



Progress report – Principles for Profiling. A critical perspective on the application of data-driven profiling by the government.

English summary

In this report, the State Committee against Discrimination and Racism (hereafter: the committee) provides advice on the use of data-driven profiling by the government. Data-driven profiling involves the selection and categorization of (groups of) citizens based on shared characteristics, behaviors, or traits derived from data. Government organizations are increasingly deploying data-driven profiling for purposes such as 'risk-based' public supervision. This involves the preemptive monitoring of groups perceived to have an increased risk of fraud or criminal activity.

In recent years, numerous cases have shown that government profiling can lead to the discrimination of large groups of citizens, resulting in distressing individual and societal harm. Therefore, in this report, the committee investigates whether data-driven profiling is inherently compatible with a government that also aims to prevent and combat discrimination. It does so by examining whether current data-driven profiling practices align with the core principles of good public governance: the rule of law, democratic integrity, and administrative capacity.

In this report, the committee notes that data-driven profiling creates fundamental tensions with the principles of good public governance. The use of profiling methods is insufficiently limited by law, which in practice often leads to discrimination, leaving individuals with inadequate legal protection and legal certainty. Furthermore, data-driven profiling can reinforce existing societal inequalities because predictive models are based on historical data in which previous forms of selective supervision, discrimination, and social disparities are already embedded.

Additionally, there is often a lack of an explicit democratic deliberation regarding the desirability of profiling. In many cases, the deployment of data-driven methods is presented as a technical choice, while it is actually a profound normative decision about how the government approaches its citizens. The accountability and transparency of data-driven profiling by government organizations are also limited. Citizens are often unaware that they are being profiled, which criteria are being used, or how a risk score is generated.

Transparency tools, such as the Algorithm Register, are currently incomplete and rely on voluntary registration and classification by government institutions, causing oversight and public accountability to fall short. Moreover, citizen engagement remains low. The groups most affected by profiling often have little influence over the development, application, and evaluation of these systems. This creates a risk that existing knowledge gaps will be widened and that policy will be based on one-sided data. Profiling is frequently justified by the argument that it is more efficient and effective than random checks; however, in practice, this is not always verifiable.

The committee concludes that profiling is an expanding and difficult-to-limit phenomenon. It is proliferating not only technically, but also institutionally and socially. Not only is it being applied solely by individual organizations, it also reinforces itself across various institutions and policy areas, such as law enforcement and social security. Furthermore, in practice, the government primarily operates pragmatically. Although references are made to the principles of good public governance—the rule of law, democratic quality, and administrative capacity—these are often applied selectively and insufficiently. Empirical evidence for the added value of profiling is frequently lacking.



Staatscommissie tegen Discriminatie en Racisme

For these reasons, the committee advocates for the cessation of current applications of data-driven profiling and for limiting its further spread. Without fundamental measures aligned with the principles of good public governance, the risk of societal harm and discrimination remains too great. Instead of profiling, random or 100% checks can be utilized. These methods are more transparent, fairer, and reduce the risk of cumulative discrimination. Additionally, the committee emphasizes that data collection itself can indeed assist in combating social inequalities. In its publication on the Public Sector Equality Duty (PSED), the committee highlighted that insight into factual differences is necessary to effectively combat discrimination. The collection and analysis of equality data can therefore help to map out and reduce inequality. In this supportive use of data, it is essential that the individuals whose data are used provide their explicit consent.

If the government decides to continue applying profiling methods, while taking into account the significant concerns of the committee, it must proactively demonstrate that there are no direct or indirect discriminatory effects. Both Article 1 of the Dutch Constitution and various human rights treaties contain a prohibition on discrimination: the government must treat citizens in equal cases equally.

In light of the Discrimination Assessment for Public Services and the Public Sector Equality Duty previously advocated by the State Committee, this means the government must conduct prior assessments to determine if its actions have potentially discriminatory effects. It must implement appropriate safeguards to prevent such effects and must continuously monitor and evaluate the functioning of these profiling systems. The interests, knowledge, and perspectives of citizens must be central to this process.