# NAVIGATING THE ALGORITHMIC SHIFT AND THE LEGAL IMPLICATIONS OF ARTIFICIAL INTELLIGENCE IN ALBANIA'S PUBLIC ADMINISTRATION

*Eralda (Methasani) Çani\* and Andrea Mazelliu\*\**

*Abstract*

The use of Artificial Intelligence (AI) in public interest governance and by public authorities, as an innovative system, is attracting real attention. It is being discussed as advantageous due to its ability to increase the efficiency and transparency of public services, while still questioning the roles and functions of the public administration in society. Considering that AI includes aspects of machine learning, rule-based decision-making, and other computational techniques, critical issues such as the legitimacy of AI empowerment for making decisions, as well as accountability, transparency, data protection and privacy, and the protection of fundamental rights, are key to such deliberations.

The literature has paid much attention to these, while advancement is also seen in levels of policy-making and legislation. Albania has demonstrated active progress in making use of the digitalisation of public services, notably through the e-Albania portal, and it is taking steps, including through the legal tier, towards the development of AI governance standards, including addressing the ethical challenges posed by algorithmic decision-making.

\* Professor of Law at the University of Tirana, Albania.

\*\* Lecturer at the University of New York, Tirana, Albania, and PhD candidate at the School of Law, Tirana University, Albania.

This paper reviews trends in AI governance, offering a comparative analysis of how different jurisdictions regulate the intersection of AI and public services. It also provides an overview of the Albanian legal framework, also in relation to the European Union regulations. It does not address the legitimacy of AI use in public administration. While the latter is an aspect of a well-deserved consideration, this paper focuses on understanding developments in policy-making and legislative regulations, including the current state of play, algorithmic automation, and AI usage by the public authorities in Albania. It also tries to shed light on the implementation of algorithmic automation and AI usage in the Albanian public administration and public services.

The public services provided through algorithmic automation and the introduction of AI has raised several concerns when in terms of transparency, the protection of personal data, the quality of data sets, and areas where there is a restriction in the usage of these technologies. Following an exposure to standards of AI use in public administration and services, especially emphasising the principles that must be upheld, the paper analyses how Albania's existing legal infrastructure complies with those. Recommendations are presented for Albania to strengthen its legal framework and foster innovation while safeguarding citizens' rights and ensuring the ethical use of AI in public governance. Lastly, this paper emphasises interdisciplinary collaboration as highly important for developing a robust and ethical AI governance framework. Input from legal experts, technology experts, civil society, and the private sector will ensure that AI implementation in public administration is both innovative and able to protect citizens' rights.

TABLE OF CONTENTS

## 1. General Overview of the Use of Algorithmic Automation and Artificial Intelligence by the Public Administration

The landscape of laws concerning the use of AI and automated algorithms in public governance is evolving as governments have been using digital governing tools for years, and it is opening doors for the first time in decision-making. The literature has long agreed that it is essential for AI systems to be reliable, and both morally and legally compliant, particularly if used by public authorities[1]. The key principles often revolve around responsibility, openness, transparency, and moral concerns. Governments must ensure that AI and automated systems remain transparent and accountable to the public at large. Algorithmic Impact Assessment (AIA) is required to preside over the assessment of biases and to ensure fairness in automated systems[2]. Sientific societies, think tanks, NGOs, and international organisations have come to identify universal guidelines for AI (UGAI), incorporating elements of human rights doctrine, data protection law, and ethical guidelines. The guidelines include several well-established principles for AI governance and put

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[1] C.M Sjöberg, *Algorithms in Public Administration*, in M. Suksi (ed.), *The Rule of Law and Automated Decision-Making* (2023) 195.

[2] D. Freeman Engstrom & D.E Ho, *Algorithmic Accountability in the Administrative State: The Challenges of AI and Machine Learning to Administrative Law* (2020), at https://law.stanford.edu/wp-content/uploads/2020/02/ACUS-AI-Report.pdf, last accessed 5 September 2024; AI Now Institute, *Algorithmic Impact Assessments: Toward Accountable Automation in Public Agencies* (2021), at https://ainowinstitute.org/publication/algorithmic-impact-assessments-toward-accountable-automation-in-public-agencies, last accessed 5 September 2024.

forward new principles not previously found in similar policy frameworks, echoing the obligations of institutions and the rights of individuals. Elements of transparency, the right to a human-made decision, obligations of identification, fairness, assessment and accountability, accuracy, and reliability, as well as validity, the data quality principle, and public safety. There are also cybersecurity obligations, a prohibition on secret profiling and unitary scoring, as well as the termination obligation, which are all identified as universal AI standards which recognise human interests at the core of the system, and human control remains fundamental to it[3].

As digitalisation and technology shape humanity's future interaction and introduce new behaviours, governments are taking initiatives to incorporate the digital world of the 21st century, including AI, into public service offerings. These innovative approaches aim to make access to public services easier and more efficient[4]. The digitisation of public services and the integration of AI, which is already a reality in various sectors, inevitably present challenges to the protection and effective exercise of the fundamental rights and freedoms guaranteed by the highest laws of every country. In a non-delegation principle in the legal context, public administrations are restricted, which means they cannot fully delegate decision-making duties to automated systems. These principles guarantee that human monitoring and control are applied to decision-making[5]. To ensure compliance with existing and sensitive legal frameworks, such as the European Union (EU)

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[3] Further details at 'Universal Guidelines for AI', at https://www.caidp.org/universal-guidelines-for-ai/, last accessed 5 September 2024.

[4] The OECD states that "one of the most important and most immediately achievable benefits of AI is to change the way that public servants themselves do their jobs", resulting from the focusing on high-value instead of low-value work, thus "reducing or eliminating repetitive tasks, revealing new insights from data […] and enhancing agencies' ability to achieve their missions" (OECD, *Hello, World. Artificial intelligence and its use in the public sector* (2019) 77, at https://www.oecd-ilibrary.org/governance/hello-world_726fd39d-en, last accessed 5 September 2024).

[5] C. Langer, *Decision-making power and responsibility in an automated administration* Discov Artif Intell 4, 59 (2024), at https://doi.org/10.1007/s44163-024-00152-1, last accessed 5 September 2024.

GDPR regulatory framework[6], governments can test the automation systems by means of sandboxes[7].

Countries are taking initiatives and measures to promulgate a regulatory framework that highlights the importance of such principles and conditions when using algorithms in making decisions[8]. One important aspect in such legal drafting regards the competence of the drafters, even more essential for AI-related legislation due to the high level of specificities and specialisms. The United States and Canada are exploring mechanisms that require thorough assessments from public administration agencies with expertise in deploying AI systems while maintaining oversight. These frameworks ensure that the public is informed about governmental decision-making as long as there is full transparency about these processes.

Where the public administration is using algorithmic automation or AI in offering services with no clear legal basis, it allows use within the designated boundaries. In many sectors, in the context of using AI systems for regulatory sandboxes and innovation, public authorities are known to have tested and implemented such systems[9]. An OECD Council Recommendation on Artificial Intelligence of 2019, amended in 2024, contributes to setting standards for the use of AI in public government, and requires governments to review and adapt, as appropriate, their policy and regulatory frameworks and assessment mechanisms as they apply to AI systems to encourage innovation and competition

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[6] See Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) (Text with EEA relevance).

[7] M. Jenkins, *Algorithms in public administration: How do we ensure they serve the common good, not abuses of power* (6 October 2021), at https://www.transparency.org/en/blog/algorithms-artificial-intelligence-public-administration-transparency-accountability, last accessed 5 September 2024.

[8] T. Coleman, *How countries around the world are trying to regulate artificial intelligence*, THE WEEK, 4 July 2023, at https://theweek.com/artificial-intelligence/1024605/ai-regulations-around-the-world, last accessed 5 September 2024.

[9] R. Madan & M. Ashok, *AI Adoption and Diffusion in Public Administration: A Systematic Literature Review and Future Research Agenda*, 40(1) *Gov't Info. Q.* 101774 (2023).

for trustworthy AI[10]. OECD has also highlighted the need to perform AIAs as necessary to evaluate the potential risks and safeguard the public accountability of the AI systems, when and if public administrations experiment with the latter[11].

