



Mr. Alain Berset
Secretary General
Council of Europe

September 18, 2025

Follow-up: Urgent Action Required on CoE's Responsibility to Uphold the Rule of Law Amid ECtHR Failures in Cannabis Prohibition

Dear Mr. Secretary General,

On behalf of the Alliance for Rights-Oriented Drug Policies (AROD), I write to follow up on our letters of June 5, 2025, and July 1, 2025, regarding the systemic rule of law crisis perpetuated by cannabis prohibition. Regrettably, we have received no further response since your office's acknowledgment on June 23, 2025. This silence compounds the urgency, as the Council of Europe's (CoE) foundational mandate—to safeguard human rights, democracy, and the rule of law for 700 million citizens—demands proactive leadership, not inaction. Your 2025 Report, Towards a New Democratic Pact for Europe, explicitly warns of "democratic backsliding" and "rising impunity" through judicial failures, yet the European Court of Human Rights (ECtHR) continues to exemplify these risks by shielding outdated drug policies from scrutiny.

The CoE bears direct responsibility for ensuring the integrity of its judicial institutions, including oversight of the ECtHR under the European Convention on Human Rights (ECHR). Article 52 of the Convention obliges member states—and by extension, CoE bodies—to collaborate in upholding Convention standards, while the Statute of the Council of Europe (Article 1) entrusts you with promoting the rule of law as a bulwark against arbitrary power. In Norway and across member states, cannabis prohibition—now six decades old and responsible for an estimated 1 million punitive sanctions, a 1.75 billion NOK black market, and 300 annual overdose deaths—exemplifies such arbitrariness. Globally, AROD's Truth and Reconciliation Commission Report documents 400,000 annual deaths and 5 million wrongful imprisonments, with no evidence of public health benefits. This policy, driven by fear rather than facts, violates ECHR Articles 3 (prohibition of inhuman treatment), 5 (liberty), 6 (fair trial), 8 (private life), 13 (effective remedy), 14 (non-discrimination), and 18 (limits on restrictions), as well as Norway's Constitution (§§ 89, 94, 102).



The ECtHR's repeated dismissals of challenges like Mikalsen v. Norway (2012, 2023, 2024) as "manifestly ill-founded" without reasoned analysis breach procedural fairness (S.A.S. v. France, 2014) and enable national courts to evade proportionality reviews, as seen in Oslo City Court on November 25, 2024. This judicial protectionism sustains a \$300–500 billion global criminal market and erodes public trust, directly undermining the CoE's credibility. Justices who prioritize policy over scrutiny—such as De Gaetano and Schembri Orland in the Maltese delegation—threaten the rule of law by fostering impunity, as those who accept absurdities enable atrocities.

The CoE must intervene to prevent this "failure of law" from becoming a democratic contagion. To clarify the threat to the rule of law posed by such judicial protection of prohibition, AROD provides the following checklist. Modeled on objective assessments used in Norwegian proceedings, it poses targeted questions with expected answers based on verifiable facts. We urge the CoE to verify these through internal review, as inaction would further breach your oversight duties under the CoE's own standards (e.g., PACE Resolution 2277, 2019); PACE Res 2225 (2018).

Checklist for the CoE: Clarifying the Threat to the Rule of Law from Judicial Protection of Cannabis Prohibition

Question	Expected Answer	Justification and Source
Has the ECtHR dismissed challenges to cannabis prohibition without examining merits or providing reasoned analysis, breaching fair trial principles?	Yes	In Mikalsen v. Norway (2012, 2023, 2024), single-judge decisions labeled claims "manifestly ill-founded" without point-by-point review, violating ECHR Art. 6 adversariality (S.A.S. v. France, 2014, para. 129); see ECtHR applications (2023–2025).
Have national courts cited ECtHR dismissals to refuse proportionality reviews of prohibition, denying effective remedies?	Yes	Oslo City Court (November 25, 2024) barred ECHR/UN evidence on prohibition's legitimacy, upholding convictions under §231 without scrutiny; the Appeals Court upheld this decision referencing ECtHR's dismissals, allowing the Supreme Court to continue a 17-year pattern since 2008 to suppress an effective remedy. See Human Rising, 2020 ; ECtHR application 2025



Do expert reports and commissions demonstrate prohibition lacks legitimate purpose and causes disproportionate harm?	Yes	NOU 2002:4, NOU 2019:26, Prop. 92 L (2020–2021) and COE Baseline Study on Human Rights and Drug Policy (2019) recommend decriminalization due to inefficacy and human rights costs; ignored in policy. See ECtHR application 2025 ; AROD's Truth and Reconciliation Report (2025)
Has prohibition's enforcement created systemic bias, scapegoating minorities and eroding judicial independence?	Yes	Experts highlight scapegoating parallels to historical persecutions; the fallacies of prohibition have been confirmed by reports for 60 years, but the US and European justice system has failed to provide effective remedy. See Constitutional Challenges to the Drug Law (2017) ; Mikalsen v. Norway: Moving a Nation Forward (2023) ; ECtHR application 2025 ; AROD's Truth and Reconciliation Report (2025)
Does the CoE's inaction on these failures risk broader democratic backsliding, as warned in its own reports?	Yes	Towards a New Democratic Pact for Europe (2025) cites judicial impunity; aligns with PACE baseline study on repressive policies' harms (ECHR Arts. 3, 8); Requiem for the Rule of Law exhibition (2025) documents corruption of justice systems.

This checklist underscores that the rule of law is not abstract but actively threatened by justices who insulate prohibition from evidence-based scrutiny. The CoE's responsibility demands immediate action to restore balance. We reiterate our calls from prior letters:

- Promote ECtHR accountability via a Grand Chamber review of Mikalsen v. Norway to ensure reasoned decisions on prohibition's proportionality.
- Endorse AROD's proposed 15-day Truth and Reconciliation Commission, modeled on Norway's Sámi and Kven commissions, to address the human toll of 1 million sanctions.
- Amplify [Requiem for the Rule of Law](#): Acknowledge our ongoing protests (e.g., September 2025 exhibitions at PACE and ECtHR) exposing prohibition's corrosive effects. The documentary [Requiem for the Rule of Law: Shadows of Prohibition and the Dawn of Awakening](#) exposes the threat to the rule of law, and can be used to awaken Europe and the CoE.



We request a dedicated meeting to discuss implementation. Your leadership is essential to align CoE standards with evidence, preventing further erosion of trust. Absent response, AROD will escalate to the Committee of Ministers and civil society forums. We will also bring more cannabis protests to Strasbourg to advance the rule of Law.

Sincerely,

A handwritten signature in black ink, reading 'Roar Mikalsen', is positioned below the word 'Sincerely,'.

Roar Mikalsen

President

Alliance for Rights-Oriented Drug Policies (AROD)