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Ms. Isil Gachet
Director, Office of the Commissioner for Human Rights
Council of Europe
Avenue de l'Europe
67075 Strasbourg Cedex

Luxembourg December 16 2010

Att : Ms. Gachet
Re : Norway: Systematic violations of the ECHR and the Treaty of
London IV
Case # :
Your reference : CDH 140/10
Our reference :
Posting by : Fax and mail
Your fax # : + 33 3 90 21 50 53
Numbers of pages : 3
Attachment : 1
Copy : Secretary General (+ 33 3 88 41 27 81)

In reference to your letter of November 29 2010, received at my desk on December 10 2010, I have the following comments:

Although I don't understand how, you must nevertheless have misinterpreted my three letters of September 22, October 8 and October 22 2010 to the Secretary General, when you describe the information you have been provided with as a "message" comprising of "...allegations of human rights violations."

What you have been provided with are neither *messages* nor *allegations*, on the contrary you have been presented with solid and undisputable facts disclosing that two justices and the court's President have refused to take oath as judges. Furthermore you have been presented with facts strongly indicating that approximately 25 % of the "judges" in Norway have refused to take oath as judges.

You have also been provided with facts that shows you that none of the relevant institutions¹ in Norway are willing to restore this unacceptable situation in order to get in line with the Treaty of London and the ECHR. Furthermore you have been informed – which of obvious reasons should not be necessary – that not even you or your institution (the Council of Europe) are willing to take any action whatsoever concerning this matter.

As I am, you most certainly are aware of the Council of Europe's efforts in securing an independent judiciary. Taken into consideration that approximately 25 % of the Norwegian judges de facto are not judges, I take it for granted that you won't find it hard

¹ The Central Court Administration, the Minister of Justice and Police, the Parliament. In regards to the latter, please see the **attached letter** of October 27 2010 stating that this "problem" is not of his (the Parliament's) concern but rather an internal judicial problem.

to reason out the damages these persons are inflicting on parties to ongoing litigations in Norway, every day. Hence the aforementioned correspondence to you and the Council of Europe are not – as you put it – an *individual complaint* outside the frames of your mandate, but rather a general problem of immense magnitude, *within the core* of your mandate.

Let me remind you of what is stated in your own Recommendation No. R (94) 12:

"All necessary measures should be taken to respect, protect and promote the independence of judges."

Let me also remind you of the Treaty of London, Article 3, which reads:

"Every member of the Council of Europe must accept the principles of the rule of law and of the enjoyment by all persons within its jurisdiction of human rights and fundamental freedoms, and collaborate sincerely and effectively in the realisation of the aim of the Council as specified in Chapter I."

As you are aware of, Article 8 of the said treaty reads:

"Any member of the Council of Europe which has seriously violated Article 3 may be suspended from its rights of representation and requested by the Committee of Ministers to withdraw under Article 7. If such member does not comply with this request, the Committee may decide that it has ceased to be a member of the Council as from such date as the Committee may determine."

The documents in the abovementioned correspondence with you, describing the serious situation, comprises a continuous and serious violation of Article 3 of the said treaty. As you know, there is no reason to believe that Norway will get in line with the Treaty of London or the ECHR in the near future. In this regard please refer to my previous letters to the Council of Europe (mentioned above) as well as to the attached letter from the Norwegian Parliament of October 27 2010. Norway does obviously not qualify as a member, and should thus be expelled from the council.

Then Ph.D Candidate Gjylbehare Murati's description of some aspects of an independent judiciary is quite apt and gives you an idea of the necessity of the said independence:

"The independence of the judiciary is an integral part of democracy, intending to shield the judicial process from external influences and to provide full legal protection to all individuals going to court for whatever reason. Courts are expected to act as protectors of the law, who independently exercise their judicial power without any functional or individual interference. Such interference usually comes from executive and legislative officials, political parties, the military, paramilitary and intelligence forces, criminal groups and the judicial hierarchy itself."

Should your statement be correct – that the Commissioner for Human Rights are not entitled to deal with this general problem – then I ask you to inform me who else in the Council of Europe, if any, that actually deal with these violations of the ECHR and the Treaty of London?

Time is of essence in this matter, thus your soonest reply will be highly appreciated.

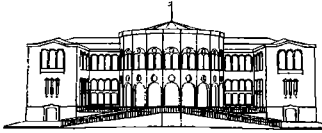
Sincerely,

Luxembourg December 16 2010

Herman J Berge

Re: Norway
Violation of the Treaty of London / ECHR IV 16.12.2010

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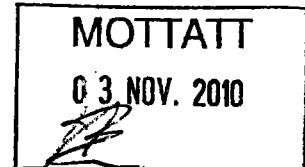
Kontroll- og konstitusjonskomiteen

Vår dato: 27.10.2010

Vår ref.: kgj/2010

Deres dato:

Deres ref.:



Henvendelse til kontroll- og konstitusjonskomiteen

Det vises til Deres brev til kontroll- og konstitusjonskomiteen av 8. oktober 2010 der det blant annet fremføres påstander om at *"et større antall dommere" ikke har avgitt dommerforsikring*.

Interne forhold ved domstolene hører ikke inn under komiteens ansvarsområder, og komiteen finner således ikke grunnlag for å gå nærmere inn i saken.

Med vennlig hilsen
Kontroll- og konstitusjonskomiteen

Anders Anundsen
Komitéleder