The European Union (EU) enacted a Data Governance Act in 2018, amended in 2022[12], and a Data Act in 2023[13], to facilitate reliable and secure access to data, promoting its use in key economic sectors and areas of public interest. It also made possible the establishment of the first regulatory pioneering framework, known as the AI Act[14], the first-ever legal framework on AI, making EU the leading organisation to regulate trustworthy use of AI systems. This single EU AI Act aims to regulate high-risk AI systems, provide protection, and mitigate the risks specifically faced by AI applications[15]. The EU AI Act offers a framework for

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[10] The Recommendation on Artificial Intelligence (AI), adopted by the OECD Council meeting at Ministerial level on 22 May 2019, on the proposal of the Digital Policy Committee. This Recommendation aims to foster innovation and trust in AI by promoting the responsible stewardship of trustworthy AI while ensuring respect for human rights and democratic values. See at https://legalinstruments.oecd.org/en/instruments/OECD-LEGAL-0449, last accessed 5 September 2024.

[11] OECD.AI, *Algorithmic Impact Assessment tool*, at <https://oecd.ai/en/catalogue/tools/algorithmic-impact-assessment-tool>, last accessed 5 September 2024.

[12] Regulation (EU) 2022/868 of the European Parliament and of the Council of 30 May 2022 on European data governance and amending Regulation (EU) 2018/1724 (Data Governance Act) (Text with EEA relevance).

[13] Regulation (EU) 2023/2854 of the European Parliament and of the Council of 13 December 2023 on harmonised rules on fair access to, and use of, data and amending Regulation (EU) 2017/2394 and Directive (EU) 2020/1828 (Data Act) (Text with EEA relevance); the regulation will become applicable in September 2025.

[14] Regulation (EU) 2024/1689 of the European Parliament and of the Council of 13 June 2024 laying down harmonised rules on artificial intelligence and amend-ing Regulations (EC) No 300/2008, (EU) No 167/2013, (EU) No 168/2013, (EU) 2018/858, (EU) 2018/1139 and (EU) 2019/2144 and Directives 2014/90/EU, (EU) 2016/797 and (EU) 2020/1828 (Artificial Intelligence Act).

[15] The AI Act stipulates that its purpose is to set a "uniform legal framework in particular for the development, the placing on the market, the putting into service and the use of artificial intelligence systems (AI systems) in the Union […] to pro-mote the uptake of human centric and trustworthy artificial intelligence (AI) while ensuring a high level of protection of health, safety, fundamental rights as enshrined in the Charter of Fundamental Rights of the European Union (the 'Charter'), including democracy, the rule of law and environmental protection,

legal AI experimentation. It assigns a risk-based classification to AI systems and requires strict accountability and transparency standards for high-risk systems, including those in law enforcement or healthcare[16].

Another important legal instrument that establishes the minimum guiding principles in implementing AI in the public services is the Council of Europe Framework Convention on Artificial Intelligence and Human Rights, Democracy and the Rule of Law, enacted this September 2024 (CoE AI Convention)[17]. The Council of Europe has adopted the first-ever international legally binding treaty aimed at ensuring the respect of human rights, the rule of law, and democratic legal standards in the use of AI systems. As a member state of the CoE, Albania was part of preparatory work through meetings in the course during the drafting of this framework Convention[18]. The CoE AI Convention sets a legal framework that covers the lifecycles of AI systems and addresses the risks they may pose in the design, use, and decommissioning of the AI system. It applies to using AI systems in the public sector, including entities acting on its behalf and the private sector. It provides two options for parties to comply with its principles: States can either adhere directly to the relevant provisions of the Convention or implement alternative measures that align with its requirements while respecting their international obligations regarding human rights, democracy, and the rule of law. It establishes transparency and oversight requirements tailored to specific contexts and risks, including identifying content generated by AI systems. They will also have to ensure accountability and responsibility for adverse impacts and that AI systems respect equality, including gender equality, the prohibition of discrimination, and privacy rights. Moreover, parties to the CoE AI

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to protect against the harmful effects of AI systems in the Union, and to support innovation" (AI Act, Recital no 1).

[16] A. Sinha, *A Public Administration Route to Algorithmic Transparency, Part III: Thresholds for Transparency in Private Sector* (*mozilla*, 14 February 2024), at https://foundation.mozilla.org/en/blog/an-public-administration-route-to-algorithmic-transparency-part-iii-thresholds-for-transparency-in-private-sector/>, last accessed 5 September 2024.

[17] Council of Europe, *Framework Convention on Artificial Intelligence and Human Rights, Democracy and the Rule of Law* (Council of Europe Treaty Series No 225, Vilnius, 5 September 2024).

[18] See https://www.coe.int/en/web/artificial-intelligence/cai#{%22126720142%22:[1]}, last accessed 5 September 2024.

Convention will have to ensure the availability of legal remedies for victims of human rights violations related to the use of AI systems and procedural safeguards, including notifying any persons interacting with AI systems that they are interacting with machines[19].


## 2.     The Albanian Legal Framework on Digitalising Public Services and Use of Digital Algorithmic Automation and AI by the Public Administration

Technology use in the public sector in Albania is a well-established reality. While respect for human rights is a fundamental obligation deriving from the Albanian Constitution, it automatically applies to any medium used by and in the public administration. The Albanian Constitution stipulates that human rights are the core of the public administration in the country[20]. Article 15 of the Constitution requires public authorities to actively ensure and respect fundamental rights and freedoms, so any AI use practice or AI-related policies, including laws and sublegal rules need to reflect and respect human rights. This foundation serves as a guide and limitation to any respective legal effort.

The Albanian framework establishes a transparent and effective legal structure for providing public services in digital form. The core procedural legislation for the wholeness of public administration, the Albanian Code of Administrative Procedures, establishes the core principles for public administration and serves as the foundation for electronic service delivery[21]. Law no. 43/2023 On Electronic Governance defines the technical aspects of the electronic governance and obligations that the public authorities and private subjects must respect to offer their services. It sets the rules for citizen participation in the policy-making process while enhancing public administration accountability as a byproduct[22]. The other sectorial laws that do regulate the offering of public

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[19] *Ibid*.
[20] Part 3 of the Constitution of the Republic of Albania, at: https://qbz.gov.al/share/JiLN1sTiQu6JD0BWHggXjA (in Albanian), last accessed 5 September 2024.
[21] Kodi i Procedurave Administrative [Administrative Procedures Code] (Albania 2015).
[22] Ligji nr. 43/2023 për Qeverisjen Elektronike [Law No. 43/2023 on Electronic Governance] (Albania 2023).

services and do not address digital provisions still require the physical presence of the requester. This emphasises the need for a more whole-scale comprehensive legal reform to allow the integration of automated systems in public administration. Furthermore, there is no clear law that addresses the issue of integrating automated systems in public service delivery in Albania, but a Decision of the Council of Ministers, i.e. a sub-legal act, has been enacted and regulates the document of methodology and technical standards regarding the use of AI in Albania[23]. According to the principle of providing active help laid down in the Albanian Code of Administrative Procedures, every user has the right to access public services electronically and, in compliance with the Order of the Prime Minister of Albania, as of 2020, the institutions must provide all services online by taking all necessary measures[24].

Albania has undertaken important reforms to include the digitalisation of public services, aiming to provide a more efficient public administration by reducing service costs, minimising human error through algorithmic automation, and harmonising administrative processes to avoid unnecessary bureaucracy. Law no 9918/2008 on Electronic Communication serves as a fundamental framework for the functioning of the e-Albania platform and the provision of online services, through establishing the basis for the platform's operability. The 2008 Electronic Communication Law defines key aspects related to the security, privacy, and interoperability of electronic services by setting rules for the infrastructure of electronic communications on which e-Albania relies. It outlines regulations for operators of electronic networks, including internet service providers and secure communication systems. This law stipulates that every electronic communication offered in Albania must be made in a transparent manner, ensure the protection of personal data and effective system interoperability. This law serves as a solid foundation for providing

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[23] Urdhër i Kryeministrit të Republikës së Shqipërisë nr. 158 (25 nëntor 2019) për Marrjen e Masave dhe Rregullimin e Dispozitave Ligjore për Aplikimin e Shërbimeve Vetëm Online nga Data 1 Janar 2020 [Order of the Prime Minister of the Republic of Albania No. 158 (25 November 2019) on the Adoption of Measures and Regulation of Legal Provisions for the Provision of Services Only Online from 1 January 2020].

[24] Article 15, Kodi i Procedurave Administrative [Administrative Procedures Code] (Albania 2015).

safe public services through the e-Albania electronic platform[25]. The legal framework onward, including the new Albanian Code of Administrative Procedures of 2015, which provided for a one-stop-shop service to streamline and ease access to public services. The 2008 Electronic Communication Law defines a 'file' as a database that is interconnected and stored on hardware for electronic data. Associative services are all services that are linked within a network of electronic communication or an electronic communication service that enables and supports the provision of services within this network. These include number translation services or systems that provide equivalent functionality, conditional access systems, electronic program guides, and other services such as identity, location, and presence services[26].

