



Artificial intelligence at the EU's external borders: Human rights are non-negotiable

"The values on which the Union is founded are respect for human dignity, freedom, democracy, equality, the rule of law and respect for human rights, including the rights of persons belonging to minorities [...]."

The quote comes from [Article 2 of the Treaty of Lisbon](#) (2009) and clearly describes what the EU wants to stand for. However, in view of what is happening at Europe's external borders (and beyond), the question must be asked as to whether the values described in the quote are actually being implemented politically and to whom they apply.

The EU pursues various strategies to seal off its external borders, in particular to prevent unauthorized immigration. One of these strategies is the so-called [externalization of borders](#). Through [agreements with third countries](#), which are often transit countries on the refugee routes to Europe, the EU is relocating its external borders. This means that people seeking protection are prevented from continuing their journey to Europe while they are still on the run. One example is Libya and [Tunisia](#), two of the most important transit countries on the central Mediterranean route to Europe. The EU supports their authorities and border regimes [mainly financially](#), but also by training their personnel. In this way, the EU is effectively transferring responsibility for border controls to the border regimes of various non-EU states and shirking its obligation to grant international protection to refugees. As a result, people often do not even have the opportunity to reach the EU and apply for asylum there. Modern surveillance technologies have long been used at the EU's external borders. Now the EU wants to partially automate border controls and thus its isolation policy through the use of artificial intelligence.

Millions for research: AI surveillance at EU borders under criticism

In recent years, the EU has funded several research projects worth millions for the use of AI technologies in European border protection, which were reported on

by [ZDF Magazin Royale](#) in collaboration with [Algorithm Watch](#) in the [episode of 24.05.2024](#). Specifically, the EU has funded several research projects worth over [€17 million](#). Among other things, the research was aimed at autonomous border surveillance.



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The [ROBORDER](#) project aims to develop a "functional, autonomous border surveillance system". Unmanned mobile robots (air, water surface, underwater and ground vehicles) will be used to detect ["illegal activities and dangerous incidents"](#) and inform the police authorities about ["suspicious" people](#).

By "suspicious" people at the EU's external borders, they very likely mean refugees who are to be recognized and reported directly on the coasts or on land. In addition, ROBORDER was funded under the EU's Horizon 2020 research program, which is intended exclusively for civilian purposes. However, research shows that the ROBORDER system has been presented to

the Greek Navy and that other [military units could also be possible end users](#): this means that a military use of the system cannot be ruled out and this is definitely in contradiction to the project's funding. However, the EU sees no contradiction in this, arguing that military units would ensure ["civilian security"](#).

The EU-funded research project [NESTOR](#) aims to develop a further surveillance system for the EU borders. This project uses optical, thermal imaging and high-frequency spectrum analysis technologies. Drones operate on land and water, among other places, and are designed to detect, classify and track moving targets (e.g. people, ships, vehicles, drones, etc.). The AI is also to be used in areas that are no longer part of the EU's own territory but are relevant for the EU. This most likely also refers to international waters, meaning that there is no clear definition of where the technology should be used.

A [test video](#) (from minute 25) shows how migrants are detected by drones and robots and arrested by ground troops. Refugees are treated like terrorists who must be tracked down and intercepted by any means necessary. An image is produced that fits the racist narrative of the "invasion of migrants" and constructs a fragile Europe that must protect itself from danger. Migrants only cross the Mediterranean and other external borders of the EU because there are no safe passages to claim their right to apply for international protection (under the

[Geneva Convention on Refugees](#) and [the Universal Declaration of Human Rights](#)).

In all of these research projects, refugees are presented as a "danger" in such a dehumanizing way that their rights, such as the individual implementation of an asylum procedure, are no longer even remotely an issue.

The NESTOR research group itself also stated in a [risk analysis](#) (from minute 26) that the AI developed harbors a number of dangers: its research could lead to the development of a technology that can also be misused for criminal or terrorist purposes. In addition, the surveillance technology developed could restrict human rights and civil liberties and profiling technologies could stigmatize and discriminate against people.

In another research project called [iBorderCtrl](#), a virtual avatar of a border official is to question people entering the country from third countries and use AI facial analysis to recognize whether a person is lying and give a corresponding assessment of the potential risk. In a second step, this is to be checked by a human official. [Algorithm Watch](#) describes this as follows: "The EU envisions a future in which 'law-abiding' travelers are allowed to enjoy their freedom, while 'risky' people are automatically screened for further checks." There is scientific consensus that this technology is hardly reliable.

