



## NEWS REPORT

<b>Date:</b>	28 February 2011
<b>Expert:</b>	Rikki Holtmaat
<b>Title:</b>	Prohibition to register ethnic background of young individuals at risk
<b>Country:</b>	The Netherlands
<b>Context</b>	
<b>Issue at stake:</b>	Decision of the Dutch Data Protection Authority summoning a district council in Rotterdam to stop registering ethnic background of young individuals
<b>Ground of discrimination:</b>	Race / ethnicity
<b>Source:</b>	Board for the Protection of Personal Data 4 February 2011
<b>Field:</b>	Social benefits / social services
<b>Legislative provisions:</b>	Personal Data Protection Act (" <i>Wet Bescherming Persoonsgegevens</i> " Art. 16)

### Content

#### **Political developments:**

On 27 January 2011, the Dutch Data Protection Authority (*College Bescherming Persoonsgegevens* – CBP - as the board for the protection of personal data)<sup>1</sup> prohibited a District Council in Rotterdam to continue registering the ethnic background of so-called young individuals at risk (and being a risk for society as well), in short called 'high risk youth'.<sup>2</sup> The District Council could not prove that the policy of registering these individuals according to their ethnic background was appropriate to achieve the Council's social policy goals aiming at improving their position. Also, the requirement that the persons involved had to be informed about the registration was not met. Recourse to the exception of Article 18(b) of the Act, which allows racial or ethnic registration for positive action purposes, was therefore not granted. The CBP, on the basis of Article 65 of the Act,

<sup>1</sup> English web site of the Authority: <http://www.dutchdpa.nl/Pages/home.aspx> (last accessed on 25 February 2011)

<sup>2</sup> The CBP does have this authority on grounds of the Personal Data Protection Act. A decision may be appealed in first instance at the Authority itself, and in second instance at the Administrative District Court.

summoned the Council to stop doing so and to destroy all earlier registrations files.<sup>3</sup> The District Council has appealed against this decision.<sup>4</sup> In reaction to this, the City Council of Rotterdam adopted on 15 February 2011 by a majority vote a (political) motion in which it declared that nevertheless, Rotterdam would continue doing so.<sup>5</sup>

**Internet link source and additional information:**

For the decision of the Board:

[http://www.cbpweb.nl/Pages/pb20110204\\_dwangsom\\_charlois.aspx](http://www.cbpweb.nl/Pages/pb20110204_dwangsom_charlois.aspx) and  
[http://www.cbpweb.nl/downloads\\_pb/pb20110204\\_charlois\\_dwangsombesluit.pdf](http://www.cbpweb.nl/downloads_pb/pb20110204_charlois_dwangsombesluit.pdf)

For the decision of the Rotterdam City Council

[http://www.joop.nl/politiek/detail/artikel/gemeente\\_rotterdam\\_wil\\_etnische\\_registratie\\_behouden/](http://www.joop.nl/politiek/detail/artikel/gemeente_rotterdam_wil_etnische_registratie_behouden/) (Last accessed on 25 February 2011.)

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<sup>3</sup> The fine is 2000 Euro per day, with a maximum of 250.000 Euro. See [http://www.cbpweb.nl/Pages/pb20110204\\_dwangsom\\_charlois.aspx](http://www.cbpweb.nl/Pages/pb20110204_dwangsom_charlois.aspx) and [http://www.cbpweb.nl/downloads\\_pb/pb20110204\\_charlois\\_dwangsombesluit.pdf](http://www.cbpweb.nl/downloads_pb/pb20110204_charlois_dwangsombesluit.pdf) (last accessed on 25 February 2011)

<sup>4</sup> See [http://www.telegraaf.nl/binnenland/9031393/Bezwaar\\_tegen\\_uitspraak\\_CBP\\_.html](http://www.telegraaf.nl/binnenland/9031393/Bezwaar_tegen_uitspraak_CBP_.html) (last accessed on 1 March 2011)

<sup>5</sup> See e.g.

[http://www.joop.nl/politiek/detail/artikel/gemeente\\_rotterdam\\_wil\\_etnische\\_registratie\\_behouden/](http://www.joop.nl/politiek/detail/artikel/gemeente_rotterdam_wil_etnische_registratie_behouden/) (Last accessed on 25 February 2011.)