Center for AI and Digital Policy

CAIDP Update **2.36 (Oct. 6, 2021) –** *European Parliament Moves to Ban Facial Surveillance, Predictive Policing,*

This week the European Parliament voted to curtail the use of AI techniques for such activities as facial surveillance and predictive policing. The overwhelming vote on the report from MEP Petar Vitanov indicated that the EU proposal for the regulation of Artificial Intelligence is likely to become stronger as it moves forward.

The report Artificial intelligence in criminal law and its use by the police and judicial authorities in criminal matters, prepared on behalf of the LIBE Committee, set out clear limits on the use of AI techniques by law enforcement agencies. The report also recommends a ban on private facial recognition databases such as Clearview AI. MEP Dragos Tudorache, chair of the Committee on AI in Digital Age, expressed the view of many Members when he said, "we must only allow AI technologies to be used with strict safeguards and oversight, and we must ensure that human rights are protected throughout.

Ella Jakubowska, one of the organizers of the ReclaimYourFace campaign, said, "Today's vote represents an historic moment, as the European Parliament has taken a bold stand against unacceptably risky uses of AI like biometric mass surveillance and predictive policing." EDRi, along with many other EU NGOs, had urged the Parliament to oppose amendments that would have weakened the final report. Earlier this year, CAIDP expressed support for the EDRi campaign.

So far, AI policy frameworks have struggled with "red lines," actual prohibitions on the use of AI in certain applications. The proposed EU AI Act prohibits the use of AI for "social scoring," a technique developed by the Chinese government to align the private behavior of Chinese citizens with the goals of the Chinese Communist Party. But the EU AI Act stops short of establishing a clear prohibition on the use of AI for identification in public spaces, a form of mass surveillance widely criticized by human rights advocates, data protection officials, and many members of the European Parliament. Under the risk assessment taxonomy of the EU proposal, remote biometric identification is treated as a high-risk activity, subject to many conditions, but not actually prohibited.

In the 2020 report *Artificial Intelligence and Democratic Values*, a survey of AI policies and practices in thirty countries, the CAIDP found that "few AI applications are more controversial than the use of AI for surveillance in public spaces." CAIDP recommended that countries "halt the use of facial recognition for mass surveillance." A declaration presented to the Data Protection Commissioners in 2019, by more than 100 organizations and 1,000 experts, called for a moratorium on the use of facial recognition for mass surveillance. That statement followed the Madrid Privacy Declaration of 2009, which called for a "moratorium on the development or implementation of new systems of mass surveillance, including facial recognition, . . . subject to a full and transparent evaluation by independent authorities and democratic debate."