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Letter | 17.03.2023

Vote to stop a future of biometric mass surveillance in Europe!

A cross-party letter to Members of the French Assemblée Nationale

To: député·es de l'Assemblée Nationale (French Parliament)
CC: the CNIL

Bruxelles, the 17th of March 2023

Vote to stop a future of biometric mass surveillance in Europe!

Dear Members of the Assemblée Nationale,

We, the undersigned Members of the European Parliament, are writing to you to express our grave concern about Article 7 of the draft law on the Olympic and Paralympic Games. We warn that if the law is passed in its current form, France would set a surveillance precedent of the kind never before seen in Europe, using the pretext of the Olympic games. Article 7 of the text will provide a legal basis for the use of cameras equipped with algorithms to detect specific suspicious events in the public space. [1]

In the European Parliament 2021 Report on artificial intelligence in criminal law and its use by the police and judicial authorities in criminal matters, precursor to the AI Act, we called among other things for "the permanent prohibition of the use of automated analysis ... of human features … and other biometric and behavioural signals." [2] The relevant regulation is currently being negotiated. There is a majority in the European Parliament in favour of a strong ban of biometric mass surveillance in the AI Act [3]. By pushing to swiftly pass a law to enable automated analysis of human behavioural signals despite the EU process currently under way, France is undermining the scrutiny and democracy role of the European Parliament. Article 7 of the Olympic and Paralympic Games law risks clashing with the EU's AI Act.

What is at stake with the Article 7?

If anybody can be reported to the police for allegedly „anomalous" behavior, a chilling effect is to be expected. Note that France would become the first European Union Member State to explicitly attempt to legalise this type of practice. As it stands, this measure threatens the very essence of the right to privacy, data protection and freedom of expression, making it contrary to international and European human rights

law. In line with democratic values and principles, during large-scale events such as the Olympic Games, which thousands of EU citizens are expected to attend, it is essential to ensure that fundamental rights are fully protected and that conditions are created for public debate, including political expression in public spaces.

At stake with Article 7 is the governance of our public spaces and of our society, which we ought not to leave to algorithms. Omnipresent CCTV has been shown not to prevent violence to begin with [4]; the automated analysis of behaviour on these CCTV feeds will not help either. There is no proof of the effectiveness and efficiency of such a way of governing and policing. As pointed out by journalists, multiple experiments have been conducted in France and across the world, with little transparency about the results; often, the 'experiment' is discreetly terminated without public notice, and where there is some scrutiny of the results, these are negative and critical. [5] The risks and concerns posed by the ever-increasing surveillance apparatus of the State, in contrast, are very real. Notably the only country to comprehensively embrace biometric mass surveillance of the entire population so far is authoritarian China.

As the Office of the UN High Commissioner for Human Rights warned in its 2022 assessment of the greatest global threats to human rights: "The report also raises the alarm about the growing surveillance of public spaces. Previous practical limitations on the scope of surveillance have been swept away by large-scale automated collection and analysis of data". [6] The High Commissioner takes a particularly strong stance against systems which process biometric data, calling for moratoriums or bans. **For a democratic country like France to encourage these signals would send a carte blanche to repressive regimes around the world to do the same to their citizens.**

France would with this law take on the less-than-stellar role of "leader" of surveillance policies in the European Union.

Dear colleagues, let us stand up for fundamental rights and prevent biometric mass surveillance of public spaces. People who constantly feel watched and under surveillance cannot freely and courageously stand up for their rights and for a just society. Technological developments need to be aligned with our rights and values.

We sincerely hope that you will take urgent action in consultation with civil society to address the concerns outlined above and **remove the Article 7 provisions on biometric mass surveillance from the proposed legislation**.

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Sources

[1] https://www.senat.fr/leg/pjl22-220.html

[2] https://www.europarl.europa.eu/doceo/document/A-9-2021-0232_EN.html

[3] https://www.patrick-breyer.de/en/eu-lawmakers-and-civil-society-call-on-member-states-for-a-strong-ban-on-biometric-mass-surveillance-as-the-negotiations-on-the-ai-act-come-to-a-close/

[4] https://academicworks.cuny.edu/cgi/viewcontent.cgi?article=1275&context=jj_pubs

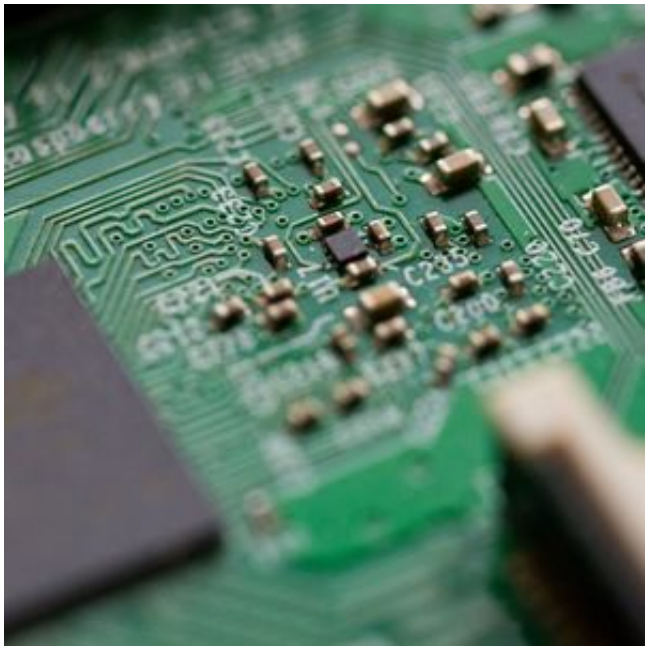
[5] https://www.lemonde.fr/idees/article/2023/03/10/adoptee-pour-les-jo-de-paris-2024-la-surveillance-algorithmique-n-a-jamais-fait-ses-preuves_6164900_3232.html

[6] https://www.ohchr.org/en/press-releases/2022/09/spyware-and-surveillance-threats-privacy-and-human-rights-growing-un-report

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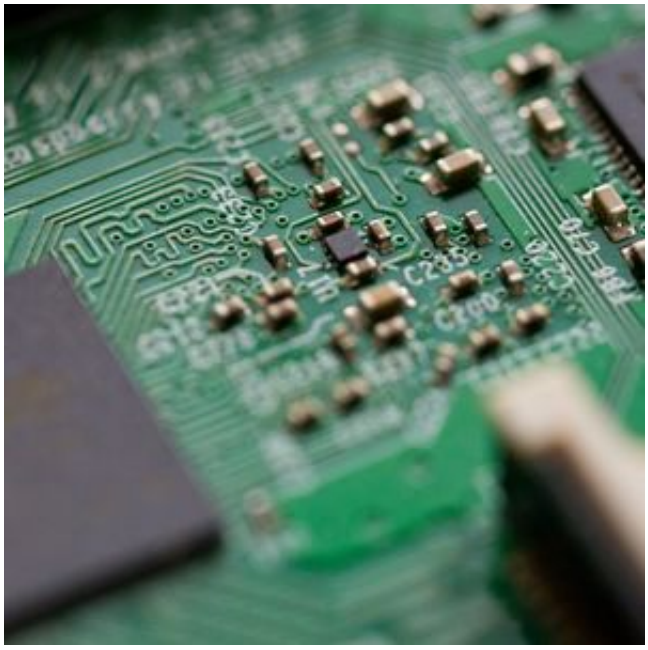


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