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Administrative Liability for Harm Arising from Intelligent Automated Administrative Decisions

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Abstract. Administrative work is witnessing a radical transformation due to reliance on artificial intelligence techniques in decision making, which has given rise to a new category of decision-making: automated administrative decisions issued without direct human intervention. Despite the efficiency and speed, they provide, these decisions pose profound legal questions about their legitimacy, the guarantees that accompany them, and the scope of administrative liability for any resulting harm. This article examines the nature of this liability, its limits, and its existence in the absence of clear legal regulation in many legal systems. It also exposes a legal vision aimed at protecting individuals and reconciling technological progress with the principles of legitimacy and accountability.

1. INTRODUCTION

In recent years, many modern administrations have been striving to shift their operations from traditional paper-based procedures to digital platforms, driven by the rapid advancements in artificial intelligence technologies. Intelligent systems have emerged as a central tool on which these administrations increasingly depend for decision-making. This evolution has brought to light the concepts of Intelligent administrative automation and intelligent automated administrative decisions, both of which rely primarily on vast datasets accumulated by modern administrations due to earlier initiatives toward administrative digitization.

The core aim of adopting this type of administrative decision-making is to enhance speed, improve efficiency, and minimize the margin of human error. Yet, in practice, this shift is not without significant legal challenges, particularly when such decisions cause harm to individuals, thereby raising the issue of administrative liability for the resulting damages.

The importance of this subject emerges from its direct connection to a core constitutional principle of the rule-of-law state: the administration must be subordinate to the law and may be held accountable for its decisions, whatever their type or nature, even when the decision is generated by a machine.

This study seeks to analyse the legal framework that governs Intelligent automated administrative decisions, clarify their nature, define the elements and conditions under which administrative liability arises when they cause harm, and identify the party responsible for such harm. It also aims to put forward recommendations that strike a balance between the administration's drive for modernisation and individuals' rights to legal protection and procedural fairness.

To address this topic, we adopt both descriptive and analytical approaches, presenting and examining the relevant legal texts and juristic opinions.

From this foundation springs the central question of the study: To what extent can the administration be held legally liable for damage resulting from the Intelligent automated administrative decisions it issues?

This overarching question gives rise to several subsidiary questions, chiefly:

- What is the legal nature of an Intelligent automated administrative decision?
- What legal requirements must be satisfied for administrative liability to arise in the case of this kind of decision?
- Given the intricate technical nature of the algorithms underpinning intelligent automated decisions, how can fault and the causal link be established?
- Are the general principles of administrative liability sufficient to govern this situation, or is there a need for specialised rules?

1.1. The Legal Nature of Intelligent Automated Administrative Decisions

The integration of artificial intelligence into administrative operations represents a qualitative leap in the modernisation of public services. Yet this advance has produced a new mode of decision-making, intelligent automated administrative decisions, issued by technical systems without any direct human involvement. This shift raises a pivotal question: What is the legal character of such decisions, and how well do they square with the classic definition of an administrative act in terms of its constituent elements and legal effects, especially now that the human element, long a central marker of administrative action, is absent?

1.1.1. The Concept of Intelligent Automated Administrative Decision-Making

Traditionally, an administrative decision rests chiefly on the human will of a competent administrative authority acting within a clear legal framework that safeguards legitimacy and transparency. Recent technological advances, especially in artificial intelligence, have, however, produced new class of decisions rendered by automated intelligent systems, prompting a

re-examination of classical legal concepts

1.1.2. Definition of Automated Administrative Decision

In general, an administrative decision is the act by which a competent administrative body discloses its binding will, relying on the powers granted to it by laws and regulations and observing the formalities laid down by those laws with the aim of producing a specific, legally valid effect in the public interest, but within the technological advances that have accompanied the digitisation of public administration [(1)]. An automated administrative decision [(2)] is a decision made entirely through an electronic system or computer program, without any direct human intervention. It relies chiefly on large-scale stored databases or expert systems. In other words, the administration issues a decision solely via a technical or information system that has been pre-programmed with specific rules and criteria; an electronic tool runs the prescribed procedures and delivers a final decision based on the data fed into it, while the employee exercises no discretionary judgment at the moment the decision is taken.