What is the problem with AI facial recognition?

The outsourcing of border protection through AI-driven facial recognition will further manifest and normalize discrimination and racism. AI is often mistakenly seen as "neutral" in its decision-making and action practices, and therefore fair and free from prejudice.

[Dr. Joy Buolamwini](#) from the [Algorithm Justice League](#) places the function and effect of AI facial recognition very well in a socio-critical discourse: While AI is not racist or discriminatory per se, it is often forgotten that AI "learns" with the data it is provided with. It is programmed to determine and "recognize" probabilities. To this end, the AI has been fed a large amount of data in order to "learn" these distinctions.

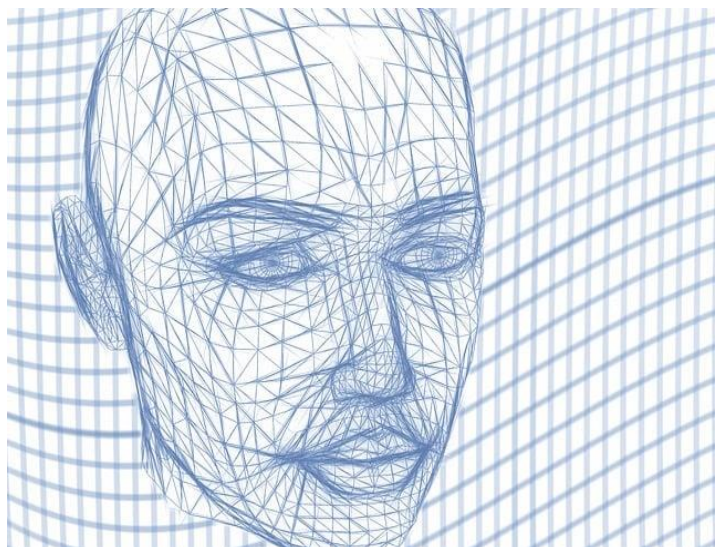


Foto: pixabay

The problem here is that the data the AI uses to learn is predominantly photos of white, male people. This shows that facial recognition works very well for white, male readers, as the data set for this group was the largest and therefore the probability of recognition is the highest. The AI received considerably less data from BIPOC and trans people were not included in the data set at all, which is why [facial recognition](#) works significantly worse and more incorrectly for these people and other marginalized groups. This imbalance in the data fed into the AI is reproducing (and perhaps even increasing) existing racism and other forms of discrimination in our society. This means that AI does indeed act in a racist and discriminatory way based on the data that has been made available to it.

Applied to the use of iBorderCtrl, it is a very dangerous development to leave the assessment of lies and the associated potential danger to humans to an AI that is obviously biased. Especially when you also consider that it [has not even been scientifically proven](#) whether it is even possible to recognize a lie on a person's face.

We therefore clearly oppose these practices, which reproduce racism and declare people who are not white and privileged to be a blanket security risk!

The [lack of transparency](#) on the part of the EU institutions with regard to the research projects described is also striking. There are no precise and public reports on the funding, the exact research objectives and methods, or the subsequent use of the systems. Even when Algorithm Watch asked the European Research Executive Agency (REA), which was also responsible for the funding and administration of Horizon 2020, no information was provided at first and then only very sparsely.

Unsurprisingly, [Frontex](#) is also involved in the "optimization" of border surveillance using AI technologies. The agency is just in on the game when it comes to funding, research and use. Enormous sums are spent by and for Frontex in the area of surveillance technologies. Both in the agency's own projects and in cooperation with EU-funded projects. It has been known for years that Frontex is repeatedly involved in human rights violations in the Mediterranean and yet there are still no consequences for the agency and its funding. This heavy involvement of Frontex in EU-funded research on autonomous border surveillance is both shocking and unfortunately unsurprising. The only logical consequence that must be drawn from this is to create social awareness of what is going wrong in the area of European border policy and to oppose the European anti-migration & isolation policy supported by Frontex accordingly.

New era of surveillance: AI in the controversial GEAS reform

The CEAS reform, which has been strongly criticized by various actors in the field of migration, refugees and human rights, because it further restricts the rights of refugees, is not spared from the planned use of AI. We reported on this in more detail in our biweekly [newsletter Scirocco](#). The key points of criticism are the screening procedures¹, closed centers in which refugees are housed under detention-like conditions for the duration of the asylum procedure and the facilitated deportation to so-called safe third countries without any substantive and individual examination of the asylum procedures. More detailed information on this can be found on our [website](#).

