AUTOMATED DECISION-MAKING IN THE ELECTORAL PROCESS ESPECIALLY WITH REGARD TO THE ENFORCEMENT OF THE RIGHT OF A FAIR ADMINISTRATIVE PROCEDURE

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Abstract

This research presents how automated decision-making is implemented in the electoral process. The study aims to describe the intersection of two areas that are already of interest in themselves. The emergence of automated decision-making in public administration confirms the advancement of IT solutions, and as with all novelties, the practical implementation of automated decision-making raises numerous questions. Regarding the election procedure, it is noteworthy that although central and polling district electoral register matters affect so many voters and are related to the exercise of a fundamental right, they are rarely analysed with scientific interest. If we add to this starting point that the right to a fair administrative procedure must be enforced under the extremely short deadlines and exceptionally high caseloads characteristic of election administration, we can be sure that the sector faces interesting challenges. The purpose of this publication is to analyse these areas and describe the challenges.

Points for practitioners

This article provides a comprehensive resource for practitioners seeking a detailed understanding of the role and functioning of automated decision-making within the Hungarian electoral process. Specifically, it addresses three critical themes of practical significance: the widespread adoption of IT solutions and their impact on both public administration and electoral procedure; the challenges posed by automated decision-making in the context of public administration and electoral process, and the mechanisms through which the right to a fair administrative procedure is safeguarded in such proceedings. These themes are explored to offer a nuanced understanding of how technological advancements are reshaping public sector decision-making, while also highlighting the legal and ethical considerations that emerge in ensuring transparency and fairness in electoral processes.

Keywords: electoral process, automated decision-making process, right to a fair administrative procedure

1. Introduction

The article examines the implementation of automated decision-making within the Hungarian electoral process, highlighting the intersection of technological advancements and public administration. The emergence of automated decision-making in public administration serves as a clear indicator of the ongoing evolution of IT solutions. However, like any technological novelty, its practical application within the electoral framework raises numerous questions that merit further exploration.

To begin, the article provides an overview of the historical emergence and integration of digital solutions in the Hungarian electoral system, with particular attention to the role of IT technologies in enhancing operational efficiency. Subsequently, the article outlines the foundational aspects of automated decision-making, as applied in the Hungarian electoral process, simultaneously offering a broader conceptual clarification of the term. This

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analysis builds upon established legal frameworks and incorporates a wide array of relevant literature, much of which – though not directly focused on electoral administration – is informed by the practical experiences of professionals working in other areas of public administration. Section 5 proceeds by analysing the legal and technical frameworks of automated decision-making within Hungary's electoral process and electoral registers. In the Hungarian legal system, this constitutes a uniquely complex system, that manages a substantial volume of cases. The discussion highlights the practical challenges associated with the system, such as the seamless integration of data from multiple registers, extremely tight deadlines, and exceptionally high caseloads that the system must process. Furthermore, the paper delves into the implications of these challenges on the fundamental right to a fair administrative procedure. While these issues present significant concerns, the article argues that these can be adequately addressed through a combination of legal safeguards and procedural refinements. The benefits of automated decision-making, such as enhanced speed and the consistent handling of a large volume of similar cases based on uniform principles, are also discussed in Section 6. All of this justifies the legal provisions of corrective mechanisms, such as the right to appeal and limited ex officio review of decisions, to ensure lawfulness, as outlined in Section 7.

The concluding Section 8 synthesizes the intricacies of the automated electoral decision-making system's operation, highlighting key aspects, such as the high volume of cases, the importance of inter-register data transfer and interconnection, and the crucial requirement for interdisciplinary cooperation between legal and IT professionals, alongside continuous monitoring for system maintenance. In summary, although automated decision-making functions smoothly and effectively in electoral registry-related cases in Hungary, there is always potential for system and process enhancements.

2. Methodology

Three main research questions arise, such as

- In what ways have evolving IT solutions spread, and what impact have they had on public administration and electoral process?
- What are the challenges of introducing automated decision-making in public administration and the electoral process?
- How does this affect the right to fair administrative procedure in practice, and what are the implications of this for the individual concerned?

