including the question of registering businesses by natural persons and making specific changes to the CEIDG system, has become, in recent years, a point that is assessed positively by economic operators. Surveys of entrepreneurs' satisfaction with the electronic submission process serve to substantiate the notion that this method of conducting business is becoming increasingly appealing. This fact does not, however, negate the necessity for enhancement and streamlining of the electronic aspect of the procedure in question. It is evident that the perpetual necessity of optimising business processes is attributable to the inherent dynamism of entrepreneurial endeavours.[3] The article puts forward a series of changes designed to enhance the efficiency of the electronic registration process for businesses owned by natural persons in CEIDG, encom-

[1] D. Lukosek, J. Mizioch, *Centralna Ewidencja i Informacja o Działalności Gospodarczej – analiza nowych regulacji*, [in:] *Prawo przedsiębiorcy*, eds. R. Blicharz, A. Powałowski, Warszawa 2019, pp. 197–198.

[2] A. Żywicka, *Centralna Ewidencja i Informacja o Działalności Gospodarczej*, [in:] *Konstytucja biznesu. Komentarz*, ed. M. Wierzbowski, Warszawa 2019, p. 262. In the context of this issue, see M. Etel, *Nowy przedsiębiorca w ustawie z 6 marca 2018 r. – Prawo przedsiębiorców*, "Acta Scientifica Academiae Ostroviensis" 2018, vol. 12(2); T. Kocowski, *Organy wykonawcze gmin a podejmowanie działalności gospodarczej przez osoby fizyczne*, "Przegląd Prawa i Administracji" 2014, no. 98; K. Kozioł, *Rejestracja osób fizycznych prowadzących działalność gospodarczą – ewidencja działalności gospodarczej czy Krajowy Rejestr Sądowy?*, "Samorząd Terytorialny" 2009, no. 9; A. Trela, *Założenia i cele reformy Ewidencji Działalności Gospodarczej*, [in:] *Prawo i administracja*, ed. K. Wojtczak, Piła 2008; B. Chludziński, *Pojęcie działalności gospodarczej i formy jej reglamentacji*, "Studia Iuridica Toruniensia" 2006, vol. 3.

[3] K. Kucharski, *Centralna Ewidencja i Informacja o Działalności Gospodarczej*, [in:] *Prawo przedsiębiorców*, ed. B. Rakoczy, Warszawa 2020, pp. 173–191.

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passing civil-law partnerships. The objective of the paper is to identify specific modifications that could enhance the practical functionality of CEIDG, particularly during periods of heightened traffic within the system and by expanding the scope of system integration of CEIDG with the systems of other state institutions.

The legal basis for the area in question is presently constituted by the Act of 6 March 2018 on the Central Register and Information on Economic Activity and the Business Information Point.[4] CEIDG is maintained in an ICT system by the minister competent for economy matters. One of the key tasks of CEIDG is the registration of economic operators who are natural persons. The ICT system in question allows for the registration, suspension, resumption and closure of business activities carried out by natural persons. Moreover, the entrepreneur has the possibility to change the data in the CEIDG entry.

According to the ACRIB, the transfer of data and information to CEIDG and from CEIDG, takes place through the CEIDG's ICT system, or through another ICT system integrated with it, in particular through the Business Information Point system.[5] At present, the CEIDG ICT system is integrated with the business information and handling service, which is a practical embodiment of the statutory Business Information Point operating in the biznes.gov.pl domain. The above-mentioned integration process was completed at the end of 2021. The English version of the website of the business information and handling service is available at biznes.gov.pl/en.[6]

Prior to the integration of the CEIDG and biznes.gov.pl systems, the establishment of a business entity necessitated the registration of an account with the CEIDG ICT system. It was imperative that the entrepreneur register at that time in order to complete the application in the CEIDG system. Subsequent to the creation of the account, an activation email containing a relevant link was dispatched to the email address provided during the registration process. Following the registration of the entrepreneur's account in the CEIDG system, the business was established by logging into the respective account via the designated website (https://prod.ceidg.gov.pl). Thereafter, the user was prompted to select the option titled "Set up a business based on the account".