Our focus here is the algorithmically automated administrative decision, rather than the ordinary automated decision. An algorithmic, or intelligent automated administrative decision is one issued by the administration on the basis of complex algorithms capable of processing and analysing vast datasets through artificial-intelligence or machine-learning techniques. The purpose is to reach a conclusion or recommendation on which the administrative decision is then built, directly or indirectly, in an entirely automatic way and without human intervention [(3)].

What sets this category apart is that the algorithms do not merely apply fixed rules, as happens with standard automated decisions; instead, they learn from the data, uncovering patterns and relationships that may be invisible to the human decision-maker.

Intelligent Automated decisions are not the only digital form: there are also electronic administrative decisions, defined as *the public administration's receipt of an electronic application via its website, its expression of a binding intent to issue a decision, the electronic signature of that decision, and electronic notification of the interested party, all in the exercise of its statutory powers and with the aim of producing a specific, legally valid effect in the public interest*[(4)].

Accordingly, the distinction between an intelligent automated administrative decision and an electronic administrative decision turns on the depth of technological involvement. In an electronic administrative decision, the human administrative authority remains the true decision-maker; digital tools merely streamline the procedure, e-mail is used for notification, electronic signatures confer legal validity, and data are entered through an online platform. By contrast, in an intelligent automated administrative decision, artificial intelligence goes beyond technical facilitation and actively shapes the decision: algorithms process the data, assess the results, and render the decision entirely on their own, without human intervention.

1.1.3. Elements of the Intelligent Automated Administrative Decision

Although intelligent automated administrative decisions are digital in form, they remain subject to the general rules that govern traditional administrative acts, first and foremost, the requirement that the basic legal elements be present [(5)]. Yet their algorithmic character calls for a nuanced reading of those elements in light of the technology involved.

- Competence (Jurisdiction) [(6)]

An intelligent automated decision must still emanate from an administrative authority that holds the legal power to issue it, even if algorithms perform the underlying processing. The final act is therefore attributed to the body that designed or adopted the algorithmic system, not to the technological tool itself.

- Form and Procedure

The intelligent automated decision must follow any statutory forms and procedures, or where the law is silent, the procedures the administration lays down in the exercise of its discretion. Technically, the decision is generated by a pre-configured algorithmic processing system that draws on a computerised database of pre-stored information [(7)].

- Cause (Reason) [(8)]

The "cause" is the factual and legal situation that justifies the administrative act. Within an algorithmic system, this element is satisfied when the data on which the algorithms were trained align with the current circumstances: the machine reaches its prediction on the basis of the hypotheses embedded in its programming, then issues the decision without human intervention.

-Object (Subject matter):

It is the result produced by algorithmic processing, which is predetermined within the input and output variables. Where the administration's power is bound, the algorithm's instructions are followed to the letter, leaving no room for interpretation. Hence, the programmer of the algorithm bears the duty to respect the requirements of legality by correctly understanding the relevant legal texts. If, however, the authority enjoys discretion, human intervention becomes possible [(9)].

-Purpose [(10)]:

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[1]- Khbāl Ḥamīd, taṭbīqāt al-dhakā' alāṣṭnā'y fī Nashāṭ al-Idārah al-'Āmmah, PhD thesis, Faculty of Law and political sciences, University of Ghardaia, 2021-2022, p.154.

[2] - Automation is the transfer of tasks formerly carried out by humans to machines, integrating those machines into an autonomous system that makes decisions according to pre-programmed rules, decisions that can be difficult to predict. John Danaher, *Automation and Atopia: Human Flourishing in a World*, Harvard University Press, p. 104.

Automation is also defined as "the art of making machines and procedures operate automatically, encompassing all machines and automatic devices that humans have harnessed to perform effort, monitoring, and programmed decision-making." *Rashā Muḥammad Ṣā'im Aḥmad, taṭbīqāt al-Idārah lldhkā' alāṣṭnā'y fī ittikhādh al-qarārāt al-Idārīyah,* Master's dissertation, Middle East University, 2022, p. 93.

[3]- Muḥammad Balkhayr Ayt 'wdyh, al-qarār al-idārī al-Khuwārizmī, Idjtihad for legal and economic studies, volume 9, N°3, 2020, p.18.

[4]- Aḥmad 'Abd Zayd Ḥasan al-Shammarī, Aḥkām al-qarār al-idārī al-iliktrūnī (dirāsah muqāranah), Misan Journal for Comparative Legal Studies, Volume 1, N°10, 2024, p.323.