With the rise of new technologies, rapidly changing our social interaction and the emergence of AI, and algorithmic automation as a means of processing public services, the Albanian government has taken several steps to enhance public service delivery by embracing algorithmic automation, digitalisation, and regulation of these new innovatory and challenging ways of government. Through the e-Albania portal[27], the government has implemented an automated system that integrates and offers a wide range of public services. This portal is the official platform for delivering and managing all State-run services, streamlining processes, and ensuring that public services are accessible and efficient in the digital age. In 2010, the national coordinating authority, the National Agency for Information Society (NAIS), was established[28].

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[25] Ligj Nr. 9918, datë 19 Maj 2008, Për Komunikimet Elektronike në Republikën e Shqipërisë (i ndryshuar) (Fletore Zyrtare Nr. 197, faqe 15283) [Law No. 9918, dated 19 May 2008, On Electronic Communications in the Republic of Albania (as amended) (Official Gazette No 197, page 15283)].

[26] Ibid., article 3/ para. 64-65 Ligj Nr. 9918, datë 19.5.2008, Për Komunikimet Elektronike në Republikën e Shqipërisë (i ndryshuar) (Fletore Zyrtare Nr. 197, faqe 15283).

[27] E-Albania, [*Official Government Portal of Albania*], at https://e-albania.al/Default.aspx, last accessed 5 September 2024.

[28] Ligj Nr. 10 325, Për Bazat e të Dhënave Shtetërore (23 September 2010) [Law No. 10 325, On State Databases (23 September 2010)]; Vendim Nr. 961, Për Përcaktimin e Autoritetit Rregullator Koordinues të Bazave të të Dhënave Shtetërore (24 November 2010) [Decision No. 961, On the Determination of the Coordinating Regulatory Authority for State Databases (24 November 2010)]; Vendim Nr. 303, Për Krijimin e Njësive të Teknologjisë së Informacionit e të Komunikimit në Ministritë e Linjës dhe Institucionet e Varësisë (31 March 2011) [Decision No. 303,

Further, Law no. 107/2015 on Electronic Identification and Trusted Services (as amended) provides the legal framework for setting up a single portal for offering digital services[29]. Offering digital services also involves the automated processing of services and the issuance of official documents through electronic services and their algorithmic automation[30]. In 2016, the Albanian Parliament enacted Law no. 66/2016 on Services, which is an important milestone in transforming the public administration service-offering through the single e-Albania portal and digitalising public services in Albania. Until 2016, the e-Albania portal offered a total of 400 online services, most of which were automated[31]. These services were primarily related to registrar offices and required minimal interaction between the institutions and those accessing them.

One important aspect regards administrative decision-making, mainly through administrative acts, regulated by the 2015 Albanian Code of Administrative Procedures. The latter stipulates that such acts be issued by the 'public organ'[32] and include the signature of the so-called 'responsible employee'[33]. It seems that, currently, such acts are the task of human beings, while their signatures can also be issued electronically. Considering such a regulation, the Albanian Code of Administrative Procedures appears not to be best arranged for decision-making made by human beings.

A driving force for the use of technology and digitalisation in all sectors, public included, is the European integration process. Since 2003, with the Summit of Thessaloniki, Albania has sought to align its legal framework with the EU, in pursue of membership[34].

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On the Creation of Information and Communication Technology Units in Line Ministries and Dependent Institutions (31 March 2011)].

[29] Ligj Nr. 107/2015, Për Identifikimin Elektronik dhe Shërbimet e Besuara (amended by Ligj Nr. 123/2016, datë 15 Dhjetor 2016) [Law No. 107/2015, On Electronic Identification and Trusted Services (amended by Law No. 123/2016, dated 15 December 2016)].

[30] Ibid., article 24.

[31] See *Portali E-Albania, Karcanaj për A1 Report brenda 2016-s,400 shërbime* (Shqiptarja.com, 20 Maj 2015), at https://shqiptarja.com/lajm/portali-e-albania-karcanaj-per-a1-br-report-brenda-2016-s-400-sherbime, last accessed 5 September 2024.

[32] Article 3 of the 2015 Albanian Code of Administrative Procedures.

[33] Article 99 of the 2015 Albanian Code of Administrative Procedures.

[34] European Commission, *European Commission Proposes New Data Protection Framework for the EU,* at

This perspective contributed, among other things, to mobilising efforts to establish more effective services through a digitalisation agenda: in 2009, the country drafted its first 'National Information and Communication Technologies Strategy' (ICT Strategy)[35]. Being the first paramount moment of the country's path towards the new innovative e-initiatives, this strategic document aimed to guide the development of society toward the new information era, making the inclusion of technology a top priority[36]. The EU Country Report for Albania 2023 has praised the efforts of the Albanian government in digitalising services through the e-Albania portal. However, it emphasises the need for further efforts to ensure equitable access to services for people with limited digital skills or limited access to IT equipment, following the decision to close front office contact centres in 2022[37].

## 3. Infrastructure for Digital Data Management and Interoperability between Institutions

Law No. 66/2016 "For Services in the Republic of Albania"[38], partially harmonised with the EU Directive on services in the internal market, aims to regulate the operational form of offering public services, including the standards and procedures that the service offers should follow[39]. A Single Contact Point (SCP) is

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https://ec.europa.eu/commission/presscorner/detail/en/PRES_03_163, last accessed 5 September 2024.

[35] *Strategjia Ndërsektoriale për Shoqërinë e Informacionit 2008-2013* [Intersectoral Strategy for the Information Society 2008-2013] (Albania, 2009).

[36] *Strategjia Ndërsektoriale për Shoqërinë e Informacionit, 2008-2013* [Intersectoral Strategy for the Information Society 2008-2013] (Albania, 2009) I, which set the main directions and objectives for the development of the information society; *Strategjia Ndërsektoriale 'Axhenda Dixhitale e Shqipërisë 2015-2020'* [Intersectoral Strategy 'Digital Agenda of Albania 2015-2020'] (Albania, 2015), Strategic Priority 1: 'Development of e-Governance Policies and Provision of Interactive Public Services for Citizens and Businesses'; *Strategjia Ndërsektoriale 'Axhenda Dixhitale e Shqipërisë 2022-2026'* [Intersectoral Strategy 'Digital Agenda of Albania 2022-2026'] (Albania, 2022).

[37] European Commission, *Albania 2023 Report* (8 November 2023), SWD (2023) 690 final, at https://neighbourhood-enlargement.ec.europa.eu/albania-report-2023_en, last accessed 5 September 2024.

[38] Ligj Nr. 66/2016, Për Shërbimet në Republikën e Shqipërisë [Law No. 66/2016, For Services in the Republic of Albania].

[39] Directive 2006/123/EC of the European Parliament and of the Council of 12 December 2006 on Services in the Internal Market [2006] OJ L376/36.

integrated into the e-Albania portal and requires that every official web of the state administration institution be integrated into the system. A Decision of the Council of Ministers (CoM) No. 1147/2020[40] outlines that online services provided by the public administration are categorised according to different levels and establishes the procedures for individuals to access these services through the unique government portal. According to this decision, electronic services in Albania are classified into four levels:

1. First Level: this involves one-way communication, in which the public institution provides the user with information about the public service.

2. Second Level: at this level, users can download and fill out the application form for the requested service.

3. Third Level: this level enables two-way interaction between the public institution and the user, allowing the user to complete and submit the application electronically.

4. Fourth Level: this is the highest level, involving full two-way interaction. The user can fill out and submit the application electronically and receive the institution's response electronically, completing the entire public service process entirely online.

In this context, users can access the whole public service online through collaboration between the competent institution and NAIS, and the algorithmic automation of the procedure can be done simultaneously (see Article 8 of the CoM)[41]. For smooth communication in Albania, all the institutions offering online services have the obligation to appoint an institutional coordinator with NAIS[42]. Every user receives a unique application number for the service they applied for through the e-Albania portal. The confirmation is provided electronically or in hard copy after the service is processed, either automatically or manually. As part of the legal framework, CoM Decision No. 623 of 2018 approved the

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[40] Vendim Nr. 1147, Për Krijimin e Bazës së të Dhënave Shtetërore "Portali Unik Qeveritar e-Albania" dhe për Miratimin e Rregullave "Për Mënyrën e Funksionimit të Pikës së Vetme të Kontaktit" (9 Dhjetor 2020) [Decision No. 1147, On the Creation of the State Database "e-Albania Government Portal" and the Approval of the Rules "On the Operation of the Single Contact Point" (9 December 2020)], Article 2.

