Ethics Summary Report

Call Reference	H2020-SU-SEC-2020
Proposal Number	101021851
Acronym	NESTOR

Ethics Issues

Humans

Does this research involve human participants?	**Yes**
Are they volunteers for social or human sciences research?	**Yes**
Are they persons unable to give informed consent?	**Yes**
Are they vulnerable individuals or groups?	**Yes**
Are they children/minors?	**Yes**

Comments

The proposed research will involve human participants and volunteers in various research activities including trials, surveys, interviews and workshops. The proposal defines that participants to the trials will be internal to the Consortium such as healthy adults coming from the beneficiaries (including the Border Guard Authorities). However, it also mentions that other actors may be included.

Likewise, the proposed project foresees that "during the user requirements collection (WP2), humans may participate in interviews, surveys (via anonymous questionnaires) or workshops either online or face-to-face."

It is not clear what will be the selection criteria for these individuals or the inclusion/exclusion criteria.

The recruitment of human participants including both recruitment and exclusion criteria, the methodology used within trials, workshops, and other research activities will be subject to the approval by the EtAB.

The WP6 activities include trials that will be carried out in Greece (human trafficking and irregular migration activities), Cyprus (search & rescue missions) and Lithuania (detection of people smuggling). All of these activities include individuals who may mix migrants that may include refugees, asylum seekers, minors and individual who do not have the capacity to give informed consent. Further information regarding the intentional or unintentional inclusion of these individuals within the framework of the trials is missing.

Regarding the management of the informed consent process, the applicant provided details on the information sheets and informed consent procedures. However, the general approach to the recruitment and consent procedures and consent form templates are too generic.

Incidental finding policy is not presented.

The applicant does not demonstrate adequate awareness about the seriousness of these ethical issues.

The project plans to establish Ethics Advisory Board (which will include one expert external to the consortium) which will review and approve the relevant procedures and their implementation. A dedicated task (Task 1.5) has been embedded in the project structure to monitor and advise on the ethics and societal issues, with two resulting deliverables (D1.5; D1.6).

Protection of personal data

Does this research involve personal data collection and/or processing?	**Yes**

Does it involve tracking or observation of participants?	**Yes**
Does this research involve further processing of previously collected personal data (secondary use)?	**Yes**

Comments

The proposed project declares that research activities may involve collection, processing and storage of personal data incidentally. In such a case, it is declared that "we the Consortium will ensure the compliance with the personal data protection framework." In case of the collection of personal data, data will be anonymised.

It is indicated that for the research activities such as the workshops or other events, "when necessary, basic personal data of the participants will be collected, such as their names and their contact information." It is also possible that photos may be taken or a video/audio may be recorded for dissemination purposes. The Consortium will ask the consent of the participants to use their videos or photos.

The proposal acknowledges that "further processing of previously collected personal data (secondary use) might occur, as web and social media data which will be publicly available will be collected from open sources, according to the terms and conditions of the respective websites." It has also been indicated that the data that may be collected by the legacy systems will be then processed for the scientific purposes of the proposed project. Further clarification regarding the extend of data collected through this methodology is missing.

In such cases, it is confirmed that "further processing will be conducted in accordance with Article 5 paragraph 1 (b) GDPR, as further processing for archiving purposes in the public interest, scientific or historical research purposes or statistical purposes shall, in accordance with Article 89(1), not be considered to be incompatible with the initial data processing purposes. In that case, an incidental findings policy will be developed and the appropriate measures to ensure data protection principles are respected will be implemented."

In Section 5 the applicants declare that all efforts will be made to collect anonymous data or filter out personal data at an early stage of collection, however, it is not clear how it can be ensured. It is also stated that no human recognition will be performed by the AI-based object identification module, but taking into account the envisaged system capabilities it is likely the personal data will be processed to a large extent, especially that the system will be deployed and tested/demonstrated in real operational environments.

The project proposal involves different research methodologies such as interviews, surveys, workshops, and demonstrations that will utilize new technologies including AI modules, UAVs and UUVs, and radars. The ethics issues concerning data management including personal data are addressed in the project in a general way. Further details on the procedures to address the ethics issues are missing.

Every NESTOR partner involved in collecting and/or processing of personal data will nominate one individual acting as the beneficiary's DPO who will be responsible for the lawfulness of data collection and processing during the project.

Third countries

In case non-EU countries are involved, do the research related activities undertaken in these countries raise potential ethics issues?	**Yes**

Specify the countries involved:

Ukraine, Belarus, Switzerland, and North Macedonia

Is it planned to import any material – including personal data – from non-EU countries into the EU?	**Yes**

Specify material and countries involved

Personal data may be transferred from non-EU countries including Ukraine, Belarus, Switzerland, and North Macedonia.

Additionally, one Advisory Board member is from the USA.

In case this research involves low and/or lower-middle income countries, are any benefit-sharing actions planned?	**Yes**

Comments

The Consortium has various non-EU countries including Ukraine, Belarus, Switzerland, and North Macedonia. Although it not foreseen, personal data may be transferred.

Ukraine is in the World Bank list of low and/or lower-middle income countries.

