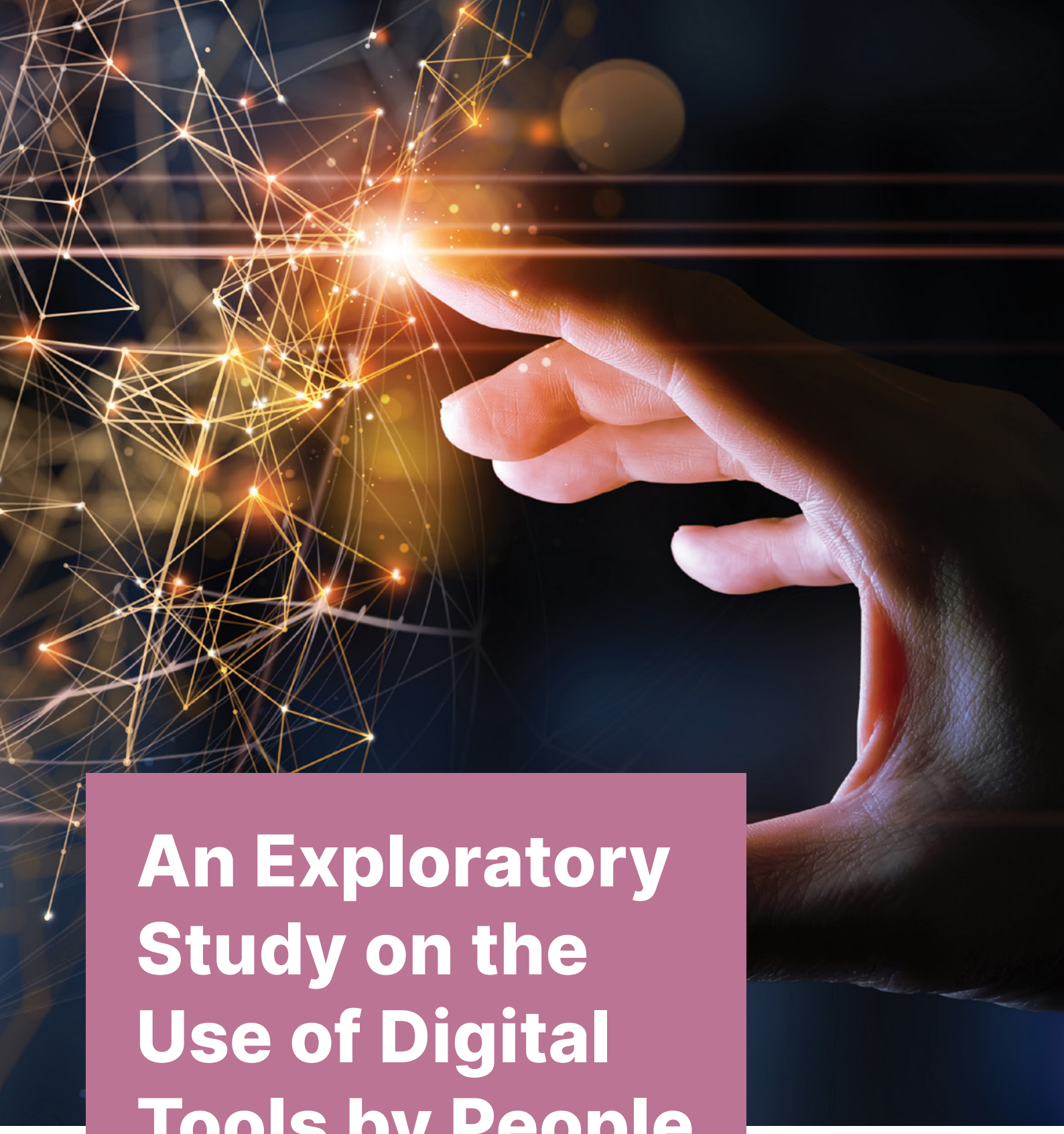

An Exploratory Study on the Use of Digital Tools by People Experiencing Poverty

2024

EUROPEAN ANTI POVERTY NETWORK

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Introduction

In response to the COVID-19 pandemic, essential services rapidly transitioned to online platforms as an urgent measure to keep people safe. Although this was an ongoing, long-standing shift at the time of the outbreak of the pandemic, it was not tailored to accommodate the needs of individuals experiencing poverty, especially those facing digital exclusion. Consequently, from the outset of the pandemic, the digital transition inadvertently excluded people experiencing digital poverty. In 2021, 8.4% of people who were at risk of poverty could not afford to have an internet connection.[1] In 2023, only 56% of 16- to 74-year-olds in the EU had at least basic digital skills.[2] This does not even consider the urban and rural divide, where access to broadband connections and mobile networks may be limited, of inferior quality, or come at a higher cost.[3] Now that the COVID-19 crisis is almost a thing of the past and Member States are afforded the luxury of time, it remains to be seen whether they have learned to address the digital divide (*the gap between those who can access the digital spaces, and use the internet and digital services versus those who cannot, resulting in exclusion for the latter*) and ensure that vulnerable populations are not left behind in an increasingly digital world.

During the pandemic, as noted by **EAPN Macedonia, EAPN Portugal,** and **EAPN Lithuania**, many low-income households, particularly those with children, lacked the necessary resources for online learning. For instance, an estimated 35,000 students in Lithuania could not access education at the start of the pandemic.

Even when schools provided laptops, parents lacked the digital skills to support their children's learning, or the household did not have internet access as reported by **EAPN Portugal**. This was particularly the case for Roma families. Additionally, households with multiple children faced the dilemma of providing each child with access to a computer or tablet for effective participation in digital education, amplifying the hidden costs that often go unacknowledged. The situation was further compounded for families where adults also required laptop and internet access for remote work, as highlighted by **EAPN Greece**, creating a dilemma of resource allocation within the household. This shows how the COVID-19 pandemic underscored the unfulfilled narrative of the welfare state, by failing to adequately address the deep-rooted inequalities made worse by digitalisation. Although remote learning is not mandatory *per se* at the moment, the effects of the COVID-19 pandemic are still here, for example schools and teachers assume that every child has a laptop and therefore can do their homework online.

The digitalisation of public services and social protection, accelerated by the COVID-19 pandemic, has given rise to a digital welfare state in many European countries, leading to an era of digital by default. This study seeks to understand the potential risks of digitalisation in terms of access to essential services, social benefits, and the labour market. Are the claims that digitalisation will improve lives confirmed by EAPN's members? If this is not the case, what are the reasons behind the continuous effort to still implement a digital welfare state? Despite its aim to enhance accessibility, EAPN goes beyond the preliminary assessment that digitalisation has inadvertently created additional barriers for people experiencing poverty and social exclusion.

1 European Commission, Report on Access to Essential Services in the EU, Publications Office of the European Union, 2023, Luxembourg
2 Eurostat, 'Glossary: Digital Skills Indicator', August 2023
3 European Commission, Report on Access to Essential Services in the EU, June 2023

Digital welfare state is a term to describe policies whereby the government provides essential services as well as social protection to those in need, to **guarantee individual and collective well-being, through digitalisation of its procedures**. For EAPN, essential services encompass energy, transport, financial services, digital communications, education and life-long learning, public libraries, healthcare, housing, food, water, sanitation, and social services.

This study arrives at a time when digital transition has become a key priority for the EU agenda. This may be seen in the Digital Decade policy program for 2030, which sets targets and goals for digital skills and infrastructure[4] to achieve full **digitalisation of key public services**, along with **universal access for all EU citizens to their electronic medical records**. It aims to reach the target of **at least 80% of those aged 16-74 acquiring basic digital skills** by 2030.[5] In that context, EU funds have been allocated under the Recovery and Resilience Facility for investments in digital transition with a key focus on transitioning public services online. As of 2023, "88% of central government services are completely online, compared to 76% for regional government services and 62% of local government services".[6]

There is also currently a proposal framework for a **European Digital Identity**,[7] enabling individuals to obtain "public services such as requesting birth certificates and medical certificates, reporting a change of address; opening a bank account; filing tax returns; storing a medical prescription that can be used anywhere in Europe; proving your age", among other uses.[8] The objective is that, **by 2030, at least 80% of EU citizens will use a digital identification solution to access essential public services**.[9]

Additionally, since 2021, the EU institutions have been negotiating the new **Artificial Intelligence (AI) Act**, entering into force in the next two to five years.[10] However, civil society organizations "have been demanding a clear framework of human rights protection for the use of dangerous AI systems".[11] As it stands, the EU AI Act will allow for live public facial recognition and predictive policing systems, raising concerns about the potential erosion of privacy rights, the exacerbation of inequalities—in particular social and racial inequalities—and the amplification of surveillance practices within society.[12] As emphasized by the European Digital Rights association (EDRi) this is particularly problematic for "migrants, racialized and other marginalized communities who already bear the brunt of discriminatory targeting and over-surveillance by authorities".[13]