[5] - Kawthar mnsl, Ḥamīd Shāwish, al-ishkālāt al-qānūnīyah lā'tmād al-qarār al-idārī al-Khuwārizmī, El-Ryssala Journal for Studies and Researches in Humanities, Volume 6, N°4, 2021, p.809.

[6] - Muḥammad Balkhayr Ayt 'wdyh, op.cit, p.20.

[7] - Muḥammad Balkhayr Ayt 'wdyh, p.20.

[8] - Su'ād ibn sirrīyah, taṭbīq Tiqniyāt al-dhakā' alāṣṭnā'y fī majāl al-qarārāt al-Idārīyah, Al Turath Journal, Volume 14, N°2, 2024, p.96.

[9] - Kawthar mnsl, Ḥamīd Shāwish,Op.cit, p.809.

[10] - 'Ammār Ṭāriq 'Abd al-'Azīz, Arkān al-qarār al-idārī al-iliktrūnī, The Law Journal for Research and Studies, Volume2, 2010, p.28.

The purpose of an automated administrative decision is to realise the public interest, a goal ordinarily achieved by a conscious human will. In this context, an algorithmic processing system cannot be said to possess an independent will. Accordingly, the purpose of an intelligent automated administrative decision is fixed at the stage when human designers program the processing system**.**

1.2. Categories of intelligent Automated Administrative Decisions and Their rules

Intelligent automated administrative decisions have become an integral part of modern administrative practice, drawing on artificial-intelligence techniques for analysis and decision-making. These decisions differ according to the extent of human involvement, making it essential to classify them and lay down legal rules that both protect rights and freedoms and prevent any abuse or misuse of technological power.

1.2.1. Categories of intelligent Automated Administrative Decisions

Before classifying intelligent automated administrative decisions, it is essential to distinguish between two forms of automation: Full automation – every procedural step, from verifying the requisite conditions to issuing the final decision, is executed entirely by an electronic system without any human intervention [(11).] Partial automation (assistance systems) – the automated system performs certain steps and proposes possible outcomes, but the final decision remains in the hands of the human official, who bears full responsibility and exercises discretionary judgment based on the data the system supplies.

Recognising this distinction allows us to identify two corresponding categories of intelligent automated administrative decisions.

- Bound-authority (non-discretionary) automated administrative decisions: these are decisions the administration is legally compelled to issue once the specific conditions laid down by statute are fulfilled, leaving it no room for discretion. The law itself charts the course the administration must follow; when those conditions are met, any failure to issue the decision constitutes a breach of the law [(12)]. With the rise of AI techniques that operate on pre-stored datasets, it is now sensible to delegate bound-authority administrative decisions to automated systems: their exceptional accuracy and low error rate make them ideally suited to this class of administrative act.
- Discretion-based automated administrative decisions: are decisions in which the administration is afforded a measure of freedom to choose the course of action it considers most appropriate, within the boundaries set by law. In such cases, the law does not compel the administration to adopt a single, predetermined outcome; rather, it permits officials to assess the circumstances and available data and to select the decision that best fits the situation [(13)]**.**

This category of decisions is far harder to automate, because it usually demands adaptable reasoning and a nuanced appraisal of the circumstances, something even sophisticated systems struggle to deliver. Thus, while full automation can work where the criteria are clear and fixed, as with non-discretionary decisions, discretionary decisions call for a human touch to balance the available options, making partial automation the more realistic choice.

1.2.2. Regulations of Intelligent Automated Administrative Decisions

The reliance on intelligent, AI-driven automated administrative decisions brings distinct legal challenges to the fore. It therefore becomes essential to craft precise safeguards that govern how these decisions are made, so as to balance the administration's drive for technological modernization with the imperative to protect individual rights.

- Transparency [(14)]

Transparency is one of the foremost legal safeguards that must govern intelligent automated administrative decisions. As public administrations increasingly rely on AI-driven systems and move toward digital models, it becomes essential to embed these changes within a legal framework that both upholds individual rights and balances them against administrative efficiency. In practice, transparency means that the person affected by an administrative decision must: Recognise the automated nature of the decision, Understand the criteria and standards the system applied, and receive a clear, plain-language explanation of the outcome, showing that it rests on accurate data and rational assumptions.

