

THE POWER OF INFORMATION: (DIGITAL) AUTHORITY PROCEDURE IN THE 21ST CENTURY HUNGARY

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Abstract: *This study explores Hungary's digital transformation in public administrative procedures with a focus on client-centric services. Digitalization prioritizes electronic contact and online submissions rather than full procedure automation, emphasizing the digital realm of official procedures from the client's perspective. It delves into the normative aspects of digital solutions on decision-making, highlighting prevalent automatic decision-making in registrative acts and decision-type documents, with emerging automation in factual production. Despite technical advancements, the legal system must adapt promptly to digitization without being overwhelmed by it.*

Key words: *digitalisation, procedural rights, e-public service, Hungary.*

1. Introduction

The accessibility of online public services is crucial for fortifying the single market, making further digitization imperative (Sokol, 2023, p. 1.), and also to better influence economic performance (Moretti, et. al. 2021). Efficiency in a well-functioning state is critical, with each state tasked to meet citizens' needs in the most modern way possible within the development of information communication technologies. Tangible efficiency in client service and background administration can be achieved through the simplification of administrative processes (Fibinger & Kádár, 2019, p. 184).

The current state of Hungarian public administration draws from the *Magyary programs* of 2011-2012 (MP 11.0, 2011, p. 36, MP 12.0., 2012, p. 6, 41-45). The approach involves transitioning past and future administrations by retaining proven valuable elements but not settling for them. The goal, within legal boundaries, is to achieve efficiency (Nagy-Gál, 2014, p. 176). Client-centric public administration is emphasized (Strategy 2014-2020, p. 18) and for smart growth, public administration enhances efficiency through digital means to reduce administrative burdens (COM(2010) 2020 final, p. 13;26.). It is crucial to offer a swift, efficient, uncomplicated, barrier-free administrative option that satisfies the client and adheres to legal criteria

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(Budai, 2008, p. 23.; 52-54). This involves more than perceptible client comfort, encompassing e-opportunities. From the authority's perspective, digitizing decision-making mechanisms reflects rule of law expectations, occasionally operating without human interaction.

The study focuses on digital authority procedures primarily from the client's perspective, delving into their experience when seeking information on how to contact authorities and initiate procedures. It examines the repercussions of digitalization from the client's standpoint, particularly regarding digital solutions for substantive decisions. At the core is information enabling clients to understand digital solutions and how to handle such decisions.

2. The Client's Encounter with the Digital Authority Procedure

Annually, authorities handle millions of *administrative authority actions* (OSAP 1229), involving determining clients' rights or obligations, resolving legal disputes, establishing violations, verifying facts, conditions, and data, or maintaining records, and enforcing decisions related to them (GPAP, art. 7). A *client* is any natural or legal person directly affected by a case, subject of data in official records, or under regulatory inspection (GPAP, art. 10). Acts or government decrees may define persons treated as clients in specific cases.

Advancements in the information society have impacted procedural acts, influencing both clients and authorities. In digitizing official procedures, considering clients resorting to e-solutions is crucial, covering obtaining information, making contact, or initiating proceedings. An examination of digital solution implementation on the client's side is paramount. The European Commission actively monitors Member States' digital development since 2014, publishing evaluations based on *Digital Economy and Society Development Indicators* (DESI) established in 2015. Evaluations measure the level of digital public services, gauging online availability of services related to crucial life events for citizens and legal persons, including business activities (Cseh, 2020, p. 50-60, DESI 2022, p. 8.; eGovernment Benchmark Method Paper 2020-2023, para 18). Services can be offered entirely, partially, or exclusively offline. Recent surveys indicate significant progress in Hungary's digital public services, particularly on the demand side of e-government. In 2021, 81% of internet users accessed online public administration services, a notable increase from 64% in 2019, surpassing the 2021 EU average of 65%. Despite this, service quality and comprehensiveness in Hungary remain relatively low, notably in cross-border services, though efforts are being made to address this (Veszprémi, 2018, p. 48). In 2021, bilateral testing of the Hungarian eIDAS node began with several Member States to enhance access to Hungarian e-government services for foreign EU citizens. By the end of 2021, over 3,000 public services were available online, almost twice as many as the previous year (DESI HU 2022, p. 4; 13). Notably, when examining the V4s, this group developed above the EU average during COVID-19, indicating continued rapid progress in digitization (Esses et al., 2021, p. 12.).

