aIGOVrithms **3.0**

POLICY RECOMMENDATIONS

How automated are our public procedures: Czechia, Hungary, Kosovo, and Poland

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alGOVrithms 3.0

How automated are our public procedures: Czechia, Hungary, Kosovo, and Poland

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EXECUTIVE SUMMARY

This report is focusing on the use of automated systems which aid decision-making in government - citizen relations in the targeted countries: Czechia, Hungary, Kosovo, and Poland.

Although there are new examples of ADMs being used in the public sector, we have not seen a spike in the last two years. The situation is similar with the regulation of transparency of technological tools and the implementation of policies and strategies. The EU governments included in this study seem to be waiting for the final AI regulation, while neglecting to create a transparent framework for simpler algorithmic tools. The situation is similar in Kosovo, where, despite being highlighted in the last report in 2021, work on regulating the transparency of ADMs has not begun.

Again - as in 2019 we single out - those systems that work in the judiciary. These are extremely important, precisely because the systems we have identified for allocating judges to cases have an impact on the right to a fair trial.

While there are no examples of such systems to assist judges in sentencing, there are case-assignment systems that require appropriate procedures to ensure a fair trial. In Poland, access to the common courts' Random Case Allocation System algorithm was gained after years of litigation, but the Ministry of Justice resists releasing the source code. In Hungary, a similar tool exists but is only partially applied by the Metropolitan Court of Budapest. In Kosovo, the Informative System for Case Management is used in all judiciary cases, and there is a systemic and independent control of its implementation. The Norwegian Judicial Administration monitors the implementation of the project and offers qualified expertise related to its implementation. The report suggests the need to introduce mechanisms to ensure greater transparency and the possibility for competent, independent auditors to monitor the use of these tools in Poland and Hungary, given the problems with the rule of law in those countries.

We also present other examples of the use of ADMs. Interestingly, most of the systems we have identified are aimed at improving state control over citizens. Whether it be a question of speed control, the use of facial recognition systems, or, finally, tools to control citizens' bank accounts.

There are few tools that directly improve citizens' well-being. We note, however, that systems designed to influence energy savings are becoming popular.

This may be due to the fact that citizens, academics and Civil Society Organisations are still not involved in the planning processes of algorithmic tools and are not consulted about the potential risks involved.

This is all the more reason why the issued recommendations need to be resounded. Below are the general recommendations that should be implemented by all countries, and in the section you will find recommendations specifically addressed to the national governments for each of the countries.

-Introducing a systemic framework for algorithmic transparency:

-Capacity building among officials and representatives of civil society organisations:

-Introduce a systematic framework for evaluating ADM performance:

THE WAY FORWARD 2023

Policy Recommendations in terms of the automated decision making in Czechia, Hungary, Kosovo, and Poland

Given the specificities of each of the countries studied, both in terms of political culture and general technological advancement, we have chosen to make recommendations separately for each country. However, it is possible to identify universal solutions that should be implemented, both in each of the countries studied and wherever there are ambitions for IT development to be correlated with concern for human rights and democratic values. These are:

-Introducing a systemic framework for algorithmic transparency:
This should be based on several levels. Clear communication, e.g. on the website of the entity that implements the algorithm, of the basic principles of the algorithm. What data are used, what are the mechanisms for combining them, who is the author of the technology, who is responsible for its operation and, finally, how to complain about the outcome of the adjudication. The next level is to make the content of the algorithm and the source code available. In principle, ADMs used by public authorities should be based on so-called open source code.

-Capacity building among officials and representatives of civil society organizations:
There is an urgent need to strengthen digital knowledge and competences among those who use ADM and those who can assess their performance, e.g. against discrimination risks. Training, although conducted separately for each of these groups, should also include elements of a clash of different perspectives - civic and official.

-Introduce a systematic framework for evaluating ADM performance:
This should take place as early as in the planning phase of the creation or purchase of the tool, but also throughout the life cycle of its use. Civil Society Organisations and independent audit institutions should be important actors in this process.

Based on the findings from each of the targeted countries, the following recommendations should be taken into consideration:

Czechia

-There needs to be a clear legal framework regulating the use of alGOVrithms.
As demonstrated in the case of face recognition at Prague airport, the system was regulated by several legal documents and there are still important open legal questions about the system. This is an important step towards ensuring that the use of alGOVrithms is done within a legal framework that is transparent and fair.

-Transparency should be a key element of any alGOVrithm system.
The algorithms used in the face recognition system and the parking control system are not publicly available at all. Therefore, there should be a push towards greater transparency in these systems. Algorithms used in public systems should be made available for public scrutiny to ensure that they do not perpetuate errors, biases or discriminatory practices.

-There should be an independent oversight mechanism in place to ensure that alGOVrithms are used ethically and responsibly.
The oversight mechanism should be an independent body with the power to audit and scrutinize the use of alGOVrithms in different areas, including public safety, parking control, and weather warnings.

-***There should be a push towards the use of open-source algorithms in public systems.***
Open-source algorithms are algorithms whose source code is publicly available, allowing anyone to review, modify, and use them. This approach can help promote transparency and accountability in alGOVrithm systems.

-There should be an effort to educate the public about alGOVrithms and their use in different areas. The public needs to be informed about the benefits and risks of these systems. This can be done through public awareness campaigns, public consultations, and community engagement initiatives.

