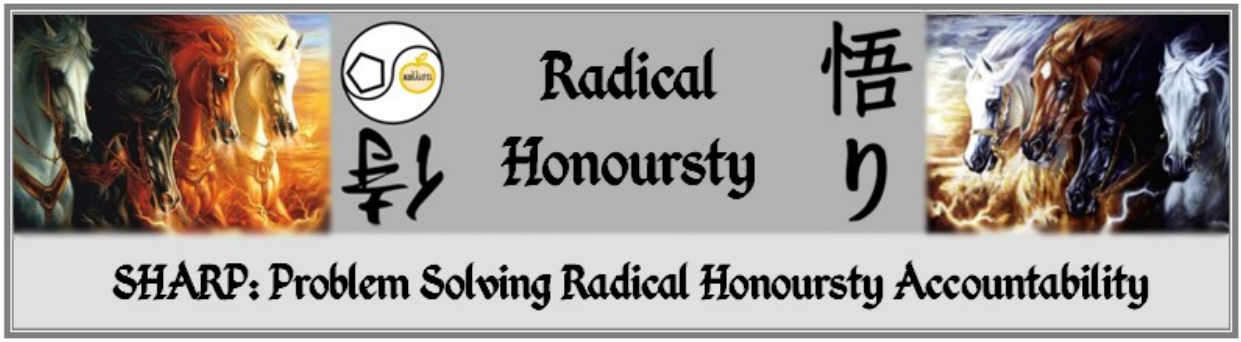

10 September 2012

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Supreme Court of Norway
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Secretary General Bergby,

Re: Sec.Gen decision of 09.09.2012, to Application for review of Oslo District Court's judgment of 24 August 2012 (2011-188627-24)

Thanks for your undated letter, sent 10 September 2012, where you state:

> Reference is made to your e-mails sent 27 August, 28 August and 31 August 2012 regarding the above mentioned matter.
>
> I wish to draw your attention to the Norwegian Criminal Procedure Act section 306 (a copy in English is enclosed). According to this regulation, 1st paragraph, the parties may appeal against a criminal judgment rendered by the district or appellate court. Persons or legal entities that are not parties to the case are not given the right of appeal. Mr. Anders Behring Breivik and the prosecution authority are the only parties in the specific case mentioned above, and the right of appeal is constricted to these.
>
> Consequently, the Supreme Court of Norway will not be able to comply with the request set forth in your e-mails. Further requests and applications from you will neither be handled nor answered by the Supreme Court.

Relief Requested:

Could you kindly provide me with the relevant statute in Norway that provides the Secretary General the authority to refuse to process a case, citing lack of locus standi/legal standing; thereby denying such applicant due process access to be heard by an impartial court?

It is my understanding – perhaps incorrect - that it is not a matter for the Secretary General to make a final ruling on the relevant locus standi / legal interest of any party in any dispute. See for example:

Scottish Salmon Growers Association Limited v. EFTA Surveillance Authority[1] (Case E-2/94): "**The Court finds** that this principle must also apply when considering … whether a measure is reviewable and who has locus standi to bring an action for annulment of a decision." (11)

Private Barnehagers Landsforbund v EFTA Surveillance Authority, supported by Kingdom of Norway (Case E-5/07): **The court finds….** "In Husbanken I, it was sufficient for the association whose complaint had been at the origin of the case to show that the legitimate interests of its members were affected by the decision, by affecting their position on the market; and that in this case, where the decision was a decision not to object to State aid, locus standi could even arise alone from the facts that the association was, as a representative of its members, at the origin of the complaint, that it was heard in the procedure and that information was gathered from the State in question" (66)

According to Hans Chr. Bugge, Professor of Environmental Law at the Department of Public and International Law, University of Oslo, in his article: **General background: Legal remedies and locus standi in Norwegian law**[2]