Overview of issues related to the aforementioned questions is based on desk research of relevant academic literature, legislative acts, government and international soft law documents, supplemented by available relevant statistical data. Decisions of the courts and the constitutional court are an additional source for analysing related practices. The study aims to provide both a descriptive and an evaluative analysis.

3. The role of IT support in electoral procedures

The 1st of December 2023 marked a turning point in the handling of voter registration cases, as from this date onwards, the National Election Office (hereinafter: NEO) will manage all types of voter registration cases through an automated decision-making procedure. However, this IT development was not without precedent. It may sound clichéd to say that it is now unimaginable to conduct an election or referendum without IT support, but this is indeed the case, even though such procedures were held in times when the IT tools, systems or programs that now

perform the bulk of the tasks did not even exist. Therefore, in the first part of this study, I will briefly describe how IT solutions have gained ground in electoral administration over the past decades.

First, I would like to emphasize that computerised assistance was used to compile the electoral register with data provided by the State Population Registry Office as early as 1980. The areas of IT support have gradually expanded since then. Digital solutions were implemented primarily to facilitate the work of election officials. Notably, in 1985, computer technology appeared experimentally in vote tabulation. In addition, such developments were implemented demonstrating the advantages of digital processes to a broader segment of society. In 1994, an informational tool already existed that enabled both the National Election Commission and the media to easily find any electoral data, so for several years now, voters have not been getting election results from the next day's newspaper. In 1997, the Internet was also utilized to support the elections, and since the 2000s, information technology has been integral to most aspects of electoral administration. In operational terms this meant that during the conduct of an electoral event, 16 to 20 different core function-providing computer information systems were utilized. IT support covered tasks related to budgeting, logistics, the electoral register, candidate registration and ballot paper production (Farkas, 2004, pp. 307-311). In 2013, a significant change was implemented. Specifically, the National Election System (hereinafter: NES), the electronic information system of NEO was launched. This system, unlike its predecessors, transcends event-specific operation, providing continuous functional support for the execution of electoral tasks. An indicator of continuous operation was the establishment of a new voter registration system that is a permanently maintained and continuously updated electronic register, in accordance with the expectations formulated in point I.1.2.i of the Venice Commission's Code of Good Practice in Electoral Matters (Code of Venice Commission, p. 8).

4. Overview of automated decision-making

In case of the electoral administration tasks outlined above, the developed IT systems play a supporting role. These systems facilitate the simplification of certain tasks that, due to their volume and magnitude, can be processed more quickly by means of specialized IT programs. These maintain, aggregate, transmit, and provide data. Compared to this, a significant turning point was the transfer of decision-making competence (or part of it) to the IT system in 2013 for central electoral register applications (so-called registration) of Hungarian citizens residing abroad.

This change was based on the amendment of Section XXIII of the Hungarian Fundamental Law, which extended voting rights to Hungarian citizens living outside the borders of Hungary without a Hungarian address. Pursuant to Section 351 (2) of Act XXXVI of 2013 on Electoral Procedure Act (hereinafter: EPA), the citizens concerned could submit applications for inclusion in the central electoral register by letter since 1 August 2013, and the processing of applications started on 1 November 2013. The large number of applications and the short time remaining before the 2014 parliamentary elections made it necessary for NEO to use a specialised IT system to process the applications. Within a few months, 193 793 additional voters were registered in the central electoral register by means of applications (Electoral Statistics).

The essence of the operational model was that NEO staff electronically recorded all paper-based applications in a specially developed IT program. Then the NES Registration module reviewed both the electronically recorded and the online submitted applications and automatically generated the approving conclusive decisions. If the software detected that the application might contain grounds for dismissal, the case was assigned to a case officer. The

officer using the IT system validated the presence of errors within the application. Following this verification a legally justified conclusive decision was generated once again through the system.

