

23.10.2019 • HmbBfDI

On the occasion of the oral hearing held today before the Hamburg Administrative Court on the complaint brought by the Senator for the Interior of the Free and Hanseatic City of Hamburg against the order of the Hamburg Commissioner for Data Protection and Freedom of Information to delete a biometric database for comparing image data of faces, the essential ones apply again to clarify questions in this procedure.

What is at stake today: Are law enforcement authorities in Germany allowed to collect masses of images from completely different sources of uninvolved people without a legal basis, then process them into biometrically unmistakable facial profiles in order to store them for an indefinite period of time for comparison with individual facial profiles of possible criminals and as required evaluate?

What is not at stake today: It is not a question of whether the state will be allowed to use face recognition software in the future to search for perpetrators and to investigate criminal offences. In a constitutional state, this is left to the decision of the democratic legislature. In particular, it is not about blinding the police in their search for perpetrators. In this respect, the deletion order only refers to the mass biometric facial profiles that were created with the help of the VIDEMO program, but not to the collected image material, which forms the starting point for this processing and for the searches.

Johannes Caspar, the Hamburg Commissioner for Data Protection and Freedom of Information: "Personal searches were also carried out before the G20 summit without automatic facial recognition. Images have so far been evaluated directly by investigating officers without biometric profiles being created. The Code of Criminal Procedure essentially dates back to the 19th century. Many regulations have already been adapted to the modern technical means that are available to the law enforcement authorities as powers of intervention. A search with biometric templates, big data and artificial intelligence is not one of them. In a democratic constitutional state, the fundamental decision as to whether new technologies that revolutionize criminalistics and that significantly interfere with the fundamental rights of completely uninvolved persons may be used cannot come from the police or the public prosecutor's office, but must be made by the legislature itself. In order to protect the rights and freedoms of the people affected, clear legal requirements are required that ensure the controllable and traceable use of this instrument."

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