> The general criterion for locus standi in civil court cases in Norway is that the plaintiff must have "legal interest" in the case.(Art. 54 of the Civil Proceedings Act.) The dispute must be a live controversy, and the plaintiff must have a sufficiently close connection to the subject matter so as to justify the court's treatment of the dispute. **There is no clear definition or delimitation of the concept**. **Whether a person has "legal interest" is decided discretionary in each case, and depends on individual circumstances**. The core question to ask is whether the person has reasonable grounds for having the issue tried by a court. To have "legal interest" to have a matter tried by the courts, the plaintiff must be affected by the matter to such an extent that it justifies the use of the court system. Interests which are only based on public or common rights, such as the public right of way, may be accepted if they are strong enough.
>
> However, a purely "ideal" interest in the matter is not enough. For example, an ordinary citizen has not locus standi in a case concerning the authorities' licencing to kill wolves, based on his general interest in the protection of these predators.
>
> Based on Supreme Court cases, it is usually accepted that nongovernmental environmental associations have "legal interest" in environmental cases. This was established by the Supreme Court in 1980 (the Alta case) The court accepted that the Norwegian Association for Nature Conservation had standing to sue the government in respect of the validity of the decision to build a hydropower dam and station on the Alta river.
>
> In a later case, a nationwide association working to influence life style and reduce consumption, in favour of international solidarity and environmental protection, was entitled to bring an action for compensation for pollution damage on fishing and recreational areas against two chemical factories in the Southern part of Norway bordering Sweden. The local branch of the Swedish Association for Nature Conservation in the affected area, was also found to have standing in the case.

I cannot find any ruling or decision on locus standi, where it says the 'Secretary General' of the Courts Administration Act, ruled on a matter of locus standi. All of the locus standi decisions I could find in Norwegian law, all clearly indicate that the matter is **heard by the court, not by the Secretary General of Courts Administration**.

In the absence of any staturory authority granting you the Secretary General the authority to make a decision on locus standi, as far as I am aware, the matter of locus standi is consequently a matter that is dealt with by the court, not the Secretary General, or any court administration official.

Legal Standing: Party in Proceedings:

[1] http://www.eftacourt.int/images/uploads/E-2-94_Judgment.pdf

[2] http://www-user.uni-bremen.de/~avosetta/buggeaccessnorw02.pdf

Additionally, if there is such statutory authority granting Secretary Generals the authority to adjudicate matters of locus standi, thereby denying an applicant their hearing on a matter of locus standi by an impartial court; could you also provide me with the following evidence, to support your official decision to deny my application due process before an impartial court of law:

1. The court transcript of the day upon which Judge Nina Opsahl publicly acknowledged receipt of my Habeus Mentem (Right of Legal Sanity on behalf of Mr. Breivik) application in open court proceedings, including her interpretation of how my application was interpreted by the court (eg. intervene as a party), and the subsequent ruling by the court, approving or denying my application and decisions therefore; hence confirming my alleged 'non-party' status, in this matter.
2. The court transcript of the day upon which Judge Wenche Arntzen publicly acknowledged receipt of my Amicus Curiae application in open court proceedings, including her interpretation of how my application was interpreted by the court, and the subsequent ruling by the court, approving or denying my application and hence confirming my alleged 'non-party' status, in this matter.

In the absence of such evidence provided to the Supreme Court by the Oslo District Court, proving that my Habeus Mentem and Amicus Curiae applications were provided impartial due process consideration and adjudication; those matters regarding my legal standing status as a 'party, or not' to the proceedings, remain unresolved, and can only be resolved before an impartial court.

Furthermore, according to 03 September 2012 correspondence from the the Supervisory Committee for Judges, the status of the complaints against Judge Opsahl, Judge Arntzen and Justice Schei for denying me my due process right of access to a court to resolve my disputes, are as follows:

> "Your complaints have been given the case numbers 12-071 (Judge Nina Opsahl), 12-072 (Judge Wenche E. Arntzen) and 12-073 (Justice Tore Schei). The complete handling time can be close to six months.
>
> If a party have given a statement in the case, these will be provided the complainant. The Supervisory Committee has not received statements from the other parties involved.