[41] Ibid.

[42] Ligj Nr. 66/2016, Për Shërbimet në Republikën e Shqipërisë [Law No. 66/2016, For Services in the Republic of Albania] [Article 23].

Charter of Citizens' Rights on Accessing Public Services[43]. This document outlines approximately 20 rights that citizens and businesses have when accessing public services, including the right to information, the right to withdraw from a request, the removal of burdens on citizens, the right to active support during the service provision process, and the right not to be penalised for errors or inaccuracies in these services, among others. This charter was enacted as a bylaw pursuant to the Law on the Way of Delivering Public Services at Front Office Level[44]. However, it should be noted that the CoM formulated this Charter in a more declarative manner. This legal framework does not introduce new rights but serves as a sensibilisation tool for both citizens and public employees involved in providing public services. These services were provided by the Agency for the Delivery of Integrated Services Albania. Indeed, the agency was closed following a request from the Agency for Dialogue and Co-Governance because 50% of the services offered by the Agency are no longer applicable[45].

Albania transitioned from a system that offered only direct physical public services to a more diversified digital public administration. Two years ago, the country entirely shifted to the e-Albania platform. Since 2020, e-Albania, the government portal, has served as the only centralised gateway for accessing and offering services online, reducing the need for physical contact with public institutions. Currently, this platform provides around 1,245 electronic public services are categorised and automated according to the levels defined by the United Nations Public Administration Network[46]. In 2022, the Council of Ministers of Albania enacted Decision No. 252 on the procedures for offering online services by service-providing institutions and the methodology for monitoring and controlling their administrative activities. This decision is considered an essential step toward the complete digitalisation of

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[43] VKM nr. 623, Për Miratimin e Kartës së të Drejtave të Qytetarit për Përfitimin e Shërbimeve Publike (26 Tetor 2018) [Decision No. 623, On the Approval of the Charter of Citizens' Rights for Accessing Public Services (26 October 2018)].
[44] Ligj Nr. 13/2016, Për Mënyrën e Ofrimit të Shërbimeve Publike në Sportel në Republikën e Shqipërisë [Law No. 13/2016, On the Way of Delivering Public Services at Front Office Level in the Republic of Albania].
[45] Shkrese Nr. 56 prot., datë 22.01.2024, Agjencia për Dialog dhe Bashkëqeverisje [Letter No. 56 prot., dated 22 January 2024, Agency for Dialogue and Co-Governance].
[46] *Statistika* [Statistics], August 2024 (e-albania.al), at https://e-albania.al/Default.aspx, last accessed 5 September 2024.

public administration services, mandating that every service be provided electronically to minimise physical contact, combat corruption, and facilitate the issuance of documents with electronic stamps and signatures. It aimed to streamline and simplify bureaucratic processes, reducing administrative delays and eliminating unnecessary procedures that lead to complaints and dissatisfaction from citizens.

### 3.1. The Albanian Digital Agenda: The Digitalisation of Public Administration

In 2022, the Council of Ministers of Albania approved the Digital Agenda (Strategy and Action Plan 2022-2026). This agenda aimed at transforming the delivery of public services and effectively aligning them with citizens' needs. That same year, Albania was ranked 63rd out of 193 countries on the e-Government Development Index[47]. To succeed in its digital transformation as a middle-income country, Albania should meet international and EU standards and adopt the new strategy, which gives the country procedures to safely access the government platform from any electronic device. It also allows users to download and print documents using standard printers with regular paper, ensuring total legality. The strategy reports that over 16 million documents have been downloaded since 2017, saving citizens an estimated 700 years of waiting in line and over 350 million Euros in just four years[48]. This strategy outlines that through the integrated e-Albania portal, Albania will offer services based on intelligent systems and algorithmic automation, utilising cloud first model technology to store all data. However, this approach may expose the system to cyberattacks and data breaches, as evidenced by the cyberattacks on Albania's electronic systems by Iran in 2022[49]. While the Strategy mentions adopting Cloud First Model technology, detailed information on the regulation and implementation of these services

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[47] United Nations, *E-Government Knowledgebase: Data Center*, at https://publicadministration.un.org/egovkb/Data-Center, last accessed 5 September 2024.

[48] Vendim Nr. 370, datë 1.6.2022, për miratimin e Strategjisë Ndërsektoriale "Agjenda Digjitale e Shqipërisë" dhe të Planit të Veprimit 2022–2026 [Decision No. 370, dated 1 June 2022, approving the Inter-Sectoral Strategy "Digital Agenda of Albania" and the Action Plan 2022–2026].

[49] Ayman Oghanna, *How Albania Became a Target for Cyberattacks* (25 March 2023) Foreign Policy, at https://foreignpolicy.com/2023/03/25/albania-target-cyberattacks-russia-iran/, last accessed 5 September 2024.

is lacking, specifically regarding how this automated intelligence will detect and respond to threats and activate defence systems. The digital strategy aims to automate the workflow of state services, enabling users to access services, particularly those dependent on data uploaded to the system, as quickly as possible. This approach is not unique, as similar cloud-based models have been established by other countries, offering automated services driven by algorithms that are periodically updated to meet users' evolving functions and requests.

### 3.2. Development of the Algorithmic Automation and Organs Responsible

Law no. 43/2023 on Electronic Governance is a crucial legal achievement in the strategy for digitalising public administration services[50]. This law establishes rules for offering electronic services in Albania, processing data, and handling electronic documents through information and communication technology (ICT). Along with the other legal frameworks for regulating electronic governance, it serves as the primary legal framework for ensuring an effective and secure electronic government, increasing citizen access to public services, and enhancing institutional transparency. During the drafting of this law, there was a notable lack of engagement from experts in the field and other interested parties, resulting in an absence of clear and constructive proposals aimed at enhancing the legal framework. For example, during the consultation phase for the Law on Electronic Governance, only a few minor proposals were submitted by the involved stakeholders, and there were no comments or feedback recorded in the Electronic Register of Public Consultation. This lack of substantive input reflects a broader issue of limited stakeholder participation, which is crucial for developing comprehensive and effective legislation that addresses the evolving challenges in electronic governance, data protection, and cybersecurity[51]. Notwithstanding this limited interest by stakeholders, Article 2 of the Law on Electronic

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[50] Ligji nr. 43/2023 për Qeverisjen Elektronike [Law No. 43/2023 on Electronic Governance] (Albania 2023).

[51] Ministry of the Interior, II. Raport për rezultatet e konsultimeve publike i plotësuar - Për qeverisjen elektronike (Report, 2024), https://www.konsultimipublik.gov.al/documents/RENJK_413_II.-Raport-p-r-rezultatet-e-konsultimeve-publike-i-plotesuar-Per-qeverisjen-elektronike.docx, last accessed 5 September 2024.

Governance outlines principles for equal access to public services for all users, and promotes the development of digital platforms for private and public entities. For the first time, the law defines 'blockchain' as distributed ledger technology within ICT systems and introduces the concept of e-residency for citizens registered abroad via the government portal[52].

Additionally, the law emphasises building an infrastructure for offering electronic services using AI. Article 3, paragraph 16 of this Law defines AI as the simulation of human intelligence through systems and computer algorithms. Automated services are delivered through an interactive government portal, enabling communication across state databases to provide electronic services. This is facilitated by the Electronic Records Management (ERM) system, which handles the collection, registration, and distribution of electronic documents[53]. All automated information is stored in the National Register of Government Electronic Services, secured by various measures, policies, and technologies, such as single sign-on, two-dimensional codes, and systems for documents with electronic stamps[54]. The law also details the structure and form of electronic documents, regulating their algorithmic automation through advanced technology. Meanwhile, this law vests the NAIS as the central authority for coordinating algorithmic services and interacting with other systems and platforms within the electronic identification framework[55].

The ICT systems and electronic services infrastructure include[56]:

    a.   the e-Albania governmental platform;

    b.   the National Registry of Registered Database Services;

    c.   the Government Datacentre and related continuity centres;

    d.   the government network (*Govnet*);

    e.   the public key and digital certificate management system for state administration and private entities;

    f.   the electronic document administration system;

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[52] Ligji nr. 43/2023 për Qeverisjen Elektronike [Law No. 43/2023 on Electronic Governance] (Albania 2023) Article 2.

[53] Ibid., Article 3.

[54] Ibid., Article 8.

[55] Ibid., Article 24.