Thus, it can be said that this was a hybrid operational system, as the approving conclusive decision was generated automatically, while dismissal decisions resulted from human intervention through a manual process. Yet there is no doubt that the seeds of automated decision-making were already present at that time, two years before the promulgation of Act CCXXII of 2015 on the General Rules of Electronic Administration and Trust Services (hereinafter: e-Administration Act), which contains the definition of automated decision-making. Under Section 13/F of EPA, the entire spectrum of voter registry cases is covered by automated decision-making. The specialized IT system not only generates approving, dismissing or rejecting decisions in proceedings initiated on request, but it also generates conclusive decisions on ex officio deregistrations.

But what exactly is automated decision-making? It is important to note that Zsolt Czékmann and his fellow authors have criticised the lack of consistency in the use of the term "automated decision-making" in sectoral regulations and literature (Czékmann, Cseh-Zelina and Ritó, 2022, p. 37). Today, in addition to the EPA., the successor to the e-Administration Act, Act CIII of 2023 on the Digital State and on the Provision of Digital Services (hereinafter: Digital State Act), Act CL of 2016 on the Code of General Administrative Procedure (hereinafter: General Administrative Procedure Code) and Act CXII of 2011 on the Right to Informational Self-Determination and on the Freedom Of Information (hereinafter: Freedom of Information Act) also address this type of procedure, while the former laws regulate automated decision-making, the Freedom of Information Act regulates decision-making based on automated data processing. By reviewing these legal provisions, we can identify the main cornerstones that characterise automated decision-making.

Based on these provisions, automated decision-making refers to the handling of high-volume but straightforward cases (where the data necessary for decision-making are available and the decision does not require any discretion) without human intervention. While the former characteristics indicate the types of cases most suitable for this procedure, the absence of human intervention highlights the essence of the working method: these cases are handled by machines, not by humans. Hence the advantages of automated decision-making: the procedure is fast, efficient, the handling is unbiased and uniform. Concerning the most sophisticated tier of electronic administrative procedures (Csatlós, 2023, p. 12), the authors Balázs – Cseh Zelina also emphasize burden-relieving function. This manifests in the elimination of client visits to customer service points and the accelerated issuance of decisions. Furthermore, from the administrator's viewpoint, it enables more efficient time management, freeing up resources for complex tasks (Balázs and Cseh-Zelina, 2023, 181). In addition to relieving administrators and the possibility of reallocation, Tamás Pilz also emphasises that "the risk of corruption in decisions can be reduced to absolutely zero" (Pilz, 2022, p. 20). Besides the general conditions described above, Section 21 (1) a) of the Digital State Act also establishes the electronic submission of applications as a conceptual element, while Section 40 a) and bd) of the General Administrative Procedure Code stipulates the absence of an opposing party.

Examining the legal provisions reveals that there is more than one type of automated decision-making procedure, varying in complexity and method, but Erzsébet Csatlós distinguishes four categories with regard to the complexity of the decision-making process and the way in which it is carried out:

a) automated decision-making procedures building on publicly certified registers involving data provision;
b) simple data modification in publicly certified registers;
c) automated decision-making in straightforward cases;

d)   automated decision-making by profiling (Csatlós, 2023, pp. 15-21).

As we will see later, NEO's procedures exemplify the first three categories.

It is worth noting, that an interesting question raised by Ádám Rixer's study concerns the possibility of institutionalising the use of primary elections in the context of the 2022 parliamentary elections. Should this occur, or be considered in the future, it could lead to the application of automated decision-making to the large number of similar election administration cases that can arise here (Rixer, 2022).

5. Automated decision-making in the electoral process

The EPA itself lacks a specific definition for the concept of automated decision-making, the relevant provisions of the Digital State Act concerning this concept also apply to the NEO. The EPA only states the types of cases subject to automated decision-making, which primarily encompass matters related to electoral register management. These include applications concerning the central and polling district electoral registers, official deregistration from these registers, requests for data recorded in the election information system under Article 15 of the General Data Protection Regulation, and applications for verification of electoral eligibility.

