

AI and Law Webinar series

9th edition: Facial Recognition v. Criminal Justice



2 February 2021 – 14:00 to 16:00 (CET)

No registration – Open to all public



Live webinar broadcasted on BlueJeans Events (English only)

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The **AI and Law webinars** (ex-breakfasts), co-organised by the Council of Europe and the University of Strasbourg (UMR DRES), are regular meetings open to a wide public, public decision-makers, officials from international organisations and national administrations and academics, whose aim is to measure the stakes of subjects at the frontiers of digital techniques and the practice of law.

This webinar focusses on the role artificial intelligence techniques such as facial recognition play in the criminal justice system. Deep learning techniques of this type promise to make it considerably easier to identify people from pictures and can be a real boon to police departments, provided the identification is technically reliable and fair – and the person in question was already a suspect before they were identified.

Currently a hot topic, video surveillance coupled with a facial recognition system is gaining traction in Europe while several North American cities have not only stopped using facial recognition, some have prohibited it. Does video surveillance create suspects? Is the fact that someone is present in a specific place – predetermined by the police – constitute reasonable grounds on which to launch a criminal investigation? Is using such combined surveillance and recognition systems a fair and effective way to fight crime?

Clear regulations have been adopted in recent decades to govern the use of investigative measures based on specific techniques such as telecommunications interception, using GPS to track vehicles, and installing surveillance cameras in homes. In Europe, the use of such techniques is reviewed by the European Court of Human Rights. Should similar rules apply when facial recognition is used to identify people?

Turning the mere identification of someone into grounds to investigate or proof of a crime is a legally delicate endeavor. Identification by a witness is governed by rules of criminal procedure. Witnesses must testify and be questioned by defense counsel before a judge, and in some cases their testimony cannot be admitted as evidence. Does AI testify? Does it provide an expert opinion? Can defense counsel question it, or impugn its reliability? Do otherwise benign observations produced by AI, such as that a driverless car was on the road, play a role in criminal proceedings?

Speakers (*bios are below*)

- **Thomas Lampert, Ph.D.**, Chair of Artificial Intelligence and Data Science, University of Strasbourg
- **Kate Robertson**, Criminal and regulatory litigator, Markson Law, Toronto
- **Sabine Gless, Ph.D.**, Professor of Criminal Law and Procedure, University of Basel

Hosted by Juliette Lelieur (University of Strasbourg) and **Yannick Meneceur** (Council of Europe)

Agenda

14.00 **Opening by Patrick Penninckx**, Head of Information Society Department

Presentations by the speakers

14.05 **Presentation by Thomas Lampert, Ph.D.**, Chair of Artificial Intelligence and Data Science, University of Strasbourg

14.20 **Presentation by Kate Robertson**, Criminal and regulatory litigator, Markson Law, Toronto

14.35 **Presentation by Sabine Gless, Ph.D.**, Professor of Criminal Law and Procedure, University of Basel

14.50 **Questions raised by the audience**

Discussions with the speakers

15.00 **Chat #1: A data protection perspective**

- Discussion with the speakers and **Sophie Kwasny**, Head of Data Protection Unit, Council of Europe

15.15 **Chat #2: A comparative perspective**

- Discussion with the speakers and **Yamina Bouadi**, EUCOR-Master in Comparative Law and **Silvain Vernaz-Beaugrand**, PhD student, Comparative Criminal Law

15.35 **Questions raised by the audience**

15.45 **Conclusion: Does facial recognition need stronger regulation?**

- Conclusion by **Jan Kleijssen**, Director Information Society – Action against Crime and **Claudia Luciani**, Director, Human Dignity, Equality and Governance, with the speakers

16.00 **Wrap-up and closing by Juliette Lelieur and Yannick Meneceur**

Biographies of the speakers



Thomas Lampert, Ph.D., is the Chair of Data Science and Artificial Intelligence at Télécom Physique Strasbourg and the ICube research laboratory at the University of Strasbourg. His research focusses on theoretical aspects AI and its application to real-world problems. He completed his PhD at the University of York, UK, which was conducted in collaboration with QinetiQ Ltd. and DSTL, an executive agency of the UK Ministry of Defence. He has held positions in industry and academia in the UK and France and

has acted as consultant to several companies and start-ups. He has published articles in leading Machine Learning and AI journals and conferences, including those from several applicative domains.



Kate Robertson practices criminal law barrister in Toronto, Canada. Her practice includes both trial and appellate advocacy, and she has advocated at all levels of court in Canada. Prior to joining her law firm, Kate served as a law clerk at the Supreme Court of Canada for the Hon. Justice Rosalie Silberman Abella. In addition to her law practice, Kate holds a fellowship at the University of Toronto's Citizen Lab, where she consults on law and policy issues relating to human rights and law enforcement surveillance. In 2020, Kate co-authored a report published jointly by The Citizen Lab and the

University of Toronto's International Human Rights Program, titled To Surveil and Predict: A Human Rights Analysis of Algorithmic Policing Technology in Canada. She has forthcoming publications (2021) on litigating the use of artificial intelligence in criminal justice proceedings. Kate is also regularly involved in strategic advocacy relating to digital privacy and related human rights for organizations such as the Canadian Civil Liberties Association, the Criminal Lawyers' Association, and the Canadian Internet Policy and Public Interest Clinic. She completed her law degree at the University of Toronto's Faculty of Law after working with the United Nations in Cambodia in the investigation of the former Khmer Rouge regime's surviving senior leaders at the Khmer Rouge Tribunal.



Sabine Gless, Ph.D., is a Professor of Criminal Law and Criminal Proceedings at the University of Basel. Her research and writing analyzes the impact of artificial intelligence on criminal justice systems, including predictive policing, criminal liability and AI in the courtroom. Sabine Gless is the leading investigator in a project on "Legal challenges posed by Big Data: questions of exploitation and protection" funded by the Swiss National Research Foundation.