

ENNHRI Co-Lab: AI

Ljubljana, 1 December 2023

AI through a thematic lens : Securitisation and law enforcement

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Introductory words

« Securitisation » : a concept used in critical security studies to describe how certain objects, themes or entities are constituted as security issues requiring specific and sometimes extraordinary measures in order to defend them.

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« Securitisation » : a concept used in critical security studies

In the context of this presentation :

« Securitisation and law enforcement » : AI systems used to detect and prevent disturbances to law and order, or to help track down offenders.

1. Use cases

A. Mass surveillance – Image analysis

➤ The use of “real-time” remote biometric identification systems in publicly accessible spaces (broad surveillance : currently mainly facial recognition)

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- The use of “real time” and “post” remote biometric identification of natural persons (target : find one or more previously identified individuals who may be linked to a threat of any kind)
- The use of automated video surveillance (AVS) to detect particular events automatically, such a suspicious behavior, abandoned object, not wearing a health mask, etc.

1. Use cases

B. Profiling

➤ Profiling in the course of detection, investigation or prosecution of criminal offences (ex : suspicious financial flows, processing of air passenger data, etc.)

1. Use cases

C. Predictive policing

- Individual risk assessments of natural persons in order to assess the risk of a natural person for offending or reoffending (comparable to predictive justice systems)

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- Predictive mapping of crime risk areas

1. Use cases

D. Investigation tools

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- Analysis tool for criminal investigation to highlight correlations that police officers or judges might have overlooked
- Detection of the emotional state of one respondent

2. Impact on Human Rights

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- The type of technology used (supervised or non supervised machine learning, deep learning etc.) : more or less ability/possibility to report on the operating methods of the machine
- The scale of the databases used and the nature of the data : specific risks of breaches of data protection regulations

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- Predictive policing undermines right to privacy and the presumption of innocence
- Surveillance in public spaces undermines privacy + Dissuasive effect generated by the end of anonymity in the public space (« chilling effect »): it poses a threat to the effective exercise of freedom of movement, freedom of expression, freedom of assembly, etc.

3. AI Act and law enforcement

The proposition of AI Act follows a risk-based approach : it outlines four levels of risk:

- low-risk systems;
- Limited or minimal risk systems ;
- High-risk systems - systems that can have a significant impact on Fundamental Rights : includes some predictive policing applications and some investigation tools
- Systems with unacceptable risk - these systems are not permitted to be sold on the EU market : includes the use of real-time biometric identification systems in publicly accessible spaces (However, ban undermined by numerous exceptions)

3. AI Act and law enforcement

The concerning trends emerging from the last trilogue meeting (24th of October):

- While the European Parliament prohibited the real-time RBI: the compromise is to narrow the exceptions to the ban of this technology.
- The European Parliament prohibited Individual predictive policing for criminal and administrative offences : the compromise is to include a prohibition under the social scoring prohibition.
- Some States plead for a blanket national security exemption

3. AI Act and law enforcement

Joint Equinet and ENNHRI Statement on EU Artificial Intelligence Act
Trilogue, 23 November 2023

Concerning AI applications related to law enforcement, it requires:

- The ban of real-time RBI
- A standalone prohibition of predictive systems