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### **Court proceedings on the use of Face Recognition Software - What it is about today**

On the occasion of today's oral hearing before the Administrative Court of Hamburg concerning the action brought by the Senator of the Interior of the Free and Hanseatic City of Hamburg against the administrative order of the Hamburg Commissioner for Data Protection and Freedom of Information to delete a biometric database for the comparison of facial image data, it is once again necessary to clarify the essential questions in this procedure.

What is at stake today: May law enforcement authorities in Germany collect masses of images from completely different sources of uninvolved persons 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 potential criminals and evaluate them as required?

What is not at issue today, however, is not the question of whether the state will be allowed to use facial recognition software in the future to search for perpetrators and to investigate criminal offences. In the rule of law, this is reserved to the decision of the democratic legislator. In particular, it is not a question of making the police blind in their search for perpetrators. In this respect, the deletion order only refers to the mass biometric facial profiles created using the VIDEMO software and not to the image material collected, which is the starting point for this processing and for the searches.

Johannes Caspar, the Hamburg Commissioner for Data Protection and Freedom of Information, comments: "Even before the G20 summit, personal investigations were carried out without automatic facial recognition. Images have so far been evaluated directly by investigators without biometric profiles being created. The Code of Criminal Procedure essentially dates back to the 19th century. Many provisions have already been adapted to the modern technical means available to law enforcement authorities as powers of intervention. A search with biometric templates, big data and artificial intelligence is not part of it. In the democratic constitutional state, the fundamental decision as to whether novel technologies revolutionising criminalistics, which significantly interfere with the fundamental rights of completely uninvolved persons, may be used, cannot be taken by the police or the public prosecutor's offices, but must be taken by the legislator itself. To protect the rights and freedoms of affected persons, clear legal provisions are needed to ensure that this instrument can be used in a controllable and comprehensible manner. "

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