At EAPN, our stance is that poverty is multidimensional and **the result of an unfair redistribution of wealth and resources, locking people in survival mode in daily life**. Within EAPN, diverse perspectives exist on digitalisation and AI, with some members advocating for their cautious implementation alongside robust scrutiny/oversight and an active, empowering outreach programme, while others express concerns about associated budget cuts and the destruction of personalized, face-to-face solutions. With

4 Digital Decade Policy Programme 2030 | Shaping Europe's digital future (europa.eu)
5 European Commission, Report on the State of the Digital Decade Shaping Europe's Digital Future. 2023
6 European Commission. eGovernment Benchmark 2023, Shaping Europe's Digital Future, 27 September 2023.
7 European Commission. Commission Proposes a Trusted and Secure Digital Identity for All Europeans. June 2021
8 European Commission. European Digital Identity, May 2021
9 European Commission, Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Regulation (EU) No 910/2014 as regards establishing a framework for a European Digital Identity, June 2021
10 European Parliament. Artificial Intelligence Act | Legislative Train Schedule
11 European Digital Rights (EDRi). Council to Vote on EU AI Act: What's at Stake?, 31 January 2024
EU's AI Act fails to set gold standard for human rights - European Digital Rights (EDRi), April 2024
12 Read more: European Digital Rights (EDRi). EU AI Act: Deal Reached, but Too Soon to Celebrate. 9 December 2023; Amnesty International. EU: Bloc's Decision to Not Ban Public Mass Surveillance in AI Act Sets a Devastating Global Precedent, 20 February 2024
13 #ProtectNotSurveil: The EU AI Act fails migrants and people on the move - European Digital Rights (EDRi)

this study, EAPN explores the potential impact of digitalisation, through an intersectional, socio-economic, and social justice lens. The main objective of this study is to provide an examination of the current landscape surrounding **the digitalisation of essential services and its impact on people experiencing poverty**. It will also explore the consequences of **the use of AI by European Member States on the access to social protection schemes and support services**.

We are looking to make the case that **digital-only systems are further marginalizing people experiencing poverty** and show how automated social protection schemes have vast consequences in people's lives. For the purposes of this study, we are only covering the period of 2021 to 2024. We will explore the impact of digitalisation on access to the welfare state, with a primary emphasis on three significant axes. In our analysis, we will also confront the widespread misconception that digitalisation inherently guarantees heightened efficiency and resource optimization of the welfare state, often neglecting crucial factors such as accountability, transparency, and privacy rights. Our findings have shown a concerning trend of **digitally induced poverty**. **Additionally, the automation of discrimination facilitated by AI is also cause for attention in social justice organisations.** Moreover, because digitalisation is seen as tool for increased efficiency of the welfare, it risks becoming a **tool for implementing austerity measures**.[14]

Automated systems: "the introduction of technologies into social or organizational practices, which often leads to reconfiguration and replacement of human labour. In a number of situations (e.g. an administrative decision-making process), the goal of automation is very often related to efficiency, consistency, and cost reduction. It is, however, useful to think about automation as a matter of degree. Automated systems' functions may range from simply matching names in a database, to granting visas, to weighing hundreds of factors to determine the best candidates for a particular job."[15]

14 Gangadharan, Seeta Peña, and J drzej Niklas. Between Antidiscrimination and Data: Understanding Human Rights Discourse on Automated Discrimination in Europe. Department of Media and Communications, LSE, London, UK, May 2018

15 idem

Digitally Induced Poverty

EAPN defines digital poverty as the inability to interact adequately with digital devices and spaces, caused by a lack of skills, resources (such as electricity, smartphones, laptops), or internet connection. Unfortunately, **digitalisation, though aiming to facilitate access to services, has inadvertently created digitally induced poverty for those already at risk of poverty. It has added a new barrier to access essential information and services, social benefits, and employment opportunities**, where individuals and households have to use additional resources and pay to access the digital space effectively. Digitalisation has further pushed individuals into poverty, widening the gap between the digitally literate and the digitally excluded. In this chapter, we will explore how digitalisation is depriving individuals of their right to public services and social protection.

"Digital poverty distances people from the right to be full citizens in all its dimensions." - EAPN Portugal

The digital transition rendered **smart devices and internet indispensable to access digital welfare states**. This necessity requires individual to bear the costs of smart devices and the internet to access their rights, shifting the burden of accessing essential services from public administration offices to applicants. Consequently, those unable to afford these tools develop alternative strategies, such as relying on public facilities like libraries, or resort to costly alternatives, for instance requesting the support of paid external support individuals, or must travel long distances or take time off work.[16]

EAPN Cyprus reported that during the energy crisis, some individuals had to hire professionals to assist with online applications for energy subsidies. Others simply cannot afford these extra costs, and as a result, forfeit their rights as they are completely excluded from accessing digital-only essential services and benefits.

"You have to ask friends or family for help. Very often this does not feel good, you feel ashamed and finally, you are afraid to ask again and again... so you leave it be. It feels like a burden to knock on their door again." - EAPN Netherlands

This underscores how digitalisation can **disproportionately impact marginalized communities and shift the burden** of accessing essential services onto already vulnerable individuals. The fundamental problem lies in **the absence of a recognized right to access digital spaces**. The responsibility to access the digital space is entirely individualized as **welfare states bear no obligation to ensure people's access to the internet and to smart devices when moving the services online**. In practice, this means individuals are stripped of their right to digital-only services, exacerbating inequalities or **placing undue financial strain on people experiencing poverty**. The myth that a digital welfare state will cover more individuals' needs therefore to be revised.

While digitalisation may have expanded access to essential public services for some groups, they have also further excluded those in digital poverty and those who were already struggling to access them. This unveils a disturbing reality

16 United Nations General Assembly, Report of the Special Rapporteur on Extreme Poverty and Human Rights on the Digital Welfare State, 2019

where **digital-only services are serving as a tool that further exacerbates existing societal disparities**. While the welfare state should serve as a safety net against inequalities, its failure to recognize digital access as a fundamental right when enforcing the digitalisation of its services exacerbates social exclusion. By shifting essential services and benefits online without ensuring universal access, the welfare state effectively sidelines already marginalized communities, perpetuating a cycle of exclusion. **Digitalisation is therefore exacerbating existing class disparities and perpetuating social exclusion, since the digitalisation was not about addressing the root causes of exclusion.** Contradictory to what is presented by European Member States, digitalisation is failing to serve as a solution to social exclusion. Instead, it is highlighting and amplifying the underlying systemic issues that perpetuate inequality. This highlights the urgent need for comprehensive welfare policies that prioritize inclusivity and address the underlying inequalities perpetuating social exclusion.

Digital banking is also becoming an area of concern. Although it has become increasingly easy access bank accounts through smartphones, banks started transitioning to the digital world around the 1990s.[17] Nevertheless, financial actors are now seeing the emergence of a cashless society, as many **stores/businesses are increasingly avoiding cash payments in favor of cards or electronic transactions**. Although it presents advantages in terms of formalisation of the economy and in the fight against money laudering, this trend exacerbates exclusion for individuals lacking digital literacy (*the skills needed to engage with digital technologies effectively and safely*) and/or smartphones, bank accounts, digital banking, or mobile data, creating yet another barrier that impedes their full participation in both the economy and in society at large. For instance, **AGE Platform Europe** reports that some individuals in Denmark must drive 65 km to get to an ATM. **EAPN Sweden** pointed out how cash deposits and withdrawals are not available in most Swedish bank branches anymore.[18] **EAPN Bulgaria** also asserted that pensioners face challenges, as pension payments are directed exclusively to bank accounts (despite their preference for cash due to banking fees and limited ATM availability). Lastly, **EAPN Austria** and **Cyprus** reported that in-person transactions at bank branches are incurring fees, though they are free online. Moreover, **EAPN Portugal** and **Lithuania** explained that as banks increasingly offer online services, **bank branches are slowly disappearing and/or becoming exclusively available in big cities**, disproportionately affecting rural areas and smaller towns. Consequently, those living in remote/rural areas must travel to larger cities to make bank/money transactions. Yet, **EAPN Lithuania** said public transport in some rural areas is underdeveloped and **EAPN Slovakia** and **Sweden** highlighted that the availability of public transport tickets is increasingly restricted to online means. Additionally, our members in **Spain**, **Slovakia**, **Lithuania**, and **Sweden** reported that rural areas heavily rely on digital tools. Yet, **EAPN Macedonia** underlined that it is often the case that those living in rural areas do not have adequate access to the internet, and therefore cannot access essential services. The implications of these developments are multifaceted and underscore the deepening digital divide and social exclusion.

