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**EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW**  
**(VENICE COMMISSION)**

in cooperation with

**THE MINISTRY OF DIGITAL TRANSITION AND ADMINISTRATIVE  
REFORM OF THE KINGDOM OF MOROCCO**

**Regional seminar for senior civil servants**

**17<sup>th</sup> UniDem Med**

**" DIGITAL TRANSFORMATION AND ARTIFICIAL  
INTELLIGENCE: RULES AND APPLICATIONS "**

hybrid format (online and in Rabat, Morocco)

**21-22 November 2023**

**PROPORTIONALITY AND TRANSPARENCY OF MEASURES TAKEN BY PUBLIC  
ADMINISTRATION IN THE CONTEXT OF DIGITAL TRANSFORMATION AND  
CITIZENS' RIGHT TO APPEAL**

**by Mr Holger SPERLICH**

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Germany to the European Union)**

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"Protecting human rights, the rule of law and democracy through shared standards in the Southern Mediterranean"  
(South Programme V)



## Regional seminar for senior civil servants, 17th UniDem Med

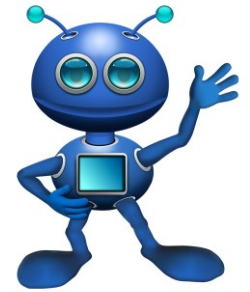
### "DIGITAL TRANSFORMATION AND ARTIFICIAL INTELLIGENCE: RULES AND APPLICATIONS"

Rabat/Morocco, 21-22 November 2023

Third session: Proportionality and transparency of measures taken by public administration in the context of digital transformation and citizens' right to appeal

Holger Sperlich, Government Director

# Potential benefits of use of AI in public administration



- Automation of administrative processes
- Faster analysis of documents
- Interaction with citizens in form of digital assistance systems (e.g. chatbots)
- Detection of anomalies in administrative processes
- Assistance in decision-making processes

# Citizens' right to application of AI in public administration?



- Article 41 Charter of Fundamental Rights of the European Union:  
Right to good administration
  - not legally binding for EU MS authorities in purely national situations
  - However, if algorithms can carry out certain administrative tasks easier, faster and better, shouldn't they also be used in national administrations to ensure efficient public administration?

# Basic considerations for the application of AI in public administration



- AI covers very different systems and technologies.
- Technologies differ, for example, in terms of degree of automation and complexity → different potential effects on people.
- AI must be embedded in solid digitalisation processes and concepts.
- Pilot projects with careful evaluation are helpful.

# Forms of use of AI in public administration



- Automated decision making (ADM)

**only on explicit legal basis**

cf. Section 35a Administrative Procedure Act in Germany

*“Completely automated issuance of an administrative act*

*An automated act may be issued entirely by automated means, provided this is permitted by law and there is no discretion or margin of judgement.”*

- Decision support systems (DSS)

# International legal safeguards for use of AI in public administration



- Charter of Fundamental Rights of the European Union
- European Convention on Human Rights
- Universal Declaration of Human Rights of 1948
- Human Rights Treaties of the UN
- Data protection rules of the EU (GDPR)
- Non-discrimination rules of the EU

## **Fundamental rights to be taken into account when using AI in public administration**



- Right to protection of privacy
- Right to protection of personal data
- Right to freedom from discrimination
- Right to effective remedies and access to justice
- Right to human dignity



# Pending international legal instruments on AI



- EU AI Act
  - proposed by EU COM in April 2021
  - risk-based approach
  - ongoing trilogue EP – Council
- AI Convention of the Council of Europe
  - under negotiation since January 2022
  - to be adopted by the Committee of Ministers of CoE



# Quality management by participation of stakeholders and general public



- Important both for internal and external use of AI in public administration
- Involving persons concerned makes it possible to use their knowledge and experience to improve AI applications.
- Strengthening the acceptance of the application of AI in public administration by public participation

*“AI is neither good nor evil. It’s a tool.  
The choice of how it gets deployed is  
ours.”*



**Oren Etzioni, Founding CEO of the Allen Institute for AI**

# Thank you for your attention!

