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ADM in Public Administration in Finland and Hungary: Does the Legal Culture Matter?

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The digital transformation of the public sector and automation of decision-making (ADM) processes have recently become common. Its goal usually is to make public administration more effective, competitive and trusted. At the same time, especially the use of AI-based automation in the public sector contains many risks. In this article, we will focus on the legal solutions related to these risks, in two European countries, Finland and Hungary. Does the legal culture have an influence on the solutions how the risks have been controlled?

Finland represents the Nordic legal culture. Despite this quite homogeneous legal culture in general, attitudes towards ADM related legislation differ. In some countries, such as in Sweden, the increased interest towards ADM/AI has led only minor legislative changes to the administrative law framework, when in Finland different path with a stricter restrictions and detailed legislation have been chosen. East Central Europe is as little homogeneous as the Nordic countries what comes to the attitudes towards ADM and AI. It seems that the Europeanization plays a greater role than the historical divisions protecting important values such transparency and accountability in the context of ADM. As a result, Finland, as well as Hungary, represent countries which have developed legal safeguards for the use of ADM detailed way. Nonetheless, it is important to note that in areas of broader national discretion, such as national security, current challenges are testing the values of even traditionally strong rule-of-law states, such as Finland.

Keywords: Automated decision making, legal culture (Finland, Hungary), Europeanization, public administration, Nordic countries, East Central Europe, administrative law, human intervention, AI (EU), legal safeguards

1 INTRODUCTION

1.1 AIM OF THE ARTICLE

The digital transformation of the public sector and automation of decision-making (ADM) processes have recently become common. Its goal is usually to make public administration more effective, competitive and trusted. The widespread take-up of digital development has been steady in recent years, but the rise of generative artificial intelligence (GAI) has provided a new impetus. With the right intellectual

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capital and infrastructure, a large number of actors can enter a world shaped by AI, opening new opportunities for many public and private services. However, this phase of digital transformation is far from being without controversy. For example, discussion of ‘robot lawyers’, ‘automated court decisions without judges’, or ‘administrative procedures without human intervention’ discloses a number of legal and societal questions linked to these new technological solutions for which reassuring answers must be found. Especially when addressing public administrative power, control through public (administrative) law is crucial, also in the digital environment. Legislation is needed to control, for example, problems with good administration, equality, the rule of law and liability.¹

In this article, we will focus on the legal solutions in two European countries, Finland and Hungary, asking following questions: What kind of debate occurs in these countries related to the use of ADM in public administration? Does the legal culture have an influence on the solutions how the risks have been controlled? The analysis is based on legal sources and utilizing comparative legal studies as a method. Both chosen countries are members of the EU and EU law applies to them. The EU has also signed the Council of Europe Framework Convention on Artificial Intelligence and Human Rights, Democracy and the Rule of Law. It may also influence the development of legal solutions in the future. In addition, the European Convention on Human Rights sets certain boundaries for the use of artificial intelligence, which have been reflected in national jurisprudence.² Questions relate to the administrative due process instead has traditionally been the responsibility of national legal systems, but the EU’s new Artificial Intelligence Act will probably influence the Europeanization of administrative law in the field of artificial intelligence.³ At the domestic level, in 2023, a proposal for general legislation on automated decision-making within public administration was accepted in Finland. If individual consideration is not needed, automated decision-making is allowed. Hungarian public procedural law also allows use of ADM under certain conditions.

The chosen countries have different backgrounds, e.g., different cultural and legal history, which makes the comparison fruitful. To strengthen the understanding of the legal cultural perspective, the article will also give a brief overview of the development related to ADM in the neighbouring countries of Finland and

¹ M. Suksi, *Administrative Due Process When Using Automated Decision-making in Public Administration: Some Notes from a Finnish perspective*, 29 *Artificial Intelligence & L.* 87–110, at 87 (2021), doi: 10.1007/s10506-020-09269-x.

² See District Court of The Hague, 5 Feb. 2020, ECLI:NL:RBDHA:2020:865 (*NJCM v. the Netherlands* (SyRI)).

³ M. Suksi, *Formal, Procedural and Material Requirements of the Rule of Law in the Context of Automated Decision-making*, in *The Rule of Law and the Automated Decision-making* 65–96, at 93–94 (M. Suksi ed., Springer 2023), <https://doi.org/10.1007/978-3-031-30142-1>.

Hungary to find out if the legal culture plays a role in the countries' ADM solutions. Here, we define legal culture as certain group's ideas and expectations of law which is reflecting their common values and attitudes.⁴ For example, the Nordic countries represent quite similar legal cultures and they also share a number of common features in administrative law, such as the importance of the principle of transparency and openness.⁵

The outline of this article is as follows. Section 1 introduces not only the research question but also the European law solutions as a starting point. It also systematizes the main legislative challenges related to ADM at the European level. Section 2 more specifically describes this development in Finland and Hungary. Section 3 deepens the discussion and systematizes the current challenges which have been raised recently in these countries. Section 4 contextualizes these remarks with the help of analysis from neighbouring countries answering the question of the role of legal culture and its influence on the legislative solutions and attitudes towards automated decision-making. Section 5 offers concluding remarks.

1.2 EUROPEAN LEVEL SOLUTIONS

ADM covers so-called rule-based automation and automation based on machine learning AI (AI-based automation). AI-based automation is more autonomous and employs more advanced AI-technologies. Autonomous, in this context, means that the more autonomous the system is, the less human involvement there is in how the system operates.⁶ In rule-based ADM, the human involvement is more significant and it is used for simple and routine decisions. In practice, the distinction between these systems is not always straightforward to define because automatic systems may combine different technical implementation methods.⁷

The use of AI-based automation in the public sector comes with many different risks. For instance, conclusions drawn by AI systems may be discriminatory based on protected characteristics, or they may be unsuitable or incorrect.⁸ It is also possible for legislation to be incorrectly coded in the AI-system.⁹

⁴ See R. Cotterrell, *Comparative Law and Legal Culture*, in *The Oxford Handbook of Comparative Law* 710–733, at 223 (M. Reimann & R. Zimmermann eds, Oxford University Press, Oxford 2019). and L. M. Friedman, *The Legal System: A Social Science Perspective* 223 (Russel Sage Foundation, New York 1975).

⁵ See O. I. Mäenpää & N. Fenger, *Public Administration and Good Governance*, in *Nordic Law in European Context* 163–178 (P. Letto-Vanamo, D. Tamm & B. O. G. Mortensen eds, Springer Cham 2019), <https://doi.org/10.1007/978-3-030-03006-3>.

⁶ R. Koulu, *Digitalisaatio ja algoritmit – oikeustiede hukassa?*, (7–8) *Lakimies* 840–867, at 855–856 (2018).

⁷ J. Hakkarainen, R. Koulu & K. Markkanen, *Läpinäkyvät algoritmit? Lähdekoodin julkisuus ja laillisuus-kontrolli hallinnon digitalisaatiossa* 1–52, at 2 (Edita Publishing Edilex 2020).

⁸ See District Court of The Hague, 5 Feb. 2020, *supra* n. 2.

