# Plan Overview

*A Data Management Plan created using DMPonline*

**Title:** 'Countering human rights from within: Framing State interests in human rights language in migration-related jurisprudence'

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**Funder:** Netherlands Organisation for Scientific Research (NWO)

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**Project abstract:**

The European Court of Human Rights (ECtHR) is a central forum for ‘jurisgenerative deliberations’ on the human rights of migrants in Europe. In recent years, scholars have diagnosed a tendency of the Court to rule against the human rights of migrants and in favour of the State accused of human rights violations (‘Strasbourg reversal’). This reinforces the imbalance of power and raises the question of why States appear to be more successful than migrant advocates in litigation. While research has examined the impact and shortcomings of strategic litigation by migrant advocacy groups, we have hardly any understanding of the (tacit) mechanisms that States use to influence the Court’s decision. This project is one of the first to open this black box. I hypothesise that States act as strategic litigants who contest the ECtHR's migrant-related jurisprudence by making use of the indeterminacy of the human rights language and doctrine. Rather than remaining limited to a reactive-defensive mode, responding to the claims of migrants and seeking to contain jurisprudence, States adopt an active-offensive mode, activating and harnessing exclusionary elements within human rights law in order to shape legal doctrine according to their interests and reinforce the exclusion of migrants through human rights law. To examine this, I will use the novel interdisciplinary method of discourse analysis of legal doctrine. This will allow me to develop a taxonomy of doctrinal arguments used by States (a ‘tool box’). Building on this, I will deconstruct the underlying system of tensions that guide the production of these arguments. This opens up the possibility to develop alternative ways of arguing. My findings will (1) explain why the ‘Strasbourg reversal’ continues to assert itself, (2) equip lawyers and advocacy groups with new arguments to combat it, and (3) contribute to a deeper understanding of human rights law generally.

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# 'Countering human rights from within: Framing State interests in human rights language in migration-related jurisprudence'

## General Information

**Name applicant and project number**

Janna Wessels, VI.Veni.211R.082

**Name of data management support staff consulted during the preparation of this plan and date of consultation.**

Thomas Hoogenboom, data manager, VU faculty of law, 4 July 2022
Tom Paffen, Legal Counsel Data Protection and Privacy, VU Institutional and Legal Affairs, 16 August 2022
Jolien Scholten, Specialist Research Data Management, Universiteitsbibliotheek Vrije Universiteit Amsterdam, 26 August 2022

## 1. What data will be collected or produced, and what existing data will be re-used?

**1.1 Will you re-use existing data for this research?**

**If yes: explain which existing data you will re-use and under which terms of use.**

- Yes

I will collect relevant subsets of case law that is published by the ECtHR on the Hudoc website. Judgments will be selected according to the selection criteria specific for this project.
In addition, I will collect government submissions from the ECtHR archive that is accessible upon request from the Court Registry.
I will not have permission to archive/publish these materials, but I will provide references to the materials in order to enable verification of your research.

**1.2 If new data will be produced: describe the data you expect your research will generate and the format and volumes to be collected or produced.**

Upon publication of the research results, I will also publish the following:
1. List of judgments used, and
2. List of State submissions used,
together with a brief explanation of the search strategies used to search for the relevant aspects/concepts.

**1.3. How much data storage will your project require in total?**

- 0 – 10 GB

I will download the data to my workfolder. I expect about 1000 KB for 1 case and expect to collect 200 cases. Therefore I will have need a total of about 200 MB.

## 2. What metadata and documentation will accompany the data?

**2.1 Indicate what documentation will accompany the data.**

Information on the methodology used to collect the data, analytical and procedural information will be made available in relevant publications, which will be accessible open access (in pdf).

