

Civil society initiative for a ban on biometric mass surveillance practices - Draft legal act

Our European Citizens' Initiative asks the Commission to act against [the inherently disproportionate - and therefore unlawful - practice of using biometric technologies for purposes which can amount to mass surveillance.](#) This responds to the Treaty objective of ensuring the protection of individuals as regards the processing of personal data primarily set by Article 16 of the Treaty on the Functioning of the European Union (TFEU), in accordance with the fundamental rights standards enshrined in the Charter of Fundamental Rights of the European Union. Action in this area falls within the EU competence as defined in Article 4(2)(a) and (j), TFEU, insofar as high standards for the protection of individuals as regards the processing of personal data are essential to the good functioning of the EU's internal market, and for building an area of freedom, security and justice which is fully compliant with fundamental rights standards as enshrined in the EU Charter. Article 114 TFEU further emphasises the need for harmonised rules and the highest level of protection.

On the basis of the competence attributed to the EU by Article 16(2) and/or Article 114 TFEU, we call on the Commission to adopt a legislative proposal under secondary EU law for binding rules which - building on and with full respect for the general safeguards in the GDPR and LED - would explicitly prohibit the use of biometric data for identification, recognition (including of emotions), profiling, prediction and any related purpose, in public or publicly-accessible spaces (including online spaces) on the grounds that this leads to inherently unnecessary and disproportionate mass surveillance.

Any other proxy terms for biometric identification in public spaces, publicly-accessible spaces (such as supermarkets, concert arenas, airports, train stations, stadia and so on) and online public spaces must similarly be included within the scope of the legislation. This is to ensure that there are no technical loopholes for the use of biometric data in ways that will have the same outcome of biometric mass surveillance or any other undue violation of fundamental rights. As per [the EDPS's definition](#), biometrics can be considered "human features, not only of faces but also of gait, fingerprints, DNA, voice, keystrokes and other biometric or behavioural signals".

The upcoming EU legislative initiative on Artificial Intelligence, expected in 2021, provides an opportunity for the stricter regulation of uses of biometric technologies. The Commission's 2020 Inception Impact Assessment to the Artificial Intelligence White Paper included legal options on biometrics showing that regulating the matter is within the Commission's competences as defined by the Treaties. However, to ensure a specific and explicit set of red lines against the most harmful uses of biometric technologies, we call for a targeted and binding legislative proposal in secondary European law to provide stronger and more specific provisions based upon and with full respect for the general prohibition of biometric processing in the GDPR and the LED (which must remain the key instruments for protecting Europeans' biometric data).