This **reliance on digital banking is further marginalizing individuals who prefer to rely on cash transactions**, such as older individuals or those living in rural areas. It is **crucial for indviduals to have access to a bank account in order to pay for essential services and mobility and to receive social benefits and wages**, thus forcing the additional cost of financial services to fully enjoy social rights.

17 Andrew Beattie, The Evolution of Banking Over Time, March 2023; Retail Banker interntaional, History of digital banking, January 2020

18 Maddy Savage,The Swedes rebelling against a cashless society, BBC, 6 April 2018

The shift towards a cashless and digital society poses additional burdens on non-digital users, some of whom are now turning to local social services for support previously provided by banks. As **AGE Platform Europe** explained, this includes helping people with bank transfers, consulting their accounts, and support in using online bank platforms. As highlighted by their Belgium member, while banks make savings by providing fewer physical branches, social services are becoming more overloaded with new types of requests/needs. All in all, **digitalisation is exacerbating the rural-urban digital divide and disproportionately burdening low-income individuals who may already be financially vulnerable**, perpetuating disparities in access to cash, financial services, transportation, and other vital resources, and therefore further aggravating the poverty risk.

In the context of a cashless society and digital banking, it is crucial to recognize that for individuals experiencing poverty, having access to income in cash is essential. **Cash provides a tangible means of safety**, enabling individuals to navigate financial transactions with autonomy. Thus, preserving avenues for cash income is vital to ensure that individuals experiencing poverty can make independent economic choices and maintain a sense of financial security in an increasingly digitalized world. EAPN expresses concern regarding whether the allocation of funds for the digitalisation of public services will sufficiently cater to the needs of individuals currently marginalized in society and struggling with digital poverty.[19] As briefly mentioned in the introduction, the reliance on digital identities continues to increase, particularly with the proposal for a European digital identity. However, a significant question remains unanswered: **Will alternatives be offered for individuals who choose not to use the European Digital Identity?** The case of Sweden exemplifies what the future might hold, where the use of digital identity, specifically BankID, has become virtually obligatory for accessing essential services like healthcare. This requirement, tied to bank account ownership, smart devices, and registered addresses with the Swedish Tax Agency, inadvertently excludes certain groups, including homeless individuals due to their lack of stable addresses. **EAPN Sweden** reported that there are no viable alternatives at present for accessing digital services in Sweden without BankID, highlighting the potential ramifications of exclusive digitalisation initiatives.

Moreover, relying solely on a single electronic identification system raises concerns about security and privacy. **A single point of failure could potentially compromise the personal data and security of millions of users.**

Whilst access to decent income from employment is crucial to alleviate the risk of poverty, the structural risk of in-work poverty prevent employment from being a safe road out of poverty: **working conditions, quality of jobs and adequate wages are essential factors to consider**. In this context, our members have reported that digitalisation is amplifying in-work poverty, as the lack of digital skills and affordable training means being locked in low-paying positions. Additionally, access to technology and digital literacy is becoming increasingly essential for job seekers. **Those without access to the internet or digital skills are finding themselves left behind, unable to navigate online job ad platforms or complete digital job application processes.** In Sweden, applicants are expected to submit their cover letters and CVs online and to sign them with their BankID, exacerbating the challenges faced by individuals with limited access to the digital space. This deepens the disparity in accessing job opportunities, potentially leaving them without a

19 Under the Recovery and Resilience Plants, 46 billion euros is being allocated for reforms and investments in the field of digitalisation of public services and government processes including e-health, e-justice and the digitalisation of transport and energy systems. European Commission, Digital Public Services in the Digital Economy and Society Index, Shaping Europe's Digital Future, July 2022

reliable source of income. Consequently, it leads to **a rise in individuals engaging in informal labour and precarious employment**, resulting in a higher number of people at risk of poverty and social exclusion. The consequences extend beyond financial strain, affecting people's ability to afford essential needs such as rent and food and their mental well-being, placing them in a constant struggle for survival.

Furthermore, to receive unemployment benefits at welfare offices, beneficiaries need to prove through digital means their applications to online job postings. This shift underscores the exclusive reliance on online platforms for job applications, eliminating the traditional method of spontaneous CV handling and excluding individuals without access to digital resources, as reported by **EAPN Portugal, Croatia, Sweden and Lithuania.**

> "It often happens that I didn't submit my request for additional work on time because I didn't have access to the Internet, and I missed out on job opportunities in the online job market."
>
> - EAPN Croatia

The relentless digital transition threatens to undermine improvements to workers' social protections, such as ensuring universal access to essential services and maintaining their quality of work. **The digital transition has changed the landscape of access to the labour market and unemployment benefits and services, with individuals left to bear the cost of accessibility, and traning programmes to improve digital skills and literacy insufficient to cover their needs.**

Furthermore, the high level of non-take-up of social benefits remains at an alarming level in all European countries. Non-take-up, defined by the lack of coverage of social protection schemes to an eligible population, is due to a myriad of reasons such as lack of awareness, administrative burden, bureaucracy, complex application processes, stigma, or other structural barriers. In a survey by the Special United Nations Rapporteur on extreme poverty and human rights, **poor digital skills and inability to read and write were the two main factors contributing to non-take-up in Europe.**[20] **EAPN Spain** reports that the Spanish minimum income scheme is reaching less than 40% of the predicted population, for during the COVID-19 pandemic the majority of social benefits must be requested through digital means.[21] That shift is explained by an increase in data control and integration , which is crucial for determining a person's eligibility for a service or benefit, as well as allowing for enhanced supervision during the actual utilization of a right, including monitoring changes such as a beneficiary finding employment and consequently losing entitlement to social benefits. **EAPN Sweden** and **Croatia** report that individuals eligible for social benefits are refraining from applying due to concerns about navigating digital forms correctly, fearing potential repayment obligations.

Although digitalisation had the potential to tackle the presumed high rates of non-take-up of benefits, it is doing the exact opposite by creating risks and additional difficulties in the application process. This is extremely worrying ,as highlighted by the special rapporteur. Although the immediate consequence of non-take-up is **reduced household income**, there is a **snowball effect** inducing low quality of life, "food and fuel insecurity, child poverty, violence, unemployment, debt, difficulties in accessing basic rights and services (including housing, health services, education for children), as well as feelings of helplessness, isolation, depression and suicide".[22] The shift towards digitalisation may inadvertently exclude those who prefer or rely on traditional

20 United Nations General Assembly , Report of the Special Rapporteur on extreme poverty and human rights on non-take-up of rights in the context of social protection, 2022

21 EAPN Spain, Infografía El Ingreso Mínimo Vital Un Año Después 2022

22 United National human Rights Office, Global Survey on the non-Take up of rights, November 2022

methods of application, further alienating them from accessing their entitled benefits. As a consequence, the failure to address these digital barriers not only hinders individuals' access to social benefits but also undermines efforts towards social inclusion and equality.

> "People don't know where they have to put the crosses, where they have to answer... Language is not the most accessible... then if you don't put in exactly what you should... one cross on the wrong side and it's all over."
>
> - EAPN Portugal

Moreover, digitalisation poses a significant risk of exacerbating poverty and hidden costs, particularly **for the elderly**. Digital spaces and automated decision-making processes contribute to the invisibility and infantilization of older adults. As reported by **EAPN Spain**, instead of engaging directly with older individuals, technical staff, family members, or close associates are assuming responsibility for digital tasks on their behalf. A survey conducted in 2020 by the French Defender of Rights, Claire Hédon, indicated that nearly 25% of individuals aged 65 and older in France encounter challenges when dealing with administrative procedures, impacting their access to rights. Other factors such as the level of dependency among the elderly, economic insecurity, and proficiency in internet usage are closely linked to difficulties in interacting with public authorities and services. When confronted with administrative hurdles, over 14% of respondents in France choose to abandon the process.[23] As highlighted by **AGE Platform Europe**, this reliance on others elevates the risk of financial abuse (*a form of mistreatment or exploitation where an individual misuses or controls another person's financial resources without their consent, often for personal gain or to exert power and control over them*). In this sense, the digital transition has intensified older adults' vulnerabilities by amplifying the potential for social exclusion, imposing additional financial burdens and impeding on individual's autonomy.[24]As reported by **EAPN Lithuania and Slovakia**, the complex language used in municipal communications and social welfare systems proves challenging for many individuals to comprehend fully, hindering their access to available benefits and services. **EAPN Slovakia** found that it particularly affects Roma communities and migrants. Furthermore, **EAPN Austria** highlighted that people in poverty seeking unemployment benefits are reporting that the digital platform in place, *eAMS*, is very user-unfriendly. Long-term unemployed people and people with lower digital skills are often overwhelmed as not responding to a notification might lead to a reduction of unemployment benefits.

