Annex 4

/ Case Study | Germany

ADM & unemployment support system

Background: Digitisation of the social welfare system in Germany

Since 2017 a new regulation foresees the digitization of all administrative and social services in Germany by 2022. [LINK] The Federal Government defines welfare services according to the Social Security Act II as administrative services. Although digitisation does not mean the implementation of automated systems, trends for an increase of testing and experiencing with ADM systems can be found. However, trying to assess the current status quo of the deployment of ADM systems in the public sector is hardly possible and findings difficult to evaluate. Answers to parliamentary inquiries on the topic gave some insights, but stay vague and seem to contradict stakeholders we interviewed, when it comes to the definition of and identifying the level of automation of decision-making processes. [LINK] There exists no register of ADM systems used in the public sector.

In Germany, there is a two-fold system of unemployment support agencies: Around 300 so-called job centres are run under the umbrella of the federal employment agency in cooperation with municipalities, around 100 are run independently by the municipalities themselves ("Optionskommunen"). These are free to decide on the deployment of technologies and ADM systems on their own.

Freedom of Information Law in Germany

The Freedom of Information Law (Informationsfreiheitsgesetz, IFG) was introduced in Germany in 2006. However, state authorities often refuse to release or even block the release of crucial and sensitive information. Applicants can file objections and legal action against refusals and fee notices, but since 2009, the Federal Government has spent more than 1.8 million euros to ward off claims for information under the IFG or press laws.
https://kleineanfragen.de/bundestag/19/2687-abwehr-von-informationsanspruechen-und-damit-verbundene-kosten (German only)

Research and Remarks

There is no public overview about which state or municipality is using which technologies and systems. The result of a parliamentary inquiry was an 80 pages list of cryptically described IT

systems. Among them, e.g. we found the following description of one system and this is the clearest information we got:

- PP-Tools: "Tools for calculating labour market opportunities" which determine the "probability of the client's placement chances", based on "work aids, job offers and job applications of the last 24 months" that can be requested as an internal service application, which is used by a wider circle of people (at least 12,500)
- DELTA-NT: This application is used by the job centres' occupational psychology service. It is a computer supported psychological assessment tool that is part of the career orientation process ("psychological suitability diagnostic"). This procedure is also called "Computer Assisted Testing" and was developed by the German armed forces.
- VERBIS: The central information system for placement and consultation at the job centres is linked to many other systems and processes. It contains, for example, features that automatically match the profiles of employment seekers stored at the job agency with job vacancies and training programs.
- 3A1: "Automated Application Processing of Unemployment Benefit" (Automatisierte Antragsbearbeitung Arbeitslosengeld). This project has been in development since the beginning of 2019 and is supposed to reach "process maturity" in a first step by the middle of 2020. According to the German Federal Government, the necessary processes and data flows for an "automated preparation of decision-making" were tested beforehand with a prototype. However, the decisions concerned were "circumscribed powers". The automation of "discretionary administrative practices" was not part of the project.

In some of the "independent" municipalities, automation of distribution of job offers via email seems to be already deployed as part of a passive ADM system of profiling and matching of the unemployed. One provider of these systems confirmed that the case workers can choose to (de-) activate the fully automated matching mechanism, which sends incoming job adds directly to prior identified potential candidates via email.

Right to access

There is a right to access your personal file, but in an answer to a parliamentary inquiry, no numbers could be/were given on the number of access requests filed and granted.

The initiative FragDenStaat is using tools like litigation, crowd-sourced FOI requests and campaigns like "Ask the Unemployment Agency" to increase transparency and push public debate. In 2019 they aim to include institutions on EU Level. [LINK]

ADM & Credit scoring

Credit scoring affects society in diverse, more and less visible ways. Credit scoring companies at the same time do not have to comply with anti-discrimination law, at least in different European countries, if there is statistical evidence that people behave differently based age and gender. With the campaign OpenSCHUFA, AlgorithmWatch and Open Knowledge Foundation Germany collected credit scores from around 4,000 citizens assigned by SCHUFA Holding AG, Germany's

dominant credit scoring company. These scores were then analysed by journalists from Der Spiegel and the Bayerischer Rundfunk public broadcasting station. One of the results found in the dataset was that young males were frequently rated worse than older people with otherwise similar features. The amount of data collected did not allow to substantiate a causal relationship. SCHUFA declined to release more data to (in)validate the assumption that such a possibility exists. For results of the OpenSCHUFA Campaign, see https://openschufa.de/english/