[56] Ibid., Article 37.

g.    the government's electronic payment platform is on the e-Albania portal;

h.    the '*e-Residence*' system;

i.    any other infrastructure established for electronic government.

These interconnected platforms should enable the algorithmic automation and AI-driven interoperability of systems to provide services. However, despite the law's mandate for AI technology, the government has yet to introduce the necessary protocols and technical standards for implementing AI in public administration services. Despite the continuous efforts of the Albanian government to establish a robust legal framework for regulating the use of AI in public decision-making and the automation of public services, there remains a lack of transparency and clarity regarding how these innovative technologies will be implemented. Specifically, there is insufficient regulation on how algorithmic decision-making mechanisms and machine learning will be integrated into everyday public administration. The protocols, intended uses, and monitoring mechanisms for these technologies are not clearly defined, leading to uncertainty. In December 2023, the government of Albania approved a general analytical program to be examined in 2024. This program includes the review of legal and sub-legal acts related to cybersecurity, internet access for public sector websites and applications, and the approval of AI methodology and technical standards. Although the latest draft of this act was scheduled for approval within the first four months of 2024, it has yet to be drafted and made available for public consultation.

**4.    Legal Restrictions on the Use of Algorithmic Automation/AI by the Public Administration: General Trends**

Governments worldwide, especially in countries like the US and Europe, are starting to limit how AI and automated systems can be used in public services, especially when they might affect people's fundamental rights. In the European Union, the new Artificial Intelligence Act bans specific high-risk AI use by public administrations. For example, AI systems that try to manipulate people, assign social scores like China's social credit system, or use facial recognition for large-scale surveillance by the police are not allowed. These bans exist because such AI systems could seriously

harm people's privacy, freedom, or other fundamental rights. The EU is stringent regarding protecting democratic processes and individual freedoms from AI systems[57]. Meanwhile, in the US, even though there is no federal law as yet, some states and cities have acted. For example, San Francisco and other places have banned the use of facial recognition technology due to concerns over privacy violations and racial bias[58]. At the federal level, the government is working on rules to make sure AI used in public services, like welfare or law enforcement, does not cause unfair outcomes or harm people's rights[59]. These restrictions are being implemented to ensure AI is used responsibly, especially in sensitive areas like law enforcement and social welfare, where unfair or biased decisions can have serious consequences[60]. On the contrary, Albania has not regulated the bans existing on the general application of the AI system and algorithm use, such as in the case of the EU. It should be noted that the Brussels effect and the enthusiasm of the Albanian government to regulate AI inclusion will make the transposition of the EU acquis into the Albanian legal system possible. The EU AI Act restricts the use of biometric data and demographic and geographic statistics to improve predictive results and decision-making, aiming to address concerns that such data could lead to biased outcomes, including misogyny, racism, and other forms of discrimination. Albania will also be obliged to include these types of bans in its legal framework and protocol the use of AI and automated systems, especially in these fields, as there is a need to

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[57] Human Rights Watch, *Q&A: How the EU's Flawed Artificial Intelligence Regulation Endangers the Social Safety Net* (2021), at https://www.hrw.org/news/2021/11/10/how-eus-flawed-artificial-intelligence-regulation-endangers-social-safety-net, last accessed 5 September 2024.

[58] K. Conger, R. Fausset, S.F. Kovaleski, *San Francisco Bans Facial Recognition Technology* (14 May 2019) The New York Times, at https://www.nytimes.com/2019/05/14/us/facial-recognition-ban-san-francisco.html, last accessed 5 September 2024.

[59] Executive Office of the President Office of Management and Budget, *Advancing Governance, Innovation, and Risk Management for Agency Use of Artificial Intelligence* (Memorandum M-24-10, 28 March 2024, from Shalanda D Young), at https://www.whitehouse.gov/wp-content/uploads/2024/03/M-24-10-Advancing-Governance-Innovation-and-Risk-Management-for-Agency-Use-of-Artificial-Intelligence.pdf, last accessed 5 September 2024.

[60] Müge Fazlioglu, *US federal AI governance: Laws, policies and strategies* (November 2023) *iapp*, at https://iapp.org/resources/article/us-federal-ai-governance, last accessed 5 September 2024.

include technological and intelligence systems in public administration.

Despite the positive developments in the digitalisation of public administration services, the Progress Report for Albania 2023 states, in Chapter 10: Digital Transformation and Media, that, '[a]s regards online public services, during the reporting period 95% of applications for 1,217 public services were done online, with 7,833,332 e-sealed documents downloaded in 2022 by more than 2.8 million registered users on the e-Albania portal. Of these, only about 1.5 million are active users. This adds up to 14,276,256 individual uses of e-services in 2022. Authorities need to ensure and facilitate equal access to online services for all citizens and to enhance efforts to align with the Digital Services Act and Digital Markets Act'. The same progress report highlighted that 'other barriers such as the lack of digital skills and access to technology continue to prevent Roma and Balkan Egyptian people from fully enjoying their rights and accessing public services, which are increasingly digital. Additional efforts and resources are required to accelerate the inclusion of Roma and Balkan Egyptians, tackle anti-gypsyism, discrimination, and educational and physical segregation, to promote participation of the Roma, and to reduce the gaps with the rest of the population'[61]. This digital vacuum among the different strata of society will continue to widen as citizens who lack digital connectivity miss out on the long-term benefits of innovation and digitalisation, including the Internet of Things (IoT) and connected infrastructure. The larger the digital divide, the worse the impact for digital sets. This risk is not limited to societies like Albania, where the digital gap is significant, but also affects EU countries with smaller digital gaps. The Coronavirus pandemic exposed social inequalities related to internet network weaknesses[62]. These weaknesses failed to handle the increased demand for electronic services during the pandemic and led to the isolation of various social groups due to poor or absent internet connectivity.

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[61] European Commission, *Albania Progress Report 2023* (European Commission, 2023) 94.

[62] OECD Policy Responses to Coronavirus (COVID-19), *Keeping the Internet up and running in times of crisis* (2020), at https://www.oecd.org/coronavirus/policy-responses/keeping-the-internet-up-and-running-in-times-of-crisis-4017c4c9/, last accessed 5 September 2024.

## 5. Public Administration Daily Operation and the Inclusion of Algorithmic Automation/AI

Public authorities rely on AI and/or automated systems for daily operations globally, though the extent of use varies by sector and country. In Europe, AI is used in public services, education, and welfare programs. For example, Denmark has experimented with using AI to manage hiring school staff[63], and Italy has used it to determine welfare eligibility[64]. However, these systems have faced challenges, like errors leading to unfair benefit cuts or unreasonable job assignments. Chatbots assist with employment services in Austria, but they have been criticised for reinforcing gender stereotypes[65]. In Albania, algorithmic automation is utilised in various sections of the government portal. This includes data from the National Register of Civil Status, managed by the Directorate General of Civil Status; data from the Commercial Register, administered by the National Centre of Business; data from Electronic Taxation, overseen by the Directorate General of Taxation; and other data that interacts with the e-Albania portal and is registered in the National Register of State Databases[66].

The e-Albania portal, as the sole official gateway for public services, automatically uses this data. It integrates with all public administration websites offering services, providing users with access through online and offline procedures, as well as assistance links. The institutions offering services must update the central contact point with the relevant information and request any

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[63] J.R. Holm & E. Lorenz, *The impact of artificial intelligence on skills at work in Denmark*, 37(1) New Technology, Work and Employment 79–101 (2022), https://doi.org/10.1111/ntwe.12215, last accessed 5 September 2024.

[64] European Commission, *How the Italian Social Security and Welfare Administration (INPS) Used Artificial Intelligence to Streamline Services*, at https://joinup.ec.europa.eu/collection/public-sector-tech-watch/how-italian-social-security-and-welfare-administration-inps-used-artificial-intelligence-streamline, last accessed 5 September 2024.

[65] S. Alon-Barkat & M. Busuioc, *Human–AI Interactions in Public Sector Decision Making: "Automation Bias" and "Selective Adherence" to Algorithmic Advice*, 33(1) J. Pub. Admin. Res. & Theo. 153–169 (2023), https://doi.org/10.1093/jopart/muac007, last accessed 5 September 2024.