It is crucial to highlight the significance of the electoral register in the context of the case types under consideration, as it constitutes "the primary document for the execution of voting rights: those who are on the register may vote, those who are not on the register may not vote." (Cserny and Péteri, 2025, comment to Section 8) Consequently, all actions affecting the electoral registers, whether initiated by application or ex officio, are endowed with inherent guarantees.

The case type concerning the central electoral register includes the registration and extension of registration of citizens without a Hungarian address, the modification of their registration details and their deletion from the register. Additionally, applications for registration on the national minority register, requests for voting assistance, prohibition of personal data disclosure and the deletion of such entries, as well as applications for registration of citizens of other EU Member States concerning European Parliament elections, all fall within this category. (EPA Sections 84-85., 334.)

While the central electoral register includes all eligible voters, the polling district electoral register includes only those entitled to vote in a specific election. Applications concerning the polling district electoral register include the application for a mobile ballot box, its modification, withdrawal, the absentee voting, its modification, withdrawal, the transfer, its modification, withdrawal, and the inclusion, its modification, as well as the deregistration from the foreign mission electoral register. (EPA Sections 102. (4), 103., 250.,259.)

Ex officio deregistration is also handled by automated decision-making. Thus, the NES generates a deregistration conclusive decision when ten years have elapsed since the registration for non-resident voters and there is no reason for an extension, or when the voter has lost the right to vote, or when the voter's Hungarian residence has been invalidated or when the voter has declared a foreign residence. In these cases, the cancellation also affects the central electoral register. An ex officio deregistration from the polling district electoral register occurs when - concerning the election of the Members of the European Parliament - another Member State indicates that a given voter has been entered on their electoral register or when, in the case of by-elections, the voter moves out of the polling district. (EPA Section 336.)

In the last two case categories subject to automated decision-making, applicants seek official certificates from NEO, either to certify the absence of grounds for disqualification from voting based on the register of citizens

without suffrage (EPA Section 100 (2)) or to obtain confirmation of their data recorded in the election information system (EPA Section 13/F. (1) d).

It is important to underline that in the concerned cases, the specialised IT system not only generates the appropriate decision, but also, if necessary, performs the necessary registration and deregistration actions in the relevant registers.

The EPA Section 13/F prescribes the case processing deadline (generally immediately, but no later than twenty-four hours from the submission of the application or the commencement of the proceeding) and specifies the types of decisions that may be taken in the procedure, which may be a conclusive decision, a procedural decision or an official certificate of authority.

In addition, the EPA also regulates the scenarios where the automated decision-making system cannot make a decision on its own and partial human intervention – manual intervention – is required for some of the issues (EPA Section 93. (5)). Section 93 (2) of EPA lists the cases in connection with applications for the central electoral register where the data of the voter in the application may differ from the data in the Personal Data and Address Register (hereinafter referred to as 'PDAR') or the register of travel documents. The discrepancy may be due to an accent error, a spelling error, a geographical name in a foreign language, the omission of one of several first names in the name data, the omission or inclusion of the "dr." title, the inclusion of the prefix "junior", "senior", "widow" or other prefixes or their abbreviations, or the provision of data in another language. Currently, the specialized system cannot handle discrepancies arising from these errors of accent, spelling discrepancies and the use of a geographical name in a foreign language. In these cases, either the local election office or the NEO will intervene within three working days (EPA Section 94. (2)). It should be stressed that human intervention is limited to assessing the admissibility or inadmissibility of the deviation. Once this has been assessed, the programme will be able to take a decision.

A similar procedure is applied if the address for the mobile ballot box provided in the application for a mobile ballot box imprecisely differs from the valid address in the register of polling districts, and also if a member of the polling station commission or the keeper of the minutes of a polling station commission requests transfer to the polling district where they are performing their duties on polling day. In the former case, the case officer shall decide which polling district covers the area of the mobile ballot box address in question, and in the latter case, it shall be confirmed by human intervention that the voter concerned is indeed assigned to the polling station in question (Cserny and Péteri, 2025, comment to Section 13/F).

