

## Abstract

### Flat and formalistic approach in law

Many processes in law take place automatically and through inertial force, without admitting one's free will and without encompassing values important to man (freedom, dignity, justice). The bearers of the process of automation in law are Machines (or Automats), i.e. tools ensuring primary legal certainty. However, in addition to the subpage of legal certainty, law also consists of the subpage of justice and effectiveness, which is not controlled by Automats, because their algorithms do not often reflect this subjective dimension in law. The trend of automation in law undoubtedly contributes to a number of improvements, however, there appear risks as well. Since the human soul cannot be programmed by Automats, it cannot be assumed that their decision-making, i.e. their output, will be fair and effective in all circumstances. However, in traditional approach in law this output is considered equal to a binding legal norm. As an example of Automat in the field of mobility the traffic lights may serve, in the field of state administration there are automatic forms or formulas, in the judiciary Automat is represented by a judge acting as a robot (subsumption automat), and artificial intelligence may be seen as the most sophisticated Automat of all. Automats are tools in regulations that are introduced on the basis of law and have the ability to establish, change or cancel rights and obligations. In this context, we can talk about „Automat's law“, i.e. the working designation of the law enforced by Automat, otherwise the approach in the law that is proper to Automat.

Automat, which is controlled by an algorithm, proceeds on a flat and formalistic basis. This algorithm corresponds to the text input from the programmer and is a parallel to the textualistic interpretation of the legal norm. To an excessive extent, it can achieve a negatively exaggerated legal formalism. Crossing when red at the traffic lights is a model example of the collision between the world of humans and the world of Automats and two different ways of understanding the surrounding reality. The decision to stay on when red in all circumstances is a matter of pre-understanding, i.e. also the question of a person's worldview, their psychological and social attitudes. At the same time, the inappropriateness of the alibi preference for legal certainty over justice and efficiency can be demonstrated on the opposite reaction (not to stay on when red) and critical behavior towards automation. Breach of Automat's output can be justified using interpretive methods at the external-social and internal-private levels.

The state power is a traditional arbiter and originator of legal norms in the regulation of society. The dynamics of relationships in society, as well as expectations in the fulfillment of human rights and values, are unsatisfactory in the traditional approach and using traditional interpretive methods. The precedent in the approach to law, coding of rules and interpretation of standards set according to the traffic lights becomes "inappropriate" if it flips into other Automats. In this research of mine, I ask: Why should we stay on and wait (facing Automat) before some instructions come to us through Automat, when we know the purpose of regulation and can evaluate the justice of our own actions?