

Suing the Algorithm: The Mundanization of Automated Decision-Making in Public Services through Litigation

The XXXV Nordic Conference on Law and IT: Law in the Era of AI

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The emergence of the digital welfare state

- Increasing use of algorithmic automation in public services (for example UK universal income/ citizen scoring, algorithmic sorting Austrian Employment Services)
- Number of mapping initiatives: automated decision-making in public services across Europe by AlgorithmWatch Automating Society 2, City of Helsinki AI register, City of Amsterdam Algorithm Register
- 2019 UN Special Rapporteur for extreme poverty and human rights submitted a report on uses of digital technologies in welfare states to the UN General Assembly

Mundanization of Technology

- Making sense of complex technical systems through mundanization
- Developing an everyday understanding of technology
- Highlighting certain aspects of technology while ignoring, mitigating, forgetting others
- Part of mundanization: defining automated decision-making

Trelleborg model: automation of social benefit applications

- Since 2017, Trelleborg municipality has introduced fully automated decisions on (follow-up) applications for social benefits
- automated handling of applications
- rule-based algorithms as decision support systems rather than automated robots to which task are fully delegate

“So what is automated decision-making actually? This is the question. In our process, when we refer to social benefits, this is mainly a question whether you are available for the job market or not. And the evaluation of this question, this decision, if you are available or not is taken in job market process by a civil servant. And then this decision is taken to a higher organizational level and becomes part of decision by the public agency. So, in that sense, we do not have fully automated decisions.” (unit manager Trelleborg municipality).

Litigation case 1: ADM as source code

- Journalist requested access to source code of the software used for the application processing
- Ruling Court of Appeal:
- “The software was developed for the specific needs of the municipality who now owns it. It is hence not a licensed software product that is still owned by a commercial company that has the software at its disposal for commercial interests. Furthermore, the court has reached to the opinion that no individuals will be harmed if the source code is shared with Fredrik Ramel as requested. Hence, the appeal should be allowed.”

Litigation case 2: ADM as decision tree and interface

- Report to Parliamentary Ombudsmen by Union for Professionals SSR
- Request to get access to the decision tree and the interface of the software that civil servants are working with
- No reply as of last week

Conclusion

- Unstable definition and understanding of what algorithms in social welfare are
- Process of domesticating the algorithm: ongoing negotiation process with different actors involved