Undocumented migrants face multifaceted challenges within digital welfare systems due to their precarious legal status, lack of formal identification documents, and limited access to technology and information. They reside in the shadows of society, navigating complex legal, social, and economic landscapes with minimal institutional support and access to justice. The requirement for verifiable identification, such as government-issued IDs or proof of residency, and the fear of exposure act as deterrence to having bank accounts and accessing essential welfare services, perpetuating their social exclusion and marginalization. Additionally, language barriers further complicate their engagement with digital platforms.

Furthermore, contrary to the assumption that young people are inherently proficient in digital skills, there are exceptions depending on the country or context, where some still experience digital exclusion. According to **EAPN Bulgaria**, for instance, one in two young people lack basic

23 Défenseur des droits, Études et résultats - Difficultés d'accès aux droits et discriminations liées à l'âge avancé, October 2021

24 European Union Agency for Fundamental Rights, Fundamental rights of older people: Ensuring access to public services in digital societies, 2023

digital competencies. Similarly, **EAPN Croatia** reported that 26% of young people face barriers such as limited access to smart devices and 53% do not have internet connectivity due to financial constraints. These statistics underscore the persistent digital divide.

Digital poverty not only strips individuals of their fundamental human and social rights but also exacerbates social isolation by denying access to crucial online social interactions, community engagement, and support networks that have become indispensable in today's interconnected world. This deprivation extends beyond the realm of work, including leisure activities, participation in civic life, and communication with governmental institutions, amongst others.

In addition, accessibility remains a critical aspect even beyond persons with disabilities, often overlooked amidst the ongoing digital transformation.

Despite the EU Directive on the accessibility of public sector websites,[25] in a study carried out in 2022, it was found that some "apps and online documents were not accessible enough".[26] As emphasized by **AGE Platform Europe**, large parts of the internet, and in particular private social media services that are used for announcing digital services or reaching out to citizens, are not covered by this Directive and are not fully accessible to persons with disabilities. Addressing these issues is imperative to ensure that digitalisation efforts prioritize inclusivity and equitable access for all members of society.

It is also important to note that many rural areas in the EU still have no connection to broadband,[27] and users need to be able to not only pay for an internet subscription but also for sufficiently up-to-date equipment to use digital services.

One of the primary arguments in favor of the digital transition is the prospect of freeing up more staff resources to provide personalized support. However, evidence and testimonies collected by EAPN national networks report that digitalisation did not come with improved services or an increase in meaningful impact for people experiencing poverty. While digital services are usually designed to make things easier for the user case of middle-class averagely skilled persons, exclusively online welfare systems dehumanize the process, particularly affecting low-income households by disconnecting them from empathy and providing "no room for meaningful questioning or clarification".[28] While the adoption of digital systems may expedite the delivery and accessibility of welfare services, it runs the risk of overlooking a personalized approach tailored to individuals' needs. **This person-centred approach is paramount to any meaningful support. The digitalisation process sets a list of criteria where out-of-the-box experiences are dificult to record or answer to**. With the digital transition, needs are now constrained by predetermined criteria, limiting the accommodation of out-of-the-box or personalized requirements for support, thus hindering responsiveness to individual circumstances. **This complexity leads to an increased misunderstanding of the process, and alienation of rightholders from the welfare state.**

25 European Commission, Web Accessibility | Shaping Europe's digital future (europa.eu)
26 European Commission, Making websites accessible Easy read version of the report about consulting people about the Web Accessibility Directive, 2022
27 Eurostat, Urban-rural Europe - digital society, November 2023
28 United National General Assembly, Report of the Special Rapporteur on Extreme Poverty and Human Rights, 2019

"Officials have a lot of work, especially when it comes to explaining. I can't understand why there isn't a webpage with all the information that would lead you to the right place, to the forms. How to fill them out, which documents are needed – there's always one missing. The pages are not updated, you click and click, and accidentally stumble upon a form like a'blind hen'. If you were to ask me where it is right now, I wouldn't know. I found it, but how to get back to it – absolutely no idea. The transparency of any such platform or website is non-existent, and you're forced, even in today's digital age, to physically'knock on doors', preferably by making an appointment and going there with a list of questions, to which you receive half-answers, as they lack the time and honestly, the knowledge. The whole story is one big grey area. If everything were in one place, it would be immensely easier."

- EAPN Croatia

Marginalized communities are not a homogenous group, and they necessitate complex targeted policies tailored to overcome specific structural barriers and circumstances. **EAPN Austria** shared how their government implemented an AI Chatbot in January 2024 to support job seekers with questions about job opportunities, but ignored the need for personalized understanding and nuanced support to best assist unemployed individuals. Additionally, substantial critique has emerged since the chatbot's implementation due to technical shortcomings, including potential security loopholes as well as clear gender biases in "suggesting stereotypical career paths for women and men".[29]

These examples showcase how digitalisation has led to a one-size-fits-all approach. To successfully eradicate poverty, accessibility to equipment and digital literacy and also autonomy and empowerment by process has to be prioritised. as pre necessary condition to successful policies. A standardized approach further exacerbates inequalities: those most in need of social assistance may find themselves marginalized, no longer seen as holders of rights but responsible for creating the circumstances and skills to access the rights they are already entitled to. In other words, the welfare state is shifting the burden of accessibility to individuals via digitalisation. For any impactful welfare policies, it is imperative to embrace tailored, context-specific strategies that acknowledge and accommodate the diverse realities of individuals and communities. Structural discrimination and the lack of targeted policies exacerbate people's struggles, perpetuating cycles of poverty.

Despite the welfare state's objective to provide tailored assistance to all in need, many people experiencing poverty are left on the margins of society. This failure to recognize the specific needs of vulnerable communities reflects a broader societal issue of **stigmatization and discrimination**. This is rooted in the political discourse around people experiencing poverty, as they increasingly are perceived as unwilling to contribute to society, unwilling to work, overly reliant on social benefits, and resistant to integration efforts. Complaints about the increasingly difficult process imposed by digitalisation risk adding fuel to this stigma, as the discourse supporting digitalisation claims improved efficiency of the welfare state system.

29 DER STANDARD Vorurteile und zweifelhafte Umsetzung: AMS-KI-Chatbot trifft auf Spott und Hohn, January 2024

The Automation of Discrimination

The digital transition, allegedly aimed at improving the efficiency of the welfare state, has become the home of surveillance capitalism.I It is progressively being utilized for purposes such as "automation, prediction of criminal behavior, identification, surveillance, detection, targeting, and punishment".[30] This is often **justified for fraud detection purposes, allowing governments to uncover incriminating inconsistencies in data that can be stored and used against claimants indefinitely**.[31]

The widespread integration of AI and automated algorithms into the welfare state is commonly perceived as inherently advantageous. These new tools aimed to enhance the robustness and efficiency of the welfare system, expedite solutions to issues, provide users with timely updates regarding their processes, reduce error rates, and extend coverage to a larger portion of the population. However, the impact of increased use of automated decision-making processes and AI invalidate these claims.

The widespread adoption of digitalisation has revolutionized various sectors, allowing for the seamless automation of tasks such as social benefits delivery. Algorithms are "encoded procedures or instructions, which often use data as their main ingredient, transforming these inputs into a desired output, based on specific calculations".[32]

A prevalent misconception persists that artificial intelligence (AI) operates without error. This myth often leads to unrealistic expectations regarding AI systems' flawless performance and the decision regarding the attribution of benefits it leads to. However, amidst this transformation, it is imperative to acknowledge the nuanced challenges that accompany reliance on AI and automated digital systems. While they undoubtedly enhance efficiency and accessibility for administrations, **they are not immune to errors or biases**. Thus, a critical examination of their limitations is essential to ensure equitable outcomes for all individuals interacting with these technologies.

