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ADVANCED DATA ANALYSIS FOR ANTICIPATING FUTURE RISKS OF TERRORISM: NEW REGULATORY CHALLENGES

Marianne Hirsch Ballin

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INTRODUCTION

Since the 9/11 terrorist attacks, the primary focus in states facing terrorist threats has been on preventing new terrorist attacks by taking anticipative action. However, the introduction, over the past two decades, of new powers able to be deployed for preventive purposes has put pressure on legal safeguards in states governed by the rule of law. These developments have played an important role in John Vervaele's work in the post-9/11 period.¹ In his research, focusing on fundamental rights, he has critically assessed the new powers, both criminal and administrative, that have been available to governments at the interface between criminal law and administrative law, and between criminal law and national security law. His perspective has invariably been international, with these powers being studied from a comparative perspective and assessed on the basis of the transnational protection of human rights. As a student on the Legal Research Master's program at Utrecht University between 2005 and 2007, I was made very aware by him of the importance of fundamental and comparative legal research into new powers designed to combat terrorism and based on the 'preventive paradigm'. This also resulted in my PhD trajectory, with John Vervaele and Stijn Franken as my supervisors, on 'Anticipative Criminal Investigation', a comparative

1. See, for example, J.A.E. Vervaele, 'Terrorism and information sharing between the intelligence and law enforcement communities in the US and the Netherlands: emergency criminal law?', *Revue Internationale de Droit Pénal*, Vol. 76, Nos. 3-4, 2005, pp. 409-443; J.A.E. Vervaele, 'The Anti-terrorist Legislation in the US: Criminal Law for the Enemies?', *European Journal of Law Reform* Vol. 8, No. 1, 2006, pp. 137-171; J.A.E. Vervaele, 'Special Procedural Measures and Respect of Human Rights – General Report', *Revue Internationale de Droit Pénal*, Vol. 80, Nos. 1-2, 2009, pp. 75-123; J.A.E. Vervaele, 'Surveillance and Criminal Investigation: Blurring of Thresholds and Boundaries in the Criminal Justice System?', in S. Gutwirth, R. Leenes & P. De Hert (Eds.), *Reloading Data Protection. Multidisciplinary Insights and Contemporary Challenges*, New York, Springer, 2013, pp. 115-128; and J.A.E. Vervaele, 'Terrorism and Anticipative Criminalization – Ius poenale sine limite?', in M. Engelhart & S. Roksandić Vidlička (Eds.), *Dealing with Terrorism. Empirical and Normative Challenges of Fighting the Islamic State*, Berlin, Duncker & Humblot, 2019, pp. 175-191.

study of new investigative powers and intelligence-led investigations of terrorist crimes in the Netherlands and the United States.² Respect for the dignity of every human being has been central to John Vervaele's work, as it is for the Utrecht School in general, and it was also the central theme in my dissertation. On the international stage, John has been able to ensure an awareness of the importance of including additional legal safeguards when new governmental powers that could compromise the protection of human rights are introduced. In this, and indeed in many other respects, he has been a source of inspiration for many scholars around the world, including me, in the post-9/11 era.

Currently we are seeing new developments in the field of counterterrorism that are once again putting pressure on the existing systems of legal safeguards. New technical possibilities, such as data combination and smart analyses using algorithms, are creating new opportunities in the fight against terrorism. Again, this is a new area of investigative action, and one standing alongside the familiar domains of criminal justice, administrative enforcement and national security. It is an obvious choice, therefore, that my contribution to this book celebrating the work of John Vervaele should address this new dimension of anticipative investigative activities.

The new technological possibilities for combining and analyzing data gathered by different agencies allow governments to gain earlier insight into terrorist threats and the structures of terrorist organizations. The outcomes of these analyses subsequently form the informational basis for interventions, using traditional instruments, in anticipation of these threats and structures. Regulation of these analyses is now on the agenda in the form of the bill designed to establish a statutory basis for the analysis task of the Dutch National Coordinator for Counterterrorism and Security (NCTV).³ This proposed legislation and the potential scope of the NCTV analyses deserve attention from a perspective of how they relate to the existing procedural frameworks of criminal, administrative and national security law. In particular, further consideration needs to be given to the impact of these activities on fundamental rights because of the relationship

2. M.F.H. Hirsch Ballin, *Anticipative Criminal Investigation. Theory and Counterterrorism Practice in the Netherlands and the United States* (doctoral dissertation, Utrecht University), The Hague, T.M.C. Asser Press/Springer, 2012.

