



Mr. Alain Berset
Secretary General
Council of Europe
Avenue de l'Europe
F-67075 Strasbourg Cedex, France

July 1, 2025

Addressing Systemic Rule of Law Failures in Cannabis Prohibition

Dear Mr. Secretary General, Thank you for your reply of June 23, 2025, via Mr. Stefan Piedimonte Bodini, acknowledging our letter of June 5, 2025. The Alliance for Rights-Oriented Drug Policies (AROD) appreciates the attention but finds the response inadequate in confronting the systemic rule of law crisis caused by cannabis prohibition. Six decades of prohibition on disproven premises evidence systemic failure, and the European Court of Human Rights' (ECtHR) refusal to provide an effective remedy undermines the Council of Europe's mission to uphold human rights and the rule of law for 700 million citizens. This failure of leadership sustains a global criminal drug market worth approximately \$300–\$500 billion and a cycle of violence with no evidence of deterrence, perpetuated by jurists and officials who fail to uphold the integrity of the CoE's justice system.

Failure of Law

Your 2025 Report, Towards a New Democratic Pact for Europe, warns of "democratic backsliding" and "rising impunity," highlighting failures in judicial independence and reasoned decision-making that erode trust in the European human rights system. AROD submits that cannabis prohibition exemplifies such failures. In Norway, AROD estimates 1 million punitive sanctions over 60 years, a 1.75 billion NOK black market, and approximately 300 annual overdose deaths. Globally, our Truth and Reconciliation Commission Report estimates 400,000 annual deaths and 5 million wrongful imprisonments, with no demonstrated benefit to public health. This policy, akin to putting out fire with gasoline, exacerbates harm by twisting the law of supply and demand into a narrative of victim and oppressor, violating principles of equality, proportionality, and autonomy under ECHR Articles 6 (fair trial), 8 (private life), 13 (effective remedy), and 14 (non-discrimination), as well as Norway's Constitution (§§ 89, 94, 102).



Six decades of drug policy on invalidated grounds testify to the failure of law. As Voltaire observed, “those who can make you believe absurdities can make you commit atrocities”, and the modern hunt for scapegoats, orchestrated by policymakers, has misled lawyers into upholding unfounded narratives and destructive double standards that undermine human rights law. Johs Andenæs, a titan of Norwegian law, recognized 30 years ago that drug prohibition constitutes a gross abuse of power, a view echoed by the Criminal Law Commission’s report, NOU 2002:04, *Ny straffelov* (2002), which questioned the proportionality of drug penalties. The Norwegian Drug Reform Committee’s report, NOU 2019:26, *Rusreform – fra straff til hjelp* (2019), further demonstrates that public and political panic, rather than evidence, drove punitive policies from the 1960s, with fear of “drug epidemics” shaping criminalization despite disputed deterrence effects. The *Politi og rolleforståelse* report (2022, published 2023) notes that “the modern police role exists at the intersection of democratic and rule-of-law-based power,” highlighting a systemic tension between governance law, which serves administrative goals, and rights law, which protects individual freedoms. AROD contends that Norwegian authorities’ prioritization of governance law has neglected effective minority protection for those persecuted under drug policies, a failure carefully documented. The *Nasjonal rapport om bruk av tvangsmidler i mindre alvorlige narkotikasaker* (2022) confirms systemic human rights abuses in minor drug cases through disproportionate coercive measures, while larger cases remain an unaddressed blindspot. PACE Resolution 2277 (2019) underscores systemic deficiencies in judicial independence and fair trial rights across CoE member states, noting “serious violations of the rule of law” and disproportionate enforcement measures that infringe on privacy and non-discrimination rights. These findings align with your report’s call for “reforms where standards fall short.” If justice grinds slowly, it is due to a failure of leadership at institutions tasked with safeguarding human rights, and the CoE must prioritize principles over politics.

ECtHR Failure

The independence of the judiciary presupposes a willingness to question the legality of cannabis prohibition. The integrity of the justice system depends on its ability to protect rights regardless of politics, yet the ECtHR has exacerbated this crisis. Its dismissal of cases like *Mikalsen v. Norway* (2012, 2023, 2024) as “manifestly ill-founded” without reasoned analysis violates procedural fairness, as established in *S.A.S. v. France* (2014) and supported by the non-binding 2019 UN Guidelines on Legal Aid. National courts, citing these dismissals, refuse to review prohibition’s legitimacy, as seen in Oslo City Court on November 25, 2024, rendering the ECHR protection system ineffective since 2010. This judicial vacuum sustains prohibition through distorted narratives, hindering human rights progress for 15 years.

Call for Action

Since 2013, AROD has engaged CoE bodies, beginning with a letter to Secretary General Thorbjørn Jagland, followed by a 2018 follow-up letter to Jagland, a 2019 submission to PACE



for PACE Resolution 2277 (2019), and 2025 letters to you, the Pompidou Group, the Director General of Human Rights and Rule of Law, and the Commissioner for Human Rights pressing for evidence-based reform. Despite these efforts over 12 years, the CoE's inaction persists. Since 2010 the ECtHR has arrested the progress of human rights law, and AROD's Requiem for the Rule of Law event on June 23–24, 2025, outside PACE and the ECtHR, exposed prohibition's erosion of judicial review and fair trial rights, resonating with your report's emphasis on civil society engagement. Under Article 52 of the ECHR, you are mandated to ensure the Convention system's integrity when the rule of law is at stake, and the Secretary General must protect the judiciary's integrity. While respecting the ECtHR's independence, you can advocate for systemic change to address disproportionate measures against cannabis users and producers, which undermine the ECHR system.

We urge you to:

- promote ECtHR accountability: advocate for a Grand Chamber review of Mikalsen v. Norway to ensure reasoned decisions on prohibition's proportionality, as urged by your report's focus on judicial standards;
- endorse a Truth and Reconciliation Commission: support a CoE-backed TRC to address prohibition's victims across minor and major cases, aligning with your call for innovative responses to human rights challenges;
- initiate CoE action: convene a conference on drug policy's human rights impacts or launch an Article 52 inquiry into member states' compliance with ECHR obligations, reflecting your commitment to a New Democratic Pact.

Civil society demands action. As nations regulate cannabis to protect public health, the CoE must ensure consistent human rights standards across member states. Failure to act risks undermining the CoE's legitimacy as a guardian of human rights, and AROD will continue peaceful protests in Strasbourg to demand justice and test member states' commitment to the rule of law. We respectfully request a meeting with your office and a substantive response by August 1, 2025, outlining concrete steps.

Sincerely,

A handwritten signature in black ink that reads 'Roar Mikalsen'. The signature is fluid and cursive, with the first name 'Roar' and last name 'Mikalsen' clearly distinguishable.

Roar Mikalsen

President

Alliance for Rights-Oriented Drug Policies (AROD)