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WRR: Use of Big Data in the field of security requires new frameworks

Big Data analytics in national security, law enforcement and the fight against fraud can reap great benefits for states, citizens and society but require extra safeguards to protect citizens’ fundamental rights. This requires new frameworks: a crucial shift is necessary from regulating the phase of the collection of data to regulating the phases of data analysis and use. This is the main argument put forward by the Netherlands Scientific Council for Government Policy (WRR) in its policy brief entitled *Big Data and Security Policies: Serving Security, Protecting Freedom*.

The WRR divides Big Data processes into three main phases: collection, analysis and use of data. Current legal frameworks mainly cover the collection and sharing of data, but offer too little protection to citizens in a Big Data context. In order to benefit from the use of Big Data analytics in the field of security, a framework needs to be developed that adds new layers of protection for fundamental rights and safeguards against erroneous use.

It is in the phases of data analysis and use that the biggest opportunities and risks of Big Data lie and where new rules are needed. The oversight regime is also in need of strengthening.

Key elements of the proposed new framework are as follows:

• At the level of analysis a duty of care should be introduced that is part of an internal audit and external review procedure. Big Data projects should also be subject to a sunset clause.
• At the level of use, profiles and (semi-)automated decision-making should be regulated more tightly. Moreover, the responsibility of the data processing party for accuracy of analysis – and decisions taken on the basis of that analysis – should be anchored in legislation.
• The general and security-specific oversight functions should be strengthened in terms of technological expertise, access and resources. The possibilities for judicial review should be expanded to stimulate the development of case law.

This publication is based on the WRR Report *Big Data in een vrije en veilige samenleving* (Big Data in a Free and Secure Society), which was presented by the WRR to Ard van der Steur, the Dutch Minister for Security and Justice, on 28 April 2016. The report, which was drafted at the request of the Dutch government, examines the opportunities and risks of (Big) Data analysis by the police and judicial authorities, intelligence and security services, as well as in efforts to combat fraud. The policy brief was written by Prof. Dennis Broeders, Dr Erik Schrijvers and Prof. Ernst Hirsch Ballin.

**Note to the editors**

WRR-Policy Briefs reflect from an academic perspective on important societal and policy issues, may provide knowledge-based input for the policy agenda, and can suggest policy options.

*Big Data and Security Policies: Serving Security, Protecting Freedom*, WRR-Policy Brief no. 6 (ISSN 2352-1392), is available from 31 January 2017 from the WRR website.

In addition to the report *Big Data in een vrije en veilige samenleving* (Big Data in a Free and Secure Society), the WRR published an English edited volume entitled *Exploring the Boundaries of Big Data* and a working paper entitled *International and comparative legal study on Big Data* as background studies for the Big Data project. A number of working papers have also been published in Dutch: *Big Data in de zorg* (‘Big Data in the care sector’), *Big Data voor fraudebestrijding* (‘Big Data for combating fraud’) and *Het gebruik van Big Data door de MIVD en AIVD* (‘Use of Big Data by the Military Intelligence and Security Service and the General Intelligence and Security Service’).

**About the WRR**

The Netherlands Scientific Council for Government Policy (WRR) provides independent advice to the Dutch government and Parliament on strategic issues that are likely to have important political and societal consequences on the longer term. The Council’s science-based advice can open up new perspectives and directions, change problem definitions, set new policy goals, investigate new resources for problem-solving, and support social cooperation and cohesion. More information on the WRR may be found on its website.
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