3. This development is not unique to counterterrorism. In the fields of cybercrime and serious organized and subversive crime, too, data-analysis opportunities have changed and will continue to change the manner of investigation. See, in this regard, the plans for further developing 'national cooperation against subversive crime' (NSOC), *Parliamentary Papers II* 2021/22, 29911, 350; and C.A.J. van den Eeden, J.J. van Berkel, C.C. Lankhaar & C.J. de Poot, 'Opsporen, vervolgen en tegenhouden van cybercriminaliteit', *WODC Cahier* 2021-23; as well as the discussions of a bill providing a standardized framework for cooperation and information-sharing between government agencies: *Parliamentary Papers I* 2020/21, 35447, No. A. For a broader and more detailed assessment of the subject, see M.F.H. Hirsch Ballin, 'Als een spin in het web voor de bestrijding van terrorisme en zware ondermijnende criminaliteit', *TvCR*, Vol. 13, No. 2, 2022, pp. 1-26. Some parts of this present contribution are based on that article.

between data analysis and subsequent interventions from a perspective of national security and the combating of crime. In this contribution I will argue that new procedural safeguards are necessary, especially with regard to the combining and analyzing of data, both because these activities are now largely being conducted in an unregulated area at the crossroads of existing procedural frameworks and because fragmentation in the current regulations means proper and coherent protection of human rights is at stake.

2 INFORMATION TASK OF THE NCTV

The National Coordinator for Counterterrorism (NCTb), the predecessor of the NCTV, was established in 2004 to promote cooperation between the then approximately twenty institutions with an operational or policy role in counterterrorism. It was also assigned an information task, based on the principle that the collecting, processing and analyzing of information should be performed within or between the existing agencies.⁴ The NCTb was instructed to focus on developing and maintaining threat analyses and monitoring general developments, with an Expertise and Analysis Center consequently being included in its structure. The agencies participating in the NCTb were the intelligence and security services (AIVD and MIVD), the police, the Immigration and Naturalisation Agency (IND), the Royal Netherlands Marechaussee (KMar), the Fiscal Information and Investigation Service (FIOD), the Customs Service and the Ministry of Foreign Affairs. This Expertise and Analysis Center was designed to complement the work of these other agencies by combining information and translating it into policy for subsequent interventions and measures by these agencies. The NCTb was not intended, however, to play a role in person-centered approaches or measures targeting individuals.⁵

2.1 *The 2021 bill*

In spring 2021, following an investigation by the Dutch newspaper *NRC*,⁶ political attention was drawn to the way in which the NCTV was performing its tasks, and specifically its analysis activities, without an adequate legal basis. In November 2021, the Minister of Justice and Security responded by submitting a bill on the processing of personal data with regard to coordination and analysis in counterterrorism and national security (*wetsvoorstel verwerking persoonsgegevens coördinatie en analyse terrorismebestrijding en nationale veiligheid*).⁷

4. *Parliamentary Papers II* 2003/04, 29754, No. 1, p. 8.

5. *Parliamentary Papers II* 2003/04, 29754, No. 1, p. 8. The counterterrorism information box (under the responsibility of the AIVD) relates to the partnership for information-sharing.

6. 'Onmin en uitglijders bij de club die het land moet beschermen', *NRC*, 10 April 2021.

7. *Parliamentary Papers II* 2021/22, 25958, No. 2.

This bill regulates various tasks entrusted to the NCTV, which operates under the Minister of Justice and Security's authority as a coordinator and developer of policy on combating terrorism and protecting national security. The bill aims to provide 'a future-proof framework for the work of the NCTV, on behalf of the Minister of Justice and Security, that does justice to all the interests involved'.⁸

The 2021 bill seeks to provide a statutory basis for these NCTV tasks (in 2012, the NCTV's field of work was expanded and the institution was renamed the National Coordinator for Counterterrorism and Security, or NCTV).⁹ Under Article 3 of the bill, the Minister's task is to:

a. ensure the coordination of the coherence and effectiveness of policy and measures to be taken by relevant government agencies, without prejudice to the duties and powers of relevant government organizations under the laws and regulations applicable to them, by:

- promoting cooperation between the government agencies involved;*
- promoting the sharing of information between relevant governmental agencies if this is necessary because of a concrete event and these organizations may have a task or a competence with regard to this event;*

[...]

b. Identify, analyze and interpret trends and phenomena.