Environmental protection and safety

Does this research involve the use of elements that may cause harm to the environment, to animals or plants?	**Yes**
Does this research involve the use of elements that may cause harm to humans, including research staff?	**Yes**

Comments

Health and safety risks might arise from the use of UAVs/UUVs or radars during the field trials and demonstrations. Health and safety procedures shall be followed in accordance with the relevant legal requirements that correspond to the utilised technologies. Furthermore, taking into consideration the location of the field trials and the involvement of public authorities (NESTOR partners), including Border Guard authorities, the carrying out of the research activity under their supervision constitutes an additional safeguard.

Dual use

Does this research have the potential for military applications?	**Yes**

Comments

Though it is underlined by the applicants that all activities, including trials, will be deployed in EU territory so no export/import issues are of concern, the relevant authorisations/certification will be required for this equipment. Moreover, the project will produce results of a clearly dual-use nature, so more attention should be paid to this issue.

In addition, there is an Advisory Board member from the USA. Deliverables and other confidential documents from the project describing technology under Regulation 428/2009 may potentially be circulated among the members of the AB.

Misuse

Does this research have the potential for malevolent/criminal/terrorist abuse?	**Yes**

Comments

The project aims at development of the surveillance system, capable of collecting and processing of a vast amount of personal data and tracking of individuals, which has a high potential for misuse. The applicants recognise this potential and declare in Section 5 of the proposal that measures to mitigate the risk of misuse will be taken, however, no details are given or indication on which project deliverables will address the issue.

Ethics recommendations

It is recommended to consult and adhere to the principles of the Ethics Guidance on Trustworthy AI. https://ec.europa.eu/digital-single-market/en/news/ethics-guidelines-trustworthy-ai"

Ethics Opinion

Conditional ethics clearance (i.e. clearance is subject to conditions, i.e. ethics requirements. The requirements must either be fulfilled before grant signature or become part of the grant agreement)

Post-Grant Requirements

Humans

The beneficiary must submit a deliverable including:

- The procedures and criteria that will be used to identify/recruit research participants.

- The informed consent procedures including personal data processing that will be implemented for the participation of humans.

- Templates of the informed consent/assent forms and information sheets (in language and terms intelligible to the participants) including personal data processing.

- Clarification of whether children and/or adults unable to give informed consent will be involved and, if so, justification for their participation.

- In case children and/or adults unable to give informed consent are involved, details on how the consent of the legal representatives (and assent, when applicable) will be acquired.

- Clarification of the measures to protect vulnerable individuals/groups and minimise the risk of their stigmatisation.

- Details on an incidental findings policy.

Humans

Copies of opinions/approvals by ethics committees and/or competent authorities for the research with humans must be submitted as a deliverable.

Protection of personal data

The beneficiary must submit a deliverable including:

- Confirmation that the host institution has appointed a Data Protection Officer (DPO) and that the contact details of the DPO are made available to all data subjects involved in the research. For host institutions not required to appoint a DPO under the GDPR a detailed data protection policy for the project.

- A description of the security measures that will be implemented to prevent unauthorised access to personal data or the equipment used for processing.

- Description of the anonymisation/pseudonymisation techniques that will be implemented.

- In case personal data are transferred from the EU to a non-EU country or international organisation, confirmation that such transfers are in accordance with Chapter V of the General Data Protection Regulation 2016/679, must be submitted as a deliverable.

- In case personal data are transferred from a non-EU country to the EU (or another third state), confirmation that such transfers comply with the laws of the country in which the data was collected.

- In case of further processing of previously collected personal data, an explicit confirmation that the beneficiary has lawful basis for the data processing and that the appropriate technical and organisational measures are in place to safeguard the rights of the data subjects.

- In case the research involves profiling, an explanation of how the data subjects will be informed of the existence of the profiling, its possible consequences and how their fundamental rights will be safeguarded.

- An explicit confirmation that the data used in the project is publicly available and can be freely used for the purposes of the project.

- An evaluation of the ethics risks related to the data processing activities of the project. This includes also an opinion if data protection impact assessment should be conducted under art.35 General Data Protection Regulation 2016/679. The risk evaluation and the opinion must be submitted.

Third countries

The beneficiary must submit a deliverable including:

- Detailed information to demonstrate that fair benefit-sharing arrangements with stakeholders from low and lower-middle income countries are ensured.

- Details on the materials (including personal data) which will be imported to/exported from the EU.

- If relevant, copies of import/export authorisations, as required by national/EU legislation.

Environmental protection and safety

The beneficiary must submit a deliverable including:

- Demonstration of the applicant that appropriate health and safety procedures conforming to relevant local/national guidelines/legislation are followed for staff involved in this project.

- A report with the appropriate physical safety and security measures, guaranteeing the safety and integrity of all research participants.

Dual use

The beneficiary must submit a deliverable including:

- Details on the dual-use items in the sense of Regulation (EC) 428/2009, or other items for which an authorization.

- Details on potential dual use implications of the project and risk-mitigation strategies.

- If relevant, copies of export licenses.

Misuse

Risk assessment and details on measures to prevent misuse of research findings must be submitted as a deliverable.

General

Due to the severity of the ethics issues raised by the proposed research, a report by the Ethics Board must be submitted as a deliverable at M12.

General

A report by the Ethics Board must be submitted as a deliverable in month 24.