⁹ N. Smuha, *Beyond the Individual: Governing AI's Societal Harm*, 10(3) *Internet Pol'y Rev. J. Internet Reg.* 1–32, at 8 (2021), doi: 10.14763/2021.3.1574.

As Szűts points out, part of humanity is in favour of the heavy use of digital technology.¹⁰ They use it to build on their intelligence and skills through personalized improvements in a kind of ‘symbiosis with the machine’, as Licklider predicted decades earlier.¹¹ At the same time, the so-called Collingridge dilemma applies to situations like these.¹² The fast pace of new technologies being adopted means that not all positive and negative effects can be foreseen and therefore, there is insufficient experience to regulate them. Once a technology is widespread, it is very difficult to create far-reaching rules for it, as many things are no longer reversible.

The risks that AI-based ADM poses have raised ideas about forbidding the use of AI-based ADM in the public sector until it is certain that it complies with the rule of law.¹³ The first step towards this prohibition at EU level lies in Article 22(1) of the General Data Protection Regulation (GDPR), stating that individuals have the right not to be subject to a decision based solely on automated processing, including profiling. Exceptions to the rule are allowed by Article 22 (2), for example based on ‘authorisation by EU or Member State Law’ if measures to safeguard the data subject’s rights and freedoms and legitimate interests are present. The safeguards include for instance the right to obtain meaningful human intervention and this has led to different interpretations and solutions in the Member States.¹⁴ In France, the Constitutional Council stated that it is forbidden to use independent AI-based systems that do not have any human controls and that whoever is responsible for the system must be able to explain the automated process individually and in an understandable way to the subject of the process.¹⁵ The statements follow the legal framework created at EU level, concerning transparency and the right to an explanation (Article 15(1)(h) and Article 22(1) & (4) of GDPR), but France has been seen to emphasize the human control over automatic systems in a way that can be interpreted as quite restrictive towards the use of ADM.¹⁶

The scope of the GDPR is limited and looking at the questions concerning ADM at EU level only through the GDPR was not sufficient, creating a one-sided approach that only emphasized data protection.¹⁷ It was followed by the new AI

¹⁰ Z. Szűts, *The Impact of Artificial Intelligence. Hopes, Fears, Scenarios and Solutions*, 33(1) *Educatio* 24–33 (2024), doi: 10.1556/2063.33.2024.1.3.

¹¹ J. C. R. Licklider, *Man-Computer Symbiosis*, 1(1) *IRE Transactions Hum. Factors Electronics* 4–11 (1960), doi: 10.1109/THFE2.1960.4503259.

¹² D. Collingridge, *The Social Control of Technology* 19 (St. Martin’s Press, New York 1980).

¹³ Suksi, *supra* n. 1, at 104.

¹⁴ See G. Latzcotz & P. de Hert, *Humans in the GDPR and AIA Governance of Automated and Algorithmic Systems. Essential Pre-requisites Against Abdicating Responsibilities*, (50) *Computer L. & Sec. Rev.* 1–20, at 4 (2023), doi: 10.1016/j.clsr.2023.105833.

¹⁵ Conseil constitutionnel 2018–725, 12 Jul. 2018.

¹⁶ T. Pöysti, *Kohti digitaalisen ajan hallinto-oikeutta* (7–8) *Lakimies* 868–903, at 894 (2018).

¹⁷ I. Koivisto, R. Koulu, *Miten hyvä hallinto digitalisoidaan? Haaste oikeustieteelliselle tutkimukselle*, (6) *Lakimies* 798–821, at 801–806 (2020).

Act¹⁸ in 2024 that applies to all AI systems, including those that do not process personal data. Also, the AI Act highlights human intervention through human oversight as a mandatory requirement for high-risk AI.¹⁹ Many public sector functions fit into this category.²⁰ Moreover its Article 13 requires that the high-risk systems are sufficiently transparent to enable deployers to interpret a system's output and use it appropriately. Despite human intervention not being a panacea, it supports basic values important to administrative law and European legal culture, such as transparency and accountability.²¹

Due to these obligations, among other reasons, for administrative decision-making, it is quite typical for only rule-based ADM to be allowed under the national laws. For example, in Finland, the Administrative Procedure Act does not allow any other ADM than rule based in fully automated decision-making. This is clearly stated in the preparatory works of the new §53 of the Administrative Procedure Act.²² Also, despite there being a widespread tendency for the legislator to promote automated administrative decision-making in Hungary,²³ the use of artificial intelligence in public administration is currently considered to be modest, which may of course change over time. At present, it seems that both legislators and the professionals developing the services are cautious about the wider dissemination of the technology, preferring to use it in a more limited and targeted way.²⁴ Moreover, one typical way to control the risks of ADM in European countries has also been to limit its use to cases with no room for discretion. This secures also the principle of proportionality.²⁵ For example, the German Administrative Procedure Act

¹⁸ (EU) 2024/1689.

¹⁹ See COM (2020) 65, at 10.

²⁰ See Annex III and R. Jakab, *National Report on Automation in Decision-Making in Public Administration in Slovakia*, 70(2) *Acta Universitatis Carolinae Iuridica* 147–157, at 151 (2024), doi: 10.14712/23366478.2024.28.

²¹ See Latzcoz & de Hert, *supra* n. 14, at 6–7 and S. Bönsing, N. Mäntylä, & H. Wenander, *Status and Criminal Liability of Civil Servants in Modern Public Administration: A Comparative Study of Denmark, Finland and Sweden*, 29(1) *Eur. Pub. L.* 115–134, at 115 (2023), doi: 10.54648/EURO2023006.

²² HE 145/2022 vp: at 95–99. (Government proposal, Finland).

²³ One of the main goals of the so-called National Digital Citizenship Programme in Hungary is to create public spaces where citizens can manage their affairs digitally, easily and efficiently in the future, mostly without having to be present in person, and in a 0–24-hour environment. See <https://www.dmu.gov.hu/cikk/nemzeti-digitalis-allampolgarsag-program> (accessed 5 Aug. 2025).

²⁴ Although in Hungarian financial administration (e.g., in the field of tax and treasury administration) there are known systems that support certain workflows with artificial intelligence, in the context of the substantive administration of public authorities, it is actually only possible for the customer to use such a service when issuing official certificates. In Hungary the so-called Artificial Intelligence Points (AIP) were set up as stand-alone terminals in many places in the country for customers to use them on a self-service basis for a few pre-defined types of cases (e.g., applying for a certificate of good conduct). See the map of AIP's here <https://bnpjprojektek.kormany.hu/mesterseg-intelligencia-segitsegevel> (accessed 6 Aug. 2025).

