CHALLENGES OF AUTOMATED DECISIONS: BRIEF REPORT ON HUNGARIAN EXPERIENCES

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Abstract: *Automated decision-making plays a central role in shaping future public services. This paper examines judicial practices at the Administrative Tribunal of Szeged, highlighting challenges in cases involving automated decisions, including limited transparency and barriers to legal recourse. In Hungary, automated systems often function as 'black boxes', complicating the appeal process for affected individuals and limiting judicial oversight. This lack of transparency raises significant concerns about the fairness and legality of such decisions, pointing to the need for a robust regulatory framework.*

Key words: *automatized decision - making, legality, legal remedy*

1. Introduction

As a hallmark of the Fourth Industrial Revolution, public administration is increasingly embracing automation towards modern, efficient public services, the reduction of administrative burdens by relying on automated decision-making, especially by using artificial intelligence (Galetta & Hofmann, 2023, 619). Ideally, the indisputable advantages of the automation include the reduction of errors inherent in the human factor, a quick and cost-effective procedure, objective and legal decisions, and through them uniform legal practice (Molnár, 2018, p. 43-44; Dunleavy, Margetts, Bastow, Tinkler, 2006, p. 478). Currently, little is known about automatic decisions, because the legislation remains silent on the details, and the system setting is completely technical in nature. Therefore, after examining several automated decisions in different types of cases, a hypothesis was formulated that *the simplification inherent in automation may come at the expense of the decisions' legality* due to the lack of obligatory elements including proper reasoning. To verify and test this concept, the recent judicial practices were explored at the Administrative Tribunal of Szeged, which provided insights into various cases (research permit no. 2024.EI.XI.F.13/9). This exploration comprehensively documented each selected case, starting with the automated decisions made by authorities, the claims brought against these decisions, and the tribunal's approach to

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addressing them. The number of case files consulted varied across different types of proceedings. However, since the content of the decisions is centrally standardized and determined by a system, certain generalizations can be drawn, highlighting some worrisome issues based on the selected cases below.

2. The level of automation in Hungarian administrative authority proceedings

Automated decision-making is often confused with AI decision-making; however, the concept encompasses different categories or stages of automation (Chronowski, Szentgáli-Tóth, & Kálmán, 2021, p. 10-12; Palmiotto, 2023).

The current level of automation in Hungarian administrative authority proceedings does not yet reach the level of AI formatted and profile-based decisions. As the *AI Strategy* suggests, it is the path of future developments (2020, p. 38), thus automated decision-making, at least now, relies on algorithms that perform well in very simple cases: if a condition is met, the case can be resolved with either outcome A or B. This type of decision-making typically relies on established state records that hold authentic, factual information across various fields. It was in 2016 when Hungary's electronic administration law first enabled automated decision-making for state organs that ensures e-services, and a year later, when this law took effect, the concept was also incorporated into the general code of administrative proceedings, bringing automated decision-making into the practice of public authorities. The core rules have changed little since a case is simple so when the (i) required data is already available or easily accessible for the authority, (ii) there is no opposing party, and the (iii) applicable legislation does not permit any discretion or consideration on the outcome—the authority can decide without human intervention, based purely on programmed logic (2015:CCXXV 11. §; 2004:CXL. 29. §; cf. 2016:CL. 40. §; 2023:CIII. 27§). Such cases generally fall under cogent legal provisions that permit only one legally correct outcome of the case: if there is a data match, the decision is issued, in no, it is refused. According to 2023 statistics, 85% of automated decisions are like that (AKD 2023, p. 13), so automation is mostly used in case of the claim of the client for the issuance of certificates when the decisions are typically based on pre-existing information in different types of state records, by claim and also *ex offitio* (Csatlós, 2023, p. 24-25; Csatlós, 2024, 197-202; Balázs, Cseh-Zelina, 2023, p. 180-200).

Besides the factual basis taken from an authentic database (Kúria, 2021, p. 3-4; Kovács, 2021, p. 532), a prime example of that kind of decision-making when fact-finding and establishing the factual basis of a case also happens in the digital realm is the automated fines issued for traffic violations, such as speeding or toll violations. Cameras record instances of speeding, and certified measuring devices capture the facts. Assuming the accuracy of these measurements, the algorithm imposes fines automatically based on the license plate number, following predetermined rules consistently across all cases, without allowing for individual consideration. Algorithms put the information together, based on the programmed logic match of the speed with the penalty, and the decision is ready. If the official owner and operator of the car drove the car, legal remedies can appear to be a mere formality—an empty legal safeguard—

given the rigid enforcement of such laws in these instances. These decisions are made swiftly, thanks to programmed algorithms: the facts are clearly established by the camera, the cases are straightforward, there is no room for deliberation, and the algorithm simply follows logical steps to reach a conclusion [1998: I 21.§; cf. Decision 21100/00360492/3/2024.]. All seems to be idyllic.

