



Supplement to the Position Paper on the European Parliament Report for a European Artificial Intelligence Act *Specific Comments on Biometrics*

Brussels, 02 November 2022

This is a supplement to the in-depth [position paper](#) of the Confederation of European Security Services (CoESS) on the European Commission's Proposal for a Regulation laying down harmonised rules for Artificial Intelligence (EU AI Act) from December 2021.

We hereby stress that the definition of “biometric identification systems” must clearly differentiate this high-risk technology from biometric verification and authentication systems. The latter are already sufficiently regulated by the General Data Protection Regulation, come with a considerably lower risk, as they are based on data subject consent, and should hence be excluded from the scope of the EU AI Act. To this end, this paper recommends concrete amendments to the legal text to support the European Parliament in agreeing on a legally sound report for this highly important file.

The case of biometric identification vs. verification/authentication

The legal proposal covers the deployment of (“real-time”) remote biometric identification systems as per Article 3.36, Article 5 and Article 6.2. However, it is not clear whether the notion “*identification*” also includes “*verification*” and “*authentication*”. Notions of remote biometric verification and remote biometric authentication systems, which both come with very distinct use-cases and considerably lower risks than identification systems, are omitted in the proposal.

CoESS believes that this omission creates substantial legal uncertainty concerning the deployment of biometric verification and authentication systems, and recommends that (“real-time”) remote biometric verification and authentication systems are excluded from the scope of the Regulation. Both provide a high added value for the security of properties and services, and come with a very low risk, because they are used with the consent of, or upon request from the natural person (see practical examples on Page 2). Hence, they are already sufficiently regulated by the General Data Protection Regulation.



As a consequence, biometric identification systems must be clearly differentiated from biometric verification and authentication systems in the Recitals and Article 3. To this end, CoESS recommends on page 3 concrete amendments to the legal proposal.

Practical examples

The purpose of remote biometric verification and authentication systems is very distinct to identification systems and they are based on the consent from the data subject. Both hence come with a very different risk level to citizens' fundamental rights and should be excluded from the scope of the legal proposal.

Biometric identification systems

For the purpose of identification, a comparison is made between an identified facial map and a database of identifying data to which a natural person may not have given consent - for example in use-cases related to the search for criminals and specific persons of interest.



Biometric verification systems

For the purpose of verification, a comparison is made between an identified facial map, or other biometric data, and a database of identifying data to which a natural person has given consent - for example in use-cases related to access control to sensitive areas like Critical Infrastructure, other essential service infrastructures or government buildings.



Biometric authentication systems

For the purpose of authentication, a natural person authenticates his/her own identity on their own request - for example in personal access to mobile phones, computers, online banking.





Recommendation for amendments

Clarification in Recital (8)

(8) The notion of remote biometric identification system as used in this Regulation should be defined functionally, as an AI system intended for the identification of natural persons at a distance through the comparison of a person's biometric data with the biometric data contained in a reference database, and without prior knowledge whether the targeted person will be present and can be identified, irrespectively of the particular technology, processes or types of biometric data used. **Such a definition excludes verification/authentication systems whose sole purpose would be to confirm that a specific natural person is the person he or she claims to be, as well as systems that are used to confirm the identity of a natural person for the sole purpose of having access to a service, a device or premises. This exclusion is justified by the fact that such systems are likely to have a minor impact on fundamental rights of natural persons compared to biometric identification systems, which may be used for the processing of the biometric data of a large number of persons.**

Article 3.36 - Definition of "remote biometric identification systems"

(36) 'remote biometric identification system' means an AI system for the purpose of identifying natural persons through the comparison of a person's biometric data with the biometric data contained in a reference database, **excluding verification/authentication systems whose sole purpose is to confirm that a specific natural person is the person he or she claims to be, and systems that are used to confirm the identity of a natural person for the sole purpose of having access to a service, a device or premises;**



About CoESS

CoESS acts as the voice of the private security industry, covering 23 countries in Europe and representing 2 million security officers as well as over 45,000 companies. The private security services provide a wide range of services, both for private and public clients, ranging from Critical Infrastructure facilities to public spaces, supply chains and government facilities. CoESS is recognised by the European Commission as the only European employers' organisation representative of the private security services. Representing a labour-intensive sector, CoESS is actively involved in European Sectoral Social Dialogue and multiple EU Expert Groups - including SAGAS, SAGMAS, LANDSEC, RAILSEC and the EU Operators Forum for the Protection of Public Spaces.

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