Hungary

-Transparency should be a guiding principle:

-Legacy systems and out-of the-box IT-softwares for ADM need to be revised in order to be replaced by open-source solutions

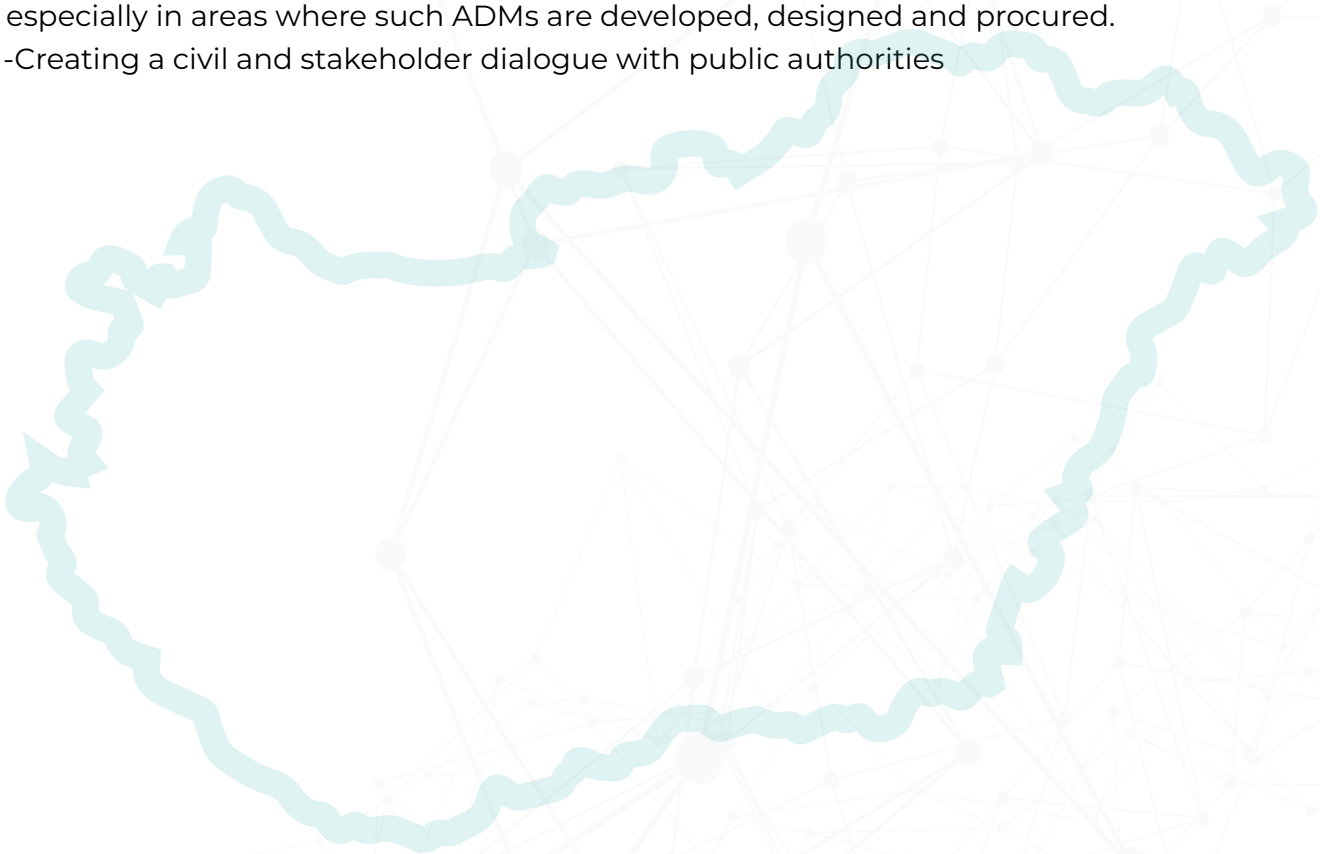
-a central, governmental database should be established, where the public can access infor mation on all alGOVrithms where automated decision-making and profiling takes place.

-Education is the most important factor in near future:

-Stakeholders must be provided with comprehensive and understandable information about their rights.

-Fundamental rights approach should be also disseminated in the public administration, especially in areas where such ADMs are developed, designed and procured.

-Creating a civil and stakeholder dialogue with public authorities



Kosovo

-National Strategy to Support the use of AI in public procedures

-Include a specific objective that refers to the use of Artificial Intelligence (AI) (use of algo rithms in decision making) as part of the Digital Agenda Strategy, or the e-Governance strategy for Kosovo;

-Creating an AI Register

-After implementing the first recommendation, it is important to develop a public AI Register as a standardised and accessible tool to document the decisions that were made in the process of developing and implementing an algorithm in the country's procedures.

-Promotion of the Existing aIGOVrithms

-Focus on promoting the existing cases regarding the use of aIGOVrithms as part of public procedures, and inform the public regarding their importance;

-Better interoperability

-Ensure better interoperability among the state institutions (both central and local level) regarding the implementation of algorithms that aim to advance automated decision making;

Poland

-Implement legislation imposing a clear obligation to make available the description of the operation of algorithms, as well as to publish a source code of automated decision-making systems. Restriction may only arise in strictly defined cases such as security or narrowly defined business confidentiality.

-The implementation of an automated decision-making system that affects citizens' rights and obligations must be compulsorily preceded by an impact assessment taking into account, inter alia, the effects on the risk of discrimination. Particularly in the case of tools implemented by the judiciary and the prosecution.

-There should be systemic efforts to improve the competence of officials (but also, for example, judges) responsible for implementing and operating automated decision-making systems. Especially with regard to the evaluation of potential risks to human rights.

-It is also necessary to organize systemic activities for increasing the competence of representatives of NGOs, journalists and academics in identifying specific risks arising from the operation of automated decision-making systems.

-Public institutions (both those operating at the local and central level, as well as courts and prosecutors' offices) should publish well in advance plans for setting up or procuring automatic decision-making systems, together with basic information on the intended purposes of their operation.

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