This occurrence underscores a key issue with the digitalisation of benefits provision—while it aims to streamline processes and reduce administrative burden, it can also introduce complexities and potential financial hardships for recipients if errors are made or if the system is not adequately designed to handle exceptions and corrections. As **EAPN Portugal** highlighted, in systems where social benefits are automatically provided based on digital records, there is a subsequent stage where an applicant's file undergoes analysis by a monitoring team. During this evaluation, discrepancies or errors may be detected, leading to adjustments in the final benefits amount. Unfortunately, if this correction results in a lower benefits amount than what was initially provided, it can trigger a situation where the individual owes a debt. **Therefore, while digitalisation offers many benefits in terms of efficiency and automation, it requires careful implementation and oversight to mitigate unintended consequences such as indebtedness**. Also, digital-only systems cannot

30 European Digital Rights (EDRi). Missing: people's rights in the EU Digital Decade, May 2023

31 United Nations General Assembly Report of the Special Rapporteur on Extreme Poverty and Human Rights on the Digital Welfare State, 2019

32 Gangadharan, Seeta Peña, and J drzej Niklas. Between Antidiscrimination and Data: Understanding Human Rights Discourse on Automated Discrimination in Europe. Department of Media and Communications, LSE, London, UK, May 2018

promptly address critical emergencies and daily challenges, such as an older person whose benefits have unexpectedly and inexplicably been electronically diminished or terminated.[33]

Article 4(4) of the General Data Protection Regulation defines profiling as "any form of automated processing of personal data consisting of the use of personal data to evaluate certain personal aspects relating to a natural person, in particular to analyse or predict aspects concerning that natural person's performance at work, economic situation, health, personal preferences, interests, reliability, behaviour, location or movements". Profiling involves extracting and analyzing extensive data to identify patterns or behaviors, often used in security policies to categorize individuals as potential risks for further scrutiny.[34] This technique, integral to predictive policing, has been implemented in counterterrorism and internal security policies, but it often reflects racist assumptions, contributing to racial profiling, particularly against Muslim and migrant communities.[35] It is rooted in the desire for efficiency and the prediction of future behavior based on past actions "as well as what is or is not remembered",[36] resulting in the presumption of guilt until innocence is proven. This practice raises discrimination concerns as it perpetuates the exclusion of already vulnerable communities. It also "represent[s] a great risk for the rights to privacy and data protection".[37]

In situations where human interaction could potentially facilitate understanding and empathy towards unique circumstances, the automation of decision-making processes may inadvertently overlook such cases, exacerbating socio-economic disparities and further entrenching systemic inequalities. Furthermore, the digitalisation of social benefits and its profiling practices have sparked concerns regarding the **exclusion of individuals who may not neatly fit into predetermined eligibility criteria but are nonetheless in need of support,** thereby risking the unjust denial/removal of individuals from essential social benefits. One cannot help but question whether the objective behind the digital welfare system is to reject applications at a larger scale.[38]

Algorithms are increasingly used to determine eligibility, evaluate individuals' applications, and calculate the amount/value of benefits individuals receive, reports **EAPN Cyprus, France, Poland, Austria**, and **Spain**. With digitalisation, social benefits case management has moved away from a person-centered approach to a decision-making process where needs, behaviors, and fraud risks are predicted, socially profiled,[39] and acted upon by the algorithm itself[40] for efficiency, even before any action has been committed. Large amounts of data are hence collected and acted upon by the software, without informing the applicants or the general public.

An excellent example is France's family allowance funds (*caisses d'allocations familiales* – CAF), whose recipients are subjected to social profiling to detect error and fraud. Through CAF, individuals can receive general living support, childcare aid, and specific allowances like back-to-school grants.[41] The CAF has been using an algorithm

33 United Nations General Assembly, Report of the Special Rapporteur on Extreme Poverty and Human Rights on the Digital Welfare State, 2019
34 EDRI, Stuck under a cloud of suspicion: Profiling in the EU, March 2020
35 idem
36 Patrick Williams and Eric Kind, Data-driven policing: The hardwiring of Discriminatory policing Practices across Europe, European Network Against Racism, November 2019
37 EDRI, Stuck under a cloud of suspicion: Profiling in the EU, March 2020
38 Gangadharan, Seeta Peña, and J drzej Niklas. Between Antidiscrimination and Data: Understanding Human Rights Discourse on Automated Discrimination in Europe. Department of Media and Communications, LSE, London, UK, May 2018
39 Fundacja Panoptykon, Profiling The Unemployed in Poland: Social And Political Implications Of Algorithmic Decision Making, 2015
40 La Quadrature Du Net, Notation des allocataires/ : l'indécence des pratiques de la CAF désormais indéniable, November 2023
41 Welcome to France, Family allowances in France, October 2022

to assess beneficiaries and predict which ones might be deemed trustworthy or untrustworthy, by assigning a fraud risk score and determining who should undergo further scrutiny. The score is assessed based on discriminatory elements, such as an individual's income level, employment status, if they are single parents (thus disproportionately targeting women), if they are a third country national, and if they reside in economically disadvantaged neighbourhoods (hence acting as proxy indicators for race), among other factors. As revealed by the La Quadrature du Net, this excessive monitoring of the most vulnerable is not accidental; it stems from a deliberate political decision to target people experiencing poverty.[42] As the study of the source code have shown, the algorithm optimizes the collection of the amount overpaid to applicants, and not necessarily to minimise the underpaid amount. Additionally, CAF's algorithm is targeting and monitoring the most vulnerable under the excuse of fighting social fraud. This over-focus on suspicion of fraud and of overpaid amounts "leaves a significant mark [including] psychological distress, loss of housing [and] depression".[43]

In 2014, Poland introduced a statistical algorithm to profile unemployed individuals into three groups, aiming to streamline resource allocation and reduce subjective decisions by employment officers. The allocation into groups would determine what type of job assistance individuals would receive, before any requests were made by the applicants themselves. However, the profiling process lacked transparency, with allocation being based on protected grounds i.e age, gender, or disability, and therefore were highly discriminatory. Additionally, Profile III was "designed for people in difficult situations "who often cannot be helped" (designing in particular people with addiction) and often allocated to single mothers and people with disabilities. Fortunately, in 2018, Poland's Constitutional Tribunal ruled that profiling details should be regulated by legislation to safeguard privacy rights. Consequently, the Polish government abolished obligatory profiling in 2019.[44] Similarly, in 2016, the Austrian Employment Agency (AMS) introduced a statistical algorithm to profile unemployed individuals into three groups, based on elements such as gender, age group, citizenship, health, occupation, and work experience. Under this algorithm, an unemployed woman was more likely to be placed in a lower category, even when her skills and experience were comparable to those of a man. Similarly, the algorithm discounted people's employability when they were women over age 30, women with childcare obligations, migrants, or people with disabilities.[45] Since 2021, the data protection authority has now prohibited the use of the system.[46] **These systems assume needs based on data-driven mechanisms, which contravene the very premise of effective support, which must be based on self-assessment and informed cooperation between social services and the individuals.**

Furthermore, in 2020, a Netherlands court ruled to end the Dutch government's use of System Risk Indicatory (SyRI), an automated programme analyzing personal data to predict tax or benefits fraud. The data collected included employment records, benefits information, personal debt reports, education, and housing histories. Numerous individuals were mistakenly labeled as committing welfare fraud, leading to prosecution and demands for repayment of previous welfare amounts. SyRI was highly discriminatory as it targeted residents primarily in low-income neighbourhoods; the housing location acting again as a proxy for race. The court's decision emphasized the rights of individuals requiring social security support, asserting that their privacy should not be compromised for surveillance purposes.

42 La Quadrature Du Net, CAF/ : le numérique au service de l'exclusion et du harcèlement des plus précaires, October 2022
43 idem
44 Michal Kotnarowski and all, Czy algorytmy wprowadzaj w bBd? Metaanaliza algorytmu profilowania bezrobotnych stosowanego w Polsce, March 2021
45 Sarah Chander, Artificial Intelligence and People Experiencing Poverty. European Digital Rights (EDRi), November 2023
46 AlgorithmWatch, Austria's Employment Agency Rolls Out Discriminatory Algorithm, Sees No Problem, October 2019

Transparency was deemed essential to prevent privacy abuses, yet the Netherlands government withheld crucial information about SyRI's data usage. The Dutch court found "that neither the legislation nor the use of SyRI respected the principle of transparency... [based] in Article 8(2) of the EU Charter and Articles 5(1)(a) and 12–15 of the General Data Protection Regulation",[47] highlighting concerns about potential discrimination and bias in deploying SyRI.[48] While the system was discontinued after the court case, many people did not get redress from the government.[49] For example, "Janet Ramessar, a Dutch woman of Surinamese origin, lost her job, got into debt, and lost custody of her 13-year-old son. The court recognized that SyRI had discriminating effects against mainly poor people, people of color, and those with a migrant background as they were disproportionately and wrongfully classified as fraudulent for minor administrative issues."[50]

EU Charter of Fundamental Rights - Article 8: Protection of personal data

1. Everyone has the right to the protection of personal data concerning him or her.

2. Such data must be processed fairly for specified purposes and on the basis of the consent of the person concerned or some other legitimate basis laid down by law. Everyone has the right of access to data which has been collected concerning him or her, and the right to have it rectified.

