

# Facial Recognition Technology in the context of law enforcement and fundamental rights



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# FRA focus paper on facial recognition technology

- Draws on previous and ongoing FRA research
- Focuses on use of “live facial recognition technology” (LFRT) by law enforcement
- Based on interviews with experts and practitioners (in selected EU Member States)
- Discusses selected fundamental rights implications → legal analysis

<https://fra.europa.eu/en/publication/2019/facial-recognition-technology-fundamental-rights-considerations-context-law>



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# What is facial recognition technology?

- **Verification** (one-to-one)
  - ABC gates
  - Cell phones
- **Identification** (one-to-many)
  - Closed vs. open set identification
  - Live Facial Recognition Technology (LFRT)
- **Categorisation**
  - Gender, ethnicity, age
  - Many other issues



# Accuracy of facial recognition technology

- Enormous increase in accuracy over the past years → sparked interest from public sector, too
- Variation in the accuracy of available software
- Challenges to assess accuracy
  - Only probabilities → trade-off between
    - false positives
    - false negatives
  - Accuracy comes from training/test databases
- Data quality & training databases → can lead to discrimination

# Fundamental rights considerations – horizontal issues

- Public perceptions → certain share of the population feels uncomfortable with the use of (L)FRT (see FRA survey results [here](#))
- **Human dignity** as the foundation of fundamental rights (“mother right”)
- Requirements for justified interferences with a right → see EU Charter & ECtHR case law (‘essence of right’; necessity & proportionality test)
- Depends on the purpose of use & context
- Balance of accuracy [technology will never be perfect]

# Selected fundamental rights under scrutiny

- Respect for private life
- Protection of personal data
- Non-discrimination
- Rights of the child and of older persons
- Freedom of assembly and of association
- Freedom of expression
- Right to good administration
- Right to an effective remedy and a fair trial
- ...

- ✓ Clear & sufficiently detailed legal framework must regulate facial recognition technologies
- ✓ Different fundamental rights risks depending on application [i.e. verification/identification] and context [e.g. during demonstrations]
- ✓ Assessing purpose is key → esp. in case of LFRT
- ✓ Fundamental rights impact assessment as an essential tool
- ✓ Public authorities procuring FRT: placing fundamental rights requirements at the centre of all technical specifications
- ✓ Close monitoring by independent supervisory bodies of facial recognition developments needed



**Thank you for your  
kind attention!**

? Questions ?

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