In Hungary, Act CCXXII of 2015 on the *General Rules of Electronic Administration and Trust Services* (GREATS) establishes a legal framework for electronic administration.

Aligned with the 2002 EU strategy, the legal justification refers to electronic administrative levels determined by the service's developmental stage. Broadly, e-administration involves using electronic tools in the organizational system of public administration (where some state bodies are obliged to provide electronic administration, GREATS, art. 1.17.a), covering both internal and external administrative procedures (GREATS Executive Decree, art. 1). This includes declarations, procedural acts, or fulfilling other obligations (GREATS art. 10).

The development levels of electronic administration, aligned with the 2002 EU strategy, progress are as follows: (1) The first level involves the electronic presentation of information on a website. (2) In the second stage, the connection becomes one-way, allowing users to download administrative forms electronically. (3) The third level introduces two-way interaction, enabling users to fill out and submit documents online, typically including an identification procedure. The transaction level (4) aims to minimize physical contact, but cases are handled by the human workforce, requiring occasional visits for tasks like fee payment or document collection. At the highest level (5), there's no need for human interaction on either side, with the entire process fully automated, achieving a high degree of personalization (eEurope 2002, p. 22-23; Lee, 2007, p. 34). Digitalization, viewed from its impact on activities and work, involves converting analogue signals into digital signals, substituting human labour with machines, converting data into digital information, and utilizing networks (Karajz, 2020, p. 192; cf. Budai, 2009, 68-71). This transformation entails the automation and optimization of various procedural processes, streamlining the workflow from initiation to decision communication (Fernández-Macías, 2018, p. 5). The current use of electronic public services is concentrated in levels 1-3 and possibly level 4, based on data and influencing factors and there are a growing number of examples of full automation, too. Clients increasingly use electronic methods for administration-related information during the initiation phase of official procedures. Addressing barriers such as digital literacy and optimizing technical infrastructure could enhance comprehensive utilization.

Between 2006 and 2021, the Central Statistical Office assessed e-government portal utilization, tracking activities like electronic contact, information retrieval, form downloads, and online form submissions. Increased e-solution adoption is evident, potentially influenced by the universal presence of websites in all public administrative institutions by 2021. However, the data presents a mixed picture regarding specific aspects (KSH Statistics). In terms of client satisfaction, the 2020 EU average data reveals that most respondents (59%) were satisfied with public administration service quality. Hungary stands out for leading in quality and accessibility, with only 32% expressing satisfaction (DESI HU, 2020; Fernández-Macías, 2018, p. 32-37). However, the 2022 introduction of ChatRobot's Government Client Line, designed for emergencies, proved successful (Ministry of Interior Justice Report 2022, p. 15-16).

The <www.magyarorszag.hu> website is a customizable interface providing identified clients with a uniformly accessible opportunity to fulfil declarations, procedural actions, and other obligations necessary for electronic administration. Since January 1, 2013, the Web Assistant application has allowed citizens to handle various types of cases electronically. The constant increase in cases initiated through the portal, over a million,

includes verification of document validity, requests for an official moral certificate, and certain land proprietorship cases. These cases accounted for 85.9% of requests submitted through the Web Agent (Ministry of Interior Justice Report 2022, p. 6-7). While website consultation for information is high, the initiation of procedures remains low. Efforts have been made to bring IT solutions closer to clients, including e-help on wheels in small settlements since 2016, and the installation of 338 Artificial Intelligence (AI) -supported devices in post offices and office premises in 2022, reducing unnecessary in-person visits and challenges of administration at home (Ministry of Interior Justice Report 2022, p. 14-15).

Automation, including automatic decision-making, isn't significantly widespread across all procedures, as the data from the *National Statistical Data Collection Program* (OSAP) doesn't indicate a separate measurement level for this. However, the automated decision-making process raises various considerations. While it enhances internal efficiency by streamlining administrative tasks, the client's perspective goes beyond process speed. Questions about the content and implications of decisions made through automated procedures highlight the complex nature of implementing automation in decision-making.