[66] Vendim Nr. 1147, datë 9.12.2020, për krijimin e bazës së të dhënave shtetërore "Portali Unik Qeveritar e-Albania" dhe për miratimin e rregullave "Për mënyrën e funksionimit të pikës së vetme të kontaktit" [Decision No. 1147, dated 9 December 2020, on the creation of the state database "e-Albania Unique Government Portal" and approval of the rules "On the Functioning of the Single Contact Point"].

required changes from the NAIS. The creation of the national database – with the Council of Ministers Decision of 2021 – known as the Register of Innovative Service Providers and Automated Collective Investment Enterprises, consists of two central registers: the Register of Innovative Service Providers and the Register of Automated Collective Investment Undertakings[67]. The database is managed by the NAIS, which, as the public authority responsible for it, oversees all aspects of access, including updating and modifying the stored information. Access to the database is granted to institutions upon approval from the controller[68]. These measures have paved the way for algorithmic automation in the daily operations of public institutions and the e-Albania portal. Each electronic service offered by e-Albania is designed so that data are registered with the coordinating regulatory authority (NAIS) and processed through algorithmic automation, thanks to interoperability between systems. These electronic services are developed and implemented based on the *Backend as a Service* (BaaS) model[69]. Albanian public administration heavily relies on these BaaS systems where backend services are outsourced to cloud providers. In the context of e-Albania, this system allows interaction between multiple government databases and systems, for scalability purposes and automated workflow. Using this technology for data warehousing and processing raises the issue of data sovereignty, since the data are stored beyond government control. If the BaaS platforms are not well secured, sensitive data may be targeted by hackers, as demonstrated by the Albanian 2022 cybersecurity attack. Ensuring security practices across jurisdictions is challenging, however BaaS providers must comply with local and international data protection laws, such as the GDPR.

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[67] Vendim Nr. 267, datë 12.5.2021, për krijimin e bazës së të dhënave shtetërore "Regjistri i Ofruesve të Shërbimit Inovativ dhe Sipërmarrjeve të Investimeve Kolektive të Automatizuara" [Decision No. 267, dated 12 May 2021, on the creation of the state database "Registry of Innovative Service Providers and Automated Collective Investment Enterprises"].

[68] E. Xhajanka, *Krijohet 'Regjistri i Ofruesve të Shërbimit Inovativ dhe Sipërmarrjeve të Automatizuara'* (ata, 13 May 2021), at https://ata.gov.al/2021/05/13/krijohet-regjistri-i-ofruesve-te-sherbimit-inovativ-dhe-sipermarrjeve-te-automatizuara/, last accessed 5 September 2024.

[69] Ligji nr. 43/2023 për Qeverisjen Elektronike [Law No. 43/2023 on Electronic Governance] (Albania 2023), Article 47.

## 6. Transparency and Accountability, Terms of Privacy, Quality of Datasets, and Cybersecurity

Public administration agencies should safeguard data privacy and establish a safe hack-proof automating system as per the GDPR standards set by the EU for personal data processed by AI systems. Techniques like de-identification and differential privacy are recommended to safeguard sensitive information, especially in the public sector[70]. Algorithmic impact assessments (AIAs) are required for high-risk AI systems, like those used in law enforcement or immigration services. These assessments help identify biases, ensure fairness, and evaluate the potential societal impacts of the system before being put into use[71]. While the world strives to ensure high-quality datasets, Albania has faced challenges in implementing secure systems and establishing an untouchable electronic database. In 2020, continuous cyberattacks from Iran shut down the government system, including the Institute of Statistics, rendering online government services inaccessible to the public[72]. The attacks continued in 2023, affecting several state institutions' websites and private companies, including One Albania and Banka Credins[73]. Albania urgently needs to amend its cybersecurity legislation and establish more

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[70] C. Chin-Rothmann, *Protecting Data Privacy as a Baseline for Responsible AI* (18 July 2024), at https://www.csis.org/analysis/protecting-data-privacy-baseline-responsible-ai, last accessed 5 September 2024.

[71] AI Now Institute, *Algorithmic Impact Assessments Report: A Practical Framework for Public Agency Accountability* (9 April 2018), at https://ainowinstitute.org/publication/algorithmic-impact-assessments-toward-accountable-automation-in-public-agencies, last accessed 5 September 2024.

[72] Cybersecurity and Infrastructure Security Agency, *AA22-264A: Iranian Cyber Actors Conduct Cyber Operations Against the Government of Albania* (27 September 2022), at https://www.cisa.gov/sites/default/files/publications/aa22-264a-iranian-cyber-actors-conduct-cyber-operations-against-the-government-of-albania.pdf, last accessed 5 September 2024; Agjencia Kombëtare e Shërbimeve të Informacionit, *Microsoft dhe FBI përfundon investigimin: A i mbijetoi Shqipëria sulmit të paprecedentë kibernetik?* (24 September 2022), at https://akshi.gov.al/perfundon-investigimi-i-microsoft-it-dhe-fbi-se-shqiperia-i-mbijetoi-sulmit-te-paprecedente-kibernetik/, last accessed 5 September 2024.

[73] Fjori Sinoruka, *Albanians Mull Options as Data Security Takes New Hit* (*BIRN*, 25 January 2023), at <https://balkaninsight.com/2023/01/25/albanians-mull-options-as-data-security-takes-new-hit/>, last accessed 5 September 2024.

resilient rules for contracted third parties that provide, maintain, and process public services[74].

Despite the legal framework regulating privacy, cybersecurity, and the transparency and review of algorithmic automation used by public infrastructures in Albania, there is a significant gap in the effective implementation of these principles and regulations. The latest decision enacted by the CoM dates back to 2022. The 2008 Law on Electronic Governance mandates that public authorities provide services in line with the "once-only" principle, which defines that individuals can appear physically before authorities only once when accessing electronic services[75]. However, there is still considerable human involvement in the implementation of algorithmic automation and AI within public administration despite the government decision in 2022 to offer services only in electronic form. More than 95% of the state services are eligible to be offered online[76].

Regarding the quality of datasets, the law mandates that electronic governance must ensure the availability of data from public registers to all public authorities and private entities, in compliance with standards for personal data protection, confidentiality, and data security[77]. The interoperability of systems, including cross-border service provision, must also adhere to existing legislation on personal data protection and align with European Union practices. However, it is important to note that the current legislation lacks specific bylaws that define and regulate the protocol rules necessary for full compliance with these standards.

Data protection is ensured by the outlined legal framework, which prohibits the unauthorised disclosure of data. According to personal data legislation, data are categorised as personal and sensitive. Processing data during online applications must comply

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[74] I. Dedja, *Sfidat e Qeverisjes Kibernetike për Shqipërinë: Adresimi i Dilema të Zgjedhjes së Politikave* (Centre for the Study of Democracy and Governance, September 2023) 66, at https://csdgalbania.org/al/wp-content/uploads/2023/12/Sfidat-e-qeverisjes-kibernetike-per-Shqiperine.pdf, last accessed 5 September 2024.

[75] Qendresa Qytetare & National Endowment for Democracy, *Perceptimi Publik për Qeverisjen Digjitale dhe Ofrimin e Shërbimeve Online në Shqipëri: Raport Vlerësimi* (2024), 25, at https://qeverisja.qq.com.al/index.php/2024/02/08/perceptimi-publik-per-qeverisjen-digjitale-dhe-ofrimin-e-sherbimeve-online-ne-shqiperi/, last accessed 9 September 2024.

[76] Ligji nr. 43/2023 për Qeverisjen Elektronike [Law No. 43/2023 on Electronic Governance] (Albania 2023) Article 6 & 33/2.

[77] Ibid., Article 8.

with legal requirements[78]. Individuals should be informed about how their data are handled and where it is collected. Data processing involves various actions, including collection, recording, storage, sorting, adaptation, correction, consultation, use, blocking, deletion, destruction, and transfer.

However, the legal framework is unclear on which actions by data processors are considered lawful, potentially increasing uncertainty about lawful data processing. In cases of any contested infringement of rights, the individual has the right to file an administrative complaint with the Information and Data Protection Commissioner of Albania (IDPC). Effective data processing practices must be established for online public services. For example, accessing public services requires consent from the individual to start the process on the e-Albania portal. However, users sometimes do not give consent due to lack of knowledge, despite being required to use these services. In cases of infringements of data processing and failure to follow clear protocols, severe outcomes might result, such as the significant data breach occurred in 2021, when the personal data of 910,000 Albanians were leaked. This data included personal and sensitive information such as health records, family details, political affiliations, religious beliefs, and ethnicity. Despite NAIS's claim that e-Albania does not store, administer, or process data but merely serves as an entry gateway, the IDPC recommended that NAIS establish protocols covering all data processing procedures[79]. In 2020, the IDPC found that NAIS had a contract with a private data processor for the physical storage of data, but the memorandum did not clearly address data protection regulations and legal requirements in accordance with the Law on the Protection of Personal Data[80].