3. Compliance with these rules shall be subject to control by an independent authority.

47 Adamantia Rachovitsa, Niclas Johann, The Human Rights Implications of the Use of AI in the Digital Welfare State: Lessons Learned from the Dutch SyRI Case, Human Rights Law Review, Volume 22, Issue 2, June 2022

48 Toh, A., Dutch ruling a victory for rights of the poor. Human Rights Watch, February 2020

49 Chander, Sarah. Artificial Intelligence and People Experiencing Poverty. European Digital Rights (EDRi), November 2023

50 European Digital Rights (EDRi), Take a virtual look back with EDRi's interactive annual report: How did the EDRi network protect your digital rights in 2021?, July 2022

These examples show how AI and automated systems have disproportionately profiled individuals from vulnerable backgrounds, such as low-income households, single parents, and people with disabilities, and in some case racialised groups, for increased scrutiny. The use of AI has led to automatic suspicion of fraudulent or criminal behavior by these groups, further undermining the principles of fairness and justice.[51] This biased approach, based on protected characteristics (such as race, nationality, gender, marital and parental status, and age) and other indicators such as residential address, reinforces negative stereotypes and discriminatory surveillance. **The complexity of the procedure, the lack of literacy and the risks of increased surveillance if error is detected, risks deterring rightholders from seeking the support their need.** The over-focus on fraud detection underlines a key objective of the political authority that **to reach a zero occurrence of fraud is more important that to reach zero-non-take up**, especially for groups experiencing policing and surveillance at a larger scale.

After profiling, **surveillance becomes a pivotal tool employed for various purposes such as record-keeping and crime prevention**. It serves as a mechanism for monitoring and controlling potential violations of conditionality requirements, with certain communities facing heightened scrutiny. Surveillance facilitates the documentation and monitoring of individuals' behavior, allowing authorities to stay informed and to intervene as necessary. Mass surveillance is "any monitoring, tracking, and otherwise processing of personal data of individuals in an incriminate or general manner, or of groups, that is not performed in a *targeted* way against a specific individual".[52] However, "mass surveillance

51 Digital Freedom Fund, Explainer: What is the Digital Welfare State ?, April 2020

52 Jakubowska, E.and D. Naranjo. Ban Biometric Mass Surveillance: A Set of Fundamental Rights Demands for the European Commission and EU Member States. European Digital Rights (EDRi), 13 May 2020

measures will disproportionately impact already over-surveilled groups, for example, migrants, poor communities and people of color, which can increase systemic discrimination against them". In contrast, public space mass surveillance pertains to activities that affect the general public and involve indiscriminate monitoring "without reasonable suspicion, sufficient possibilities for them to have knowledge of what is happening, ability to consent, nor the genuine and free choice to opt in or out".[53] As highlighted by the FRA, the mere existence of a law permitting surveillance in itself constitutes interference" with the right to respect for private life.[54]

With advancements in information collection and digital storage, concerns are raised about the '*death of amnesia*', a future where vast amounts of information can be retained indefinitely and potentially used against individuals without time limitations.[55]

As highlighted by the European Court of Human Rights in *Vukota-Bojić v. Switzerland*, surveillance can be a violation of Article 8 of the European Convention on Human Rights, which holds that "everyone has right to respect for his private and family life, his home, and his correspondence". In this case, an individual requested a disability pension after a road traffic accident. After a disagreement with her insurance company over her disability benefits, and years of legal battles, the insurer requested a fresh medical examination to gather more evidence about her condition. When she declined, the insurer hired private investigators to secretly monitor her activities. The evidence gathered was then used against her in court, resulting in a reduction of her benefits. The Court ruled that the secret surveillance violated her right to privacy, even though it occurred in public places, because the investigators collected and used the data systematically and without clear legal authorization under Swiss law. Swiss law lacked clear guidelines on when and how such surveillance could be carried out, and how the collected data should be handled.[56]

There is also a similar example in Poland with the Social Insurance Institution (ZUS), which is using AI to analyze over 200 terabytes of collected data, including millions of monthly doctor's notes. In particular, they are using algorithms to flag potential irregularities or fraud, such as patients forcing doctors to give unjustified sick notes or doctors giving out improper notes. The AI system is hence deemed capable to analyse a medical diagnosis, impeding the privileged doctor-patient relationship. The underlying assumption reveals a mistrust of medical decisions made in the best interest of the patient, where empathy and concern for the patient's well-being are seen as fraud. The AI system has been concluded efficient at detecting "improper" sick notes, and ZUS is now implementing similar algorithms to screen employers and check for irregularities in their contribution payments, reports **EAPN Poland**.

> Biometric data: "Personal data resulting from specific technical processing relating to the physical, physiological or behavioural characteristics of a natural person, which allow or confirm the unique identification of that natural person, such as facial images or dactyloscopic data."[57]

53 idem
54 European Union Agency for Fundamental Rights, Surveillance by intelligence services: fundamental rights safeguards and remedies in the EU - Volume II: field perspectives and legal update, October 2017
55 Union Nations General Assembly, Report of the Special Rapporteur on Extreme Poverty and Human Rights: Advance Unedited Version, 2019
56 European Court of Human Rights, Factsheet: Personal data protection, February 2024
57 Official Journal of the European Union, General Data Protection Regulation. vol. 59, L 119, 4 May 2016

Biometric verification: "Biometric verification is a technological process most commonly used to authenticate someone's identity. It's sometimes referred to as'claiming your identity' because you are in control, and you can use the biometric verification system to demonstrate that you are who you say you are."[58]

Biometric identification: "A process of comparing your data to multiple other sets of data in some form of database. For example, this could be by comparing your face to a database of face templates to see if there is a match. This database might be relatively small (e.g. a watch-list) or very large (e.g. a national identity database)."[59]

Furthermore, AI-driven surveillance and policing technologies often rely on facial recognition and other biometric processing methods to identify and monitor individuals, leading to concerns about privacy, discrimination, and violation of civil liberties. In response to migration from Eastern Europe, Croatia has implemented AI and digital technologies in border control for enhanced surveillance and data collection on migrants, reported **EAPN Croatia**. Human Rights Watch also highlighted the Irish Department of Social Protection's collection of excessive personal data for identity verification when issuing Public Service Cards (PSCs).[60] The PSC is mandatory for various services including social welfare, applications for a first-time passport as an adult, citizenship applications, online renewal of driver's licenses, and applications for student grants, amongst others. Questions were raised about the necessity of collecting and analyzing facial images when less intrusive methods, like passport authentication and proof of address, should suffice. The Department claims to employ facial recognition to prevent duplicate registrations or identity fraud. The use of a PSC introduces an **extra technical hurdle that people experiencing poverty must overcome to access vital services, as well as brings up serious worries regarding privacy, legality, and data protection**.[61] It also means that those unwilling to adopt the PSC will be systematically deprived of services they are entitled to by law,[62] which is already happening.[63]

"People are afraid of losing their property, which is sometimes the only reminder of their past and the life they had before. People are even hesitant to apply for the guaranteed minimum benefits, and there is a pervasive fear. It has all come down to a loan - if you have property, you are allowing the state to charge you for that property someday."

- EAPN Croatia

Therefore, the use of AI and automated decision making processes by governments raises significant concerns regarding transparency and accountability. **Beneficiaries lack redress mechanisms** when their data is processed by opaque algorithms, leading to categorization without individuals understanding or even knowing the criteria. Moreover, the sharing of personal information required for social benefits

58 European Digital Rights (EDRi). Remote Biometric Identification: A Technical and Legal Guide, January 2023
59 European Digital Rights (EDRi). Remote Biometric Identification: A Technical and Legal Guidec, January 2023
60 O'Connor, W. Privacy fears over plans for wider use of AI for government online information services. Irish Independent, July 2023
61 Irish Council for Civil Liberties ICCL Welcomes Data Protection Commissioner's Finding That Public Services Card Is Illegal Across Public Services, August 2019
62 Farries, Elizabeth. The Irish PSC: Enforced Digital Identities for Social Protection Services and Beyond. Irish Council for Civil Liberties, May 2019
63 Irish Examiner, Teacher Denied Access to Social Welfare After Breaking Her Ankle and Refusing to Get PSC, November 2019 - Edwards, Elaine. Over 450 Have Welfare Suspended for Not Registering for Public Services Card, The Irish Times, February 2018 - Edwards, Elaine. Cutting Woman's Pension Over Card 17 Outrageous,'Says Age Action. The Irish Times, August 2017

applications raises questions about the recipients of such data and the potential infringement upon individuals' rights to privacy and data protection. Transparency in AI decision-making is essential, including how decisions are reached, the data used and its sources, data storage duration, potential biases, decision-making processes, and criteria. **Transparent practices promote accountability, build trust among stakeholders, and enable individuals to appeal decisions affecting them. In the realm of public services, transparency is particularly crucial.**

In 2016, Janne Cecilie Thorenfeldt experienced a car accident, making her eligible for sick pay from the Norwegian Social Service (NAV). During her employment at NAV, she found out that her colleagues had accessed her personal information without authorization. Despite confronting NAV about the issue, they refused to provide her with information. Thereafter, Thorenfeldt pursued legal action. The court ruled that NAV had violated data protection regulations, particularly the General Data Protection Regulation, but NAV was not held liable for the breaches.[64] At the moment, the case is pending before the European Court of Human Rights.[65]

Additionally, there is an urgent need to mention the growing reliance on software provided by profit-oriented enterprises, which underscores concerns regarding the expanding influence of the private sector in shaping essential services. Compounded by the fact that governments often do not retain ownership of such software, this stresses a potential misalignment between the public service mission and profit-driven private entities.[66] Private entities risk coming in conflict with the public interests these systems are intended to serve, as their priorities may prioritize corporate interests over societal welfare.[67] Private companies are not always subject to the same level of transparency and accountability as governmental organizations. This lack of oversight can make it difficult to assess the impact of their decisions on public welfare and to hold them accountable for any negative consequences. Also, this can be problematic as welfare systems become dependent on private entities for critical software infrastructure.