As indicated above, the integration of the CEIDG ICT system with the business information and handling service operating under the domain name biznes.gov.pl was completed at the end of 2021. On 30 November 2021, traders registered with the CEIDG ICT system were informed by the Ministry of Development and Technology that their accounts on www.ceidg.gov.pl would be deactivated in

[4] Consolidated text, Journal of Laws 2022, item 541, as amended, hereinafter: ACRIB.

[5] Article 3 (1) ACRIB.

[6] For more detail on the matter, see E. Komierzyńska-Orlińska, *Punkt Informacji dla Przedsiębiorcy*, [in:] *Konstytucja biznesu…*, pp. 353–374.

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mid-December. It should be noted that this will be replaced by an entrepreneur's account at biznes.gov.pl. It has been established that the features of the CEIDG ICT system have been incorporated into the entrepreneur's account. This user account on bizes.gov.pl has been synchronised with the data held in CEIDG. The data from a CEIDG account, including company data, the history of entry in CEIDG, and the status of submitted applications, was transferred to the entrepreneur's account on afac.gov.pl – consequently, to the statutory Business Information Point operating under this domain.

RESEARCH AND RESULTS

The application for registration with CEIDG is submitted to CEIDG using an electronic form placed on the CEIDG website.[7] Currently, the electronic CEIDG-1 form is no longer available and has been replaced by an application form wizard at biznes.gov.pl. The application form wizard was introduced as part of the above-mentioned system changes at the end of 2021, when the integration of the ICT system of CEIDG with the business information and handling service operating under the domain biznes.gov.pl took place. The general reason for this modification was to streamline the process of registering a business as well as making changes to the entry.

The application form wizard in the CEIDG system ultimately leads to the completion of the CEIDG-1 form, which is signed and sent by the system user. The extent of completing it with data depends on the type of operation the user intends to carry out, e.g. changes to a previously made entry, suspension of business activity or closure of that business. A type of operation in the entry is also registration of a business. It is an extremely important kind of action that has various legal effects enforced by certain public institutions. This type of operation in the CEIDG application form wizard should all the more be clear and transparent, but also should lead to the completion of the CEIDG-1 form in full. This is why the division in the CEIDG ICT system of the business registration into two stages, which differently lead to filling in the CEIDG-1 form with the necessary data.

Registration of the business with concluding the process at the end of stage one, i.e. once the necessary data is provided, while still leading to the registration of the business, is not a complete registration. The degree of completion of the CEIDG-1 form is in this case insufficient and the entrepreneur will be forced to provide within specific time limits, a number of data and declarations, such as form of taxation, VAT (the acronym for the tax on goods and services), social security declarations, company bank account. A solution proposed for the diagnosed

[7] Article 3 (2) ACRIB.

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problem is to shape the application form wizard in the CEIDG ICT system in such a way as to eliminate its stage structure, including alternative nature of registration. The registration process should include one stage leading to the complete filling in of the CEIDG-1 form, allowing the entrepreneur to run their business without having to supplement the data at a later date. The implementation of this postulate will contribute to greater transparency of the registration process in the CEIDG wizard, eliminating potential risks for the entrepreneurs to fail to meet important additional registration obligations. Failure to fulfil these obligations in a timely manner, thus already after the registration of the business via the implementation of the aforementioned stage one of the registration, may result in certain sanctions for the entrepreneur.

As regards business registration in the CEIDG system by natural persons, an important issue is the registration of a civil law partnership. CEIDG is a registration system not only for individuals who trade as sole traders. The system also records setting up and operation of businesses by individuals under civil law partnership contracts on a nationwide basis. In the case of running a business in the form of a civil law partnership, the parties to the civil law partnership contract who are natural persons are subject to entry in CEIDG.[8] In the context of the issue of registering a business run in this form, certain postulates for adequate and necessary changes are put forward.