Thus, unlike the General Administrative Procedure Code, which, in addition to automated decision-making, also regulates two types of procedure, the summary and the full procedure, in which the decision is still taken by a natural person (obviously acting under the authority of the relevant public authority) and creates the possibility of interchangeability between the different types of procedures, the EPA does not recognise any other procedure than automated decision-making for the standard procedure of the electoral register case management. Furthermore, unlike the Digital State Act, it should be pointed out that both the electronically submitted and paper-based applications are handled in this way, since paper-based applications are manually recorded in the specialised IT system by the case officers.

This also means that in the case of applications where the submission method is online and no recording or deviation check is required, no one from the authority interacts with the case, let alone the decision itself. The first person to see the decision will be the client, since the decision is delivered either online by the NEO (via e-mail

and/or via the electronic storage set forth by Section 46. (5) of the Digital State Act) or via postal mail printed and enveloped by ANY Security Printing Company's printers. The result is that any errors the decision suffers from, will be first detected by the voter.

Before addressing the resulting challenges, it is pertinent to examine how the system's decision-making process operates. Once the application has been received, the specialised IT system conducts formal and substantive reviews. As an advantage of online submission methods, the system ensures that, for example, a voter cannot submit an incomplete application, however this does not necessarily guarantee that the applicant will be granted the requested rights.

In addition to verifying the identity of the applicant and the data content of the application, the specialised IT system also queries other registers and specialised IT systems. For example, it requests a registration number for filing purposes from the Poseidon e-filing system, queries the aforementioned PDAR, the various document registers, and the central electoral register. Depending on the type and complexity of the case, the system may need to check multiple time states of a single data point. This happens in the case of local government elections with regard to the data point on place of residence for applications for absentee voting. The software is also able to reclassify the application if the applicant has incorrectly indicated the legal base or type of application. This applies to registration applications in case of approval, modification, or extension, as well as mobile ballot box applications that involve address-based transfers. Although the EPA does not recognise the concept of the associated procedure under the General Administrative Procedure Code, this is in fact what the system does, since the client does not need to submit a separate application if their application for a mobile ballot box can also be considered as a transfer of registration. Both cases are decided in one decision by the authority without a separate application.

A question of particular interest to legal professionals is the manner in which the program articulates the decision. NEO has created basic templates in Word format, which are used by the developers to parameterise the system. The templates have fixed and variable content elements. Examples of fixed content are the decision header or the legal remedy information. The variable content is indicated by field markers, and the system populates these fields with content based on a table according to the unique characteristics of the case. Generating approving conclusive decisions is straightforward, but in case of dismissal conclusive decisions it is of crucial importance that the appropriate error, or causes of error are specified, and the corresponding legal provisions are cited in the justification. There are currently 10 basic templates for 15 case types and more than 600 decision variations. A legitimate question arises as to whether so many decision variations can be anticipated? Does every possible application have a corresponding decision? The answer is that no error has yet been detected where a decision was entirely absent for a given application. However, it has clearly occurred (though in a negligible quantity relative to the total number of issued decisions), that the matched decision contained substantive errors, such as an incorrect justification or legal references. The primary issue is that despite testing, quality assurance and continuous monitoring of issued decision by NEO, such errors are often identified by the authority only after the decision has already reached the client. Additionally, NEO alone is not capable to improve the system, as the program itself has to be modified. When it comes to text refinements, such as making reasoning clearer, it is relatively simple. However, sometimes deeper modifications to the software's functionality are required. This occurred when a court ruling during the 2024 municipal elections highlighted in relation to the EPA 307/A.§, that - concerning the transfer request- the requirement for voters to be temporary resident in the same constituency on the thirtieth day before the scheduled election and at the time of the assessment of their transfer request application is also fulfilled by

those who are permanent residents on the thirtieth day before the scheduled election and they become temporary residents at the time of the assessment of their transfer application. Any contrary interpretation would be unjustifiably restrictive and inconsistent with the purpose of the legal institution (Budapest-Capital Regional Court decision 42.Kpk.750.181/2024/3). In this case, the program had to be modified to examine not only temporary address data but also permanent address data, according to the status on the thirtieth day preceding the scheduled election date.

