Homo Digitalis

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Homo Digitalis' input to the UN Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, Ms. E. Tendayi Achiume, for her 2020 thematic report to the General Assembly related to Race, Borders, and Digital Technologies.[1]

Dear UN Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, Ms. E. Tendayi Achiume,

Homo Digitalis is a Greek civil society organization based in Athens, Greece that focuses on the promotion and protection of human rights in the information society.

We would like to thank you for your open invitation to all related stakeholders to submit their input on how digital technologies deployed in the context of border enforcement and administration reproduce, reinforce, and compound racial discrimination.

With our submission we would like to provide more information about the latest developments in Greece as regards the use of digital technologies in border management activities. We have decided to focus on 3 topics, namely:

- The deployment of related research projects in Greece,
- The future use of facial recognition and biometric identification software in police stops by the Hellenic Police, and
- The newly introduced legislation on the use of drones by the Hellenic Police in border management activities

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[1] This submission can be freely published on the website of the Special Rapporteur.

A. The deployment of related research projects in Greece

Many research projects in the field of border management are funded by the European Commission under the Horizon 2020 scheme "Secure societies - Protecting freedom and security of Europe and its citizens".[2] It is true that research projects lie at the heart of innovation and make a critical contribution to the development of Europe's societies and cultures. Nevertheless, we would like to bring to the UN Special Rapporteur's attention a number of Horizon2020 research projects deployed in Greece that raise important challenges for the future of our societies and the protection of human rights. This list of examples is not exhaustive.

ROBORDER ("autonomous swarm of heterogeneous Robots for BORDER surveillance"):

The aim of the ROBORDER project is to deliver a fully-functional, autonomous border surveillance system. The system consists of unmanned mobile robots including aerial, water surface, underwater and ground vehicles, capable of functioning both on a standalone basis and in swarms. The project started on May 2017 and will be concluded on February 2021. Twelve other countries are also participating in this consortium: Portugal, United Kingdom, Romania, Germany, Italy, Switzerland, Bulgaria, Spain, Hungary, Belgium, Finland, and Estonia.[3]

The Hellenic Ministry of Defense is one of the Greek stakeholders involved in this research project. Thus, we believe that the expertise and technical knowledge acquired by ROBORDER, will in turn feed into the development and deployment of similar tools by the Hellenic Army in the near future. It is notable that the Hellenic Army has already leased the naval drones surveillance system "Heron" from the Israeli Ministry of Defense for a period of three years. Heron is equipped with day and night activity platforms, maritime patrol radars, and satellite communications, while it will be used in border management activities.[4]

iBorderCtrl ("Intelligent Portable Control System"):

In the field of border management, another research project that has attracted attention over the past year is the iBorderCtrl project. According to the project's website, the aim of this project is to enable faster and more thorough border control for third country nationals crossing the land borders of EU Member States. iBorderCtrl was implemented on the Hungarian, Greek, and Latvian borders as a pilot project, but it is not an authorized law enforcement system, while the project came to an end in August 2019. In November 2018, Homo Digitalis filed a petition to the Greek Parliament regarding the pilot implementation of the iBorderCtrl project.[5] Moreover, following a successful access to information request by Homo Digitalis it was revealed that during the project's pilots in Greece the role of travelers was primarily "played" both by Greek Border Guards and Hellenic Police Officers. Furthermore, other

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[2] Please, see more information at European Commission, Secure societies - Protecting freedom and security of Europe and its citizens (2020), Available here:
https://ec.europa.eu/research/participants/data/ref/h2020/wp/2018-2020/main/h2020-wp1820-security_en.pdf

[3] Please, see more information at ROBORDER (2017), Available here: https://roborder.eu/

[4] Seth Frantzman, Greece and Israel deal spotlight leasing model for military UAVs (2020), Available here: https://www.defensenews.com/global/europe/2020/05/08/greece-and-israel-deal-spotlight-leasing-model-for-military-uavs/

[5] Please, see more information at European Digital Rights (EDRi), Greece: Clarifications sought on human rights impacts of iBorderCtrl (2018), Available here: https://edri.org/greece-clarifications-sought-on-human-rights-impacts-of-iborderctrl/

consortium members played on a voluntarily basis the role of travelers. Thus, it appears that no real travelers participated in the Greek pilots.[6]

FOLDOUT ("Through-foliage detection, including in the outermost regions of the EU"):

The aim of FOLDOUT is to build a system which combines various sensors and technologies and fuses them into an intelligent detection platform for border surveillance. According to FOLDOUT's website, the project will improve the speed of the work of border guards by combining events from various sensors to give a situation threat assessment followed by suggested reaction scenarios. Based on the available documentation on the project's website, a two-year pilot project in Bulgaria and demonstrations of the project in Greece, Finland, Lithuania and French Guiana are planned. However, there are no details on the exact dates of such demonstrations. Nevertheless, the goals are described as follows: detection of irregular border crossings (illegal migrants + vehicles) in forest terrain border surveillance for the Bulgarian and Greek demonstrations, and detection of illegal transport and entry of goods (trafficking) in temperate broadleaf forest and mixed terrain border surveillance for the demonstrations in Finland, Lithuania, and French Guiana.[7]

B. The future use of facial recognition and biometric identification software in police stops by the Hellenic Police

In the spring of 2019, the Hellenic Police signed a €4 million contract with Intracom Telecom, a global telecommunication systems and solutions vendor, for a smart policing project. Seventy five percent of the project is funded by the Internal Security Fund (ISF) 2014-2020 of the European Commission. The Hellenic Police published a press release for the signature of this contract in December 2019,[8] while the vendor had publicly announced it earlier, in July 2019.[9]

