

Social media screening: Norway's asylum system

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The growing use of data gathered from social media in asylum claim assessments raises critical yet underexplored ethical questions.

Immigration authorities across Europe are increasingly finding asylum seekers' social media profiles to be a valuable source of information in case processing, complementing the asylum interview. Access to applicants' travel routes, photos, network of friends and record of other online activity represents a colossal technical and informational possibility, but these new

practices raise several woefully underexplored ethical and normative questions.¹

Questions for reflection and scrutiny

Access: Social media screening is a key feature of the initial processing of asylum applications in Norway. All asylum seekers in Norway are asked by police to provide their phones and Facebook login details



Mobile phones charging at a shelter for refugees and migrants.

when filing their application (at their first point of contact with authorities). First-hand access to a person's Facebook profile enables law enforcement officials to access an individual's complete Facebook history, comprising photos, friends, likes, interests, activities, travel routes and more. Analysis of asylum case files from 2018 shows that photos and information on

networks and geographical information taken from Facebook profiles can be decisive for the outcome of case processing. Government agents also access social media data (on the asylum seeker and their connections) not only by looking at publicly available data online but also by logging into social media platforms using constructed personas which cannot be traced back to the individual civil servant nor to the institution, in accordance with internal guidelines. This is intended to protect both civil servants and claimants.

Consent: Consent to provide their login credentials and phones must, according to the Norwegian Immigration Act and Regulations, be 'informed' and 'freely given'. One may question, however, whether the applicant at this stage of the asylum process could adequately foresee or comprehend the consequences of providing access to such information. Furthermore, the information may often concern friends or family members who have not given their own consent for it to be shared. And since consent is requested at the very first

point of contact between the police and the applicant there is a clear power imbalance and the consequences of refusing consent will also be unclear to the applicant. At a 2017 international conference on the topic of technology in asylum case processing, civil servants did not raise consent as a normative challenge when using Facebook to gather data;² information that was available on profiles marked 'public' was considered to be just that – public. Even in such cases, however, it is debatable whether it is appropriate to consider such data as relevant when it was clearly never intended for scrutiny by government employees such as asylum officers.

Confidentiality: The asylum procedure has traditionally been governed by strict norms of confidentiality, in particular with regard to non-disclosure of a person's asylum-seeking status to the alleged country of persecution.³ When officers search Facebook or similar platforms for individuals who have claimed asylum, they leave behind traces and reveal (at the very least to the platform) their interest in the individual. In doing so they are introducing a third party into the proceedings that is not directly bound by the same confidentiality rules. Exactly what risks this may entail are unclear but in a worst-case scenario this information could fall into the wrong hands. Certain countries of origin have sophisticated cyber surveillance capabilities, and may monitor dissidents' social media activity. Asylum authorities and officers who take steps to conceal their activity may still be traceable and may inadvertently become a new source of risk to asylum seekers trying to escape persecution.

Evidentiary value: Information from Facebook is often used as evidence in immigration cases in Norway, in particular to validate claims of identity, networks and geographical origin. In most cases this information is supplemented by other evidence but in some cases social media data represented the sole source of new information leading to revocation of asylum. The frequent use on social media

platforms of aliases and fake affiliations are examples of phenomena that challenge the value of information from social media for use in case processing. Case workers are therefore directed to interpret the information in light of other evidence in the case, such as language tests and the perceived credibility of the claimant.

Continued screening: In Norway, the government has intensified its focus over the past few years on the revocation of residence permits that were given on faulty grounds, and on the cessation of refugee status for persons no longer in need of protection. In such cases, evidence drawn from social media activity after refugee status has been granted is often used to subsequently withdraw permits. This practice of reactivating social media screening raises new normative questions. Current practice involves immigration officers carrying out preliminary screenings, including systematic Facebook searches, in a variety of contexts which include applications launched by individuals themselves for permanent residence or citizenship. Such screening practices are often based on tips from other migrants and on information arising in other cases. In addition, overall risk-based screening of individuals of certain nationalities also takes place. Often revocation cases include renewed interviews with the migrant, in which Facebook screenshots, posts and photos from friends are often used to confront the individual with information related to their cases. Migrants are often not informed beforehand that social media information will be used during these interviews.

What now?

There is a need for fundamental discussions about these technological developments and their impact in the asylum and migration context. Informants within Norwegian immigration authorities point to experiences of operating in 'uncharted waters' when they search social media for information. Clear national guidelines are needed to secure equitable treatment of cases and in order to create predictability for the migrants

themselves about the procedures that will take place. These should combine both the practical concerns of operative immigration management, including the limits of using false personas and what responsibilities follow from having gained access to login information, and ethical concerns pertaining to migrants' and citizen's rights, which include freedom of expression. Greater clarity is also needed regarding the evidentiary value of information derived from social media.

These discussions should also include the potential consequences for the migrants themselves, including whether withdrawal from social media communities can hamper social integration in host societies or whether the monitoring of some migrants at certain points in time could foster a sense among wider migrant communities of being under near-permanent surveillance. Other questions that arise include whether there should be limitations on when, and for how long, host-country authorities can monitor the social media activity of migrants, and whether individuals under scrutiny should be alerted, given the significant impact that revocation of refugee status and other immigration permits has on the lives of migrants and their families. Host countries must find a balance between using social media data to improve case processing efficiency and securing migrants' rights.

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1. Examples are drawn from Brekke J-P, Groenningsaeter AG and Larsen KM (2018) 'Revocation of residence permits – Due process and judicial oversight in processing of revocation cases in Norway', Institute for Social Research report No. 6 <http://hdl.handle.net/11250/2500937> and Brekke J-P, Birkvad S R and Erdal M B (2019, forthcoming) 'Losing the Right to Stay: Revocation of immigrant residence permits and citizenship in Norway – Experiences and effects', Institute for Social Research report <http://hdl.handle.net/11250/2599967>

2. bit.ly/2TQBmSc

3. See for example Directive 2013/32/EU of the European Parliament and of the Council of 26 June 2013 on common procedures for granting and withdrawing international protection bit.ly/2013-32-EU