As it stands, it seems that many digital welfare programs do not meet basic legal requirements against human rights abuse, anti-discrimination, privacy, and data protection rules.[68] **There is an urgent need for AI systems to be respectful of international and European human rights law.** But as mentioned before, the current EU AI Act will fall short of that. Many difficulties arise when it comes to the use of AI in a digital welfare state in the context of international human rights law. As Rachovitsa and Johann emphasize, these include:

1. "the substantiation of (the risk of) indirect discrimination when prediction analytics come into play;
2. the allocation of the burden of proof when the state refuses to disclose information about a given AI system;
3. the discriminatory risks posed not only to individuals but also groups and, consequently,
4. the relevance of human rights law to conceptualizing group privacy and new types of harm for groups and/or societal harm."[69]

64 European Digital Rights (EDRi), Norwegian Social Service Guilty of Massive GDPR Violations, November 2023
65 European Digital Rights (EDRi), The privacy saga with Norwegian Social Service continues, March 2024
66 Digital Freedom Fund Explainer: What is the Digital Welfare State? April 2020
67 United Nations General Assembly, Report of the Special Rapporteur on Extreme Poverty and Human Rights: Advance Unedited Version, 2019
68 Adamantia Rachovitsa, Niclas Johann, The Human Rights Implications of the Use of AI in the Digital Welfare State: Lessons Learned from the Dutch SyRI Case, Human Rights Law Review, Volume 22, Issue 2, June 2022
69 idem

AI is excluding people experiencing poverty from adequately interacting with social services without the risk of being overly surveilled and suspected. Member States argued that digital tools would improve efficiency, but **the reality is that the use of digitalisation and AI is very much here to support the policing and controlling people experiencing poverty more and faster.** The use of AI in the provision of social benefits has led to automated discrimination, disproportionately affecting "vulnerable communities living at the intersection of economic and social marginalization".[70] AI and automated algorithms are creating an era where "beneficiaries are effectively forced to give up their right to privacy and data protection to receive their right to social security as well as other social rights".[71]

> There is a "need for the state to articulate a clear, accessible and foreseeable legal basis for AI before deploying it in public service delivery. The legislator bears a special responsibility to provide effective safeguards protecting against abuse and arbitrariness when developing and applying new technologies. The deployment of AI in the social welfare state must also be consistent with states' existing obligations under national and international law."[72]
>
> - The Dutch court on SyRI

70 Gangadharan, Seeta Peña and Niklas, J drzej. Between antidiscrimination and data: understanding human rights discourse on automated discrimination in Europe. Department of Media and Communications, LSE, London, UK, 2018

71 United Nations General Assembly, Report of the Special Rapporteur on Extreme Poverty and Human Rights: Advance Unedited Version, 2019

72 Adamantia Rachovitsa, Niclas Johann, The Human Rights Implications of the Use of AI in the Digital Welfare State: Lessons Learned from the Dutch SyRI Case, Human Rights Law Review, Volume 22, Issue 2, June 2022

Digitalisation as an Enabler of Austerity Initiatives

European Member States keep claming digitalisation as a technical silver-bullet solution. However, digitalisation is not the solution to the root problem: **the structural gaps and lacks of the current welfare state system**. The matrice of digitalisation systems is the one-size-fits-all approach to improve efficiency of the administration. **Faced with the amount of people left behind, alternatives must be explored, especially when austerity measures compromise investment in additional support alternatives.** There is a need to reflect on who is protected by the digital welfare state and who is not, and the rational behind that.

Austerity measures are "largely defined by rapid and deep cuts to public spending (frequently education, health and social protection), often alongside increases in tax revenues, specifically via regressive or indirect means, rather than taxation on wealth".[73] It is often the case that "countries constrained by debt and deficits are told to adopt fiscal consolidation or austerity policies instead of identifying new sources of fiscal space".[74] They "are often touted as a means of controlling government spending and restoring economic stability."[75] We also understand austerity by the existence of a gap in public investment with regards to needs in social welfare Eurodad's report, which "shows that... until at least 2025, 75% of the global population (129 countries) could still be living the grip of austerity measures".[76] As of January 2024, EU Member States must limit their public debt to 60% of their GDP, and their budget deficit to 3% of their GDP under the EU fiscal framework (Stability & Growth Pact). This will lead to those countries being forced to cut spending, and essential public services and social benefits tend to be cut first.[77]

As highlighted by the previous UN Rapporteur on Extreme Poverty in 2019, digital welfare states have been marked by budget cuts. **An austerity-driven digital transition leads to a reduction in the number of public servants, a downsizing of physical service centres, and an overreliance on automated, algorithm-driven decision-making processes, as well as the exclusion of large shares of the population from public service delivery.**[78] Governments are increasingly using digital tools and AI to streamline administrative processes, automate tasks, and enhance service delivery, aiming to reduce reliance on extensive personnel and manual intervention. Our national members are already witnessing a notable decrease in in-person assistance, which remains crucial for groups affected by the digital divide.

73 Abed, Dana and Kelleher Fatimah, The Assault of Austerity, Oxfam, November 2022
74 Ortiz, Isabel, Matthew Cummings, End Austerity: A Global Report on Budget Cuts and Harmful Social Reforms in 2022-25, Eurodad, September 2022
75 The African Women's development and communication network, Fiscal Justice and Women's Rights: Why Austerity Must End!, October 2023
76 Eurodad, 85% of the world's population will live in the grip of stringent austerity measures by next year, September 2022
77 Castro, Vítor, The impact of fiscal consolidations on the functional components of government expenditures, Economic Modelling, Volume 60, January 2017, Pages 138-150
78 United Nations General Assembly, Report of the Special Rapporteur on extreme poverty and human rights on the digital welfare state, October 2019

The Council Recommendation of 30 January 2023 on adequate minimum income ensuring active inclusion sets an example on how implementation of social and anti-poverty policies necessitates investment in human capital and in-person support, where digitalisation cannot provide the appropriate services. The recommendation includes:

> "Member States develop an individualized approach and coordinate service provision, by... no later than three months from accessing minimum income drawing an inclusion plan that should... assign a case manager or a single contact and service point who will ensure continuous support, organize timely referrals to relevant services and regularly oversee the progress in implementation of the inclusion plan."[79]

This provision requires sufficient human resources, the capacity of national social services, and an adequate ratio of individual support cases per case manager to deliver quality assistance, incompatible with the digitalisation of services for people experiencing digital poverty.

Furthermore, the amplification of social workers' workload due to digitalisation is particularly concerning. As governments implement digital platforms and electronic record-keeping systems, social workers are burdened with additional responsibilities and potential stressors. **Digitalisation has disempowered social workers' roles as their job has been changed and limited to risk being limited to guiding beneficiaries in the online space or implementing decisions made by the automated black boxes. This shift undermines the essence of social work, eradicating person-centred support and replacing it with standardized, one-size-fits-all measures.**[80] Moreover, as social workers' contact with the public diminishes due to digitalisation, the quality of support they can provide to people in vulnerable situations inevitably suffers. Less in touch with the changing reality and needs of the beneficiaries, they risk providing inadequate solutions and support. Moreover, the **technical skills** needed to navigate the software create an additional hurdle. In Croatia, social workers have access to the SocSkrb program, a comprehensive platform integrating data from various systems related to social welfare services and benefits. However, **EAPN Croatia** reported that challenges arise as social workers navigate the software, facing difficulties in extracting specific data and

79 Official Journal of the European Union, Council Recommendation on adequate minimum income ensuring active inclusion, January 2023

80 Nicholas, D. B., Samson, P., Hilsen, L., & McFarlane, J. Examining the COVID-19 pandemic and its impact on social work in health care. Journal of Social Work (London, England), 23(2), 334 349, 2023

utilizing efficient search functionalities. According to the former UN Special Rapporteur on extreme poverty and human rights, the digital welfare state exacerbates exclusion through substantial cuts to welfare budgets, increased surveillance and control of potential violations of conditionality requirements, handling vast amounts of personal and sensitive information, concealing crucial decision-making procedures, reducing the number of beneficiaries, enforcing stricter sanction policies, and moving away from the traditional notion of state accountability to the individual.[81]

Furthermore, digitalisation is amplifying the efficiency imperative within care services. While technological advancements promise benefits such as streamlined workflows and improved access to care, **they are often deployed with reduction of the budget line as a key objective**. As reported by **EAPN Portugal,** one nurse might be tasked with attending to multiple patients, facilitated by digital monitoring systems. This innovation can deteriorate the quality of care and potentially **overburden caregivers** if implemented at larger scale. Thus, this policy of increasing targets underscores a broader trend where technology is leveraged not only to enhance efficiency but also as a means of disinvesting in social services, especially where needs are increasing due to an aging population. **However, it is important to recognize that digitalisation also has the potential to ease the burden on informal carers, facilitating care coordination across providers and enabling regular check-ins with care recipients, provided carers themselves are not digitally excluded, reports AGE Platform Europe.** Striking a balance between leveraging technology for efficiency and preserving compassionate, person-centred care is essential in navigating the evolving landscape of care provision.