Legal Standing: Legal Interest:

I am an Ecofeminist Political Necessity Activist, who has an interest in ensuring that all political activists from all ideologies, religions, races, cultures who plead to political or military necessity have their 'necessity' evidence examined by the court, in terms of an objective and subjective test of such 'necessity evidence'; the results of such an enquiry being used to make the final determination as to the accused's guilt or innocence, or mitigation or aggravation of sentencing.

Mr. Breivik's trial was the most high profile necessity trial on the world stage, for decades. If Mr. Breivik wants to deny himself and other White Nationalists, their right to the court conducting a full impartial enquiry into their necessity evidence, by conducting a subjective and objective test thereof; then that is Mr. Breivik and White Nationalists right to deny themselves an impartial enquiry by the court of their necessity evidence.

The denial by the court, to Mr. Breivik of his right to an objective and subjective test of his necessity evidence, should not be allowed to set a precedent where environmental, immigrant, religious or other necessity activists are also denied their right to an objective and subjective examination of their necessity evidence, just because one white nationalist chooses to become a martyr, with the enthusiastic support of the Oslo District Court and Norwegian Prosecutory authorities.

As detailed in my Notice of Motion ground [A.1.g] (Necessity and Guilt Judgement's Absence of Objective and Subjective Test Enquiry and Conclusions Renders it Discriminatory Precedent) it is

my assertion that the 'Nodrett/Necessity' ruling in the Oslo District Court: Breivik judgement as it currently stands discriminates against other future necessity activists, by setting a precedent whereby they can be denied (or can due to ignorance deny themselves, by lacking the knowledge to assert their right thereto); an objective and subjective examination of their necessity evidence.

My application for review is accordingly to demand the right to an effective remedy, to amend this discriminatory necessity ruling in the Oslo District Court's Breivik judgement, from affecting other necessity activists.

> **ECHR: ARTICLE 13: Right to an effective remedy**
> Everyone whose rights and freedoms as set forth in this Convention are violated shall have an effective remedy before a national authority notwithstanding that the violation has been committed by persons acting in an official capacity.
>
> **ECHR: ARTICLE 14: Prohibition of discrimination**
> The enjoyment of the rights and freedoms set forth in this Convention shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status.

Request Norwegian Court Officials Provide Consideration to my Review Application, equivalent to the Consideration Given by Military Judge Lind in the Bradley Manning Courtmartial to Letters from Center for Constitutional Rights[3]:

In the case of Bradley Manning's court martial before a U.S military court, lawyers simply wrote two letters (i.e. not official Notice of Motion applications) to the presiding Chief Judge Lind, objecting to the courts secrecy about particular issues. The Judge proceeded to honourably publicly in court proceedings acknowledge receipt of the letters, file them as public court record exhibits, and treated them as a request to intervene, providing an official court record denial of the request.

> ***Appellee's answer to Appellants Petition for Extraordinary Relief in the Nature of Writs of Mandamus and Prohibition[4]*** (Pg2-3)
>
> On March 21, appellants, who are not parties to the court martial, sent a letter to the military judge requesting the Court: "make available to the public and the media for inspection and copying all documents and information filed in the Manning case, including the docket sheet, all motions and responses thereto, all rulings and orders, and verbatim transcripts or other recordings of all conferences and hearings before the Court."
>
> At the 39(a) session on April 24, the military judge marked appellants letter as Appellate Exhibit 66, treated it as a request to intervene, and denied the request."

I would imagine if a Military Judge in a Military Court (generally considered far more formalistic than a civilian court) could favourably interpret a letter as an application; then a civilian court could provide a Pro Se applicant who filed an application, with the same honourable transparency? Is this too much to ask of Norwegian jurists and court officials?

