

Artificial Intelligence in the Application of the GDPR¹

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Abstract

Article 22 of the General Data Protection Regulation (GDPR) on decisions based solely on automated processing, including profiling, has long been the centerpiece of the EU's legal approach to automated decision-making (ADM) and embodies its main policy goals. The Platform-to-Business Regulation (P2B Regulation) confirms these policy goals with transparency requirements in the provision of ranking services. So, algorithmic accountability and transparency also bolster some obligations laid down in the proposed Digital Services Act (DSA) – with respect to recommender systems, terms and conditions, and content moderation. Risks arising from algorithmic decisions are acknowledged throughout the proposal and, accordingly, included in the risk assessment and subject to risk-mitigating measures that apply to very large online platforms. In addition, the proposed Artificial Intelligence Act (AI Act) represents a risk-based approach to AI systems and the consolidation of certain principles, which aim at providing guidance as to the placing on the market and the use of AI based on its intended purpose. The recent Proposal for a Directive on improving working conditions in platform work (Directive on Platform Work) devotes its Chapter III to algorithmic management under the principles of transparency, human monitoring, and human review of significant decisions, including judicial ones.

Keywords: Artificial Intelligence, systems, automated decisions, algorithmic management, judicial work

¹ **Acknowledgment:** This paper is financed from the funds of the research project carried out by the University "Dunărea de Jos" from Galati, financing contract no. 14713/10.05.2022.