²⁵ L. Enqvist & M. Naarttijärvi, *Discretion, Automation and Proportionality*, in *The Rule of Law and the Automated Decision-making* 147–175 (M. Suksi ed., Springer 2023), <https://doi.org/10.1007/978-3-031-30142-1>.

contains this kind of solution (Article 35a), allowing full automation in such cases.²⁶ In Finland, a similar choice has been made but concerning rule-based ADM.²⁷ In the German approach, the system can learn from data and evolve independently, whereas in the Finnish rule-based system, all decision-making conditions are defined by humans. Although neither system does not make discretionary decisions, in Germany the system can optimize processes based on data and this may involve risks related to predictability. Covilla however observes, that there is a tendency in Europe to not prohibit the use of AI in the exercise of discretionary power.²⁸

The new EU regulations more broadly recognize also other challenges, bringing to light inter alia, equality issues. For example Article 5 of AI Act stipulates the use of an AI system that classifies individuals based on biometric data – such as race or religion – in order to predict their presumed personality traits or behaviour is prohibited. Moreover, related to high-risk systems, the discriminatory impacts must be assessed as part of the fundamental rights impact assessment in accordance with Article 27. Later also the Framework Convention on Artificial Intelligence and Human Rights, Democracy and the Rule of Law, developed by the Council of Europe will complement the AI Act in matters related to discrimination. The Convention was opened for signature in September 2024 and EU has already signed it. In addition, the framework convention is likely to reinforce procedural safeguards and the right to appeal also in relation to AI systems beyond those classified as high-risk. In contexts involving high-risk AI systems, the ex post safeguards are likely to be strengthened with the introduction of the EU AI Act, even though they previously received limited attention in matters not covered by the GDPR.²⁹ Also since both Finland and Hungary are parties to the European Convention on Human Rights, its impact must not be overlooked, as Article 6 (right to a fair trial), Article 8 (right to privacy), and Article 14 (prohibition of discrimination) are also relevant in the context of artificial intelligence.³⁰

²⁶ See Jakab, *supra* n. 20, at 151 and J. Etscheid, *Artificial Intelligence in Public Administration*, in *Electronic Government*, vol. 11685, 248–261, at 251 (I. Lindgren et al. eds, EGOV 2019. Lecture Notes in Computer Science Springer, Cham 2019), available https://doi.org/10.1007/978-3-030-27325-5_19 (accessed 30 Jun. 2024).

²⁷ HE 145/2022 vp, at 98. (Government proposal, Finland).

²⁸ J. C. Covilla, *Artificial Intelligence and Administrative Discretion: Exploring Adaptations and Boundaries*, 16 *Eur. J. Risk Reg.* 36–50 (2025), doi: 10.1017/err.2024.76.

²⁹ See Koivisto & Koulu, *supra* n. 17, at 806–807. See Y. Menecceur, *Artificial Intelligence, Public Administration and the Rule of Law*, in *The Rule of Law and the Automated Decision-making* 117–146, at 134 (M. Suksi ed., Springer 2023), <https://doi.org/10.1007/978-3-031-30142-1>.

³⁰ *Nederlands Juristen Comité voor de Mensenrechten et al. v. The Netherlands, the District Court of The Hague* found that the Dutch government's use of the SyRI (System Risk Indication) – an algorithmic tool designed to detect welfare fraud – violated Art. 8 of the European Convention on Human Rights, which protects the right to privacy. ECLI:NL:RBDHA:2020:1878.

2 USE OF ADM IN FINLAND AND HUNGARY

2.1 FINLAND

In Finland, automated decision-making, is used in several fields of public administration, typically connected to the tax administration and social insurance institute due to their high volume of decisions that are repetitive and routine in nature.³¹ According to the EU's Digital Economy and Society Index (DESI) report from 2022, Finland has the most digitized public services among Estonia, Malta and the Netherlands.³²

There was no general legislation concerning automatic decision-making or any mention of automatic decision-making in the Finnish Administrative Procedure Act (434/2003) before 2023. In spring 2023, Finnish parliament accepted a new Chapter 8b, setting the framework for automatic decision-making in public administration. At the same time, parliament accepted also a new Chapter, 6a, for the Act on Information Management in Public Administration (906/2019). It is essential to take a closer look at these regulations in order to understand the Finnish solution.

Investigations by the Parliamentary Ombudsman and statements of Constitutional Law Committee are of particular importance, as they identified serious problems regarding automatic decision-making in public administration, leading to the new legislation. They addressed, amongst other concerns, challenges to the protection of good administration, legal remedies and the liability of civil servants. Based on these problems, both the Parliamentary Ombudsman and the Constitutional Law Committee stated that there was a great need for general legislation concerning automatic decision-making in public administration.³³

In Chapter 8b of the Administrative Procedure Act, it is stated that automatic decision-making can be used in public administration in cases that do not include any aspects that require case-by-case consideration or when the case-by-case consideration has already been done by a civil servant or other case handler. It is also stated that only rule-based automatic decision-making is possible. This means that in the current legislation in Finland, the use of machine learning based automated decision-making is prohibited (§53.2). However, Suksi has pointed

³¹ See Suksi, *supra* n. 1, at 88 and N. Mäntylä, V. Karjalainen, N. Korhonen, K. Siikavirta, H. Wenander & V. Annola, *Virkavastuu julkishallinnon muuttuvassa toimintaympäristössä*, 14 Valtioneuvoston selvitys- ja tutkimustoiminnan julkaisusarja 1–179, at 119 (2022), https://julkaisut.valtioneuvosto.fi/bitstream/handle/10024/163833/VNTEAS_2022_14.pdf (accessed 6 Jun. 2025).

³² European Commission, *Digital Economy and Society Index* 118 (28 Jul. 2022), <https://digital-strategy.ec.europa.eu/en/library/digital-economy-and-society-index-desi-2022>.

³³ EOAK/3379/2018 (Parliamentary ombudsman of Finland). PeVL 62/2018 vp. and PeVL 7/2019 vp (Statements of the Constitutional Law Committee, Finland).

out that the use of machine learning systems is still possible in supportive or assistive tasks.³⁴

Chapter 8b of the Administrative Procedure Act creates the prerequisites for deciding in which cases the use of automatic decision-making is allowed. The Act on Information Management in Public Administration, Chapter 6a, creates prerequisites for the process of commencing the use of automatic decision-making in public administration (Administrative Procedure Act §53.3). The idea in this legislation seems to be to target the liability to different phases or tasks of the automatic decision-making process. It also emphasizes the importance of documenting different tasks in order to ensure that liability is correctly attributed.

2.2 HUNGARY

In Hungary, digitalization has been seen as a catalyst for the modernization of public administration and many digital solutions based on the latest technology have been launched.³⁵ Similar to Finland, two laws specifically address the issue of ADM – the Act laying down the general rules of administrative procedure and the Act on Electronic Administration. The most important provisions are described below in this order.

2.2[a] *ADM and Administrative Procedural Law*

Hungarian administrative procedural law, the Code of General Administrative Procedure (CGAP) §40 allows ADM under the following two main situations.³⁶ Firstly, if the conditions for automated decision-making procedure under the e-Administration Act are met (*see* the discussion of the General Rules of Electronic Administration and Trust Services (GREAS) below and Digital Citizenship Act (DCA) later) and there is no party with opposing interests. Or

³⁴ M. Suksi, *Creating Legal Basis for Automated Decision-making: A Review of Section 53 e of Finland's Administrative Procedure Act and Beyond*, 5(2) Eur. Rev. Digital Admin. & L. – Erdal 107–116 at 115 (2024). *See also* HE 145/2022 vp: at 103. (Government proposal, Finland).

