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ALGORITHMIC CREDIT SCORING AND PROTECTION OF THE NATURAL PERSON. REFLECTIONS ON THE SCHUFA (ECJ, C-634/21) AND D&B (ECJ, C-203/22) CASES

Algorithmic credit scoring, as a technologically advanced instrument for the creditworthiness assessment, raises many legal issues, concerning, among others, two interrelated aspects: automated individual decision-making, on the one hand; the use of artificial intelligence systems, on the other hand.

This paper focuses on the above-mentioned aspects, with the objective of identifying both the risks posed by algorithmic credit scoring to the rights and legitimate interests of the natural person, and the protective measures for this latter, as envisaged by the current regulatory framework.

For our purposes, we will examine some recent rulings of the Court of Justice (*Schufa* and *D&G* cases), which have addressed some controversial issues raised by algorithmic credit scoring as a form of automated decision-making (in particular, the existence of a right to an explanation of the algorithmic decision, and its concrete scope), as well as some legislative provisions (Consumer Credit Directive II and AI Act) that also cover the concerned activities.

The analysis demonstrates that European law places primary importance on the principle of transparency (understood as explainability and interpretability of automated decisions), even if it proves to be very difficult to implement, due to significant limitations of both technological and regulatory nature.

Finally, the paper suggests some solutions to such problems, based on the assumption that technological development can certainly lead to greater speed, accuracy, and efficiency in the provision of financial services, but in no case can it prevail over the dignity of the human person and the protection of fundamental rights.