Based on the technical specifications of the contract, the vendor will develop and deliver to the Hellenic Police smart devices with integrated software enabling facial recognition and automated fingerprint identification, among other functionalities. The devices will be in the size of a smartphone, and police officers will be able to use them during police stops and patrols in order check and identify on the spot individuals who do not carry identification documents with them. The police officers will also be able to take a close-up photograph of an individual's face and collect her/his fingerprints. Then, the fingerprints and the photographs collected will immediately be compared with data already stored in central databases after which the police officers will get the identification results on their devices. It is anticipated that the Hellenic Police will be able to use these devices by the beginning of 2021.[10]

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[6] iBorderCtrl, Evaluation Report of final prototype pilot deployment and best practices – Analysis of pilot feedback on final prototype (2019), p.15, Available here:
https://www.asktheeu.org/en/request/7488/response/24777/attach/3/D6%204%20700626%20Eval%20report%20final%20prototype%20pilot%20deploy%20BestPractices%20redacted.pdf

[7] Please, see more information at FOLDOUT (2018), Available here: https://foldout.eu/wp-content/uploads/2018/11/Overview_Foldout_v16.pdf

[8] Press Release of Hellenic Police (2019), Available here (EL):
http://www.astynomia.gr/images/stories/2019/prokirikseis19/14122019anakoinosismartpoli

[9] Intracom Telecom, Intracom Telecom Undertakes a "Smart Policing" Project, Available here:
http://www.intracom-telecom.com/en/news/press/press2019/2019_07_02.htm

[10] Hellenic Police, The technical specifications of the smart policing contract (2018), Available here (EL):
http://www.astynomia.gr/images/stories/2018/prokirikseis18/12042018-texn_prod.pdf

Based on reports published by Human Rights Watch[11] and Amnesty International,[12] it is a usual practice of the Hellenic Police to conduct massive police stops and identity checks in order to verify the legal status of individuals presumed to be irregular migrants. Thus, we could argue that the development and deployment of the aforementioned smart policing tools could especially target migrant communities in urban centers, such as Athens.

In March 2020, Homo Digitalis filed a request for opinion to the Hellenic Data Protection Authority (DPA) regarding this smart policing contract.[13] The request is based on the national provisions implementing article 47 of the Directive 2016/680[14] which provides for the investigatory, corrective and advisory powers of the DPAs.

With this request, Homo Digitalis claims that the processing of biometric data, such as the data described in the contract, is allowed only when three criteria are met:

1. it is authorised by Union or Member State law,

2. it is strictly necessary, and

3. and it is subject to appropriate safeguards for the rights and freedoms of the individual concerned.

None of the above mentioned criteria is applicable in this case. Specifically, there are no special legal provisions in place allowing for the collection of such biometric data during police stops by the Hellenic police. Moreover, the use of these devices cannot be justified as strictly necessary since the identification of an individual is adequately achieved by the current procedure used. Nevertheless, such processing activities are using new technologies, and are very likely to result in a high risk to the rights and freedoms of the data subjects. Therefore, the Hellenic Police is obliged to carry out, prior to the processing, a data protection impact assessment and to consult the Hellenic DPA.[15]

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[11] Human Rights Watch, Greece: Abusive Crackdown on Migrants (2013), Available here: https://www.hrw.org/news/2013/06/12/greece-abusive-crackdown-migrants and Human Rights Watch, Unwelcome Guests (2013), Available here: https://www.hrw.org/report/2013/06/12/unwelcome-guests/greek-police-abuses-migrants-athens

[12] Amnesty International, Κράτος εν κράτει (2014), Available here (EL): https://www.amnesty.org/download/Documents/8000/eur250052014el.pdf

[13] Homo Digitalis, Request for opinion to the Hellenic DPA (2020), Available here (EL): https://www.homodigitalis.gr/wp-content/uploads/2020/03/HomoDigitalis.pdf

[14] Directive 2016/680 on the protection of natural persons with regard to the processing of personal data by competent authorities for the purposes of the prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties, and on the free movement of such data, Available here: https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32016L0680&from=EN

[15] See more information at: European Digital Rights (EDRi), Facial recognition: Homo Digitalis calls on Greek DPA to speak up (2020), Available here: https://edri.org/facial-recognition-homo-digitalis-calls-on-greek-dpa-to-speak-up/

C. The newly introduced legislation on the use of drones by the Hellenic Police in border management activities

In October 2019, new legal rules were adopted as regards the deployment of drones by the Hellenic Police. More precisely, the Presidential Decree 98/2019[16] provides, amongst others, that the Hellenic Police is allowed to use drones in order to monitor illegal migration in border regions. If drones are to be deployed in operations related to border management, images and video footage of people will probably be captured. Thus, it is anticipated that the applicable European data protection legal provisions shall be in force. However, the Presidential Decree 98/2019 does not provide any details on this regard.

Homo Digitalis claims that the new rules do not address the challenges arising from the applicable data protection legislation. For this reason, in April 2020 we filed an open letter to the Ministry of Citizen Protection requesting more information about the deployment of drones by the Hellenic Police on this regard. The Hellenic Data Protection Authority was notified, as well.[17]

We would like to thank you for taking into consideration our input. Homo Digitalis remains at your disposal for any further clarifications.

Your sincerely,

The team of Homo Digitalis

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[16] Presidential Decree 98/2019 on the organization and operation of the unmanned aerial vehicle Force, Available here (EL): https://www.kodiko.gr/nomologia/document_navigation/570607/p.d.-98-2019
[17] Homo Digitalis, (2020), Open Letter to the Ministry of Citizen Protection for the use of drones by Hellenic Police, Available at (EL): https://www.homodigitalis.gr/posts/6579