³⁵ As an excellent example of ADM in Hungary, *see* the priority project 'Development of an Automated Administrative Decision Making (ADM) System SZEÜSZ' with the identification number KÖFOP-2.2.7-VEKOP-20-2020-00001. The consortium was led by the Ministry of the Interior. In the framework of this regulated electronic administration service (in Hungarian SZEÜSZ), an evaluation and decision support module has been implemented which, in cases not requiring discretion, is able to make a decision automatically after identifying the type of case, if the necessary information is available, while at the same time providing the possibility for the intervention of the administrator, <https://bmsprojektek.kormany.hu/download/d/25/23000/AKD%20projektz%C3%A1r%C3%B3%20kiadv%C3%A1ny.pdf> (accessed 5 Aug. 2025).

³⁶ *See* Act CL of 2016 on the Code of General Administrative Procedure, <https://njt.hu/jogszabaly/en/2016-150-00-00> (accessed 5 Aug. 2025).

secondly (as regards the application): an Act or government decree enables it, all data are available to the authority at the time of its submission, decision-making does not require deliberation, and there is no party with opposing interests.

In order to understand this legal instrument more easily, it is essential to highlight some general points. The CGAP identifies several types of administrative procedures for the examination of applications, such as the so-called automatic decision procedure (§40), the summary procedure (§41) and the full procedure (§42). The explanatory memorandum to the Act emphasizes that, as a general rule, all procedures start as summary or automatic decision procedures. If the procedure cannot be conducted under the summary procedure, the authority will switch to the full procedure, provided that the conditions for this are met, and will inform the customer electronically of the time limit for the full procedure, the legal consequences of exceeding the time limit, and the fact that the authority will henceforth act in accordance with the rules of the full procedure.³⁷

Automatic decision-making and so-called 'summary' procedures are, in fact, types of procedure that aim to speed up the process, which is also reflected in the time limits declared by law. While the time limit for a full procedure is sixty days, the time limit for a summary procedure is eight days, and for an automatic decision, twenty-four hours. However, given that the (technical and IT) conditions for ADM are not always met, the majority of cases are presently handled under the so-called summary procedure, which, according to the law, is a procedural form for cases that are easy to decide.³⁸ Logically, therefore, automatic decision-making can also be considered a special form of the summary procedure, a framework whose specific cases are not in fact defined by the CGAP but by sectoral legislation.³⁹ In other words, the fundamental difference between the two procedures is that ADM is, in fact, a fast and efficient way to deal with cases whereas the summary procedure is a framework for dealing with cases where discretion is required, and therefore human participation must be ensured, but no evidentiary procedure is necessary.

The question may arise as to what remedies are available to the client in the aforementioned fast-track procedures. Under the current legislation, when appeal is excluded in a summary procedure and, in the case of an automatic decision, the

³⁷ See Z. Czékmann, G. Cseh-Zelina & E. Ritó, *The Place and Role of Automatic Decision-Making in the Administrative Procedure*, 2(2) *KözigazgatásTudomány* 35–47 (2022), doi: 10.54200/kt.v2i2.34, http://real.mtak.hu/155051/1/KozigazgasTudomany-2022-02_Czekmannetal.pdf (accessed 5 Aug. 2025).

³⁸ A summary procedure may only take place if, on the basis of the complete application and its annexes and the information available to the authority, the facts are clear and there is no opposing party.

³⁹ This is the case, e.g., in the imposition of an administrative fine under Art. 21(4) of Act I of 1988 on Road Traffic. Further cases are described by E. Csatlós, *Az ügyfél és a hatósági döntéshozatal a digitalizáció korában*. [*The Client and Authority Proceedings in the Digital Era*], 13(1) *Pro Futuro* 74–101 (2023), 10.26521/profuturo/2023/1/13356.

solution is for the customer to request that the authority re-examines the application in full procedure.⁴⁰ To complete the picture, in addition to the procedures initiated on request, for practical reasons, the law also recognizes the possibility of ADM in the case of *ex officio* procedures, in situations where the decision does not require discretion (*see* CGAP §104(6)).

In Finland, compared to Hungary, time limits and legal remedies available are not linked to the division between summary, automated and full procedures. Instead, there are some special time limits in sectoral legislation depending on the nature of the case. For example, when applying for social assistance, the decision must be given in seven working days. In other cases, the rule is more general: the matter shall be considered without undue delay and the authority shall inform the party upon her/his request about the estimated date of issue of a decision (Administrative Procedure Act §23). It is typical in Finland that, in many categories of cases, an administrative review of a decision is required before requesting a judicial review of the decision. Similar to Hungary, an administrative review means that the authority re-examines the application, but a difference is that appeals are not excluded. There is typically the right to get the case pertaining to an individual's rights or obligations reviewed by an independent body such as a court. It is also notable that, in the Finnish system, using ADM for administrative review is forbidden, subject to very limited exceptions.⁴¹

2.2[b] *Main Features of ADM in Former Electronic Administration Law Until September 2024*

In Hungary, as mentioned above, the issue of ADM also arises separately in the framework of a different Act. Until 1 September 2024 this legal document was called Act CCXXII of 2015 on the GRAE. Given that GRAE had a significant impact on Hungarian regulations, we will briefly outline its most important provisions relating to ADM here. The new DCA that replaced GRAE and is currently in force will be described later in this study. According to the original rules of GRAE, the public authority (that provides electronic administration in its procedures) may conduct the procedure via automatic decision-making if (*see* §11), in a case initiated by request, the client submits the request electronically, the decision does not require any discretion, and the data necessary for the handling of the case is available to the e-administration body in a format suitable for automated processing or is received by the e-administration body by means of an automatic information exchange in a format suitable for automated processing.

⁴⁰ The client has five days to submit the application pursuant to § 42 of the CGAP.

⁴¹ However, there are certain exceptions related to areas such as tax regulation. *See* Suksi, *supra* n. 34, at 111.

Similar to the CGAP, the GREA did not regulate the detailed rules for automatic decision-making itself, leaving it to sectoral legislation. In the case of GREA, as Czékmann, Cseh-Zelina and Ritó point out in their study, the central element of the concept was the exclusion of human intervention (meaning not only the taking of the decision but also the acquisition of the necessary data, except for the submission of the application).⁴² Under GREA rules, the electronic means and form requirement applied in such cases. Thus, in the case of procedures initiated on request, the customer submitted their request, after electronic identification, by means of an electronic form provided by the body using electronic administration. As the formalized procedure was carried out using IT, it was essential that the process, the methodology and the relevant rules were made available, typically on websites, by the organizations concerned.⁴³

It is clear that GREA provided only a framework, which was filled with legal sources from a wide variety of sectors. In former (as well as in current) Hungarian public law, ADM is accordingly recognized and applied (in most cases when issuing some kind of official certificate), for example, in the context of land use registration, registering citizens' identity and address, in the field of road transport, procedure relating to benefits for disabled persons, fisheries and water management, electoral procedure, the data of private investigators, commercial activities, natural gas supply, and certain social benefits and family support.

