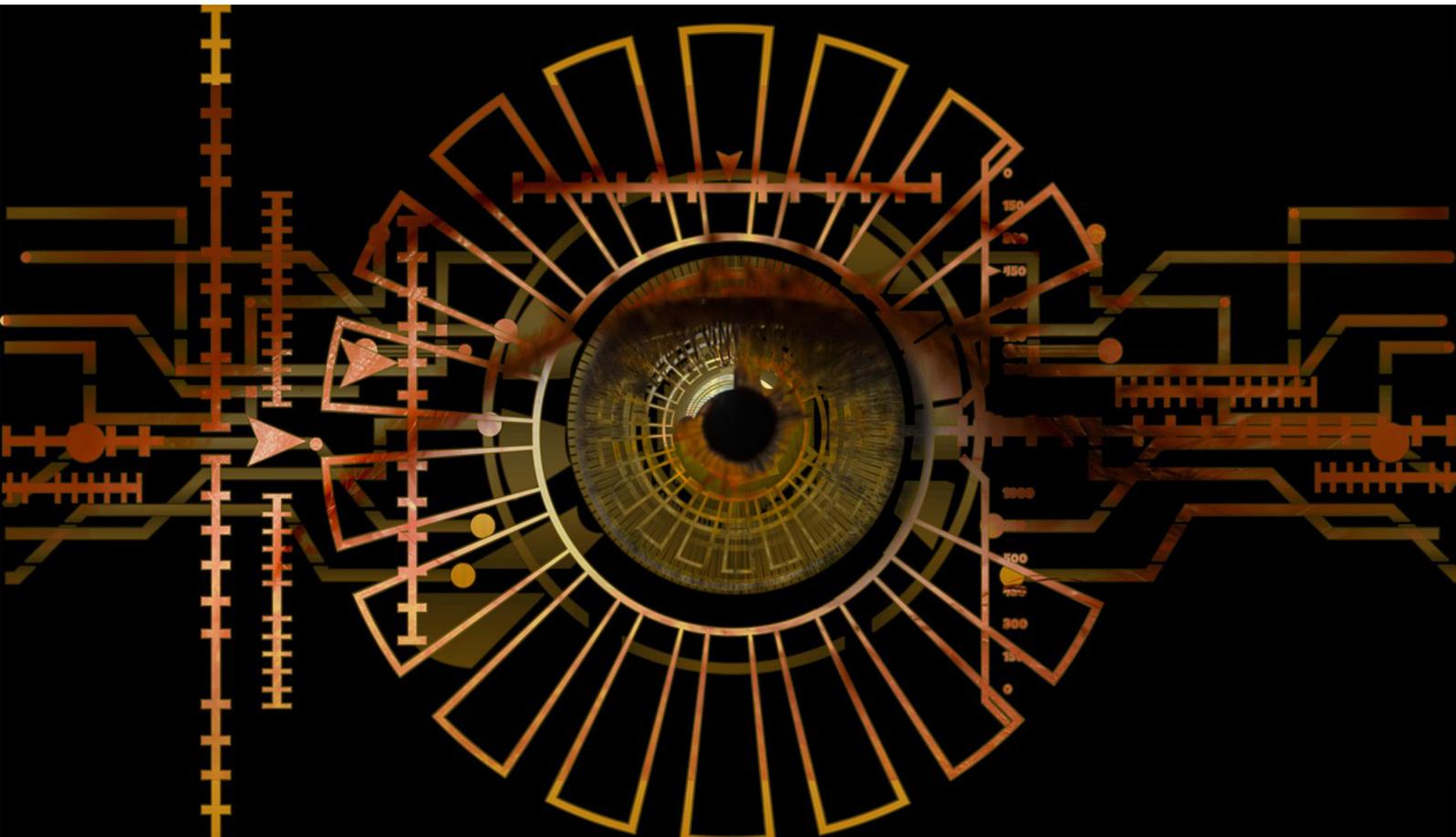




# EAB Recommendation Letter Biometric Testing in the EU



**Call for legislative action to enable accessibility to data  
for testing biometric products and systems in the EU  
Request for uniform guidelines**

To the European Data Protection Supervisor

To the European Parliament

To the European Commission DG Migration and Home Affairs

To Frontex

To eu-LISA

To the current EU Presidency

To the Article 29 Working Party

To the Coordinator of ENLETS

To the Coordinator of ENFSI

To the Coordinator of Prüm

Naarden, 23 February 2017

**Call for legislative action to enable accessibility to data for testing biometric products and systems in the EU / Request for uniform guidelines**

Dear Madam/Sir,

Biometrics and identification are becoming increasingly important in securing the European society. This is due to the strong growth of mobility induced by the globalization and the geopolitical situation, such as immigration and the digital economy. For Europe it is critical to develop next generation identification technologies and biometric solutions based on common requirements. The availability of state of the art biometric technologies for European police, forensics, law enforcement, migration and asylum policy and border management agencies is of strategic importance. It is a prerequisite to maximize the benefits from existing large scale IT systems (such as VIS, SIS-II, EURODAC, Prüm) and to optimize pan European cooperation on policing and forensics.