In addition to the existing criticism of GEAS, Algorithm Watch also published an [article](#) on its website on the use of AI in the accelerated border procedures set out in the new migration pact:

"The "migration pact" [provides](#) for pre-screening and expedited "border procedures", and that rejected asylum seekers should be relocated and deported more efficiently. All of this is most likely to be supported by automation technologies: by reading and analyzing cell phone data, using AI-based surveillance systems in prison-like immigration facilities, automated profiling and risk assessments in the asylum process. This heralds what the civil society coalition ProtectNotSurveil calls "a deadly new era of digital surveillance" that "expands the digital infrastructure for an EU border regime based on criminalizing and punishing migrants and racialized people".*

In addition, law enforcement authorities are to be enabled to make greater use of AI technologies to analyze refugee movements (especially in social media) and monitor the activities of refugees without guaranteeing adequate legal protection. Officially, the surveillance is justified with the aim of combating human trafficking and smuggling. However, the problem is that these surveillance measures are actually being implemented against the refugees themselves.

This development is extremely worrying. Without legal safe passages and the enforcement of human rights for all, refugees have no opportunity to seek protection in Europe. Instead of guaranteeing safe passages, automated surveillance makes it even more difficult for migrants to flee. The EU systematically criminalizes people on the move (and those who support them) and actively prevents them from claiming their right to asylum.

¹ Screening will mostly take place at the EU's external border and should last a maximum of seven days. People will be identified and registered. The screening will decide which procedure to which procedure the asylum seekers will be sent: Asylum procedure, asylum border procedure or return procedure ([Pro Asyl, 2024](#))

Securitization of EU borders: AI as a threat to people seeking protection

Just like the research teams from [Algorithm Watch](#) and [ZDF Magazin Royale](#), we see a further tightening of the European policy of sealing off borders by "securing" and monitoring the external borders with the help of AI as highly problematic and dangerous for people on the move.

The EU regulation on the use of artificial intelligence attempts to protect citizens' rights while at the same time creating a [separate legal framework](#) for migrants and racialized people in the areas of entry controls, national security authorities and law enforcement.

"In its final version, the EU AI law [...] provides unjustified loopholes and even encourages the use of dangerous systems for discriminatory surveillance of the most marginalized in society." ([ProtectNotSurveil](#))

These separate regulations and loopholes that restrict the rights of people on the move are a continuation of the shift in discourse that has been taking place since 2015 at the latest. Refugees are no longer seen as people seeking protection, but are increasingly portrayed as a security risk from which the EU must protect itself. The technical term "[securitization](#)" describes this phenomenon. A "security problem" is politically constructed that can only be solved through special measures. Such a threatening situation with an acute need for action is constructed that democratic rules and procedures are thrown overboard. Very basic human rights, such as the right to asylum and international protection, are being pushed further and further into the background and human rights are being presented less and less as [universally valid](#) and more as optional and negotiable.

This shift in discourse justifies the gradual use of ever more extreme methods, such as automated border control. Border surveillance is sold as a [solution to the alleged migration crisis](#). Attempts are being made at all costs to prevent people from reaching Europe, and a great deal of money is being invested in this. There are various ways in which this money could be used more sensibly, for example for state-funded sea rescue and humane accommodation.

Current developments show that the EU has deliberately decided to fund these research projects to monitor migrants in order to prevent them from entering the country. The same technology could also have been used to protect human rights: for example, to autonomously monitor human rights violations at borders, report illegal activities by the so-called Libyan Coast Guard or send distress calls to authorities in the event of shipwrecks. The use of AI is not problematic per se, but rather the objective currently being pursued by the EU.

borderline-europe is observing in Italy how refugees and sea rescue are increasingly being [criminalized](#), how sea rescue ships are being [unlawfully detained](#), how planes from sea rescue organisations [are being prevented from taking off and being monitored](#) and how pushbacks are a bitter everyday occurrence. These current developments, coupled with the prospect of drones and AI monitoring the Mediterranean and all other external borders and automatically alerting the authorities, harbors a high risk of more illegal pushbacks and pullbacks and an even greater invisibility of what is really happening at our external borders. AI will make it even more difficult to uncover and document human rights violations, not to mention the possibility of challenging them in court.

There is also a big question of responsibility and accountability: if errors, racism and false assessments are (re-)produced by AI, who is liable? Where can people enforce their rights? These questions are already extremely difficult today and litigation in cases of human rights violations [takes years](#), but how this could develop in the future is still a big mystery.

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