3. The price paid for simplification

The *electoral roll cases* showed as a textbook example of an answer to the 'what can go wrong' question. In Hungary, only individuals who are registered in the database of voters are permitted to exercise their right to vote. Its data is obtained by automatic data transfer from several other important state registers like the personal data and address register or the criminal records. So, based on the changes in this database induced by regular data update, the system may (a) automatically produce decisions on deletion from the electoral roll or if a person wishes to (b) change the location where he/she wishes to exercise their rights, they can submit a claim, and it will proceed in an automated manner (2013: XXXVI. 13/F.§; 82.§ (1); 83.§(2); 96.§(1) and Appendix II.; 17/2013. (VII. 17.) 14. §.). Decisions are thus made without any human intervention, and based on the derivative authenticity of the data (Metropolitan Court 14.Kpk.750.045/2022/9 [15] and 50.Kpk.750.324/2023/4. [14]).

In recent years, both national parliamentary and local government elections have provided numerous examples of such onerous, system-generated decisions. These decisions often lack a statement of facts, offering only a conclusion about the negative outcome, with no clear connection between the individual's specific circumstances and the corresponding legal consequences. These cases also often involve issues that are practically unresolvable through the legal remedies available in administrative tribunals. The system operates lawfully when it issues a negative decision based on the absence of a data match or, in some cases, the presence of one. Most of the problems could potentially be resolved by re-submitting the application—if there was enough time, or the client knew what error in the initial application caused the negative decision. Often, this becomes evident only in the judicial procedure when the issuing authority submits its defence statement or in a letter attached to it, and subsequently in the court's decision. For example, it may be revealed that the client accidentally switched their place of birth with their residence or entered their name incorrectly (Administrative Tribunal of Szeged 2.Kpk.750037/2022/2. [11], 6.Kpk.750.0341/2022/2. [1]-[2] [18]; 8.Kpk.750.033/2022/3. [13]). Resolving such procedural problems due to minor mistakes would ideally be addressed through system improvements, such as identification-based autofill forms, rather than the repetitive and (ultimately unnecessary) manual work required for each case. Also, even if the client is right and the system is wrong because of the wrongful data or the wrongful setting of the system, the tribunal has no competency to give legal remedy as it is beyond the control options related to the decision itself. Also, in many cases, the client has not provided arguments against the automated decision in their legal remedy request, likely because they were not aware that such arguments were necessary, given that the information provided only refers to

the numeric information on the legal provisions to apply but not to its content. Solving these issues would require a proactive approach from both the legislator and the citizens.

On the client's side, this entails contributing to the completeness and accuracy of records by promptly reporting any changes in data in a timely manner. Regarding the role of the state, significant technological improvements are urgently needed. For instance, a simple extra space during data input can disrupt automatic data transfers, potentially resulting in adverse decisions (Metropolitan Court 21.Kpk.750.196/2023/3) that are difficult to rectify if the client is unaware of the necessary steps to take. The databases were developed on different platforms and at different times, making effective communication between them difficult, even with the best intentions.

Furthermore, the quality of justifications provided is a critical factor. The terminology used in our legal system is often inconsistent, and if such inconsistencies challenge legal practitioners, they inevitably hinder the ability of systems to interoperate effectively (1992: LXVI. 5.§ (2)-(4) cf. Ve. 82. § (2) a); Administrative Tribunal of Szeged 4.Kpk.750.030/2022/4).