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[78] Ligji Nr. 9887/2008, Për Mbrojtjen e të Dhënave Personale, i ndryshuar [Law No. 9887/2008, On the Protection of Personal Data, as amended] (Albania 2014) Article 3/1.

[79] Geneva Centre for Security Sector Governance (DCAF) & Institute for Democracy and Mediation (IDM) *Tejkalimi i hendekut midis sigurisë kibernetike dhe të drejtave* (2022) 14, at https://idmalbania.org/sq/raport-studimor-tejkalimi-i-hendekut-mes-sigurise-kibernetike-dhe-te-drejtave-te-njeriut/, last accessed 9 September 2024

[80] Institute for Democracy and Mediation, *Sondazhi i opinionit publik 2022: Besimi në qeverisje* (2023), 15, at https://www.undp.org/sites/g/files/zskgke326/files/2023-07/tig2022_report-alb.pdf, last accessed 9 September 2024.

A 2022 survey, "Besimi në Qeverisje"[81], revealed that 90.3% of respondents consider personal data important, and 59.8% believe their data are not managed correctly. The Albania Progress Report 2023 expressed concern that Albania "should take urgent measures to prevent the recurrence of massive breaches of personal data and improve their handling"[82]. Additionally, the Commissioner for the Right to Information recommended that the National Chamber of Notaries regulate the practice of offering online services, clearly defining rights and obligations and specifying consent for data processing as per the memorandum between the National Chamber of Notaries and NAIS[83]. Although the Digital Agenda mandates adherence to the General Data Protection Regulation (GDPR) for personal data processing, and despite the IDPC drafting an amended Law on the Protection of Personal Data along with 13 sublegal acts[84] for its implementation in 2021, this draft law has not yet been promulgated by Parliament[85]. The 2023 Progress Report states that Albania should "improve data protection, in particular by adopting the revised Law on personal data protection in full alignment with the EU acquis, by strengthening the independence and capacity of the Information and Data Protection Commissioner, and by awareness-raising measures"[86].

In terms of cybersecurity, the NAIS is responsible for implementing cybersecurity measures across electronic infrastructures. For example, in response to a request for information published in the Register of Requests and Answers on May 31, 2024, NAIS confirmed that the Albanian government signed a Memorandum of Understanding (MoU) with Microsoft Corporation[87] and is negotiating a similar agreement with Oracle

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[81] Institute for Democracy and Mediation, cit. at 80, 7.
[82] European Commission, cit. at 61, 28.
[83] Institute for Democracy and Mediation, cit. at 80, 10.
[84] KDIMDP, *Raporti Vjetor 2022* (2023) [KDIMDP, Annual Report (2023)] 24.
[85] KDIMDP, *Programi i punës së zyrës së Komisionerit për të Drejtën e Informimit dhe Mbrojtjen e të Dhënave Personale Janar – Dhjetor 2024* (2024) [Work program of the office of the Commissioner for the Right to Information and Protection of Personal Data January – December] 6, at programi_i_punes_2024.pdf, last accessed 9 September 2024.
[86] European Commission, cit. at 61, 28.
[87] Council of Ministers Decision No 658, 6 December 2023, 'On the Authorisation of the Director General of the National Agency for Information Society to Negotiate and Sign the Renewal of the Strategic Partnership Agreement between the Council of Ministers of the Republic of Albania and Microsoft Corporation'.

Corporation. These agreements aim to support public administration efforts, including cybersecurity threat response, critical situation management, and AI development consultation[88]. However, there is a notable lack of information on the criteria and grounds for assessing the impact of regulations on algorithmic automation and AI. Regarding the protection of personal data, the legislation requires that data be used and processed in accordance with Law no. 9887/2008 on Personal Data[89]. Users are notified about the processing of their personal data every time they register or log in to the e-Albania portal for electronic services[90]. The same law provides for administrative penalties if public or private authorities fail to store state data within the territory of the Republic of Albania. In such cases, both public authorities and private entities have the right to file a complaint before an Albanian court[91]. There are no reports on court litigations targeting or emerging from AI use in the Albanian public administration and public service delivery.

Users seeking services through the e-Albania platform have the right to pursue administrative or court action. The DoCM on procedures for providing online services allows users to lodge administrative complaints under the rules set out by the Code of Administrative Procedures (CAP) and the relevant institution's legislation. Complaints can also be filed with the Agency for Dialogue and Co-Governance, either separately or simultaneously. These complaints typically concern situations where a state institution has failed to deliver a service or there are inconsistencies in the documents issued[92]. Currently, there is no data available on

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[88] Agjencia Kombëtare e Shoqërisë së Informacionit, *Regjistri i Kërkesave Janar-Qershor 2024* (Skedar Excel, 2024), at https://akshi.gov.al/programi-i-trasparences/, last accessed 5 September 2024.

[89] Ligji Nr. 9887/2008, Për Mbrojtjen e të Dhënave Personale, i ndryshuar [Law No. 9887/2008, On the Protection of Personal Data, as amended] (Albania 2014); Law on Electronic Governance (2023); Regulation No. 2, dated 18 October 2022, "On the Functioning of the E-ALBANIA Single Government Portal Module", National Agency for Information Society, Article 5/e.

[90] Ligji Nr. 9887/2008, Për Mbrojtjen e të Dhënave Personale, i ndryshuar [Law No. 9887/2008, On the Protection of Personal Data, as amended] (Albania 2014), Article 46.

[91] Ligji Nr. 9887/2008, Për Mbrojtjen e të Dhënave Personale, i ndryshuar [Law No. 9887/2008, On the Protection of Personal Data, as amended] (Albania 2014), Article 55 and 56.

[92] Vendim Nr. 252, datë 29 prill 2022, Për Procedurat e Ofrimit të Shërbimeve On-Line nga Institucionet Shërbim Ofruese dhe për Metodologjinë e Monitorimit e të

the right to access codes. According to the NAIS Transparency Program, there is a lack of information in the annual report that the institution is required to publish[93]. Moreover, much of the transparency program's content is inaccessible[94]. Users of the e-Albania portal is entitled to obtain information under the Law on the Right to Information[95]. So far, the Electronic Register of Requests and Answers on the Right to Information has been implemented in more than 222 institutions.

## 7. Sectors Impacted by Algorithmisation and Technology

The industries most affected by the use of AI include welfare, healthcare, education, immigration, transportation, security, and justice. In security and law enforcement, AI is commonly used for risk assessments, surveillance, and predictive policing, despite concerns about privacy and bias. In welfare services, AI tools play a significant role in detecting fraud and automating the distribution of benefits[96]. Using a variety of technologies, from simple tools to sophisticated AI systems, algorithms have an impact on numerous industries. For example, biometric and facial recognition technologies are frequently employed in immigration and security to control borders and authenticate identities. Even though these systems work well, they raise privacy and fairness issues, especially in law enforcement, where prejudices might be strengthened. In order to prevent prejudice and protect privacy, legal frameworks such as the EU AI Act set restrictions on the use of such technology, particularly in areas like mass surveillance[97].

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Kontrollit të Veprimtarisë Administrative të Ofrimit të Tyre [Decision No. 252, dated 29 April 2022, On the Procedures for Providing Online Services by Service Providing Institutions and the Methodology for Monitoring and Controlling the Administrative Activities of Providing Them].

[93] National Agency for Information Society, *Programi i Transparencës* (Webpage, 2024), at https://akshi.gov.al/programi-i-trasparences/, last accessed 5 September 2024.

[94] Qytetare and National Endowment for Democracy, cit. at 75.

[95] Law No. 119/2014, dated 18 September 2014, "On the Right to Information" (Official Gazette of the Republic of Albania No. 137, dated 6 October 2014).

[96] K. Vieth-Ditlmann, *The algorithmic administration: automated decision-making in the public sector*, at https://algorithmwatch.org/en/algorithmic-administration-explained/, last accessed 5 September 2024.