Judicial Review vs. Appeal Options:

In South Africa the difference between an Application for Appeal and Review is as follows:

[3] http://ccrjustice.org/ourcases/current-cases/ccr-et-al-v-usa-and-lind-chief-judge

[4] http://ccrjustice.org/files/Govt-response-brief-(CAAF)--US-v-Center-for-Constitutional-Rights-et-al.pdf

> In an appeal the appellant is confined to the four corners of the record, but in review proceedings the aggrieved party may traverse matters not appearing in the record (*Coetzer v Henning and Ente, NO* 1926 TPD 401 404; *S v Mwambazi* 1991 (2) SACR 149 (Nm) 151G – 152A). In review, the court is generally not confined to the record of the proceedings, if such exists, since the legality of this may itself be the issue. The court will receive any relevant evidence. (Administrative Law, Baxter 1984, p 307). The courts power to review is inherent, an appeal is often only available if provided for by statute.

Generally, the Grounds for Judicial Review of a courts administrative decision (judgement) in South Africa are the same as most other countries, as far as I am aware:

> S 24(1) of the Supreme Court Act provides the grounds upon which proceedings of any inferior court may be brought under review, of relevance here are:-- (a) Absence of Jurisdiction on the part of the court; (c) Gross Irregularity in the Proceedings, & (d) the Admission of Inadmissible or Incompetent Evidence or the Rejection of Admissible or Competent evidence.

Norwegian Justices Confirm Availability of Judicial Review in Norwegian Courts:

Former President of Norwegian Supreme Court Justice Carsten Smith:

According to Former Justice Carsten Smith, in ***Judicial Review of Parliamentary Legislation: Norway as a European pioneer***[5] (Amicus Curiae, Issue 32, November 2000):

> ".. the history of a legal concept which spread throughout Europe - and the world at large - in the latter half of the twentieth century, but which had already grown roots in Norway a century earlier.... The authority and the duty of the courts to .... represent a safeguard for individuals and minorities whose views have not prevailed in the political arena. There are various terms used for this constitutional law concept, which I shall here refer to as judicial review. .. The constitution makes no explicit mention of judicial review, quite in conformity with European constitutional thinking of that period. This review arose during the following decades from the practice of the Norwegian Supreme Court itself. As a precursor to the review of the legislation the Supreme Court established in its first few years the principle that decisions of the executive branch could be declared null and void by the courts of law. The motivation was simple but forceful: it was stated that there must be some place to which citizens can turn to have the errors of the authorities rectified."

I imagine that Justice Smith's reference to Judicial Review as "the authority and the duty of the courts to .... represent a safeguard for individuals and minorities whose views have not prevailed in the political arena" is a reference to the 1938 famous footnote 4[6] to ***U.S v. Carolene Products***, which articulated a justification for judicial activism in the field of individual rights when he suggested that, unlike challenges to "ordinary commercial transactions," "there may be narrower scope for operation of the presumption of constitutionality when legislation appears on its face to be within a specific prohibition of the Constitution. .. The same was true for legislation which restricts the political process, or is directed at discrete and insular (i.e. vulnerable) minority groups; these situations might call for a "more searching judicial enquiry." In other words, ordinarily the political system is adequate to defend individual liberties. When it is not, the Courts role must be redefined to allow broader judicial review as a substitute for the political review which these groups were unable effectively to obtain.

Chief Justice of the Norway Supreme Court: Tore Schei:

[5] http://sas-space.sas.ac.uk/3780/1/1355-1498-1-SM.pdf

[6] http://legal-dictionary.thefreedictionary.com/Footnote+4

In a 4 October 2007 letter[7] to President of the Constitutional Court of the Republic of Lithuania, Justice Schei wrote:

> "... we will give a brief overview of the system of judicial review in Norway. ... First, one of the main features of the system of judicial review in Norway is its concrete character, i.e. that judicial review of the constitutionality of ordinary legislation can only be undertaken in connection with individual cases brought forward by someone with sufficient legal interest in having it resolved. ... a decision in which judicial review is undertaken will set precedent for other cases, i.e. that it must be applied or followed in all other cases regarding the question resolved in the precedent case."