Because an intelligent automated administrative decision cannot be lawful without this level of openness, the issuing authority bears several obligations:

- Disclosure: Inform individuals that the decision was generated automatically.
- Explanation: Provide a concise, comprehensible description of how the system operates.
- Review rights: Guarantee a meaningful avenue, administrative or judicial, to challenge the decision.
- Interpretability tools: Offer effective means for understanding the system's reasoning, enabling those affected to defend their interests and correct any errors.

Only by meeting these requirements can the administration ensure that automation enhances, rather than undermines, the core principles of legality and accountability.

- Liability

Liability is an indispensable cornerstone in regulating intelligent automated administrative decisions, because it keeps the administration answerable and shields individuals from any harm those algorithm-driven decisions may cause. Digital transformation does not absolve a public body of its legal duties, and automation must never serve as an excuse for disowning responsibility or pinning blame on the technology when damage occurs. The administration remains liable: it is the entity that selects, configures, and deploys the system and supplies the data on which the outcomes rest. Accordingly, even if a decision is generated by an algorithm, the law attributes that decision to the administrative authority that chose to employ the technology.

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[11] - Parycek.P, Schmid . V, Artificial Intelligence and Automation in Administration Procedures, J knowl Econ, 2023, Volume15, N2, p. 07.

[12]- Aḥmad Nāṣir 'Abbās, al-qarārāt al-Idārīyah alm'tmth, wa al-Sulṭah al-taqdīrīyah li-Jihat al-Idārah, Journal of legal and economic studies, Volume 3, Egypt, 2024, p. 1137.

[13] -Ibid, p.1138 see also : Jean Baptiste Duclerco, L'automatsation algorithique des décisions administratives individuelles, Revue de doit public, N02, 2019, p 311.

[14]- Usāmah 'Abd Allāh Maḥrūs, al-Mas'ūlīyah al-Idārīyah tujāha akhṭā' taṭbīqāt al-dhakā' alāṣṭnā'y, Journal of Law, volume22, N°1, Egypt, 2024, p.100.

- Protection of personal data

The protection of personal data is among the chief legal guarantees underpinning the legitimacy of intelligent automated administrative decisions. Such decisions hinge on the large-scale, sophisticated processing of information that often has a highly sensitive character. Whenever an administration relies on an intelligent automated system to issue rulings that affect citizens' rights or legal status, it must fully respect the right to privacy, a fundamental right recognised in both international and domestic law [15]. Data protection is therefore more than a procedural formality, it is a real guarantee shielding individuals from intrusions upon their personal freedoms. This safeguard is indispensable, because algorithms and technical systems can reach far-reaching decisions on the basis of data analyses while the people affected remain unaware of how their data were handled or where those data originated.

- Oversight (Control) [16]

An administrative decision, whether taken by a human being or generated by a machine, remains subject to the principle of legality, i.e., the administration's obligation to act within the law.

Automation cannot serve as a pretext for removing a decision from the scope of oversight, for such oversight is the real safeguard against violations of rights and against abuse or misuse of public authority, whatever technology is employed. Oversight is not confined to judicial review; it also embraces internal administrative control. Human-review mechanisms must therefore be in place so that individuals can object to, or seek reconsideration of, decisions produced by intelligent automated systems. This requirement is reflected in international standards, most notably the EU General Data Protection Regulation (GDPR), which mandates human intervention whenever an automated decision produces significant legal effects for an individual.

Moreover, control must operate both exante and expost. It must extend upstream to the design and deployment of automated systems, subjecting them to prior audits to verify their legal compliance and to avert bias or malfunction. Oversight must then continue through periodic evaluations of the system's outputs and their conformity with applicable legal and administrative norms.

2. THE LEGAL NATURE OF ADMINISTRATIVE LIABILITY FOR DAMAGE CAUSED BY INTELLIGENT AUTOMATED ADMINISTRATIVE DECISIONS

Administrative liability, in its general legal sense, is the public administration's duty to make reparation for harm it causes others through its administrative acts, whether those acts are material or legal in nature, and whether they are lawful or unlawful. Such liability may be established on the basis of service fault (faute de service) or, in certain cases, without any fault at all **(17).**

When the damage flows from intelligent automated administrative decisions, liability consists in the administration's obligation to indemnify individuals for injury resulting from decisions rendered by automated systems that rely on artificial-intelligence techniques or algorithms, with no direct human intervention, whenever that injury is traceable to: a software error, a malfunction in the automated processing, or the misuse of the intelligent systems through which the decision is generated.