*2. The task referred to in paragraph 1(b) does not include investigations directed at individuals or organizations.*¹⁰

These tasks must be performed within the framework of the objectives set out in Article 2 of the bill, namely strengthening resilience in the face of terrorism and protecting national security, preventing social disruption and protecting the vital interests of society. According to the Explanatory Memorandum, the analysis task involves 'gathering information, supplementing it if necessary, and translating it into policy'.¹¹ The memorandum distinguishes between general analyses and what are referred to as 'brief analyses'. The general analyses of trends and phenomena result in the periodically published Threat Assessment – Terrorism Netherlands and analyses of certain phenomena, such as global jihadism or ISIS, that require interpretation, whereas the NCTV uses its brief analyses to draw government agencies' attention to certain phenomena relevant for the performance of their own tasks. These agencies can also request the NCTV, at their own initiative, to

8. *Parliamentary Papers II 2021/22, 35958, No. 3, p. 1.*

9. *Parliamentary Papers II 2021/22, 35958, No. 3, p. 6.*

10. This citation is the author's own translation of the original Dutch text. *Parliamentary Papers II 2021/22, 35958, No. 2.*

11. *Parliamentary Papers II 2021/22, 35958, No. 3, p. 9.*

interpret trends and phenomena. It is then the NCTV's task to translate the information and knowledge it has available into such interpretations.¹² Article 7(3) of the bill lists the agencies entitled to receive 'brief analyses': mayors, the police, the KMar, the Public Prosecution Service, the intelligence and security services, probation agencies and other ministers. The NCTV will share brief analyses with other agencies if the analysis is relevant for the specific agency's tasks, with the receiving agency remaining responsible for executing its own tasks and powers.¹³ Article 3.2 of the bill prohibits the NCTV from taking over such powers, given that the latter's tasks do not include conducting investigations targeting individuals or organizations. According to the Explanatory Memorandum, however, this does not alter the fact that statements by individuals or organizations may be relevant for an analysis. Despite the requirement in the main rule for personal data to be pseudonymized, Article 7(4) of the bill allows brief analyses to contain the personal data required by the requesting agency.¹⁴

2.2 *Taking a closer look at the NCTV's information task*

The bill does not specifically provide a legal basis for regulating the power to conduct data analysis. Instead, its assigning of a task to the relevant authority is regarded as the legal basis allowing the latter to perform such analysis. The authorization granted is further restricted in Article 4 of the bill to the specific data permitted to be used for the analysis. These are data, including personal data, derived from open sources or received (under Article 6 or another legal basis) from cooperating agencies. Article 4(4) prohibits the use of technical tools that collect, analyze and combine personal data from open sources on the basis of profiling. According to the Minister's response to the advice given by the Council of State's Advisory Division, this entails a prohibition on the use of systems that automatically profile. Furthermore, as mentioned earlier, this analysis is not allowed to target individuals. This means that the analysis must not be of a systematic nature (or lead to a more or less complete picture of certain aspects of someone's personal life), even though it may contain personal data and thus lead to the identification of individuals involved in phenomena or trends. But because the analysis is not permitted to focus on individuals, the interference in the individual's private life is assumed to be limited. This restriction may justify the conclusion that, from the perspective of the quality of the law justifying the interference with private life (as referred to in Article 8(2) of the European

12. *Ibid.*, p. 9.

13. *Ibid.*, p. 10.

14. *Ibid.*, p. 1.

Convention on Human Rights (ECHR)), a more generally formulated task is sufficient for the intended open sources investigation.¹⁵

In addition to being assessed from the perspective of the quality of the law in the light of Article 8(2) ECHR,¹⁶ the bill also has to be assessed from the perspective of the relationship between regulation of the analysis task and subsequent interventions by other agencies on the basis of the output of the NCTV's analyses. This is important because the results of these analyses can be the starting point for the exercising of powers (in other words, interventions) by other government agencies, based on their own statutory tasks and powers. Attention must therefore be paid to the question of whether the legal safeguards provided for can also contribute to the effectuating of fundamental rights, given that the interventions may possibly be based on the output of the analyses. In other words: the impact that the outcomes have on individuals' fundamental rights should be considered separately.