3 IMPORTANT CHALLENGES ADDRESSED IN THE LEGISLATIVE PROCESS

3.1 FINLAND

In Finland, the new general legislation surrounding ADM was driven by concerns highlighted by Parliamentary Ombudsman and Constitutional Law Committee. Their statements addressed the principle of good administration and legal remedies as well as the liability of civil servants. In addition to these remarks, researchers have also raised the question of possible discrimination when ADM is used.⁴⁴

In Finland, the principle of good administration and the right to an effective remedy are fundamental rights written into the constitution of Finland (§21, 731/1999). It is then obvious that ADM has to be compatible with these safeguards.⁴⁵ In terms of the principle of good administration and ADM, concerns in Finland are related

⁴² Czékmann et al., *supra* n. 37.

⁴³ Further important guarantees are set out in Act CXII of 2011 on the Right to Informational Self-Determination and Freedom of Information (in relation to so-called automated data processing).

⁴⁴ See Hakkarainen, Koulu & Markkanen, *supra* n. 7, at 16.

⁴⁵ Koivisto & Koulu, *supra* n. 17, at 808.

to the preserving trust, providing guidance to clients in administrative matters, for example through the use of chatbots, and the adequate legal remedies.⁴⁶ In addition, some researchers find the margin of appreciation problematic when using ADM. Even though, in Finland, it is forbidden to use ADM in cases that require case-by-case consideration, there is still the margin of appreciation to decide which cases are considered so-called ‘mass administration’ and do not require case-by-case consideration. Also the selection and framing of rules often involve subjective choices made by human designers. These choices can encode implicit discretion. Moreover, it is not easily recognizable if certain wordings may contain discretion or not.⁴⁷

The liability of civil servants is one of the main concerns highlighted in the Finnish discussion, because the Constitution creates an individualistic approach to the criminal liability of civil servants when it states that each civil servant is individually liable for his or her acts in office (§118.1). The wording of the preparatory works of the constitution also emphasizes the individual dimension when it precisely targets criminal liability at the individual level.⁴⁸ Statements of the Parliamentary Ombudsman and Constitutional Law Committee both raise concerns about liability in similar ways. The Constitutional Law Committee gave a statement regarding the immigration service’s proposed solution to organize liability when using ADM. The committee was not satisfied with the proposed solution of targeting liability only to the manager of the services when ADM is used. The Constitutional Law Committee stated that this kind of solution is only formal and artificial and that, based on §118 of the Finnish constitution, ADM needs to be under strict oversight as well as legally controlled.⁴⁹ The Parliamentary Ombudsman found that the tax administration’s solution, which was to always target liability only to so-called process owners in ADM was problematic. The Parliamentary Ombudsman shared the Constitutional Law Committee’s opinion and found this solution to be indirect in a way which does not comply with the constitution.⁵⁰ It is possible to say that the Finnish constitution, especially §118, makes human involvement necessary, simultaneously preventing technological neutrality.⁵¹

Regarding liability, statements of the Constitutional Law Committee and the Parliamentary Ombudsman have been taken into consideration in the preparatory works for the new legislation. According to the preparatory works, it is necessary to create legislation for tracking ADM process development, introduction and usage which clearly defines the official duties of civil servants and other liable

⁴⁶ EOAK/3379/2018.

⁴⁷ Koivisto & Koulu 2020, *supra* n.17, at 816–817.

⁴⁸ HE 1/1998 vp, at 172 (Government proposal, Finland).

⁴⁹ PeVL 7/2019 vp. (Statement of the Constitutional committee, Finland).

⁵⁰ EOAK/3379/2018 (Parliamentary Ombudsman, Finland).

⁵¹ Suksi, *supra* n. 1, at 89.

actors in order for the liability of civil servants to be adequately realized. Through these clearly defined official duties, it is possible to secure the requirements set for the rule of law in administration, legal remedies, the principle of good administration and other procedural regulation in the Administrative Procedure Act, data protection, and the publication of official documents.⁵² Regarding the statement about oversight and legal control, this is addressed in the preparatory works by creating an obligation to ensure the quality of the ADM processes by testing the systems and supervising the quality of the outcomes.⁵³ Concerning liability, a process of documentation seems to play an important role in the new legislation. Public officials must document the division of tasks of the persons liable for the execution of the duties regulated in Chapter 6a. It is also mandatory to ensure that the rules used in an ADM process are documented sufficiently clearly and comprehensively so that their legality can be proved (Act on Information Management in Public Administration §28a). By regulating the documentation of the division of tasks, the intention is to oblige public officials to document the preparation, decision-making and quality control of the ADM and single out the persons who are executing these tasks in order make it clear who is liable for the obligations regulated in Chapter 6a. The necessity of the documentation is based on the legal protection of civil servants and other liable persons because it cannot be uncertain to whom the obligations regulated by law belong and who is required to act in office in accordance with the law. Obligations in information management and in the development of information systems are typically not clear so it is considered necessary to specifically regulate these obligations in law.⁵⁴

Regarding ADM in Finland, it is also worth examining the criminal liability of the non-civil servant employees in the public sector. When such employees carry out tasks referred to in Chapter 6a, they have criminal liability similar to civil servants (Act on Information Management in Public Administration §28g). This is an interesting solution, because the risks related to transfer of power between the authority and designer of the algorithmic system have been highlighted by researchers.⁵⁵ Furthermore, according to the preparatory works, this is necessary because in the public sector, there are many employees who are not civil servants working in the development and maintenance of the information systems used in ADM. In addition, the preparatory works highlight that the goal of this regulation is for criminal liability to have actual (de facto) realization and clear predictability when developing and introducing ADM processes.⁵⁶

⁵² HE 145/2022 vp, at 22–23 (Government proposal, Finland).

⁵³ *Ibid.*, at 120–121.

⁵⁴ *Ibid.*, at 111.

⁵⁵ See Meneceur, *supra* n. 29, at 132.

⁵⁶ HE 145/2022 vp, at 131 (Government proposal, Finland).

As mentioned, there has also been discussion in Finland about the risk of discrimination when ADM is used and documentation seems to have a central role in ensuring that the ADM processes are not discriminating. According to the Act on Information Management in Public Administration §28a, the rules of the rule-based ADM must be documented in a way that is sufficiently clear and comprehensive and show how it has been ensured that the ADM procedure is not engaging in unlawful discrimination. Discrimination is addressed also in the preparatory works of the new legislation highlighting that rule-based ADM can actually promote equality because ADM handles all similar cases in a similar way.⁵⁷ This, of course, assumes that the rules of the rule-based ADM are actually created in a way that does not contain anything that would lead to a discriminatory outcome. On the other hand, it is noted in the preparatory works that it may be difficult to recognize different grounds that are comparable to discrimination.⁵⁸ Moreover, it is specifically mentioned in the instructions published by the Finnish Government that when officials are considering whether to use ADM in decisions concerning children, it is important to take international law into consideration, particularly the Convention on the Rights of the Child.⁵⁹ Additionally, EU law gives special protection to children in cases of automatization⁶⁰ [(EU)2016/679].

