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PRESS RELEASE: Dutch border police in court for ethnic profiling

On Wednesday, 26 February 2020, a civil society coalition will summon the Dutch state to appear in court for ethnic profiling by the Royal Netherlands Marechaussee (Dutch border police). The plaintiffs include two private citizens, Amnesty International, Controle Alt Delete, anti-discrimination organisation RADAR and the Public Interest Litigation Project, part of the Dutch section of the International Commission of Jurists (PILP-NJCM), and are demanding that the court draw a line and put an end to discriminatory border control activities. They assert that the Dutch border police is acting in violation of human rights and Dutch law. In recent years, the plaintiffs have put this problem on the agenda and insisted on measures to fight ethnic profiling; sadly, these efforts have been to no avail. This is why they are taking this case to court today.

Discrimination by the Dutch border police

During border control operations, the border police select people on the basis of their appearance, skin colour or origin (ethnicity), amongst other things. This determines, in part, whether or not someone is removed from the queue. The Dutch border police also applies general risk profiles that incorporate ethnicity, such as “men who walk fast, are well-dressed and who don’t ‘look Dutch’”. This is ethnic profiling, a form of discrimination that violates human rights and Dutch law and is therefore prohibited.

Government fails to protect citizens from discrimination

The Minister of Defence and the Minister for Migration are responsible for border controls enforced by the Dutch border police. They allow for the use of ethnicity, in conjunction with other characteristics. In doing so, they are condoning discrimination by the Dutch border police. This is detrimental to the people it affects, contributes to the stigmatisation of ethnic minorities, undermines confidence in the government and ultimately only proves to be ineffective in the fight against crime.

Plaintiffs ask the judge to draw a line

Amnesty International, Controle Alt Delete, RADAR, PILP-NJCM and the individual plaintiffs involved in the case have made repeated efforts to draw the government's attention to the harmful effects of ethnic profiling. For years, international human rights monitors have also been reminding the Dutch state of its duty to protect citizens from discrimination and to prevent ethnic profiling. The two citizens who are plaintiffs in this case have lodged complaints with the Dutch border police and the National Ombudsman, but this failed to produce any substantial improvements in the situation. In filing this lawsuit, the plaintiffs are asking the court to draw a line

and prohibit the state from allowing the Dutch border police to use ethnicity in selection decisions and incorporate it in risk profiles for border controls.

A case of international importance

Ethnic or racial profiling of minorities and immigrant communities has been reported across Europe and the United States, including within the context of immigration control. There have also been many court challenges to discriminatory police stops. In our view, the Dutch case is unique in that it challenges a government's policy and legislation that specifically allows for the use of ethnicity as one of the elements justifying a border stop and check. Still, the court's judgment will be relevant in Europe and globally, as it relates to the checks of all people travelling within Europe and, because the plaintiffs are invoking fundamental European rights.