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DRAFT GENERAL RECOMMENDATION N° 36 ON PREVENTING AND COMBATING RACIAL PROFILING

The Danish Institute for Human Rights (DIHR) welcomes the call for contributions in relation to the draft general recommendation no. 36 on preventing and combatting racial profiling by the Committee on the Elimination of Racial Discrimination ("the Committee"). Pursuant to the call, we would like to submit the following comments to the draft general recommendation.

DIHR is Denmark's national human rights institution (NHRI). It was established in 1987 and is regulated by act no. 553 of 18 June 2012 on the Institute for Human Rights – Denmark's National Human Rights Institution. DIHR is an independent, self-governing institution within the public administration and is established and functioning in accordance with the UN Paris Principles. We monitor the human rights situation in Denmark and conduct academic research, analyses and reports on human rights as well as provide counselling to members of the public regarding possible infringements of their human rights.

Racial profiling is an extremely important as well a current issue. For instance, numbers from Statistics Denmark show that there is a significantly higher risk of getting wrongfully arrested and charged with a crime in Denmark if you have another ethnic background than Danish.¹

Thus, DIHR commends the Committee on the draft recommendation on this topic and applaud the Committee for already identifying and

¹ Statistics Denmark, special data analysis for the Danish Broadcasting Corporation 2014-2016 (Danmarks Statistik, særkørsel foretaget for Danmarks Radio 2014-2016), accessed 25 June 2019 at: <https://www.dst.dk/ext/formid/saerkoersel-dr--xlsx>.

incorporating the recommendations below in the draft general recommendation.

DIHRs general recommendations regarding racial profiling are: 1) that national guidelines on racial profiling should be drafted, 2) that the ethnicity of persons stopped by the police should be registered and 3) that an amendment to the Danish police law should be made that prohibits discrimination, including racial profiling.

COMMENTS ON THE DRAFT GENERAL RECOMMENDATION

VII. RECOMMENDATIONS, PARAGRAPH E, SECTION 31

DIHR suggests that the recommendation not to misuse collected data should be further specified. We suggest that the sentence: “this information must not be misused” is replaced with: “In addition, specific guidelines or regulation should be introduced to ensure that this information is not misused”.

VII. RECOMMENDATIONS, PARAGRAPH F, SECTION 32

DIHR suggests that this recommendation is altered to highlight the effect that racial profiling and targeting of certain residential areas can have on individuals living in those areas and their right to housing. DIHR suggests adding to the last sentence: “Managers should also review the impact of operations at higher risk of generating disproportionate outcomes on specific groups or communities, with a particular focus on the impact on residents in risk of racial profiling living in areas subjected to more frequent police control.”

VII. RECOMMENDATIONS, PARAGRAPH F, SECTION 34

DIHR suggests that the recommendation on setting up an independent complaint mechanism should be specified. We suggest that the last sentence “Members of the public should be able to make complaints through an independent mechanism in addition to directly with police.” is deleted from section 34. Instead, DIHR suggests that a new section should be added under paragraph F describing the complaint mechanism: “Members of the public should be able to make complaints through an independent mechanism in addition to directly with police. The independent mechanism should be given the means to properly investigate complaints and the competence to enforce decisions through the means likely to affect a change of conduct, such as for instance disciplinary measures for individuals or giving fines to police departments and possibly awarding reparations to members of the

public subjected to racial profiling. The independent complaint mechanism should register complaints regarding racial profiling, monitor the development and make the police force aware of problematic tendencies.”

Yours sincerely,

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LEGAL ADVISER