

Criminal Sanctions and Algorithms: Sanctioning v1.0

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In modern society, the pronouncement of a fair criminal sanction to defendants constitutes the ultimate goal that every judge should pursue in criminal proceedings. However, this goal is in fact only an ideal, since penal sanctions often create an unequal position among these defendants. For this reason, the author first introduces how sentencing by the court should be and then attempts to improve and replace this decision-making method by using a computer program, which he developed. The author's thesis is that a computer program could be more just and effective in deciding the criminal sanction for the defendant, which the author presents in the central part of the article by providing principled and concrete reasons for this. The author also examines some of the most well-known court decisions regarding such a decision-making method, and in the penultimate part of the article, presents potential obstacles to the introduction of automated decision-making in the criminal justice process. In conclusion, the author states that the final decision regarding the criminal sanction should still be left to the judge who could use the computer program as a supporting mechanism. The judge will only be allowed to use the results of this program if all of the criminal guarantees are still provided to the defendant while the judge will verify the outcome of the program and explain the reasoning of the court's decision.

Key words: equity of penal sanction, principle of equality, disparity of sanctioning, jurisprudence, algorithms, automated decision making

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