3.2 HUNGARY

3.2[a] *Recent Changes to the ADM Rules*

Compared to other European countries, researchers have found the Hungarian developments related to ADM regulation quite proactive and innovative. In 2019, legislation already highlighted equal treatment and transparency through a specific right to explanation.⁶¹ However, in light of the provisions described above and the legislative changes took place in 2024, we would like to pay attention to two points in this section. The first is the previous inconsistency between the CGAP and GREA rules. The second is connected to the major changes in the context of digital citizenship in 2024.

⁵⁷ *Ibid.*, at 78, 149.

⁵⁸ *Ibid.*, at 78–79.

⁵⁹ Ministry of Finance Finland, *Suositus automaattisen ratkaisumenettelyn käyttöönotosta ja käytöstä*, 13 Tiedonhallintalain 6 a luvun säännösten soveltamiseksi 1–23, at 31–33 (2024), <https://vm.fi/documents/10623/0/Oikarinen-Suositus-Autom-ratkaisumenettely-20231214.pdf/1897e21b-a6d4-e6ff-f49b-5f62b571857d/Oikarinen-Suositus-Autom-ratkaisumenettely-20231214.pdf?t=1702626206311> (accessed 5 Aug. 2025). See also HE 145/2022 vp, at 113–114.

⁶⁰ (EU) 2016/679.

⁶¹ G. Malgieri, *Automated Decision-making in the EU Member States. The Right to Explanation and Other 'Suitable Safeguards' in the National Legislations*, 35(5) *Computer L. & Sec. Rev.* 1–26, at 16 (2019), doi: 10.1016/j.clsr.2019.05.002.

Comparing the previous rules of CGAP and GREA, an important difference could be observed for a longer period. As pointed out by Czékmann, Cseh-Zelina and Ritó, CGAP originally reduced the scope of ADM by excluding the possibility of discretion (for example, the possibility of using artificial intelligence is excluded).⁶² In addition, GREA explicitly stated that in ADM procedures from a request, the client submits his/her request, after electronic identification, by means of an electronic form provided by the body using electronic administration. However, administrative rules were often inconsistent with this and required the applicant to submit a paper application.

These inconsistencies have recently been addressed by the legislator. As a result of the changed legal provisions in Hungarian public procedural law, there are currently two types of automatic decision-making. The first is when the procedure is carried out without human intervention by means of an electronic application, in accordance with the former GREA (or nowadays DCA) rules, and the second is when all the data is available to the authority on the basis of a non-electronic application and it can take a decision immediately (e.g., issuing an address card at a government office).

The preparatory materials specifically emphasize that the automatic administrative decision-making system has been developed in the framework of project KÖFOP-2.2.7-VEKOP-20 (*see above in footnote no. 35*), implemented under the Operational Programme for the Development of Public Administration and Public Services. The rethinking of decision-making procedures and solutions based on automation makes it necessary to include this service in the e-administration regulation. As a result of this, the latest amendment to the CGAP means that the GREA and its successor, the DCA procedure should be interpreted as a special electronic version of automatic decision-making.

However from 1 September 2024 Act CIII of 2023 on the Digital State and Certain Rules for the Provision of Digital Services, hereafter the DCA removed GRAE, at the same time, the DCA's ADM rule is identical to the GREA regulatory model (*see §21 in DCA and §11 in GRAE*), so nowadays, it is necessary to apply CGAP and DCA together.

The general rationale for the legislation is that the DCA begins a new era in the digitization of public services, with the central idea being that the smartphone is the most important tool for digitization in the 2020s. Therefore, from 2024 onwards, ID cards, paperwork and signatures gradually move to mobile phones in Hungary. Under the new law, the state created a mobile application that is accessible to all Hungarian citizens, making more matters easy to manage without queuing or sending postal mail.⁶³

⁶² Czékmann et al., *supra* n. 37, at 35–47.

⁶³ *Digitális Állampolgár (2025)*, <https://play.google.com/store/apps/details?id=hu.gov.dap.app&hl=en-US&pli=1> (accessed 6 Aug. 2025).

As underlined in the explanatory memorandum to the legislation simplifying the lives of citizens, digital citizenship also digitize the functioning of the state, giving all sectors of the Hungarian economy a competitive advantage.

In light of the above, the topic of ADM fits into a broader transformation, which at the same time is an emerging issue in Hungary, the expected results and possible drawbacks of which cannot yet be fully and accurately mapped.

4 DEVELOPMENT IN NEIGHBOURING COUNTRIES OF FINLAND AND HUNGARY: DOES LEGAL CULTURE HAVE AN INFLUENCE?

4.1 LEGAL CULTURE IN THE NORDIC COUNTRIES AND CENTRAL EASTERN EUROPE⁶⁴

Finland is part of the Nordic countries, sharing common social and democratic values and hence, legal culture. The Nordic countries are bound together by, for example, the basic principles, methodology and design of legal systems.⁶⁵ Based on historical development, Nordic countries are also often typically divided into east (Finland and Sweden) and west groups (Denmark, Iceland and Norway).⁶⁶ From the administrative law perspective, the division matters, and Denmark, Iceland and Norway have more in common, having no special administrative courts, for example. However, similar rules and principles of administrative law also unify the Nordic countries. In particular, legality and rule of law has a central role, requiring that the authorities act within the limits set by law and the exercise of public power must be justified by the law.⁶⁷ Nowadays, Europeanization also plays a great role, despite Norway and Iceland not being members of the EU. When the European Union's legislative activities started to play a greater role, and the European Court of Human Rights (ECtHR) defined standards for administrative laws in its case law, there has been a weakening need to harmonize the Nordic legislation at Nordic level.⁶⁸

Central Eastern European countries came under the political influence of the Soviet Union after the Second World War, which has affected the legal culture in

⁶⁴ It is not easy to define which countries are part of the Central Eastern European group. Narrowly, the definition includes only Poland, the Czech Republic, Slovakia, and Hungary, but usually, e.g., Bulgaria, Romania, Albania and former Yugoslavia has been seen as a part of this territory. See P. Sárý, *Introduction*, in *Lectures on East Central European Legal History* 11–23, at 15 (P. Sárý ed., Central European Academic Publishing, Miskolc-Egyetemváros 2022), <https://doi.org/10.54171/2022.ps.loecelh>.

⁶⁵ U. Bernitz, *What Is Scandinavian Law? Concept, Characteristics, Future*, 50 *Scandinavian Stud. L.* 13–30, at 18 (2007).

⁶⁶ Bernitz, *supra* n. 65, at 16.

⁶⁷ Mäenpää & Fenger, *supra* n. 5.