Ex officio decisions differ mainly in their initial impulse, as they aren't always triggered by a voter application. Instead, ex officio deregistration can occur due to data transmission from external specialised IT systems, such as a PDAR update revealing an invalidated Hungarian address (EPA Sections 96., and 97. (3)). Furthermore, the impulse can originate from the central electoral register itself, for instance, when ten years have passed since the date of registration of a citizen living abroad who does not have a Hungarian address (EPA Section 97. (1)).

6. Challenges

Summarising the experience of almost a year, it can be concluded that the sheer volume of registry cases, in the first year of automated decision-making, the automated system produced almost 1100000 decisions (source: NEO), its standardisability, coupled with short procedural deadlines, both enables and necessitates their comprehensive electronic management.

A pertinent question arises: if automated decision-making has so many advantages, if it facilitates the work of the authority to such a degree, wherein lies the challenge? Can efficiency conflict with the right to fair procedure?

In short, automated decision-making raises new professional issues that did not exist in paper-based, manual case management, or existed in the old days, but there were established solutions that are not applicable in the renewed environment.

In line with the Charter of Fundamental Rights of the European Union, the Fundamental Law specifically addresses in Article XXIV "the right to good administration, including the fair procedure of authorities and the obligation to compensate for unlawfully caused damage" (Árva, 2025, commentary on article XXIV). Article XXIV (1) stipulates that everyone has right to have their affairs handled impartially, fairly and within a reasonable time frame by the authorities. Public authorities are obligated to provide the reasons for their decisions as prescribed by law. Given that the broader concept of public authority includes all law-applying bodies (Árva, 2025, commentary on article XXIV), the requirement of a fair administrative procedure by public authorities must, in accordance with the provisions of the Fundamental Law, also be upheld during electoral registry case management. Thus, alongside the challenges posed by the technological innovation of case management, appropriate safeguards must also be established.

The full scope of the right to fair administrative procedure can be explored by analysing the Charter of Fundamental Rights or the jurisprudence of the Constitutional Court. Under Section 41(2) of the Charter of Fundamental Rights, the right to have one's affairs handled impartially, fairly and within a reasonable time includes

(a) the right of every person to be heard, before any individual measure which would affect him or her adversely is taken;

(b) the right of every person to have access to his or her file, while respecting the legitimate interests of confidentiality and of professional and business secrecy;

(c) the obligation of the administration to give reasons for its decisions.

The practice of the Constitutional Court also aligns with the aforementioned principles, when it states that "[...] the right to a fair administrative procedure by public authorities includes the right of everyone to be heard before any individual measure affecting them adversely is taken, to access the documents, and for administrative bodies to provide reasons for their decisions. These principles are interconnected with the concept of good administration and the common European principles of administrative procedural law. The principles of impartiality, equality before the law, non-discrimination, and the requirement of fair processing are all upheld. A fundamental requirement of fair administrative procedure is that the administrative authority must adhere to and enforce legal provisions throughout its proceedings. However, fair administrative procedure is not merely synonymous with adherence to legal provisions, although it is an essential prerequisite." (Constitutional Court Decision 3311/2018. (X. 16.) Reasoning Para. [26]) The jurisprudence of the Curia (the Hungarian supreme court) affirms that the right to fair proceedings must also be upheld in electronically conducted administrative procedures. (Ruling KGD2014.188.)

The following are a few examples that indicate the need to exercise due diligence in the operation of the automated decision-making procedure.

One of the greatest advantages of the procedure is its speed, but there are cases where this is also a disadvantage. For example, if a voter visits a government office to sort out their address and then submits their online electoral registration application as soon as they leave the government office. Since the data update (EPA 13/F (2)) associated with the PDAR typically occurs every 24 hours, an immediate request may be processed with an already outdated address data point by the automated decision-making software during enquiry. Consequently, in an electoral transfer application where address data is critical, the voter may not receive the desired decision. Increasing the frequency of the data transfer may seem an obvious solution, but it has its technical (resource related requirements) and administrative limitations (some PDAR entries are done in several steps, if an update is done in between two steps it may also lead to the generation of erroneous conclusive decisions). Therefore, the aim is to develop a solution for the data transfer technology that prevents decisions based on archived data.