3. The Authority Meets Digitalisation

Automation, especially complete automation from the authority's perspective, is still in its early stages. Hungary's AI strategy since 2020 emphasizes the data-driven service state and aims to develop automatic decision-making functions (AI Strategy HU, p. 38). While automated decision-making has been part of Hungarian administrative practice since 2017, there's a lack of comprehensive statistics on its extensive use. Automated decision-making can occur in cases initiated by both clients and the authority (GREATS, commentaries to art. 11). The organization offering electronic administration publishes the methodology and rules on its website and personalized administration interface. The client submits their request through the electronic form after identification, and the organization renders its decision based on available data without human intervention, communicating it to the client (GREATS, art. 11). Legal mandates for fully automated decision-making have undergone changes, expansions, and clarifications. Since July 2023, legal provisions have distinguished between two types of automatic decision-making procedures depending on whether the request was submitted electronically or through other means (Act LX of 2023).

Based on legal database research, automated decision-making is primarily used for proceedings based on official authentic state records, particularly where decisions rely on data matching and result in a certificate format. These automated cases often exhibit features allowing for group formulation. Absolute automation occurs when clients submit claims online, relying on database interoperability for decision-making without human consideration. This is prevalent in cases like certificate issuance based on authentic state registers, resulting in a fully digitalized procedure with strictly defined cause-and-effect relationships, ensuring lawfully correct decisions. Noteworthy examples include the online issuance of new, renewed, or replacement of driving

licenses, accounting for 21.5% of licenses issued in 2022. Similarly, name changes related to marriages for ID cards, passports, and driving licenses saw over 5,500 cases handled through automated procedures in 2022 (Ministry of Interior Justice Report 2022, p. 13-14). Additionally, technology allows for autonomous changes in interoperable databases, as seen in estate records, where a home address change prompts corresponding updates. However, fully automated processes remain limited to basic cases, with road traffic and toll cases utilizing automated decisions based on evidence from authentic measuring instruments for issuing fines (Act I of 1988, art. 21; Decree 18/2008. (IV. 30.), art. 5 (1)). Profiling-based automated decision-making is not yet practiced.

Relative automated decision-making occurs when claims are not submitted online, but the case circumstances are clear, requiring no deliberation and lacking conflicting client interests. If legislation permits, such cases can be handled in an automated manner, typically requiring human intervention at the outset to initiate the process. Overall, the introduction or allowance of automation in decision-making is developing cautiously.

4. Proceeding with Caution: The Client Meets the Result of Digitalisation

Simplification is vital in digital public administration, emphasizing information availability for clients to manage official matters and understand decision reasoning. This raises a complex issue tied to automation: the need for reasoning in decisions and the ability to contest unfavourable decisions. Current legislation provides no appeal against decisions made through automatic procedures. However, within five days of decision notification, clients can request a full procedure evaluation by the authority, with conditions outlined in GPAP, art. 118(1). Contrastingly, GDPR grants the general right for individuals to request human intervention, express their position, and object to decisions (GDPR, art. 22(3)). These provisions apply to positive automatic decisions in simple cases, where acceptance conditions likely determine the decision outcome. Challenges arise in cases where rejections are based on inherent decision content (profiling).

The system's core concept is data, sourced from databases and generated during procedures, shaping substantive decisions within a legislative framework that ensures procedural rule-of-law guarantees akin to human decision-making. Simplicity must not compromise legality, as anticipated by the legislator. Future changes in the Real Estate Registration Act permit registering ownership changes through automatic decision-making if specific conditions are met, excluding cases involving minors, guardianship, or individuals lacking legal capacity (179/2023. (V. 15.) Decree, art. 135(4); art. 136(7)).

In classical authority decisions, proper reasoning is essential for demonstrating the quality of factual and legal argumentation. It justifies the legality of decisions, convinces clients, encourages law-abiding behaviour, and serves as evidence for respecting procedural guarantees (Fundamental Law of Hungary, art. XXIV. (1); EU Charter, art. 41.2c; C-544/15, para. 46; C-379/08 and C-380/08, para. 60-61; C-62/14, para. 69; C-269/90, para. 14; C-413/06 P, para. 69; Csatlós, 2023, p. 80). Reasoning allows clients to decide on further steps to pursue justice and ensures traceability for safeguarding individual rights and effective remedies. If justification lacks reflection of these

elements, the decision's legality is questionable and may be unsuitable for substantive review (KGD2013. 47., Supreme Court Kfv.V.35.706/2013/12). Therefore, authorities in classical decisions should avoid overly general, brief, and stereotypical statements, paying attention to unique circumstances (Code of Good Administrative Behavior, 18.2).