⁶⁸ See K. Modéer, *Harmonization or Separation? Deep Structures in Nordic Legal Cultures*, (50) *Scandinavian Stud. L.* 179–184, at 183 (2007). and Mäenpää & Fenger, *supra* n. 5.

this region.⁶⁹ Western law and legal doctrine instead were transferred to Eastern Europe during the nineteenth century, but even before, Central Eastern Europe (including Hungary) was better integrated into western legal culture than South-eastern Europe, especially in the field of public law.⁷⁰ Recently Europeanization has also strengthened development in the field of administrative law in the Eastern European countries, highlighting European legal principles such as transparency, proportionality and legal certainty.⁷¹ At the same time, several Rule of Law reports have highlighted the worsening situation of rule of law principles and democracy in Central Eastern Europe, but as a consequence of the use of EU law instruments, there has also been improvement in this area.⁷²

The question of legal culture is interesting, because, for example, Suksi found that there are two kinds of attitudes towards the legislative response to automated decision-making. As an example of countries with more relaxed attitudes he mentions Sweden and Germany, whereas Finland and France instead represent the other group with more demanding regulations on the use of algorithmic systems.⁷³ In Central Eastern European countries too, there is a lot of variability related to ADM. As these remarks refer to the conclusion that attitudes do not seem to follow the traditional division of legal cultures, the aim of this section is to find out if our comparative findings strengthen this view.

4.2 ADM IN THE NORDIC COUNTRIES

Public administration in the Nordic countries is highly digitized and interest in taking advantage of ADM and intelligent automation is strong. The benefits of ADM are generally seen as including efficiency in decision-making, equal treatment of citizens and error prevention.⁷⁴

Legislative development in the public sector has usually started in areas of special legislation, e.g., procedural tax law. In some countries such Denmark and Norway, there is still no general legislation concerning ADM. In Sweden, a new section was added to the Administrative Procedure Act in 2018⁷⁵ (2017:900), long before Finnish reform in 2023, to provide general legal support for automated procedures. Despite the early recognition in Sweden, restrictions regarding the use

⁶⁹ See Sárý, *supra* n. 64, at 15.

⁷⁰ T. Giaro, *Legal Tradition of Eastern Europe. Its Rise and Demise*, 2(1) *Comp. L. Rev.* at 6, 16 (2011).

⁷¹ L. Potěšil & T. Svoboda, *Administrative Law in the Czech Republic*, in *Comparative Administrative Law. Perspectives from Central and Eastern Europe* 1–35 (I. Deviatnikovaitė ed., Routledge, London 2024).

⁷² See e.g., COM/2023/800: Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions 2023 Rule of Law Report The rule of law situation in the European Union.

⁷³ Suksi, *supra* n. 3, at 2; Government proposal (Sweden) 2016/17:180.

⁷⁴ E. M. Weitzenboeck, *Simplification of Administrative Procedures through Fully Automated Decision-Making: The Case of Norway*, 11(4) *Admin. Sci.* 149–172 (2021), doi: 10.3390/admsci11040149.

⁷⁵ Administrative Procedure Act (Sweden) (2017:900).

of automated decision-making have not been addressed by courts.⁷⁶ The newest Nordic legislation instead also includes some restrictions, such as ADM cannot be applied in cases where administrative authorities have administrative discretion (found in Norway and Finland).⁷⁷

Good administration is an important value in the Nordic countries and digitalization has raised many important questions related to it. Surprisingly, increased interest towards ADM/AI has only led to minor legislative changes to the administrative law framework, despite, for example, Suksi notes that it seems provisions regulating administrative procedure play an important role in the legal rules needed to set up an ADM system.⁷⁸

Some researchers have explained this through the technological neutrality of administrative procedural rules, meaning that public authorities should comply with general principles and rules of administrative law, regardless of how a decision is made. However, supervisory authorities have found special challenges related to automated procedures e.g., concerning the risk evaluation of discrimination and correct decisions.⁷⁹

It is interesting that despite Nordic countries having a very homogeneous legal culture in general, attitudes towards ADM-related legislation differ. It seems that, especially in Sweden, the attitude towards the use of ADM is very permissive, whereas in Finland, there are more restrictions and detailed legislation.⁸⁰ In addition, the liability issues have not received similar interest in other Nordic countries than Finland, perhaps because the other countries are not applying such a strong individualistic approach to liability matters and thus not facing similar problems. Compared to Finland, it is possible, for example in Denmark, to impose sanctions such as administrative fines for breaching GDPR on public authorities, whereas in Finland, the system is based on the (criminal) liability of individual civil servants.⁸¹ However, the Ministry of Justice is examining the possibility of a legislative amendment in Finland to allow administrative fines to be imposed on public authorities as well, even though this departs from the Finnish legal tradition.⁸² The same question

⁷⁶ J. Reichel, *Regulating Automation of Swedish Public Administration*, 4(1) Rivista Interdisciplinare Sul Diritto Delle Amministrazioni Pubbliche 75–94 (2023).

⁷⁷ See J. Wolswinkel, *Artificial Intelligence and Administrative Law*. Council of Europe, at 19, 25 (2022), <https://www.coe.int/documents/22298481/0/CDCJ%282022%2931E±±FINAL±6.pdf/4cb20e4b-3da9-d4d4-2da0-65c11cd16116?t=1670943260563> (accessed 6 Aug. 2025).

⁷⁸ Suksi, *supra* n. 1, at 87, 101.

⁷⁹ The Supreme Audit Institute of Sweden RiR 2020:22, DO 2022:1 (Equality ombudsman, Sweden) *Transparens, träning och data – Myndigheters användning av AI och automatiserat beslutsfattande samt kunskap om risker för diskriminering*, <https://www.do.se/download/18.56175f8817b345aa7651be9/1646982570826/rapport-transparens-traning-och-data.pdf> (accessed 6 Aug. 2025).

⁸⁰ Suksi, *supra* n. 3, at 2.

⁸¹ Bonsing et al., *supra* n. 21, at 16–17.

⁸² S. Kantonen & V. Koivu, *Viranomaisia koskevat seuraamukset tietosuojalainsäädännön rikkomisesta: Lausuntotivistelmä* 2025:14, <https://julkaisut.valtioneuvosto.fi/handle/10024/166185> (accessed 12 Aug. 2025).

has arisen in connection with the AI Act, which also includes administrative fines as a form of sanction (Article 99(8) AI act).⁸³ It remains to be seen how long Finland can diverge from this Europeanization trend concerning liability issues.

4.3 SOLUTIONS IN CENTRAL EASTERN EUROPE

There is a clear need for digital development in Central Eastern European countries, including the automation of administrative decision-making processes, but it cannot be said that this is being done in a uniform way or that it has led to similar legislative solutions everywhere. Despite quite similar needs, the legislation related to ADM lead to differentiated approaches.

In some countries such as Slovenia, development of digitalization has been remarkable, and ADM is utilized in social transfers as well as the e-Sociala system including machine learning capabilities. Still, there is no national variations from the right not to be subjected to automated decision-making, protected by GDPR, but Slovenia has introduced a requirement of human rights impact assessments. It also seems that human intervention is necessary, at least for practical reasons.⁸⁴ The situation is partly similar in Slovakia, where fully automated decision-making processes without human intervention are not possible. However, it is typical to utilize ADM in some parts of the process.⁸⁵

The Slovak legal situation may also be particularly useful in highlighting the necessary limits and characteristics that generally militate against the automation of administrative decision-making processes in Central Eastern Europe. Jakab has highlighted that automation will be difficult or even impossible for processes based on discretion and information that is solely available in unstructured forms, such as oral statements or informal text. The automation of public administration decision-making also requires the information systems used to contain up-to-date and complete information and the existence of secure electronic communication between individuals and legal entities on the one side and the state on the other, and vice versa.⁸⁶ Similar to Slovakia, legislative development related to the use of ADM was subdued in a long time in Croatia and Romania due to practical reasons.⁸⁷ Nowadays, however significant government measures and ongoing planning are taking place in relation to the topic of artificial intelligence.