Additionally, when data is not registered by those responsible for doing so, this omission can lead to negative decisions. The lack of reasoning in such decisions only exacerbates the issue, leaving individuals without clarity about the error or how to resolve it. Turning to the courts often does not provide a solution, as the legal process may validate the decision-making procedure itself, which may technically adhere to the law. For instance, post-registration of data is not permitted by law, making it impossible to rectify such omissions retroactively. This problem of *carefulness* (Røhl, 2023, p. 5-6) is evident in *travel cost reimbursement claims* for visits to healthcare providers. If a request was not registered by the doctor at the time of the visit, only the medical protocol could potentially verify that the patient asked for registration. The inclusion of this request in the protocol would support a reimbursement claim. To contest an automated decision, the claimant must provide medical documentation demonstrating that they had asked the doctor to register the request (1997: LXXXIII 61. § (6), Gov. decree 217/1997 (XII. 1.) 11. § (9)). In such cases, the authority may modify its automated decision based on the legal remedy claim, thereby avoiding court proceedings (BE/EGBIZT/1137-2/2023). However, in many instances, reimbursement claims were denied due to the absence of registration in the system, which was also missing from the medical protocol. The lack of reasoning and proper information in the automated decisions led to numerous legal remedy claims being submitted to the tribunal, often to no avail (p.ex. Administrative Tribunal of Szeged 7 K 700043/2023/5 or 12 K 700084/2023/4). Some individuals who personally approached the authority were advised to file claims for extraordinary financial aid as the only viable remedy (CS/EGBIZT/433-2/2022., CS/EGBIZT/274-2/2023, CS/K01/1515-4/2023).

The same issue of insufficient individualization and lack of proper information regarding legal remedies arises in *automatic, ex officio decisions.* These decisions are often based on the occurrence of a fact prescribed by law that results in the loss of a benefit—for example, when a child reaches a certain age. A typical decision of this nature includes only the child's name and personal data (while inconsistently using

singular and plural forms, making it resemble a pre-filled form). It contains a statement about the loss of the benefit, a fragment of the legal provision listing the conditions for terminating eligibility, and references to several legal norms cited by title and number as the basis for the decision (1998: LXXXIV 20. § (1); T-CS-CST-6006-4/2024). However, such decisions, despite offering a legal remedy by citing only paragraph numbers, are neither clear nor sufficient. This lack of clarity often leads parents to submit requests for review that, for various reasons, are deemed inadequate for the tribunal to consider on their merits. In this case, had the decision included a proper explanation, the parent would have understood that the child's age was the reason for the loss of the benefit and this would have made it clear that pursuing a legal remedy was futile and that other types of social benefits could have been claimed instead.

While these issues may seem trivial or low-relevance at first glance, they represent a significant burden on the judicial system. Administrative lawsuits are often the only legal remedy mentioned in these automated decisions, leaving clients, filled with questions and seeking justice, with no alternative but to pursue them. As a result, these cases generate a high volume of litigation, creating a massive workload for courts. In many instances, the administrative authority could either (a) resolve the issue through another type of proceeding or (c) if it is made possible by the competency rules, opt for the self-correction possibility based on the legal remedy claim (2016: CL. 115. §) that puts an end to the proceedings before the tribunal or, even before (b) the authority could simply repeat the original process with human intervention by claim of the client (2016:CL 42. §). Although the general code of administrative proceedings allows for this possibility as a sort of procedural right for the clients, none of the automated decisions examined provided this information as an option, therefore the so-called 'transition to the full procedure from the automated one' does not happen in practice.

Clients cannot reasonably be expected to 'read between the lines' or interpret vague justifications that consist solely of statutory references disconnected from the facts of their cases. This lack of clarity makes it difficult for individuals to understand the basis of the decision or how to exercise their right to appeal effectively. The lack of individualization and clear information thus creates a dual burden. First, it weighs on the administrative authority, which must defend itself in the tribunal proceedings. In doing so, the authority needs to prepare a detailed defence statement—essentially the type of explanation that should have been included in the original decision. Second, it places a strain on administrative tribunals, which must process cases that are known from the outset to provide no real legal protection to the client (Kúria, 2023, p. 4; F. Rozsnyai, 2022, p. 14). These inefficiencies could be mitigated if automated systems were designed to offer detailed explanations and propose viable alternative remedies. The client must understand the true reasons behind the (automated) authority decision made during the administrative procedure as follows from the corresponding legal norms (2016:CL 81. §; 2017: I 4. §) and legal practice (EBH2017. K.14. [18]), as neither the authority's defence statement nor the subsequent tribunal judgment can provide this insight retroactively (BH2016. 189.; BH2024. 69. [32]; see p.ex. Curia Kf. 39.011/2020/9. [32]–[33]; Curia Kfv.II.37.520/2022/5. [15]; Administrative Tribunal of Miskolc K. 700.458/2021/18. [23]; Szegedi Törvényszék K. 700.740/2023/7. [29].

Administrative Tribunal of Győr K. 700.272/2023/9. Administrative Tribunal of Budapest Drictrict K. 702.244/2023/13. [37]).