However, in the European Union we face a major drawback and many difficulties in achieving this state of the art. An overly restrictive and non-harmonized legal infrastructure hinders the testing of our biometric systems and products for large scale settings, even when applying appropriate safeguards. Due to the lack of proper provisions the owners of the European identity systems are not capable of receiving appropriately tested technology or of testing their own systems on performance, accuracy and compliancy as appropriate test data is missing in sufficient quality and quantity. In addition, a major obstacle exists for the development of new and improved technologies by research organizations and industry based on operational and representative data, which also includes aging factors.

As a consequence of this situation, the European Union will not be able to take an autonomous or a leading position in managing and developing these biometric products and systems, and will remain in a reactive mode compared to researchers and industrial players from countries such as the USA, where large scale testing based on operational biometric data is common practice.



Legislation does not allow biometric data from the existing European identity system being used for testing. It is our strong opinion that this situation needs to be changed as soon as possible.

Based on the above we are calling for you and other relevant organizations to ensure that appropriate legislation will be proposed that allows for safe and privacy protected access to existing biometric data from the European systems for evaluation and research purposes only.

We are looking forward to your response. Please contact our secretary Max Snijder if you have any questions and/or suggestions.

With the kindest regards,

On behalf of the Management Board and the Advisory Council of the European Association for Biometrics EAB,

.....  
Alexander Nouak, Chairman

.....  
Max Snijder, Secretary

***The European Association for Biometrics (EAB) is the largest network in Europe in the area of biometrics and identity. Today the association counts over 230 members, ranging from industry to government and academia. The EAB is a non-profit organization seeking to advance the proper and beneficial use of biometrics in Europe, taking into account the interests of European citizens, industries, academia and governments. The EAB targets its activities at the following areas of interest: communication and community building, training and education, research and program development. The EAB engages stakeholders from all European countries including the European Commission and the European Parliament, by establishing a pan European network of national contacts points and platforms and by providing a program that appeals to common needs. The EAB is committed to contribute to the development of technologies and services that ensure safety, security, interoperability and the protection of human rights, including the right to privacy.***

[www.eab.org](http://www.eab.org)

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GIOVANNI BUTTARELLI  
SUPERVISOR

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Brussels, 4 May 2017  
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correspondence

**Subject: Call for legislative action to enable accessibility to data for testing biometric products and systems in the EU and request for uniform guidelines**

Dear Mr Nouak,

I acknowledge receipt of your call for legislative action regarding the testing of biometric products and systems in the EU and your request for uniform guidelines.

As the independent European authority dealing with the fundamental rights of privacy and data protection granted with specific duties and powers in accordance with Regulation 45/2001<sup>1</sup>, I regret to inform you that that the EDPS does not have the competence to take legislative action.

Part of the statutory mission of the EDPS is to advise the EU legislator, with a view to advancing fundamental rights, in particular the right to privacy and data protection. In this capacity, the testing of biometric products and systems is of course an issue of interest to my office and one that I have already addressed in relation to the first reform package of proposals on the Common European Asylum System, which envisages granting eu-LISA the capacity to use real personal data from the Eurodac system for testing purposes<sup>2</sup>.

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<sup>1</sup> Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data, OJ L 8, 12.1.2001, p. 1, in particular Articles 28(2), 41(2) and 46(d).

<sup>2</sup> See EDPS Opinion of 21 September 2016 available at: [https://edps.europa.eu/sites/edp/files/publication/16-09-21\\_ceas\\_opinion\\_en.pdf](https://edps.europa.eu/sites/edp/files/publication/16-09-21_ceas_opinion_en.pdf)

In my opinion, such testing would not be possible without the provision of a clear legal basis. To this end, further explanation of the reason why such a change in existing testing techniques of biometric products and systems is necessary would be required. In addition, given the sensitive nature of biometric data, appropriate safeguards should also be provided for by law.

Yours sincerely,

Giovanni BUTTARELLI



Cc: Mr Max SNIJDER, Secretary of the European Association for Biometrics

Contact person: *Lara SMIT (tel: 02 2831966)*