The above example immediately draws attention to a different vulnerability in the context of the automated decision-making of electoral registry cases. The fact that various data is coming from other external specialised IT systems via automated data transfer. In addition to the PDAR, data are also received by the NEO via automatic data transfer from the register of persons under custodianship and the criminal records system, pursuant to Section 98 (2) of the EPA. If the specialised IT system providing the data fails, automated decision-making cannot work.

Fundamental rights protection includes, both under the Charter of Fundamental Rights and in accordance with the practice of the Constitutional Court, the justification of official acts as laid down by law (Constitutional Court Decision No. 6/2017. (III. 10.), Reasoning paras. [37]-[39], No. 17/2015. (VI. 5.), Reasoning para. [109] and No. 35/2015. (XII. 16.), Reasoning para. [27]). The justification is particularly important in case of dismissal decisions, since it enables the voter to comprehend the rationale for the denial of their requested rights. Decisions taken in the course of the automated decision-making procedure have a justification section, which also includes information on the possibilities for error rectification which led to the dismissal, if the application resubmission is possible. However, the personalized nature of manual decision justifications cannot be replicated in automated decisions.

There are also challenges in the communication of the decision. Delivery to the aforementioned electronic storage is hugely resource intensive and retrieval of proof of download certificates is not easy when decisions are sent out

en masse (in hundreds) through the government gateway. But without properly automated processes, it is also challenging to pair electronic return receipts with e-case files. Nonetheless, alternative methods of verifying notification legality and timing are unavailable. All this is of particular importance, since, as Zsuzsanna Árva points out, the Constitutional Court has also assessed the "[...] communication of the conclusive decision and the manner of its communication as an element of fundamental rights relevance." (Árva, 2025, commentary on Article XXIV; Article XXIV of the Fundamental Law; Constitutional Court Decision 6/2017 (X. 3.), Reasoning Para. [37]-[39]; 17/2015 (VI. 5.), Reasoning Para. [109] and 35/2015 (XII. 16.), Reasoning Para. [27])

As previously noted, the nature of the procedure also presents a significant challenge: since decisions are communicated immediately and served within minutes, the authority only becomes aware of any errors affecting the decision only afterwards. Rectifying these issues necessitates issuing a subsequent, revoking decision.

In addition, the implementation of the principle of fair administrative proceedings can be examined from another perspective. Despite continuous voter education efforts and the availability of non-exclusively electronic submissions for most applications, alongside NEO's commitment to diverse communication channels for decision, the increasing prevalence of IT solutions cannot be denied. However, there is a segment of society that struggles in an online environment. They perceive these changes as a disadvantage and, in some cases, as a violation of their rights.

Examining the client side of the procedures further, it must also be acknowledged that the short deadlines in the electoral proceedings not only challenge the electoral bodies, but also create difficulties for voters, potentially impacting their ability to assert their rights. This is primarily due to the fact that the regulation of electoral procedures is extensive and can vary depending on the type of election, making it challenging for voters to promptly assess their legal options.

7. Corrective mechanisms

Pursuant to Section 42 of the General Administrative Procedure Code, a decision taken in the automated decision-making procedure and in the summary procedure may be appealed against or in its absence the client may request that the authority reconsider the application in a full procedure within five days following the communication of the decision. In contrast, the EPA ensures the right to appeal against all decisions, thus eliminating concerns regarding procedural issues that may arise in connection with the transition to a full procedure under the General Administrative Procedure Code (for example, regarding administrative finality or suspensory effect) (Barabás, Baranyi and Fazekas, 2025, commentary on sections 39-42).

