

As part of the 36th Conference of Freedom of Information Officers in Germany on

October 16, 2018 in Ulm

subsequent position paper

"Transparency of the administration when using algorithms for lived

Protection of fundamental rights indispensable"

decided:

- the Federal Commissioner for Data Protection and Freedom of Information,
- the Berlin Commissioner for Data Protection and Freedom of Information,
- the State Commissioner for Data Protection and Freedom of Information of the Free Hanseatic City of Bremen,
- the state commissioner for data protection and freedom of information

Mecklenburg-West Pomerania,

- the state representative for data protection and freedom of information in Rhineland-Palatinate,
- the State Commissioner for Data Protection and Freedom of Information Saxony-Anhalt,
- the State Commissioner for Data Protection Schleswig-Holstein,
- the Thuringian State Commissioner for data protection and freedom of information and
- the state commissioner for data protection and freedom of information for Baden-Württemberg.

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position paper

Transparency of administration when using algorithms

indispensable for the protection of fundamental rights

Already today, decisions of the public administration are made by automated data

processing operations with the help of algorithms and artificial intelligence (AI).

only prepared automatically, but sometimes even met fully automatically.

The use of algorithms and AI can bring about increases in efficiency and evaluation

facilitate the generation of large amounts of data or make it possible in the first place. The administration bears

but a high responsibility, the use of algorithms and AI processes, especially in

to make the connection with official decision-making lawful. she is the

committed to the basic values of our constitution in a special way. Only if their actions are unambiguous

If it does not correspond to our legal system, it will gain the confidence of the citizens

receive. This is essential for the functioning of our state. Elementary are in this

connection with the observance of human dignity and the prohibition of discrimination. before this

Against this background, it is a major problem that algorithms and AI are currently mostly completely

work intransparently. With which criteria and values they are "fed".

and to what extent the results achieved comply with the principle of legality of administration

speaking is generally incomprehensible to those affected. The algorithms used

and AI procedures must therefore be made transparent so that citizens

ger, but also the administration itself can understand how the decisions were made

be able.

In addition to automated decisions that directly affect citizens,

decisions of the administration without reference to specific persons, for example in the case of

planning of traffic routes or fiscal actions, must be comprehensible.

The higher the risk and the more severe the potential adverse effects

the people affected can be, the stricter it must be checked whether algorithms or

of the AI procedures can be used at all in accordance with fundamental rights, whether the procedures

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can be carried out properly and what consequences can arise. Essential for

such an impact assessment is sufficient transparency about the algorithms and methods of artificial intelligence. In addition, the calculated results must be predictable and be traceable; similar inputs must always lead to similar outputs.

According to the principles of freedom of information and administrative transparency, the management of essential information about the algorithms it uses and AI Procedures are also made available to the public.

The supporting freedom of information officers therefore call on the federal and State legislators to encourage public authorities even more consistently than before to a transparent to commit to the responsible use of algorithms and AI processes. It offers to comply with the corresponding transparency regulations in the respective freedom of information or Transparency laws or in the relevant specialist laws. exceptions should be kept to a minimum.

The following requirements must therefore be implemented as a matter of urgency:

☐ Public authorities must before using algorithms and AI methods check to what extent this use is possible at all in accordance with fundamental rights. Exist after a careful examination doubts, for example if sufficient traceability verifiability, verifiability and controllability are not given, must be put to use be waived.

☐ Public authorities must ensure sufficient transparency about the algorithms used worry. For a controllable use of the technology, they must have meaningful strong, comprehensive and generally understandable information regarding one's own data processing. These include, above all

- the data categories of the input and output data of the procedure,
- the logic contained therein, in particular the calculation formulas used including the weight of the input data, information about the underlying

underlying expertise and the individual configuration by the user and

- the scope of the decisions based on this and the possible effects

effects of the procedures. As far as legally possible, this information should be

to be published.

☐ In order to enable the administration to fulfill these obligations, the

Transparency requirements are already observed during programming ("Transparency

rency by design"). The calculated output data must include the information

be supplemented, which input data or evaluations are particularly relevant for the

result were. Especially with self-learning systems, support is required

be provided by appropriate evaluation tools.

☐ Documentation and logging of the processes and essential parameters are essential

venial to protect the security and trustworthiness of the procedure and et-

to be able to reliably detect possible manipulations. The application must be

te technical and organizational measures designed to be tamper-proof and the

The measures taken must be subject to regular evaluation and quality control

to be brought up. In order to ensure comprehensive verifiability, the

respective public authorities also the source text and possibly other relevant information

are made available via the algorithms or AI processes and these

to be published as soon as possible.

☐ The public authorities must also provide the necessary risk-adequate security

take safety measures. Depending on the specific application, this can

but also manual checks, simple objection options or return

development of decisions.

☐ The processing must under no circumstances have a discriminatory effect.

Against this background, there are high requirements for the selection and development of algorithms

algorithms and AI processes, for example when selecting training data

for self-learning systems or for evaluation functions used in such systems

to.

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□ In any case, if there are high risks for citizens, before the decision on the use of algorithms and AI methods, an impact assessment performed. In the case of significant changes, which in particular self-learning systems take place continuously, this impact assessment must moderately re-performed. For particularly sensitive areas of application the approval of the algorithms and AI procedures only after verification and approval be possible through a kind of "algorithm-TÜV".

Against the background of the

Binding the administration to fundamental rights, ensure that these standards for public be defined and implemented in a binding manner. In addition, the legislature urged to standardize corresponding requirements for the private sector as well.