**Comments of the Netherlands concerning Draft General Recommendation no. 36 on Preventing and Combating Racial Profiling**

The Netherlands welcomes the Committee on the Elimination of Racial Discrimination’s Draft General Recommendation no. 36 on Preventing and Combating Racial Profiling and the Committee’s invitation to submit comments on this draft. The Netherlands would submit the following observations.

Paragraph 31:

In principle, Dutch legislation prohibits the collection of information on an individual’s ethnicity for a variety of reasons. Exceptions to this are very narrowly defined. The collection of information on an individual’s ethnic origin may be permitted when this is necessary to safeguard an important public interest, for example to address social problems. An example of such an exception is the practice of giving preferential treatment to disadvantaged groups in terms of policymaking and financial assistance. The collection of information on an individual’s ethnic origin in connection with the performance of law enforcement duties is not considered a ground for exception according to Dutch legislation and, therefore, is not permitted. Consequently, in regard to law enforcement practices, law enforcement agencies in the Netherlands do not collect disaggregated data that includes information on the ethnic origin of members of the public targeted or, therefore, details and outcomes of these encounters. The Netherlands therefore proposes that paragraph 31 be amended so that countries that legally prohibit the collection of this type of information are not required to collect such information by this paragraph.

Paragraph 32:

This paragraph suggests collecting and monitoring data concerning ‘deviations from policy’ in the behaviour of law enforcement agents. It is unclear, however, what exactly is considered a ‘deviation’ in behaviour and the Netherlands asks whether this can be stated more explicitly.

Paragraph 37:

The Netherlands questions whether the requirements under paragraph 37 fall within the mandate of the Committee.

Paragraph 39:

Under paragraph 39 ‘States should document and report in their reports to the Committee for the Elimination of Racial Discrimination, the cases of racial discrimination associated with artificial intelligence, and the measures of prevention and sanction adopted.’ The Netherlands recommends qualifying this provision by adding ‘preferably’ or ‘to the extent possible’ so as not to unduly burden States in their reporting obligations.