The output of an NCTV analysis may influence a criminal investigation, for example. The aim of these analyses is to provide insight into a particular threat and thus enable the police and the Public Prosecution Service to improve the quality of their decisions on the use of criminal investigation powers. Such decisions could involve starting a criminal investigation or relate to choices with regard to investigative capacities or to a certain focus in ongoing investigations. In principle, it seems unlikely that, in itself, an analysis would constitute sufficient grounds for launching a criminal investigation (hence, facts and circumstances giving rise to a reasonable suspicion of guilt, as referred to in Article 27 of the Dutch Code of Criminal Procedure, or to indications of a terrorist crime, as referred to in Article 126za *et seq.*).¹⁷ The legal restriction that the analyses should not target individuals would seem to make them generally unsuitable for establishing a reasonable suspicion or identifying indications of a concrete crime. Instead, the analyses are more likely to serve as background information, which may nevertheless function as steering information and influence the decision to deploy

15. See Appeal Court of The Hague, 15 November 2002, ECLI:NL:GHSGR:2002:AF0684 and Draft Explanatory Memorandum, New Code of Criminal Procedure (official version of July 2020), available at: www.rijksoverheid.nl/documenten/publicaties/2020/07/30/ambtelijke-versie-juli-2020-memorie-van-toelichting-wetboek-van-strafvordering (last visited: 8 September 2022), pp. 495-497.

16. In this respect, see, for example, L. Stevens, M.F.H. Hirsch Ballin, M. Galič *et al.*, 'Strafvorderlijke normering van preventief optreden op basis van datakoppeling. Een analyse aan de hand van de casus "Sensingproject Outlet Roermond"', *TBS&H*, Vol. 8, No. 4, 2021, pp. 234-245; M.F.H. Hirsch Ballin & M. Galič, 'Digital investigation powers and privacy. Recent ECtHR case law and implications for the modernisation of the Code of Criminal Procedure', *Boom Strafbblad*, Vol. 2, No. 4, 2021, pp. 148-159; and B.W. Schermer & M. Galič, 'Biedt de Wet politiegegevens een stelsel van "end-to-end" privacywaarborgen', *NTS*, Vol. 3, No. 3, 2022, pp. 167-177.

17. On the use of intelligence (shared by intelligence services), see J.A.E. Vervaele, 'Terrorism and information sharing between the intelligence and law enforcement communities in the US and the Netherlands: Emergency criminal law?', *International Review of Penal Law*, Vol. 76, Nos. 3-4, 2005, pp. 409-443.

criminal investigative powers. The NCTV's analyses may also constitute the evidentiary basis for imposing administrative measures. This could mean, for example, the Minister of Justice and Security imposing freedom-restricting measures (in other words, restraining orders), such as an area ban under the Temporary Administrative Measures to Combat Terrorism Act (*Tijdelijke wet bestuurlijke maatregelen terrorismebestrijding*), or a mayor being prompted to issue an emergency order.¹⁸ The fact, too, that the intelligence and security services may receive the NCTV's analyses may mean that the analyses also influence the manner in which the AIVD and MIVD carry out their tasks.

Unlike 'regular' data sharing, in which one government agency shares its data with another, whether through the intervention of a coordinating body (a role also able to be played by the NCTV or, for example, by a partnership that is itself in charge of the data) or otherwise, the analysis activities described above create 'something new'.¹⁹ For that reason, these activities differ from traditional forms of data sharing and require further consideration. The NCTV's analysis activities are aimed at generating knowledge – new knowledge, information or intelligence²⁰ – that can be established through advanced technical analysis of data shared by the cooperating agencies. Its analyses create a new cognitive reality in a context that is not governed by criminal or administrative procedural law or by national security law. At the same time, the output of the analyses – new, constructed or reconstructed information – affects people in the enjoyment of their fundamental rights if it is used in, for example, criminal investigations or to substantiate administrative measures.

To conclude: two aspects of the NCTV's analysis task stand out and give cause for further consideration as to whether the current procedural guarantees are sufficient. These are the facts that: 1) a variety of agencies, whose tasks and powers are regulated in different legal frameworks, may benefit from the analyses; and 2) the output of the analyses may entail information that has been constructed or reconstructed on the basis of the original data. Based on these two aspects, some suggestions will be offered below for improving the procedural embedding of the NCTV's analysis activities, as well as for embedding comparable activities of other agencies.