81 Digital Freedom Fund Explainer: What is the Digital Welfare State? April 2020

Conclusion

Protocol No. 26 of the Treaty on European Union underscores the significance of general interest services and grants Member States flexibility in their delivery methods, provided certain principles are upheld. **These principles encompass ensuring safety, quality, affordability, equal treatment, universal access promotion, and protection of user rights.** However, as noted by the European Union Agency for Fundamental Rights and as illustrated throughout this exploratory study, current national developments are failing to address the structural barriers to digital-only services. These barriers include a deep digital divide and its implications for accessing those services. In light of these challenges, it becomes imperative to consider individuals' autonomy, their right to participate in society, online or offline, and the broader perspective of fundamental rights. [82]

To uphold fundamental rights and prevent anyone from being marginalized or left behind, governments must uphold their responsibility with regard to the accessibility of their essential and support services, including through ensuring offline access. By doing so, they can safeguard people's autonomy and promote social inclusion.

In the relentless drive towards a fully digitalized society, European governments are overlooking the human element, failing to consider the impact of digitalisation on individuals and communities, particularly those already marginalized, vulnerable and excluded from society. For EAPN, if the main driver of digitalisation is austerity, it will inevitably be at the expense of the well-being and inclusion of people.[83] Yet, the digital transition and the use of AI in online services is publicized as the solution to streamline welfare systems and optimize resource allocation. However, this exploratory study showed consequences that digital welfare states and AI have posed to people experiencing poverty, by exacerbating existing inequalities and discrimination and leaving behind those who are most in need of assistance.

Deeper reflection regarding techno-solutionism needs to take place, as digitalisation doesn't challenge the root cause of poverty, and even reinforces exclusion from society. The relevant authorities must focus on constructing rights-based systems that prioritize the well-being and autonomy of all members of society. It is crucial to emphasize that for individuals to have a genuine choice, analog/quality face-to-face services must exist, which already implies large investment in social policies. Only through a concerted effort to centre human needs and rights can we truly create a welfare state that serves the interests of all, leaving no one behind.

82 European Union Agency for Fundamental Rights, Ensuring Access to Public Services for Older People in Digital Societies, September 2023

83 European Anti-Poverty Network, European Semester 2023: EAPN Urges Commission to Prioritise Social Rights Over Profits, November 2023

Recommendations

Digitally Induced Poverty

- Digital services must remain an option: they must be accompanied by physical, accessible, affordable, and quality essential services available to all, and an easy-to-navigate telephone service. Those using digital alternatives should not be treated more favorably when waiting lines or poor-quality interaction of in-person services become the norms, requiring that alternative paths are adequately resourced.[84]
- The right to cash payments must be preserved. Member States must ensure that their services as well as businesses serving beneficiaries and consumers, regardless of their size, accept cash payments.

"It is essential to remember that services are designed for people, making human contact indispensable. While machines can never replicate human interaction, public services must strive for the right balance between automation and personal connection."

- EAPN Portugal

- Member States must guarantee that digital tools are accessible to all without discrimination, including people with disabilities, older adults, and individuals living in poverty, including digital poverty. This should encompass providing digital devices and internet access to low-income households, through their inclusion in income support, subsidies, or social tarriffs.
- Member States must expand internet coverage in remote and rural areas.
- The digital transition must be accompanied by robust digital literacy and skills programs spanning all age groups. This must include comprehensive training sessions on the advantages and potential pitfalls of AI. Such programmes are vital for enabling individuals to safeguard themselves and make well-informed choices, catering to both everyday users and public officials alike.

"As access to the internet increasingly becomes a prerequisite for accessing essential public services, it follows that internet access should be recognized as a fundamental human right and made universally accessible."

- EAPN Portugal

84 Age Action Ireland. Digital Inclusion and an Ageing Population, October 2021

The Automation of Discrimination

- Digital welfare states must put wellbeing at its core and use technology to "ensure a higher standard of living for the vulnerable and disadvantaged".[85]
- Discrimination must be addressed, and welfare systems must be designed to uplift and support individuals in need, rather than subjecting them to unjustified scrutiny solely based on their socioeconomic status or another protected characteristic.[86]

EAPN Poland advocates for a responsible use of AI in the digital welfare state. This means using it as a decision-support (rather than for full automation) tool with transparency, human oversight, and accountability, weighing benefits against potential harms with community input, complementing policy analyses and ethical judgment, and retraining models for ongoing accuracy. Risks can be managed through independent testing and auditing of algorithms, validation of conceptual soundness, statistical methods and data quality, and the provision of redress mechanisms for citizens affected by algorithmic decisions.

- Member States and workplaces must be transparent about the use of AI and data collection practices. When applicable, they must involve social and civil society representatives in meaningful dialogue and decision-making processes and beneficiaries.
- The online application process for social protection needs to be created in cooperation with civil society organisations and beneficiaries to ensure a user-friendly interface and reduce the risks of errors.
- Memorandum on the use of AI and data-driven welfare policies to fully assess its implications and the potential risks of surveillance, control and discrimination against people experiencing poverty and vulnerable groups.
- Provide transparent access to source code to enable stakeholders to perform an informed assessment.

"The EU should design a system of checks and balances that promptly identifies and addresses human rights concerns with AI applications as they arise."

- Human Rights Watch, 202187

- Member States must prioritize internal management of secure, sovereign and interoperable digital solutions to safeguard privacy, rather than relying on private actors. [88]

"The right to welfare benefits must to be based on applicable principles of clarity, dialogue, transparency, legal certainty, and opportunities to appeal. This includes the handling of citizens' data correctly and transparently, both legally and ethically. Additionally, social workers continuing training must be reviewed and quality assured so that, in terms of content and organization, they match the requirements for new professional competencies."

- International Federation of Social Workers

85 United Nations General Assembly. Report of the Special Rapporteur on Extreme Poverty and Human Rights on the Digital Welfare State, 2019

86 Digital Freedom Fund Explainer: What is the Digital Welfare State?, April 2020

87 Human Rights Watch, How The EU's Flawed Artificial Intelligence Regulation Endangers the Social Safety Net: Questions and Answers, November 2021

88 European Commission. 2023 Report on the State of the Digital Decade, Shaping Europe's Digital Future, September 2023

Recommendations

Digitalisation as an Enabler of Austerity Initiatives

- Member States must conduct comprehensive impact assessments of digitalisation and AI to assess their effect on society's advancement as well as on people's well-being and inclusion, through disaggregated data collection, including between urban and rural areas as well as on digital skills/literacy and internet use, and by establishing mechanisms for feedback from vulnerable communities.[89] This is key to ensuring technical and political oversight to safeguard against potential biases and abuses of power.
- Governments must guarantee people's privacy, better connectivity, specifically better availability of a high-speed internet connection and [their] greater affordability.[90] They should also reduce bureaucracy to ensure that reduced budget costs translate into improved efficiency and accessibility for users, rather than exacerbating confusion and barriers due to system failures or lack of support channels.
- Digital welfare systems must be collaboratively developed by the individuals they are intended to serve and assessed through inclusive evaluation processes to ensure inclusivity and usability for all, including by conducting focus groups, interviews, and pilot tests with people experiencing digital poverty, youth, people with disabilities, older adults, and other vulnerable communities.[91]

89 European Union Agency for Fundamental Rights, Fundamental rights of older people: Ensuring access to public services in digital societies, 2023

90 European Commission, Report on the State of the Digital Decade Shaping Europe's Digital Future, 2023

91 United Nation General Assembly, Report of the Special Rapporteur on Extreme Poverty and Human Rights: Advance Unedited Version, 2019

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