This issue was slightly addressed in the aforementioned draft Act amending the Act on Central Register and Information on Economic Activity and the Business Information Point and certain other acts.[9] This bill, according to the list of legislative and programmatic works of the Council of Ministers, remains at the stage of the Committee of the Council of Ministers for Digitisation with the date 29 June 2023. The civil law partnership is the most common form of cooperation chosen by entrepreneurs. Registration of a civil law partnership is time-consuming, as it entails the need to submit application documents to various institutions, such as the Revenue Office, Statistics Poland, Social Insurance Institution or Agricultural Social Insurance Fund. From the point of view of tax regulations, in addition to the signing of the partnership contract by the partners, it is also necessary to submit documents to obtain a Taxpayer Identification Number (NIP) and, if the partner-

[8] D. Lukosek, J. Mizioch, *op. cit.*, p. 198; A. Żywicka, *op. cit.*, p. 261.

[9] Ministry of Development and Technology, Draft Act amending the Act on Central Register and Information on Economic Activity and the Business Information Point and certain other acts, no. UD412, https://legislacja.rcl.gov.pl/projekt/12364250 (access: 19.3.2024). See also Związek Pracodawców Polska Miedź, Projekt ustawy o zmianie ustawy o Centralnej Ewidencji i Informacji o Działalności Gospodarczej i Punkcie Informacji dla Przedsiębiorcy oraz niektórych innych ustaw, https://pracodawcy.pl/projekt-ustawy-o-zmianie-ustawy-o-centralnej-ewidencji-i-informacji-o-dzialalnosci-gospodarczej-i-punkcie-informacji-dla-przedsiebiorcy-oraz-niektorych-innych-ustaw (access: 23.4.2024).

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ship will be a VAT taxpayer, the relevant declarations in this respect. Also, when monetary and in-kind contributions have been paid in to a civil law partnership, it becomes necessary to complete another declaration for the tax on civil law transactions. Moreover, the civil law partnership is subject to registration in the REGON register for the purposes of public statistics. In this respect, it is obliged to obtain the relevant number. Thereafter, when the civil law partnership becomes the payer of contributions for the partners, employees and other hired persons who are subject to insurance, it has another obligation, namely of applying for registration with the Social Insurance Institution as a contribution payer. Thus, there is a need for more automation of processes and data exchange between the CEIDG system and other IT systems of public institutions. The integration between these systems will allow information to be exchanged between offices/registries, contributing to handling a registration application as part of a one-stop-shop electronic service. The proposed change will aim at simplifying the registration procedure as well as shortening its time. These issues are indicated in the above-mentioned draft amendment to the Act in question.[10]

Thus, there is a need for a "one-stop-shop" for civil law partnership registration. The registration application could be sent via the CEIDG system to other revenue, statistical and insurance offices – Revenue Office, Statistics Poland, Social Insurance Institution or Agricultural Social Insurance Fund. There is also an urgent need to standardise the application form for the registration of a civil law partnership as one registration application instead of several registration forms used in different offices. Moreover, the said application should have the option of attaching various additional insurance and tax declarations required. A very important proposal regards introducing the possibility for all partners to sign the civil law partnership contract electronically, via the Internet. This would also entail the need to develop a single nationwide template for a civil law partnership contract.[11]

The draft amendment also points to another important issue that needs to be urgently addressed. Under the current legislation, it is not possible to consult comprehensive information on the partnership electronically, with the possibility to track changes in the partnership (dates, persons who made changes). The REGON register, which is currently the only one that allows public access to civil law partnership data, is not comprehensive, e.g. it does not include changes made to the partnership (history of changes). In view of the above, there is a need for a single site containing full information on the civil law partnership with the history of changes made to it.

In this context, the importance of the systemic-integration postulate should be very strongly emphasised. It becomes a necessity and a kind of a condition for carrying out

[10] Ministry of Development and Technology, *op. cit*.
[11] *Ibidem*.