The challenge lies in how automation meets these requirements, as values like procedural guarantees, fundamental rights, reasoned decisions, the right to legal remedy, and data protection should not be compromised for simplicity and speed. Currently, only very simple, basic cases are suitable for automation.

As automation advances, the issue becomes more complex, especially when handling complex cases and relying on software and AI to establish facts. Legal questions arise, such as whether material or procedural violations form the basis for legal remedy procedures in cases of complete automation. Responsibility may lie with the program creator, operating entity, or the legislator for inadequate regulation.

Considerations include whether entities like the National Data Protection and Freedom of Information Authority should decide the legality of decisions. Scenarios may focus on issues like the legality of remedies related to decisions from the National Axle Weight System. For example, questions may arise about fines for traffic violations, specifically concerning the attachment of authentication certificate numbers. Courts emphasize the evidentiary value of official measurements and authentication certificate numbers. The authentication certificate number, confirming the official measuring device's validity period, is recognized as data for the clear identification of the proving device. Simultaneously, the authentication date of the official measuring device is considered indirect data, relating to the evidence's usability and the legal application of the proof device (Metropolitan Court 9.K.705.553/2021/16/judgment, [55]-[57])

In 2017, electronic services proved beneficial, enhancing public administration efficiency, and reducing time and costs, but lacking personal interaction (Fibinger et al., 2017; Hohmann, 2022, 201-202). With increased automated decision-making, a new dimension arises, suggesting a shift in the demand for non-intervention. For 21st-century clients, information complexity is expected to rise with procedural simplification. Responses should cater to those less proficient in the e-world (Hohmann, 2021, p. 314). Providing suitable, professional, and individualized information plays a pivotal role in their understanding of rights and obligations (Marsovszki, 2022, p. 118). This importance should be reflected not only in the information available during the contact-procedure initiation phase but also in the rationale provided in the decision-making process.

While automation is in its early stages, Hungarian administrative procedural rules lack provisions for reasoning or procedural guarantees in digital contexts. Simplicity may be understandable for typical decisions resulting in certificates, with the law allowing derogation from main rules if certificates can be issued (GPAP, art. 80 (3)-(4); art. 81; chapter V.). However, classical rule-of-law principles require individualization and proper reasoning for decisions even in simple cases. Descriptions online, especially technical details of automation, cannot replace this. Given dynamic development, implementing procedural guarantees is essential. States possess vast data assets, and the EU's evaluation of the four freedoms, along with technological changes, makes public

administration more international (Csáki-Hatalovics, 2015, p. 72). These processes blur distinctions between national public administration systems. However, adaptation of the legal system is crucial to ensure the same level of protection of legal rights as in traditional proceedings. Meeting this challenge is essential for fairness, transparency, and accountability in the evolving landscape of digital public administration.

5. Concluding Remarks

Assessing the extent of digital public services in Hungary, the focus tends to concentrate on making it easier to gain information. Generally, digitalization currently complements rather than replaces human interaction, offering significant relief, particularly in individual procedures that are based on authentic records of the state and aim at the issuance of certificates, but not yet dominating the overall official procedures resulting in public services. Full automation is not widespread, this field develops cautiously. Among the priorities of the national digitization strategy for achieving a digital state is the continuous improvement of the quality and scope of digital public services, both domestically and internationally. This involves integrating AI solutions and automatic decision-making for precise digital understanding, ultimately striving for medium to long-term automation with minimal or no human intervention. The national digitization strategy for the digital state prioritizes further enhancements to the quality and comprehensiveness of digital public services, including solutions based on AI and automatic decision-making (Digital Strategy HU, p. 137). Consequently, it is anticipated that the current scenario will evolve. Presently, clients are increasingly embracing digital official procedures and becoming accustomed to the availability of electronic public services.

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