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## **Declaration by the Committee of Ministers on the risks of computer-assisted or artificial-intelligence-enabled decision making in the field of the social safety net**

*(Adopted by the Committee of Ministers on 17 March 2021  
at the 1399<sup>th</sup> meeting of the Ministers' Deputies)*

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Human rights, whether civil, political, economic, social or cultural, are indivisible, interrelated and interdependent. Social and economic rights are enabling elements for the enjoyment of civil and political rights. The Convention for the Protection of Human Rights and Fundamental Freedoms (ETS No. 5) and the European Social Charter (ETS No. 35 and ETS No. 163 (revised)) embody the complementarity and mutual reinforcement of human rights and fundamental freedoms.

At their 2<sup>nd</sup> Summit in 1997, the Heads of State and Government of the Council of Europe recognised that social cohesion was “one of the foremost needs of the wider Europe and should be pursued as an essential complement to the promotion of human rights and dignity”. In this context, the Strategy and Council of Europe Action Plan for Social Cohesion, approved by the Committee of Ministers in 2010, made reinvesting in social rights and a cohesive society and building a secure future for all its primary objectives.

At its 129<sup>th</sup> Session (Helsinki, 17 May 2019), the Committee of Ministers acknowledged once again the importance of social rights across the continent. This remains all the more relevant in the present circumstances, when social rights become affected by the use of decision-making systems deployed by public authorities and which rely on artificial intelligence (AI) or machine learning.

Computer-assisted or AI-enabled decision-making systems can offer advantages in the form of improved and faster service for individuals. Those systems can also lower administration costs, increase transparency, assist in the detection of anomalies or fraud and lower the risk of corruption. Technology can, however, embed “code”, relied upon for decision making, that depending on its characteristics or training processes could erroneously reduce or deny entitlements and benefits to people, thereby impinging on the enjoyment of their social human rights. Although artificial intelligence and machine learning have advantages for the system, it should be ensured that public applications are fair and that ethical values are applied for everyone without causing any disparity in respect of social cohesion.

The unregulated development of such computer-assisted or automated decision-making systems, coupled with a lack of transparency and insufficient public scrutiny, and their incorporation into the administration of social services, pose risks. These systems can, if not developed and used in accordance with principles of transparency and legal certainty, amplify bias and increase risks. This may lead to higher negative impact for members of the community who are in a situation of vulnerability. Under such circumstances, they can replicate entrenched discrimination patterns, including as regards women, and can affect people in low-skilled and poorly paid jobs.

Biased and/or erroneous automated decisions can bring about immediate destitution, extreme poverty or even homelessness and cause serious or irreparable harm to those concerned.

If decisions are enforced too expeditiously, without regard for their consequences, the effects can be lasting and the damage can persist, even if a mistake is remedied promptly. The result may be in opposition to the objectives of Recommendation Rec(2000)3 of the Committee of Ministers to member States on the Right to the Satisfaction of Basic Material Needs of Persons in Situations of Extreme Hardship, whereby the Committee of Ministers called on all member States to recognise an individual, universal and enforceable right to the satisfaction of basic material needs (as a minimum: food, clothing, shelter and basic medical care) for persons in situations of extreme hardship, as well as Recommendation Rec(2003)19 of the Committee of Ministers to member States on improving access to social rights. These decisions would also raise questions about respect for the provisions of the European Social Charter.

Under those circumstances, not only may social rights be violated, and related social policy objectives missed, but even the enjoyment of civil and political rights can be affected or compromised.

It is also worth underlining that, when adopting the United Nations 2030 Agenda for Sustainable Development, all Council of Europe member States reaffirmed that the dignity of the human being is fundamental and pledged to leave no one behind, while endeavouring to reach those who are the furthest behind first.

The Committee of Ministers therefore draws the attention of member States to:

- the possible risks to human rights, including social rights, that might follow from the use of computer-assisted or AI-enabled decision making by public authorities in the area of social services, when no qualified supervision is guaranteed, in particular as regards the management, attribution or revocation of entitlements, assistance and related benefits;
- the need to ensure that computer-assisted or AI-enabled decision-making systems are developed and implemented in accordance with the principles of legal certainty, legality, data quality, non-discrimination and transparency. The knowledge and skills of the users of these systems are to be enhanced regularly;
- the need for human oversight of computer-assisted or AI-enabled decisions in order to mitigate and/or avoid errors in the management, attribution or revocation of entitlements, assistance and related benefits which could amplify disadvantages and/or disenfranchisement;
- the need for effective arrangements to protect vulnerable persons from serious or irreparable harm, including destitution, extreme poverty or homelessness, as a result of the implementation of computer-assisted or AI-enabled decisions in the area of social services;
- the need for effective responsibility and accountability processes for AI actors designing, developing, deploying or evaluating AI systems when legal norms are not respected, or any unjust harm occurs;
- a proactive approach with a view to ensuring that those affected by computer-assisted or AI-enabled decisions in the area of social services, in particular persons in a situation of extreme deprivation or vulnerability, can effectively assert their rights and seek remedies. In this regard, an explanation tailored to the specific context and audience shall be delivered to those concerned. Such explanation should at least provide the necessary elements to allow an individual to understand and challenge a decision that has been informed or made by an AI system, and that affects his or her legal position, or his or her life in a substantive manner.