**2.2 Indicate which metadata will be provided to help others identify and discover the data.**

The materials I will produce (list of judgments used, list of State submissions used and explanation of the search strategies used to search for the relevant aspects/concepts) will not constitute a separate 'dataset', but these will rather be included in my publications.
I will provide a list of the cases I have consulted from the HUDOC website, and indicate in that list for which of these cases I have also consulted the state submissions archived with the Court in Strasbourg.
The findings will be accessible in publications on the website of the publisher. Judgments used can be consulted on the HUDOC website, state submissions can be consulted upon request at the ECtHR archive.
I will make sure to use metadata and keywords with my publications that are commonly used in my discipline, to enable colleagues in my field to identify and discover my publications, including the materials you used.

## 3. How will data and metadata be stored and backed up during the research?

**3.1 Describe where the data and metadata will be stored and backed up during the project.**

- Institution networked research storage

The data will be stored and backed up using one of the systems offered by the University: SURF Research Drive.
The VU's information security policy is based on NEN-7510, ISO-27001 and ISO-27002 standards, the SURF standards framework and the Baseline Information Security Government (BIO). The VU's Security and Operations Control Centre investigates and coordinates the handling of information security incidents.
The VU has taken, among others, the following measures:

- The VU has a dedicated fulltime CISO and a fulltime DPO who monitor the VU on the subject of information security and data protection;
- The VU has a responsible disclosure scheme;
- The VU has a policy for the safe disposal of hardware; the safe disposal of hardware is carried out by a certified partner; and
- The VU uses Next Gen Fortinet firewalls that provide malware detection, intrusion prevention and detection.

**3.2 How will data security and protection of sensitive data be taken care of during the research?**

- Default security measures of the institution networked research storage

Default security measures of the institution networked research storage.

## 4. How will you handle issues regarding the processing of personal information and intellectual property rights and ownership?

**4.1 Will you process and/or store personal data during your project?**

**If yes, how will compliance with legislation and (institutional) regulation on personal data be ensured?**

- Yes

In principle, no personal data are processed within the research. As far as the State submissions names and functions of employees, these will not be used in the research analyses and will be securely stored (see 3.1). All employees of the VU are bound by contractual confidentiality.

**4.2 How will ownership of the data and intellectual property rights to the data be managed?**

I am not the owner of the data. Other researchers may request access to the relevant data directly from the archive of the Court [see also 2.2].

## 5. How and when will data be shared and preserved for the long term?

**5.1 How will data be selected for long-term preservation?**

- All data resulting from the project will be preserved for at least 10 years

References to the materials used will be included in my publications. The source data will be stored by the European Court on Human Rights on the HUDOC website and in its Registry/Archive. The research results will be stored in open access publications.

**5.2 Are there any (legal, IP, privacy related, security related) reasons to restrict access to the data once made publicly available, to limit which data will be made publicly available, or to not make part of the data publicly available?**

**If yes, please explain.**

- Yes

I will not publish the judgments and State submissions, since these data are not mine. But I will provide lists that will help others identify the texts I have investigated [see Q 2.2 and 4.2].

**5.3 What data will be made available for re-use?**

- All data resulting from the project will be made available

same as above, 5.2

**5.4 When will the data be available for re-use, and for how long will the data be available?**

- Data available as soon as article is published

A list of all cases and state submissions used will be made available when research findings are published.

**5.5 In which repository will the data be archived and made available for re-use, and under which license?**

I will not use a data repository to publish my materials. The materials I produce (list of judgments used, list of State submissions used and explanation of the search strategies used to search for the relevant aspects/concepts) will not constitute a separate 'dataset', but these will rather be included in and accessible through my publications.
Published research will be publicly available directly. The other data (judgments, state submissions) is not my own, and is available to others from the HUDOC database (judgments), or upon request from the owner (state submissions).

**5.6 Describe your strategy for publishing the analysis software that will be generated in this project.**

## 6. Data management costs

**6.1 What resources (for example financial and time) will be dedicated to data management and ensuring that data will be FAIR (Findable, Accessible, Interoperable, Re-usable)?**

- no financial cost for storage and back-up on university system
- there may be open access publications fees, for which projects funds are available
- no additional time required