18. See, for example, District Court of The Hague, 31 March 2020, ECLI:NL:RBDHA:2020:2919 and Council of State (Administrative Jurisdiction Division), 19 December 2019, ECLI:NL:RVS:2019:4275; see also District Court of The Hague, 20 January 2020, ECLI:NL:RBAMS:2020:226.

19. See also the position paper I wrote earlier for a round-table discussion by the Dutch Parliament on the analysis powers intended to be granted to the NSOC (MIT). See www.tweedekamer.nl/kamerstukken/detail?id=2021Z15376&did=2021D32952 (last visited: 15 September 2022).

20. Intelligence should be distinguished from data and information. Data concern facts established by humans, whereas information is considered to be the product of data being interpreted in the light of a certain context. Intelligence, in turn, is another step further and concerns the process of aggregating information with knowledge, resulting in information suitable for steering interventions. On this subject, see W. Huisman, 'Slimmer strafrecht? Het MIT en de data gedreven opsporing', *DD*, Vol. 52, No. 3, 2022, pp. 215-226.

An appropriate procedural framework is important for ensuring that tasks and powers are performed and exercised in accordance with the requirements of the rule of law, including fundamental rights, specifically in order to safeguard against arbitrariness in government action.²¹ These requirements relate not only to the principle of legality, under which government action must, in essence, be based on a sufficiently precise and accessible legal basis, and thus have democratic legitimacy, but also to the substantive contents of the law, and in particular to fundamental rights.²² It is specifically in relation to the latter that the procedural embedding of the analysis activity, whereby existing or newly discovered facts are turned into constructed or reconstructed information, is relevant. In the case of new developments that do not fit (or properly fit) within the traditional frameworks and that may affect citizens' free enjoyment of fundamental rights, we have a responsibility under the rule of law to look at the appropriate procedural framework with an open mind and in an innovative manner. Being willing to take on that responsibility is also essential if we are to have confidence in the government's ability to devise new methods for anticipating terrorist threats and crime. This responsibility is also emphasized by the European Court of Human Rights (ECtHR): any state wanting to stand at the forefront of technological development also needs to stand at the forefront of its regulation.²³ Embracing new techniques that affect the free enjoyment of fundamental rights in a different manner than we are used to is acceptable only if arbitrariness in government action can be avoided. As early as 2005 Vervaele emphasized the importance of fundamentally reconsidering the manner in which fundamental freedoms and fundamental principles of criminal law can be protected in criminal proceedings if we accept intelligence as a source of information and evidence in criminal justice.²⁴ New technological methods for producing intelligence are now adding a new dimension to this discussion. In the words of Krygier, 'To counteract [...] forms of arbitrariness, space needs to be made for a larger understanding of the contributions of constitutionalism and the rule of law, more 'idealistic', more opened and open to the complex realities of the world we seek to navigate.'²⁵

The bill concerning the analysis tasks of the NCTV approaches the applicable safeguards primarily from the perspective of data protection law, and thus the

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21. M. Krygier, 'Tempering Power', in M. Adams, A. Meuwese & E. Hirsch Ballin (Eds.), *Constitutionalism and the Rule of Law. Bridging Idealism and Realism*, Cambridge, Cambridge University Press, 2017, pp. 34-59, p. 35.
 22. C.A.J.M. Kortmann (annotated by P.P.T. Bovend'Eert, J.L.W. Broeksteeg, C.N.J. Kortmann & B.P. Vermeulen), *Constitutioneel recht*, Deventer, Wolters Kluwer, 2021, pp. 52-54.
 23. See, for example, ECtHR, 4 December 2008, ECLI:CE:ECHR:2008:1204JUD001056204, no. 30562/04; and 30566/04 (*S. and Marper v. United Kingdom*), para. 112. See also Hirsch Ballin & Galič, 2021.
 24. Vervaele, 2005, pp. 409-410.
 25. Krygier, 2017, pp. 58.

GDPR. In addition, and following the advice issued by the Council of State,²⁶ Article 4(4) of the bill includes a prohibition on the use of technical profiling tools when searching online open sources. This restriction applies only to the acquisition of data from online open sources and thus does not seem to exclude the opportunity to use such technical tools for producing brief or general analyses. However, the restriction provided for in Article 3(2), whereby these analyses are not permitted to target persons or organizations in the context of the NCTV's task to identify, analyze and interpret trends and phenomena, continues to apply.