2.1. Basis of Administrative Liability for Damage Arising from intelligent Automated Administrative Decisions

The expansion of digitalisation raises serious questions about its impact on the powers and duties of administrative authorities. The vastly enhanced capabilities of digital tools challenge the administration's ability to steer and monitor its own activity, creating a perceived risk that liability might disappear in the face of machine autonomy and the technology's impersonal character. In reality, however, the administration can neither lose nor shed its responsibility, for two overriding reasons: Digital technology itself generates new administrative obligations that the authority must honour, and the same technology simultaneously strengthens mechanisms of administrative accountability, ensuring that the administration remains answerable for any harm caused by its AI-driven decisions.

2.1.1. Digital Technology Imposes New Administrative Obligations

The nature of the administration's obligations in its digital activities, including the adoption of intelligent, automated administrative decision-making, is not fundamentally different from those traditionally defined by the law of administrative liability. The administration must still guarantee the proper functioning and legality of the public service, whether that service is delivered digitally or by conventional means. Digitisation merely acts as a facilitator, smoothing the operation of the service: it requires improving users' access, responding promptly to their requests, and deploying predictive and preventive technologies, thereby reducing the likelihood of liability, particularly in the field of information-system security **(18).**

Public bodies are also bound to ensure that digital tools are used lawfully. They may not employ systems that violate the principles of non-discrimination, equal access to the service, the prohibition of unlawful content, or the protection of legally privileged secrets. This confirms the axiom that the administration remains fully liable for operating a faulty algorithm **(19)**. Likewise, the collection, processing, storage, and utilisation of personal data for administrative decision-making fall under the comprehensive legal framework of the EU General Data Protection Regulation (GDPR); any breach exposes the administration to liability.

2.1.2. Enhancement of Administrative Liability through Digital Technology [20]

The advent of digital technology is often linked to a "de-humanisation" of expertise, as machines progressively replace human

[15] - Algeria, for example, codified this guarantee in Law No. 18-07 of 10 June 2018 on the protection of natural persons with regard to personal-data processing, which forms the core legislative framework for data protection across all sectors, including the administrative sphere (Official Journal No. 34, 10 June 2018).
[16] - Khbāl Ḥamīd, Op.cit, p.34.
[17] - Usāmah 'Abd Allāh Maḥrūs, Op.Cit, p.79.
[18] - Christophe Testard, L'administration numérique : une responsabilité administrative confortée, Actualité juridique droit administratif, 2021, n22, p 04.
[19] - B Auby, Le droit administratif face aux défit du numérique, AJDA, N15, 2018, p.41.
[20] - Christophe Testard, op.cit, p.5.

employees. This shift inevitably raises a crucial question: who bears liability when damage occurs? The growing autonomy of digital tools complicates the issue. Even if it is hard to imagine autonomy itself giving rise to separate layers of responsibility, full autonomy prompts us to ask whether liability should rest with the designer, the user, or the custodian of the system, and whether a notion of purely "digital" liability could absolve the administration of responsibility for intelligent automated administrative decisions.

The answer is clear: digital tools are not administrative decisions in their own right; they are merely aids to decision-making. Ultimate responsibility remains with the administrative decision-maker **(21).** Complete independence of an algorithm, whether self-learning or deterministic, and of the digital tool in general is neither persuasive nor technically accurate. Programming necessarily reflects choices made at the outset or inserted during operation, and those choices can introduce biases into the system. Far from negating liability, the autonomy of the machine simply underscores the need for control.

Nonetheless, digital tools undeniably challenge human judgment. How far can an administrative authority truly control an automated decision produced by artificially intelligent systems whose capabilities have been greatly amplified? It is therefore reasonable to anticipate potential harm specifically linked to the operation of such digital machinery, and to affirm that administrative liability remains engaged whenever that harm materialises.

