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Tor-Aksel Busch
Office of the Director of Public Prosecutions

March 1, 2019

Regarding drug law violators and the right to an effective remedy.

Dear Sir.

We refer to our previous correspondence (your ref. 9766458 3332/09-63) in which you were invited to support the right of drug law violators to an effective remedy. In your response of August 25, 2009, you held that this was a subject matter better left with courts and politicians, and we replied (September 9, 2009) that in times of moral panic these institutions cannot be trusted with upholding the rule of law. We also provided evidence and reasoning to the effect that (1) the drug law had some serious explaining to do when compared to ECHR and ICCPR; (2) that this had been ignored by politicians and courts for a long time; (3) that a series of public officials had committed a grave crime in covering up the disconnect between human rights and the drug law; (4) that politicians and the police in general had failed to question laws which unduly singled out vulnerable groups for persecution; (5) that individual integrity was key to solving this systemic problem; and (6) that it not only would be helpful if your office assisted drug law violators in their quest for an effective remedy, but that—all things considered—this was your solemn duty to the rule of law.

After all, it is not in the interest of the police, the Office of the Director of Public Prosecutions, nor the citizenry that unjust, discriminatory, and disproportional laws are left unchecked. Human rights law clearly states that public officials have a positive obligation to take accusations of human rights violations seriously, and in this matter we were not merely dealing with alleged human rights violations but fairly well documented transgressions of the spirit of the conventions. For this reason, your office was encouraged to actively endorse proceedings in which the subject matter could be properly delineated.

In your response of September 15, 2009, however, you and Runar Torgersen, a prosecutor with your department, insisted upon separating morality and law, thus making it clear—as far as your office was concerned—that the higher law of human rights was irrelevant to the subject matter at hand. As the case being referred to included several hundred kilos of cannabis, your office outright rejected any idea that hardcore violators should have access to an independent, impartial, and competent court, one where a principled/constitutional review of drug policy could be effected. In doing so, you disregarded the longstanding principle of law that the stricter the sentencing being applied, the more pronounced was the duty of the state to ensure a proper tailoring of legislation. Instead you opted to disregard evidence that was brought to the table, leaving it for the courts to decide upon the matter.

Not surprisingly, the conservative Norwegian justice system went on to deny drug law violators due process. Without a word, the Supreme Court left nearly 300.000 Norwegians without an effective remedy, and since then the state has persecuted drug law violators outside the perimeters of the rule of law. For ten years, in response to all the unnecessary death, imprisonment and destruction that comes with upholding the drug laws, our organization has sought to correct the situation so that the rule of law could be restored. Even so, Norwegian politicians have continued to ignore our call for rights-oriented drug policies and we now have certain indications that Runar Torgersen, your



subordinate and the person who was tasked to guide the proceedings of the Royal Commission on Reform of Drug Regulations, will disregard the input from a handful of organizations that have pushed on for a proper constitutional review of drug policy.

Hence, the part of the Royal Commission's mandate which deals with the proposed legislation and its relationship to human rights obligations is about to be ignored. Yet again, we are witnessing a process that is controlled by politicians and power players keen to overrule the constitution in order to protect the prohibition paradigm from critical review—and as more and more organizations give up on trying to reframe the debate into one built on meaningful terms, we find that respect for the rule of law has dropped to a minimum.

Indeed, in discussions with those who suffer the most from unjust persecution, we find that an increasing percentage are pondering violent means as a solution to the tyranny that engulf their lives, wantonly restricting their free development. For too long they have experienced how the scapegoating mechanism turns their lives into living hell, and as the political process yet again fails to address questions of primary concern, we fear that disillusionment will bring these most downtrodden souls over the edge. It is with this backdrop in mind, as a solution to the problem of lost authority and the human suffering associated with unjust persecution, that we invite the Director of Public Prosecutions to take responsibility for the increased tension.

So far, both politicians and the police continue to ignore our letters; they will not answer questions key to the resurrection of the rule of law, and so we try again to connect with the Office of the Director of Public Prosecutions. To deter another senseless reply in support of the status quo, such as the one offered 10 years ago, we hereby deliver a report demonstrating largescale human rights atrocities together with a book which explains the difference between principled and arbitrary systems of law. The former is called *Human Rising: The Prohibitionist Psychosis and its Constitutional Implications* (2019); it has already been accepted by the Council of Europe and passed on to the Presidency of the Pompidou Group who will inform member states about our position, and the latter is called *To Right a Wrong: A Transpersonal Framework for Constitutional Construction* (2016). These volumes have been vetted by professionals of law, and your office now have all the information needed to reconsider your position.

What we want is to get a proper judicial process going, one where the system recognizes the right of drug law violators to an effective remedy, and so we ask: *Since you do not recognize the right of bigtime violators to challenge the drug law from a constitutional perspective, what amount of cannabis would you prefer being delivered to your office; how much do you consider the correct amount to get your attention and your promise that we together—drug law violators and prosecutors alike—can join in a common cause to ensure respect for the rule of law?*

Please consider this issue carefully, then get back to us with a response which is fit to reestablish your position as a caretaker of proper justice. It may take one gram or more, we do not care. For too long drug law violators have stood alone in our quest to ensure that unjust persecution comes to an end, and whatever it takes we look forward to cooperating with your office in having the drug law subjected to proper human rights analysis.

Yours sincerely

A handwritten signature in black ink that reads 'Roar Mikalsen'. The signature is written in a cursive, flowing style.

Roar Mikalsen,
President of the Alliance for Rights-Oriented Drug Policies