The consequences of insufficient information extend even further, as illustrated by *traffic control fine decisions*, which epitomize the full automation of fact-finding and evidence production in the digital realm. This example highlights a critical aspect often overlooked in automated decision-making processes: the management of personal data. Data protection and the corresponding procedural guarantees must also be integral to such procedures otherwise the decision lacks the essential information on the decision-making process and the corresponding procedural guarantees (Grega & Kovač, 2024, p. 90-95).

In many cases, the automated nature of the decision is either not disclosed or buried within a list of legal provisions cited as applicable law and also, these decisions often appear to be unappealable, as they establish indisputable facts within the procedure. They tend to be lengthy, referencing numerous legal norms as reasoning and providing a *link* to data management rules, which are described elsewhere in general. However, no explanation is provided regarding the relevance of this information, what action the client should take, or the potential implications of these rules on its influence of the decision and the client's procedural right including the legal remedy options. All seems contrary to the legal provisions that prescribe the obligation of the digital service provider to inform the client if the decision was made using an automated decision-making process (2004: CXL. 11. § (2); 2023: CIII. 21.§ (2)).

4. Concluding remarks

The authorities breathe a sigh of relief, the courts groan under the strain, and the clients are left confused and at their wit's end. The status of the automated decision-making process is already clear: it can significantly reduce the burden on authorities in straightforward cases. But why, then, are these deficiencies so critical and relevant? The cases examined suggest that this simplification comes at the expense of the legality of administrative proceedings. Although the necessary basic legal framework exists within the Hungarian legal system across various norms, it does not appear to be applied in a coherent or integrated manner in these proceedings. This issue arises both from the legislator, who permits automation in certain cases without adequate safeguards, and from the technology, which is not designed to meet the requirements of legality.

Simplified reasoning is not merely a technical issue, nor is it solely the concern of citizens who are denied an effective legal remedy or of courts burdened with futile cases. An authority's decision reflects the lawful functioning of the administration and the integrity of administrative proceedings. If the lack of individualization and insufficient reasoning prevents an administrative tribunal from reviewing the course of the proceedings in a specific case to determine whether the authority committed any legal violations, then the administrative decision is fundamentally unsuitable for review (KGD 2013.47.; Kfv.V.35.706/2013/12.; BH 2022.277. [43]). This constitutes a serious breach of procedural guarantees (Kfv.38.022/2021/6. [32]; Csatlós, 2024, p. 47)

These procedural guarantees are essential not only for ensuring fairness and legality

(Grimmelikhuijsen, 2023, p. 245) but also for demonstrating compliance with the legal standards governing decision-making processes. They uphold the fundamental and constitutional rights of clients and the constitutional requirements for the lawful functioning of public administrative authorities. Therefore, if a decision fails to include the necessary elements to prove its consistency with these legal and constitutional standards, it is not merely unlawful—it is unconstitutional. The Curia of Hungary bases its guiding practice on the obligation to interpret legislation in line with the Fundamental Law and on its fundamental duty of legal protection. Accordingly, courts are required to identify and consider clear connections to the Fundamental Law, even in cases where the submissions do not explicitly reference it (Fundamental Law of Hungary, Article R) (2) and 28.; Chronowski, 2017, p. 10-11; Chronowski, 2022, p. 164-165). Therefore, the absence of justification—closely linked to the principle of legality enshrined in Article B of the Fundamental Law and the protection of client rights to fair procedure—must be recognized ex officio as a constitutional issue (Kúria Kfv.IV.35.496/2018/12 [39]; Kf.IV.37.298/2020/13. [37],[38],[39]. Csatlós, 2024, p. 42-43; 48), constituting a violation of Article XXIV of the Fundamental Law (Chronowski & Petrétei, 2016, p. 71)

In the context of effective legal protection, the balance between formal legal remedies and the performance of the authority's work is not found where the branches of power merge to the point that the court attempts to correct an unlawful or erroneous act of the authority. In the authority's procedure, a valid public act can only be created by adhering to formalized procedural rules. These procedural guarantees ensure the observance of the principles of the rule of law and legal certainty, which are fundamental for the predictability of individual legal institutions. Thus, the provision of justice functions constitutionally only when procedural norms are followed (11/1992. (III.5.) ABH p. 84-85; Barabás, Baranyi & Fazekas, 2023, 123. §; Barabás, F. Rozsnyai & Kovács, 2023, 85. §.) Based on the established facts, retrospective legitimization cannot occur for several reasons. Specifically, the authority's decision must be deemed unfit for substantive review, and the authority must be required to conduct a new procedure, this time in compliance with constitutional requirements. The process must conclude, whether through human or machine labour, with a decision that reflects this adherence.

Acknowledgements

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