Pursuant to Section 236 of the EPA, appeals concerning the electoral register shall be submitted to the election office that adopted the challenged decision. The head of the election office shall decide on the appeal no later than the fifteenth day after its receipt or, for an appeal against a decision adopted after the election date has been set, no later than the next working day after its receipt, but by 15.00 on the second day before voting day at the latest. The head of the election office has two options: if the appeal is upheld, the decision is modified, otherwise the appeal must be referred to the Budapest-Capital Regional Court no later than the last day of the time limit for its assessment. The court shall decide on the appeal no later than the fifteenth day following its receipt or, for a decision adopted after the election date has been set on the third day after its receipt, but on the day before voting day at the latest. If the court considers the appeal to be well-founded, it shall modify the decision, otherwise it shall dismiss the appeal.

The legal provisions cited above clearly indicate that the procedural deadlines for legal remedies are extremely short in the case of a scheduled election, furthermore most applications must be processed in the last two weeks before the election. For example, during the 2024 elections, nearly half of the legal remedy requests, almost 250 appeals, occurred during this period (source: NEO). This undeniably makes a thorough review of each case more difficult.

Until 1st February 2025, there was no legal provision for ex officio review of decisions in the EPA, but NEO itself identified several cases where legally unfounded decisions were made during automated decision-making procedures. The President of the NEO withdrew these decisions by referring to the fundamental principle of protecting the purity of elections pursuant to Section 2(1)(a) of the EPA. However, the court did not find this argument to be well-founded in all cases (Budapest-Capital Regional Court Case No. 13.Kpk.750.289/2024/2.; Juhász, 2025).

The amendment to the EPA, however, introduced Section 95 (6), which states that if a legally flawed decision is made during automated decision-making, the President of NEO shall modify or revoke it only once, within fifteen days of its communication, thereby making the legal basis for the ex officio decision review indisputable.

8. Conclusion

Automated decision-making was introduced in the electoral administration procedure almost one and a half years ago. Application for central and polling district electoral registers and ex officio deregistrations are predominantly processed without human intervention. Among these cases, examples include automated decision-making procedures building on publicly certified registers involving data provision (for instance the issuance of official certificates confirming that, according to the register of citizens without suffrage, a voter is not disqualified from voting), simple modifications of data within publicly certified registers (e.g. ex officio deregistration upon the loss of suffrage), and automated decision-making in straightforward cases (e.g. processing of a request for absentee voting).

One of the distinctive characteristics of electoral administration is the imperative to adjudicate a substantial volume of cases in a short timeframe, a level of concentration that is not typical many other legal areas. This is illustrated by the fact that applications for a polling district electoral register can be submitted from the sixty-sixth day before the vote (EPA Section 110 (2)), and there are approximately 8 million potential applicants in a general election (www.valasztas.hu). In the 2024 general election, NEO processed over 78,000 polling station electoral register applications (source: NEO), and, of course, there were also decisions on central electoral register applications, ex officio deregistrations and the issuing of official certificates. It is evident that this volume of cases cannot be handled in a centralised manner by human resources alone.

Although the decision-making in these cases does not genuinely require discretion, and the necessary data is available, it should be emphasized that they cannot necessarily be labelled as simple. Their adjudication necessitates the simultaneous evaluation of numerous data points, and at times the examination of a single data point across multiple temporal states. Therefore, the design of an automated decision support programme involves many people, both legal and IT specialists. Furthermore, the involvement of legal specialists in this process presents a distinct professional challenge compared to classic decision making which includes conducting preceding procedural actions. Automated decision-making requires the assessment of a large number of cases, outcomes and risks in advance.

It should also be emphasized that the program has undergone rigorous testing and quality assurance before its live launch, and its operation itself is continuously monitored. Therefore, while the specialized IT system renders decisions without human intervention, the system's functionality itself is developed and supervised by individuals. The examples provided also illustrate that although automated decision-making functions smoothly and effectively in electoral registry-related cases, there is always potential for system and process enhancements. Therefore, regarding automated decision-making procedures, we are far from a state where we can say that the "machine is running, the creator rests." (Madách, 2000)

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