Story on Finnish Case challenging a discriminatory scoring model: https://algorithmwatch.org/en/story/finnish-credit-score-ruling-raises-questions-about-discrimination-and-how-to-avoid-it/

ADM & Asylum

The Federal Office for Migration and Refugees (Bundesamt für Migration und Fluechtlinge – BAMF) aims to tackle its procedural problems with a "Digitalisation Agenda 2020" [LINK].
In 2016, an "integrated identity management" system was introduced. Today, it contains several modules that are available for case officers to use as supporting tools in their decisions. The system is mainly aimed at finding out whether the details given by those seeking protection are plausible. For example, software is used to try and recognize the language and dialect of origin of a person from audio recordings. Initially, the error rate of the so-called speech biometrics system was approximately 20 per cent; according to BAMF this figure was reduced to 15 per cent by now. By mid November 2018, the procedure had been used about 6,000 times, meaning that it must have produced approximately 900 false results. [LINK]
Another software that is used has its origins in military forensics, the secret services and the police [LINK]. It is able to analyse telephone data, past connection data and saved telephone numbers. The BAMF claims that refugees give their permission to access their telephones voluntarily. In 2018, the insights gained from the analysis of thousands of refugees' telephones resulted in usable results in less than 100 cases. [LINK] Furthermore the BAMF uses software to compare photographic portraits and various possible transliterations of Arabic names into Romanized letters. [LINK] The BAMF states that the use of these automated procedures has been a success. However, critics think that the cost of the procedures and the number of errors are too high. They also complain about the lack of transparency in the way the software systems function, and the lack of scientific monitoring used to evaluate the effectiveness of the procedures. [LINK] [LINK]

ADM & Predictive Policing

At present, predictive policing systems are deployed in six federal states. Apart from systems developed by the law enforcement authorities themselves, systems developed by various private manufacturers are implemented. The so far most widely-applied systems are based on geographical data and statistical analysis trying to identify areas where burglaries and theft offenses are more likely to occur. The prognoses are based on models such as the near-repeat-theory, which argues that burglars tend to strike again near the location of a successful break-in. These systems influence allocation of resources and patrols. It is unclear, however, whether such location-based systems have an effect: An accompanying study by the Max Planck Institute

for Foreign and International Criminal Law in Freiburg was unable to find any clear evidence of effective prevention or decrease in crime during the test phase which ran between 2015 and 2017 in Stuttgart and Karlsruhe [LINK]. Moreover, there is a strong need to examine whether these predictive policing systems might create re-enforcing effects leading to stigmatization of specific neighbourhoods and parts of cities and other areas. [LINK]

The city of Mannheim in Baden-Wuerttemberg launched an "intelligent video surveillance" project, developed in cooperation with the Fraunhofer Institute for Optronics, Systems Engineering and Image Evaluation. The technology is not based on face recognition but on "automatic image processing". [LINK] Installed sequentially, by 2020 around "76 cameras will be used to monitor people in central squares and streets in the city centre and scan their behaviour for certain patterns" [LINK] that "indicate criminal offences such as hitting, running, kicking, falling, recognised by appropriate algorithms and immediately reported to the police".

Critics warn that the application of such behavioural scanners, here in the form of video surveillance with motion pattern recognition, "exerts a strong conformity pressure and at the same time generates many false alarms", as "it is also not transparent to which 'unnatural movements' the algorithms are trained to react. Thus, lawful behaviour, such as prolonged stays at one place, could be included in the algorithms as suspicious facts." [LINK]

"Hessen-Data", acquired in 2017 by the government of the federal state of Hessia, on the other hand works as a person-related system. The software is provided by Palantir, a private US-based software company. As far as it is known, the system combines data from social media with entries in various police databases as well as connection data from telephone surveillance in order to identify potential offenders. By "profiling", it is intended to identify potential terrorists. Hessias' government is planning to extend its deployment by using it to detect child abuse and abduction. The necessary legal foundation for "Hessen-Data" was provided by Hessias' Law on Police which was revised in 2018. An Investigative Committee, reporting to the state parliament, is currently trying to clarify issues around the acquisition of the system and looks into questions relating to data protection. Apparently, the system is supervised by the staff of Palantir, who as a result might have access to private data related to individual citizens. [LINK]

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