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the changes mentioned above. It concerns increasing the integration of the CEIDG system with the systems of certain public institutions. In particular, it is about the aforementioned increase in the scope of integration with the systems of state institutions, such as Social Insurance Institution, Agricultural Social Insurance Fund, Ministry of Finance, and Statistics Poland, or other public databases. At the same time, the process mentioned above should be accompanied by work on expanding the extent of changes of data in CEIDG made ex officio, including rectifying the data. It is definitely becoming necessary to pay attention to the scope of data made available to CEIDG by the registers of licensing and regulatory bodies, including the need for their full digitization.[12]

One should strive towards a situation where authorities such as the Revenue Office, Social Insurance Institution, Agricultural Social Insurance Fund, Statistics Poland, using the integration of systems, will be able not only to verify or correct specific data, but also to register the business activity of a natural person, after completing a specific set of basic data in the CEIDG system. The remaining tax and insurance issues, on the other hand, will be completed in the CEIDG-1 form by the relevant offices, assuming they are most favourable to the entrepreneur. The role of the entrepreneur in this case could be limited to accepting or rejecting this "official" registration, with the obligation to perform the registration action individually. However, it is important to realise that changes in the relevant legal regulations will be needed, apart from systemic and technological changes.

At this point, I would also like to refer to the identified problem in the functioning of the CEIDG system, related to situations that took place in early 2022, when economic operators made decisions on changing the form of taxation. Many of them made changes to their CEIDG entries by choosing the option of selecting a particular form of taxation – lump sum tax on registered income (in Polish: *ryczałt od przychodów ewidencjonowanych*), due to the more favourable tax rate and healthcare insurance contribution. For subsequent months, they paid the tax according to the taxation form initially selected in the CEIDG system. After some time, however, the entrepreneurs received from revenue offices demands for tax surcharges with interest. The revenue offices pointed out that form of taxation selected in the CEIDG, was not lump sum tax on registered income, but taxation according to a tax scale, thus in these cases the amount of the levies paid were too low. According to the entrepreneurs, the errors arose on the side of the CEIDG system, which failed to make preferred changes as chosen by the user.[13]

In the aforementioned context, the Ministry of Development and Technology's website published a communiqué on 5 January 2022 concerning the systems

[12] *Ibidem*.

[13] M. Pogroszewska, *Skarbówka rozstrzygnie na korzyść przedsiębiorców błąd w CEIDG*, 5.1.2024, https://www.prawo.pl/podatki/skarbowka-rozstrzygnie-na-korzysc-przedsiebiorcow-blad-w-ceidg,524748.html (access: 22.3.2024).

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biznes.gov.pl and CEIDG.[14] This communiqué served to notify the public of issues experienced with the systems, namely that due to an increase in traffic, there was a possibility that certain functionalities may not operate correctly. Concurrently, assurances have been given that efforts are underway to rectify issues and enhance the system's data flow. The communiqué also made an observation regarding an increase in traffic on both biznes.gov.pl and CEIDG over a period of several days. The ministry has indicated that there has been a significant increase in the number of applications received since 1 January 2022, with a total of 33,000 applications received to date, representing a 350% increase compared to the same period in the previous year, which saw 7,000 applications. For the aforementioned reason, issues have also been encountered with the business.gov.pl helpline.

The proposal for changes in this respect will address the elimination of situations of this type, which generate serious consequences for active CEIDG users. Increased traffic in the CEIDG system usually occurs at the beginning of a given year because entrepreneurs decide to change their form of taxation – usually at the last moment possible. Thus, similar situations are likely to recur and need to be countered. In the first instance, the proposed solution to the problem would be to increase the "throughput" of the CEIDG system in such a way as to eliminate its overload or at least minimise it during "sensitive" periods, which in addition – as entrepreneurs point out – can also cause erroneous operation. Furthermore, an additional solution included in the CEIDG system should be considered. The proposal for change concerns creating the possibility for the CEIDG user to check the application form once signed and sent – signed and sent document version. It would also be visible on the Entrepreneur's Account. Introduction of the proposed solution would make it possible to identify discrepancies between the data entered by the user (evidence in the form of a printout of the application created before the signing and sending) and any possible system errors made after the application has been sent (proof in the form of a printout of the application sent and signed). From a practical point of view, such a solution would be of fundamental importance in terms of evidence. The user would have versions of the application from before and after sending it. Any possible errors in the system after the application has been sent could be quickly identified, thus giving the entrepreneur the opportunity to pursue their case before the tax authorities, proving that the form of taxation chosen by the entrepreneur is applicable. In this context, it should be borne in mind that the Official Acknowledgement of Receipt contains the name of the person to whom the document has been served, the document identifier, the date and time of service and the date and time of creation of the Official Acknowledgement of

[14] Ministerstwo Rozwoju i Technologii, *Komunikat dotyczący systemu Biznes.gov.pl i CEIDG*, 5.1.2022, https://www.gov.pl/web/rozwoj-technologia/komunikat-dotyczacy-systemu-biznesgovpl-i-ceidg (access: 23.4.2024).