In addition to assessing whether these procedural safeguards applying to the NCTV's information task are sufficient,²⁷ it is important to take account of the procedural positioning of the analysis activities in relation to the legal frameworks within which any subsequent interventions take place. Given that the output of the analysis may have different consequences for citizens' enjoyment of fundamental rights compared to the consequences arising from the original data, any intervention based on that output should not be seen separately from the analysis process. Therefore, and instead of the relatively strict distinction traditionally made between the criminal, administrative and national security domains, the procedural embedding of data analysis should be connected to the existing legal frameworks within which the relevant follow-up interventions take place.

A procedural connection between the data analysis and the legal framework applying to subsequent interventions could be established by introducing a requirement for independent supervision of any decisions to share analysis outcomes with other agencies.²⁸ This independent supervisor should then assess the following aspects:

- Whether and, if so, under which conditions the outcome of the analysis may be used for a specific intervention. This would entail assessing both the correctness of the outcome of an analysis and the proportionality of using that outcome for a specific intervention;²⁹
- Assessing the proportionality (*a priori*) of using the outcome of the analysis for intervention purposes. If such intervention involves a criminal investigative method, one question to be assessed is whether, given its nature and method of establishment, sharing the outcome of the analysis for criminal investigative purposes is proportionate.

26. *Government Gazette*, 2021, 47236, p. 11.

27. In this regard, see the critical assessment by the Council of State, *Government Gazette*, 2021, 47236.

28. See Vervaele's call to strengthen independent judicial control over decisions to use secret information as the basis for a suspicion and, more generally, as an important procedural guarantee if the national security domain and criminal justice domain are no longer strictly separated ('Information flow has to be accompanied by judicial information control'). See Vervaele, 2005, pp. 31 and pp. 439-440.

29. Such assessment can be considered as a form of 'human intervention', as referred to in Article 22 GDPR, to protect the right not to be subjected to a decision based solely on automated processing if such decision has legal effects concerning or similarly affecting the relevant person.

In this way, the analysis process and the subsequent criminal or administrative procedure can become a connected and coherent framework of procedural guarantees. Proportionality, both as a constitutional principle regarding limitations on fundamental rights and as a general principle of both criminal and administrative law, is capable of providing guidance for fine-tuning possible interventions and is ultimately important for assessing whether the entire process of the analysis and subsequent intervention meets the requirements of fairness and integrity.³⁰

4

CONCLUSION

The analysis activities that the NCTV aims to conduct as part of its information task should be regarded as a new method of anticipative action in the field of counterterrorism. It is a new method because of the technical possibilities to turn existing or newly discovered facts into constructed or reconstructed information (in other words, into an 'interpretation' or intelligence). This task will strengthen the NCTV's position as a spider in the web of information-sharing between agencies.³¹ In particular, it will enable cooperating agencies – such as the police, the Public Prosecution Service, mayors, the Minister of Justice or the intelligence and security services – to deploy their own methods (interventions based on the outcomes of the analyses) in anticipation of future terrorist threats. It is also relevant, in this regard, that the other task of the NCTV is to coordinate counterterrorism interventions.

Notwithstanding the importance of ensuring that sufficient procedural safeguards, arising from the right to privacy, are in place to regulate data analysis by the NCTV, it is also important for these safeguards to be assessed in relation to the existing legal frameworks for regulating interventions following the output of the analysis. Given both the far-reaching nature of the powers of analysis and the potential impact that the output of analyses may have on citizens' free enjoyment of fundamental rights, establishing independent supervision of these and comparable data-analysis activities would represent a significant step forward. A new independent supervisor will have to safeguard not only the legitimacy of the analysis, but also the proportionality of sharing the output of the analysis for the purpose of subsequent interventions regulated in the domains of criminal justice, administrative law or national security. In this way, new procedural safeguards will do justice not only to the increasingly extensive opportunities for data sharing and data analysis outside the scope of existing legal frameworks, but also justice to

30. M.F.H. Hirsch Ballin, *Over grenzen bij bewijsvergaring: Grondslagen voor geïntegreerde normering van strafrechtelijke bewijsvergaring* (inaugural lecture, VU Amsterdam), The Hague, Boom juridisch, 2018, pp. 58-60.

31. See Hirsch Ballin, 2022.

the relationship between the process of analysis and the procedural regulation of subsequent interventions that is essential for the enjoyment of fundamental rights.