The answer to this question requires a close look at the very nature of administrative liability, which, under the theory of public-service liability (faute du service), is first and foremost a liability of the service itself. An administrative fault is thus a fault of the service, not of any individual in the civil- or criminal-law sense, and a machine can never be held personally liable in that way. Indeed, stripping intelligent automated administrative decisions of their human dimension only strengthens the principle of service liability: the mere use of digital tools does not exempt administrative authorities from accountability **(22).**

Potential disputes are nevertheless likely, because technological innovation inevitably relies on outsourced expertise, designers, programmers, maintainers, introducing uncertainty as to who is responsible and complicating any claim to exoneration. Conversely, shifting administrative decision-making to data-driven algorithms is often justified as a quest for greater objectivity: by assigning the decision to an algorithm fed with statistical data, the outcome is portrayed as infallible and free from subjective bias, rendering decision-making almost mechanical and creating an illusion of perfect objectivity. In reality, this may simply allow decision-makers to lessen the moral burden associated with hard choices, turning technology into a mere façade that masks the human element behind the decision.

2.2. Types of Administrative Liability for Harm Caused by Intelligent Automated Administrative Decisions

Administrative liability for harm arising from intelligent automated administrative decisions rests on three possible grounds: fault-based liability, where the claimant must show negligence, error, or malfunction in the administration's conduct or in the algorithmic system it deploys; strict (non-fault) liability, which attaches to the administration once damage is established, even if no fault can be proven; and joint liability, under which the administrative authority shares responsibility with other actors, designers, programmers, service providers, who participate in the automated-processing chain. Distinguishing among these bases preserves meaningful redress for affected individuals while allowing digital administration to advance without undue legal paralysis.

2.2.1. Fault-Based Liability for Damage Caused by Intelligent Automated Administrative Decisions

It arises when harm can be traced to an error attributable to the administrative authority, whether that error lies in its legal acts or its material operations. This doctrine preserves a balance between society's interest in deploying artificial-intelligence tools to boost administrative efficiency and the rights of individuals adversely affected by algorithmic outcomes. In keeping with classic administrative-law principles, liability depends on three cumulative elements: fault, damage, and a causal link between them. Once these elements are established, the injured party may claim compensation for the loss suffered as a result of the administration's fault **(23).**

- Fault: Here, fault denotes a service fault (faute de service), a defect imputed to the public service as an institution, irrespective of the individual staff involved, arising from its failure to discharge the functions it is legally bound to perform in a proper manner. Even though intelligent automated administrative decisions enjoy a high degree of operational reliability, this does not confer absolute legality: flaws may still vitiate their foundations and cause harm to third parties (24). Such flaws include, among others, errors in algorithm design, faulty or incomplete data entry, misinterpretation of data, ambiguity in the criteria applied, deployment of algorithms unsuited to the administrative purpose, and failure to update the algorithm to reflect changes in the legal framework.
- Damage: is any violation of an established right or legitimate interest of the injured party. Compensable damage is that which affects a person in one of their rights or lawful interests, be it bodily integrity, personal liberty, or the right to enjoy a benefit or opportunity (25). To trigger liability it must be certain, direct, and fall upon a right or legitimate interest of the claimant. In the context of intelligent automated administrative decisions, damage may be material (e.g., being unfairly denied a post or a grant), moral (e.g., harm to reputation), or legal (e.g., the loss of a lawful opportunity such as missing out on a public contract because an algorithm inaccurately ranked the bid).
- Causal nexus. The burden of demonstrating the causal link between the fault and the damage lies with the injured party (26). Establishing this nexus becomes especially difficult in the realm of intelligent automated administrative decisions, because proving that an error in an algorithm, or in its deployment, actually produced the harm is often hindered by the "black-box" **(27)** nature of certain algorithmic systems, whose internal logic and decision pathways are opaque. Yet proving

21 - Castets Renard, Encadrement des risques techniques et juridiques des activités de police prédictive, CHEMI, 2019, p 60.
22 - Christophe Testard, op.cit, p 06.
23 - Muḥammad Ḥamdī 'Alī 'Umar, al-ta'wīḍ 'an al-aḍrār fī majāl al-Mas'ūlīyah al-Idārīyah, Journql of legal and economic research, Menoufia University, Volume55, N3, 2022, p.360.
24 - Muḥammad Balkhayr Ayt 'wdyh, al-Mas'ūlīyah 'an aḍrār al-qarārāt al-Idārīyah al-Khuwārizmīyah, Academic Journal of Legal Research, Volume13, N1, 2022,p.279.
25 - Fahd Sa'īd alẓhwry, Muṣṭafá Sālim al-Nujayfī, Mas'ūlīyat al-Idārah 'an Istikhdāmāt al-dhakā' alāṣṭnā'y 'alá Asās al-khaṭa', University of Sharjah's Journal of Law sciences, Volume21, N1, 2022, p.316.
26 - Fahd Sa'īd alẓhwry, Muṣṭafá Sālim al-Nujayfī, Op.cit,p.317.
27 - "The term 'black box' signifies a software system akin to a sealed, solid box whose inner workings cannot be grasped and whose behaviour cannot be explained." Yavar Bathaee, The Artificial Intelligence Black Box and the failure of intent and causation, Harvard journal of law and technology, volume 31, 2018.

causation is indispensable to engaging the administration's liability for its use of AI-driven systems in issuing intelligent automated administrative decisions.