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Receipt. The Official Acknowledgement of Receipt does not contain the content of the application signed and sent. Moreover, the entrepreneur, having the opportunity to verify the application sent, would have the chance to respond in a certain way, e.g., to modify the application again or to report the malfunctioning of the system to the relevant services.

DISCUSSION AND CONCLUSIONS

As a result of the research into the issue in question, the following outcome should be pointed out:

1. The stage structure of registration of businesses by natural persons, including its alternative nature, raises serious doubts, as the stages lead, to varying extent, to filling in the CEIDG-1 form with the necessary data. Registration of businesses by natural persons when concluded at stage one, i.e. once the necessary data have been entered, despite leading to the registration of a business, does not constitute a complete registration, since the degree of completion of the CEIDG-1 form in this case is insufficient and the entrepreneur will have to provide, within certain deadlines, additional and necessary data and declarations. Therefore, it should be advocated that the application form wizard be shaped uniformly to eliminate stage structure, including registration alternatives. The registration process should include one stage leading to the complete filling in of the CEIDG-1 form, allowing the entrepreneur to run their business without having to supplement the data at a later date. This modification will make the registration process in the CEIDG wizard more transparent, eliminating the potential possibility of entrepreneurs failing to meet important additional and necessary registration obligations.
2. There is a need to streamline the process of registering a civil law partnership by means of digitization of the process in the form of greater automation of processes and data exchange between the systems of various institutions. This especially concerns the issue of registering a civil law partnership on one "electronic" site with a universal registration form accepted by all state institutions with the possibility of attaching to it declarations and applications as necessary. In addition, it is becoming necessary to develop a nationwide universal model civil-law partnership contract that may be signed electronically (online) by the partners.
3. There is a need for a single "electronic site" with full and comprehensive information on the civil law partnership including, but not limited to, the history of its modifications.
4. One should accelerate the intensification of integration between the CEIDG system and other systems of public institutions that will enable the exchange

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of information between offices/registries, contributing to a simplified registration procedure – including the reduction of its length – as well as data management in the CEIDG system.

5. Given the predictability of increased traffic in the CEIDG system usually occurring at the beginning of a given year, an action to increase data flow in the system should be in place at that time.

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Legal acts

Act of 6 March 2018 on the Central Register and Information on Economic Activity and the Business Information Point (consolidated text, Journal of Laws 2022, item 541, as amended).

ABSTRAKT

Artykuł ma charakter naukowo-badawczy. Tematem badań jest rejestracja działalności gospodarczej przez osoby fizyczne w systemie CEIDG (Centralna Ewidencja i Informacja o Działalności Gospodarczej). W wyniku przeprowadzonej analizy systemu stwierdzono dość znaczące jego niesprawności, powodujące istotne negatywne skutki dla rejestrujących się osób fizycznych, w postaci m.in. nieprzejrzystości procesu rejestracji, stanowiącego podstawę do potencjalnych sankcji prawnych dla tych osób. Ponadto stwierdzono niedostateczny zakres integracji systemowej CEIDG z systemami instytucji państwowych, brak jednego „elektronicznego miejsca" z pełną i kompleksową informacją o spółce cywilnej, a także dającą się przewidzieć niedrożność systemu w czasie zwiększonego w nim ruchu. Wskazano konkretne modyfikacje przedmiotowego systemu, które mogą poprawić funkcjonalność CEIDG. Artykuł ma wartość poznawczą dla nauki, a w szczególności dla praktyki funkcjonowania tego obszaru rzeczywistości.

Słowa kluczowe: Centralna Ewidencja i Informacja o Działalności Gospodarczej; CEIDG; działalność gospodarcza; prawo gospodarcze

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