[97] Regulation (EU) 2024/1689 laying down harmonised rules on artificial intelligence and amending Regulations (EC) No 300/2008, (EU) No 167/2013,

As Albania has implemented e-services, with an estimated 95% of public services—approximately 1,227 services—now being offered online, and a user-oriented administrative legal framework in place, there is a need for the country to align its legislation with the EU acquis and the European Interoperability Framework[98]. By August 2024, the number of registered users on the portal had reached 3,213,327[99]. Despite the government's decision to go 100% online, certain sectors have been more significantly impacted by the algorithmic automation of public administration. It should be noted that the Security and State Police sectors use these systems to analyse large datasets and manage resources more effectively. The provision of services through algorithmic automation includes the use of facial recognition technology and the implementation of intelligent cameras (CCTV) by the national police[100]. These intelligent systems are integrated into the national database. When it comes to immigration, the national police use algorithmic automation for border control. At Tirana International Airport, border control is managed through e-gates, allowing Albanian citizens to enter the country automatically. This automated process is estimated to take less than 30 seconds[101]. The implementation of automated control was made possible through a project in collaboration with IDEMIA[102], a company specialising in biometric security and identification. Automated decision-making

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(EU) No 168/2013, (EU) 2018/858, (EU) 2018/1139 and (EU) 2019/2144 and Directives 2014/90/EU, (EU) 2016/797 and (EU) 2020/1828 (Artificial Intelligence Act).

[98] Regulation (EU) 2024/903 of the European Parliament and of the Council of 13 March 2024 laying down measures for a high level of public sector interoperability across the Union (Interoperable Europe Act) OJ L, 2024/903.

[99] *Statistika*, August 2024 (e-albania.al), at https://e-albania.al/Default.aspx, last accessed 2 September 2024.

[100] Tema, *New legislation aims to modernize Albanian state police with AI technology* (26 July 2024), at <https://english.gazetatema.net/society/new-legislation-aims-to-modernize-albanian-state-police-with-ai-technolo-i336045>, last accessed 27 July 2024.

[101] Geek Room, *Ekskluzive: Kontrolli i automatizuar i kufirit do të zëvendësojë kontrollin policor në Aeroportin Ndërkombëtar të Tiranës* (8 April 2024), at <https://geekroom.al/tech/ekskluzive-kontrolli-i-automatizuar-i-kufirit-do-te-zevendesoje-kontrollin-policor-ne-aeroportin-nderkombetar-te-tiranes/>, last accessed 2 September 2024.

[102] IDEMIA, *Digitization of ID Documents: Albania Success Story* (2019), at https://www.idemia.com/wp-content/uploads/2021/02/idemia-digitization-id-documents-albania-success-story-201906.pdf, last accessed 5 September 2024.

technology is also used in processing visa applications, work permits, and residency permits[103]. The central institutions responsible for managing these processes are the General Directorate of Border and Migration in Albania and the National Employment and Skills Agency (NESA), especially when there is a request for a unique permit (combining residency and work permits). These automated processes are facilitated through the e-Albania and e-Visa platforms, with algorithms that ensure interoperability among the various institutions.

In the transportation sector, various infrastructure institutions have implemented algorithmic automation for tasks such as traffic management. The General Directorate of Road Transport Services currently offers several services through algorithmic automation, including confirmation of the current status of vehicles, attestation of driving licences, authorisation for obtaining driving licences, checking fines and integrating with payment systems, and applying for international driving licences, among others[104]. Furthermore, the National Traffic Management Centre will used algorithms to coordinate, plan, and control traffic flows in an automated manner. This centre is expected to become operational in 2025 and will also introduce weight sensors and central cameras to enhance crime prevention on national roads[105].

Regarding tax management, the General Directorate of Taxes is considered a pioneer in using algorithmic automation through the e-filing system. This automated system not only facilitates tax declarations but also cross-checks information from multiple sources and flags anomalies or discrepancies that may indicate potential tax evasion. There is an interconnected system between the documents issued by the same institution and the online payment system for tax obligations. Meanwhile, in the educational sector, the implementation of digital platforms follows a two-fold approach. First, there is an initiative by the Ministry of Education

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[103] MB, *Procedura dhe dokumentacioni për pajisjen me Leje Qëndrimi dhe Leje Unike/Residence/Unique permit (Al – En)*, at https://mb.gov.al/procedura-dhe-dokumentacioni-per-pajisjen-me-leje-qendrimi-dhe-leje-unike/, last accessed 5September 2024.

[104] DPSHTRR, at https://www.dpshtrr.al/sherbime-online/e-albania, last accessed 5September 2024

[105] F. Çoçoli, *Qëndra Kombëtare e Monitorimit të Trafikut do shtojë sigurinë në rruge* (*SOT*, 6 September 2024), at https://sot.com.al/opinion-editorial/qendra-kombetare-e-monitorimit-te-trafikut-do-shtoje-sigurine-ne-rruge/, last accessed 5 September 2024.

to revise the curricula of primary and other schools to introduce courses related to AI and coding. Second, digital systems have been implemented in various service sectors, such as the Teacher Portal and the automation system for the 'Matura Shtetërore' [State] exams[106]. Additionally, the introduction of the Pre-University Information Management System (SMIP) allows for the production and management of grades through this system[107]. These systems are interoperable with the e-Albania portal. In line with the Digital Agenda of Albania, NAIS has facilitated the implementation of projects aimed at including ICT and Coding courses, reforming ICT teaching in pre-university education, adding smart labs to pre-university schools, and establishing new Smart Labs[108].

### 8. Conclusion

The Albanian Government has demonstrated clear political will as well as concrete steps to integrate AI into public administration. At the end of 2023, it announced a public procurement call for the use of AI in the processes of aligning the country's legal and regulatory framework with the European Union's, which did not proceed due to lack of competent companies[109]. Further, the parliament discussed amendments to public procurement law to make room to use AI in such processes[110], which resulted in legal changes in 2024 allowing the

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[106] K. Saracini, *Digjitalizohet diploma e Maturës Shtetërore, Karçanaj: Me vetëm një klik në e-Albania* (8 July 2024), at https://ata.gov.al/2024/07/08/digjitalizohet-diploma-e-matures-shteterore-karcanaj-me-vetem-nje-klik-ne-e-albania/, last accessed 5 September 2024.

[107] Matura Shtetërore, *Digjitalizimi i Shërbimeve Arsimore* (13 August 2024), https://maturashteterore.com/2024/08/13/digjitalizimi-i-sherbimeve-arsimore/, last accessed 5 September 2024.

[108] Media Information Agency, *Laboratorët inteligjentë shtrijnë hartën e tyre digjitale në shkolla, për një edukim digjital cilësor të fëmijëve*, at https://mia.gov.al/rama-dhe-manastirliu-ne-shkollen-vace-zela-216-laboratore-te-rinj-ne-shkolla-zgjerojme-rrjetin-e-smartlabs-ne-654-shkolla-te-tjera, last accessed 5 September 2024.

[109] The National Agency for Information Society announced with Ref. No. 92202-12-27-2023 a tender with a funding limit of 279 million lek (approximately 2.6 million euros) for the project "Use of Artificial Intelligence in the Process of Transposing the Acquis for European Integration" in late 2023, which was annulled on 19 February 2024 for the lack of bidders that meet the required criteria.

[110] https://ata.gov.al/2024/02/05/prokurimi-publik-spiropali-inteligjence-artificiale-dhe-automatizim-i-proceseve/, last accessed 20 July 2024.

system to be developed using advanced artificial intelligence technology and robotic processes in accordance with European rules[111]. Although the Albanian government is committed to aligning the national legal framework with EU standards, the effective implementation of automated services and AI technologies remains a challenge for the country and its citizens.

In the light of recent cybersecurity attacks, Albania needs to focus on increasing its digital literacy. For the adoption of AI in public administration to streamline public services, ensure the protection of users' data and prevent algorithmic bias, stakeholders need to be involved in developing a legal framework with input from civil society, AI experts, and the private sector. Albania's current legislation on national data protection does not provide a risk-based approach as per the EU GDPR; this framework is still in the process of amendment to align it with the EU standards since 2022. There is currently a fragmentation of the legal framework regarding digital systems. Therefore, it is of the utmost importance that the approximation of the Data Protection Law and AI regulatory framework be harmonised, considering the fast pace of digital advances.

The widespread use of AI tools in services where sensitive data are handled has been criticised despite the existing regulatory models, which are few in number and lack transparency in their promulgation. Like other countries that have jumped the AI bandwagon, Albania is not left behind in using AI tools for decision-making and process automation. However, Albanian legislation needs to be analysed in order to identify specific revisions that would permit AI decision-making. Any legal revisions concerning AI require substantial input from experts in these fields, as well as interdisciplinary collaboration to develop regulatory protocols for AI within the country. Such a legislative framework must ensure the protection of democratic values and human rights.

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[111] Law no. 16/2024 "For some additions and changes in law no. 162/2020 'For public procurement'", at: http://qbz.gov.al/eli/ligj/2024/02/08/16, last accessed 20 July 2024.