2.2.2. Non-Fault (Strict) Liability for Damage Caused by Intelligent Automated Administrative Decisions

It rests on the idea of risk: the administration must make good any harm directly traceable to an automated decision, even when no wrongful act can be imputed to it. The injured party need only establish a causal link between the intelligent automated decision and the damage suffered; the lawfulness of the administrative activity, or the absence of fault, does not bar recovery.

Administrative courts have long required public bodies to compensate individuals injured by their activities on the strength of enduring legal and social principles, chief among them the principle of equality in bearing public burdens and the notion of social solidarity. Legislatures have reinforced this approach through special statutes that specify situations in which the administration owes compensation despite committing no fault [(28)].

This modern doctrine recognises that, although intelligent automation is deployed in the public interest, it may nonetheless inflict harm on certain individuals; the administration must shoulder that burden. The EU General Data Protection Regulation (GDPR) embodies the same logic: Article 24(1) obliges a data controller, "taking into account the nature, scope, context and purposes of the processing, as well as the risks of varying likelihood and severity, to the rights and freedoms of natural persons," to implement appropriate technical and organisational measures to ensure, and be able to demonstrate, compliance with the Regulation [(29)]. Accordingly, when harm arises from automated systems, whose outcomes can be hard to foresee and whose burden should not fall on the individual alone, the injured party must be compensated.

2.2.3. Shared (Joint) Liability of the Administrative Authority and the Other Actors in an Intelligent Automated Processing System

It rests on the "joinder" principle: the injured party may seek full compensation from the administration, while the administration retains a right of recourse, wholly or in part, against any designer, programmer, system operator, or other participant whose fault or omission contributed to the harm (e.g., non-compliance with technical specifications, erroneous system implementation, or inadequate verification and oversight [(30)]. Because multiple actors collaborate in producing an intelligent automated administrative decision, accountability must extend to the issuing authority, the technical contributors, and every party whose direct or indirect conduct caused the injury. This allocation of liability mirrors Article 82(4)– (5) GDPR, which allows the victim to claim damages from any data-processing participant and, in turn, entitles that participant to recover from the others in proportion to their share of responsibility [(31)].

3. CONCLUSION

The rapid digital transformation of public administration has ushered in intelligent automated administrative decisions, a modern instrument intended to heighten efficiency, accuracy, and impartiality. Yet this technological advance also presents profound legal challenges: defining the legal nature of such decisions, ensuring compliance with essential administrative safeguards, and delineating the administration's liability for harm caused by its reliance on AI systems.

This study confirms that, despite their automated, "intelligent" character, these decisions still exhibit the formal and substantive features of traditional administrative acts and remain bound by the classic constraints of legality and the prohibition of arbitrariness. Correspondingly, the administration's liability retains its familiar contours: it may be fault-based (e.g., errors in programming, operation, or oversight), strict (where damage flows from inherent technological risks), or joint (where the administration's role overlaps with that of private actors such as software vendors).

4. KEY FINDINGS

- Intelligent automated administrative decisions are an extension of the traditional administrative act, yet their technological nature demands additional safeguards.
- The lack of a precise legal framework risks undermining individuals' fundamental guarantees.
- Reliance on an AI system does not absolve the administration; it remains responsible for selecting, operating, and monitoring the system.
- Many national regimes, particularly in the Arab world, have yet to keep pace, calling for urgent legislative action.
- Meaningful collaboration between legal scholars and technical experts is indispensable for grasping the practical and legal ramifications of AI in public administration.

5. RECOMMANDATIONS

1. Enact specialised legislation governing the use of AI in the administrative sphere, defining the legal status of intelligent automated administrative decisions and allocating responsibility among all actors involved.
2. Institutionalise post-decision human review, at least for decisions that affect fundamental rights, to ensure accountability and safeguard procedural justice.

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