⁸³ See HE 46/2025 vp (Governmental proposal, Finland).

⁸⁴ See L. Kučić, *Automating Society Report. Slovenia*, Algorithm Watch, <https://automatingsociety.algorithmwatch.org/report2020/slovenia/> and Malgieri, *supra* n. 61, at 18.

⁸⁵ Jakab, *supra* n. 20, at 150.

⁸⁶ *Ibid.*, at 152–155.

⁸⁷ Jakab, *supra* n. 20; Malgieri, *supra* n. 61, at 6.

5 CONCLUSIONS

As a first conclusion, the development of AI-related legislation in each country is connected to the digitalization development in public administration in general. From the Eastern European countries, Hungary's role has been quite proactive related to ADM and legal safeguards because there has been a strong tendency to digitalize administration. For example, the latest process, the 'Digital Citizenship Programme' in Hungary, is to create services that are easily accessible, convenient and efficient for citizens through a digitalization process coordinated by the state. This idea is not without precedent, as Article XXVI of Hungary's Fundamental Law explicitly states that the state shall endeavour to apply new technical solutions and the results of science. This essentially means that the Hungarian state should seek to keep pace with the technological developments of the modern age and, as far as possible, make use of new technical solutions and other scientific achievements that increase the efficiency of the state's operations and raise the quality of public services.⁸⁸

When we consider digitalization in other Central Eastern European countries, many of the challenges are quite practical and, as a consequence, the speed of legislative development has been more moderate.⁸⁹ There is the need for more structured data and standardized application frameworks. Moreover, the interconnectivity of public administration information systems is missing, and data security should be strengthened.⁹⁰ There is a significant difference if we compare the situation to one of the Nordic countries, Denmark, where, citizens are generally expected to use electronic forms and online platforms to interact with authorities.⁹¹

However, the second point of interest is that despite strong digitalization development in the public administration in Nordic countries, increased interest towards ADM/AI has led to only minor legislative changes to the administrative law framework. One reason for this has been the technological neutrality of administrative procedural rules. Sweden allows ADM without any specific, limiting provision.⁹² However, stricter attitudes also exist and our findings support Suksi's remarks of two kinds of attitudes existing towards the legislative response to

⁸⁸ It is important that it is up to the user to decide whether to make use of the possibilities of digital citizenship or not. Digital interaction with the state is primarily done through a user profile created with a digital citizenship ID, which the user is free to activate and deactivate. It is also an important change from the previous logic that the DCA breaks with the use of 'case' and 'administration' as central concepts and considers them part of a new umbrella term of digital service. The DCA focuses on the provision of a 'life event-based integrated case management' and creates a 'life event registry'. The paradigm shift in life event-based case management is that the focus of case management is not on the administration and not on the official case, but on the client and the life event to be managed.

⁸⁹ Malgieri, *supra* n. 61.

⁹⁰ Jakab, *supra* n. 20, at 153–154.

⁹¹ Mäenpää & Fenger, *supra* n. 5.

⁹² See J. Nešpor, *Automated Administrative Decision-making: What Is the Black Box Hiding?*, 70(2) Acta Universitatis Carolinae Iuridica 69–83, at 72 (2024), doi: <https://doi.org/10.14712/23366478.2024.28>.

automated decision-making, even in the Nordic countries.⁹³ Compared to Sweden, especially in Finland, new legislation strongly limits the use of ADM, only allowing the use of rule-based ADM and excludes the use of more developed, AI-based ADM. The use of rule-based ADM is also limited to cases which leave no room for discretion, which has also been the solution to control the risk of discrimination.

The new legislation in Finland also tries to tackle problems concerning good administration and legal remedies as well as the liability of civil servants. However, regarding liability, the new legislation seems to be quite general and leaves room for public authority discretion in deciding how liability is organized. However, Finland has been proactive related to the requirement of human oversight, expressed in EU AI Act Article 14, when officials responsible e.g., for the monitoring of the system, should be defined according to the new Finnish legislation.

The strong Nordic tradition in the field of administrative law, which is connected to legalism and the rule of law, might protect the legal subjects of Nordic legal systems at least as long as the use of ADM is limited to rule-based ADM. In Central Eastern European countries, these safeguards are part of more recent developments and this affects for example the effectiveness of ex post safeguards. This means that especially in the areas not covered by the EU law there are more risks in these countries than in those where there has been a longer tradition to anchor these values within everyday public administration. For example, in the Hungarian system, when appeal is excluded in an ADM process and the legal remedies include only an authority's re-examination of the application, whereas in Finland, this kind of solution would be against constitutional law. However, the AI Act may contribute to the further Europeanization of ex post legal safeguards. When a decision falls within the scope of the new AI Act, the right to receive an explanation (Article 86 of the AI Act) and the fundamental right to effective remedy (Article 47 of the Charter of Fundamental Rights) are triggered if the matter falls within the scope of EU competences.⁹⁴ The AI Act may therefore introduce EU law obligations also in sectors that were previously governed primarily by national legislation and Article 47 of the Charter requires access to judicial proceedings in such cases where the protection of individual rights is at stake.⁹⁵ This does not mean that the EU acquires new competences in areas where it has no competence under the Treaties (for example concerning national security). National security is therefore a compelling issue from the perspective of legal cultures, and it appears that even

⁹³ See Suksi, *supra* n. 3, at .2.

⁹⁴ See about black box effect and right to complain: Suksi, *supra* n. 34, at 115.

⁹⁵ See *Oleificio Borelli SpA v. Commission of the European Communities C-97/91*, paras 31 and 33.

countries with a traditionally strong rule-of-law orientation, such as Finland, are diverging from a tradition that emphasizes individual legal protection when it comes to national security.⁹⁶ This is concerning, especially given that artificial intelligence will inevitably play a central role in the field of national security in the future.

However, it seems that Finland, as well as Hungary, are countries which have developed legal safeguards for the use of ADM in a careful and detailed way. For example, in both, the relevant rules need to be made available and it is forbidden to use ADM in cases that require case-by-case consideration. Moreover, in the Hungarian system, legislation allows the use of ADM only if there is no party with opposing interests.

As a final conclusion, it is possible to say that legal culture still matters, but Europeanization plays a greater role than the historical divisions at the European level. For example, the requirement of human oversight, which is highlighted by the EU AI Act related to high-risk activities, which are typical in the public sector, supports basic values important to administrative law and European legal culture such as transparency and accountability.

⁹⁶ For instance, the Act on Temporary Measures to Combat Instrumentalized Migration ('Border Security Act') restricts legal remedies in the name of national security (482/2024 and 368/2025 (validity extended)).