Supreme Court Justice: Karen Bruzelius:

In a letter to the Council of Europe, Venice Commission, Supreme Court Justice Karen Bruzelius, wrote on ***Judicial Review within a Unified Court System***[8] that:

> "In this paper, I will attempt to elucidate how judicial review of administrative acts and legislation works within this unified court system. Those who are unsatisfied with an administrative decision ....., as a rule may bring their complaint to be retried by a higher administrative body. If the person is of the opinion that the administrative decision is based on an erroneous interpretation of the applicable law, that the administrative procedure has been at fault or that the administrative body has not acted in good faith - misuse of power - he may then ask the ordinary courts to review the administrative decision. In Norway this is quite common - and this type of case always starts in the court of first instance. The court will then review whether the administrative decision is in accordance with the legal rule that applies to the matter…"

Options for Proceeding with the Application for Judicial Review of the Breivik Judgement in terms of Norwegian Legislation:

(I) Review Application interpreted in terms of Article 13 ECHR read in conjunction with Protocol 7 ECHR and the EFTA Courts Judicial Review *Posten Norge* Judgement; effectively interpreted as the Right to Judicial Review of an Administrative Decision or a Court Order.

Put simply as enshrined in the European Court of Human Rights Convention everyone whose rights and freedoms are violated shall have an effective remedy before a national authority…, and the exercise of the right of review, including the grounds on which it may be exercised, shall be governed by law…

> **Article 13 ECHR: Right to an effective remedy**: "Everyone whose rights and freedoms as set forth in this Convention are violated shall have an effective remedy before a national authority notwithstanding that the violation has been committed by persons acting in an official capacity.
>
> **Article 2 of Protocol 7 to the European Convention on Human Rights ("Protocol 7 ECHR"): Right of appeal in criminal matters**: (1) Everyone convicted of a criminal offence by a tribunal shall have the right to have his conviction or sentence reviewed by a higher tribunal. The exercise of this right, including the grounds on which it may be exercised, shall be governed by law.

The EFTA court at Luxembourg (interpreting the Agreement on the European Economic Area with regard to the EFTA States party to the Agreement: presently Iceland, Liechtenstein and Norway)

[7] http://www.confcoconsteu.org/reports/rep-xiv/report_Norway_en.pdf

[8] http://www.venice.coe.int/WCCJ/Papers/NOR_Bruzelius_E.pdf

Posten Norge Judgement[9] (Case E-15/10), ruled on the application of judicial review in competition law.

It concluded that the criminal provisions **providing for guarantee of judicial review** are greater than for competition law (83). The established case law of the European Union courts on judicial review of competition decisions is compatible with guarantees laid down by Article 6(1) ECHR, which limits competition law judicial reviews to complex matters (83). In a courts review of a complex matter, it is sufficient for the court to establish whether the evidence put forward for appraisal of the complex matter is factually accurate, reliable, consistent, and contains all the relevant data that must be taken into consideration in appraising the complex situation, and is capable of substantiating the conclusions drawn from it (83). Not only must the court determine whether the evidence relied upon is factually accurate, reliable and consistent, but also whether that evidence contains all the information which must be taken into account in order to assess a complex situation and whether it is capable of substantiaging the conclusions drawn from it (99).

> 83. … the procedure in competition law cases falls within the criminal sphere for the purpose of the application of the ECHR. However, in its view, the guarantees under Article 6 ECHR do not necessarily apply with their full stringency. It is submitted that the established case-law of the European Union courts on judicial review of competition decisions is compatible with the guarantees laid down by Article 6(1) ECHR. According to this case-law, the review by the Court is limited as regards complex technical or economic appraisals by ESA. In such [review] cases, it is sufficient for the Court to establish whether the evidence put forward is factually accurate, reliable and consistent, contains all the relevant data that must be taken into consideration in appraising a complex situation, and is capable of substantiating the conclusions drawn from it. ESA submits that its analysis of the competitive situation constitutes a complex economic appraisal and that, accordingly, the decision must be upheld unless the Court finds that it manifestly erred in the appraisal of the applicant's conduct.
>
> 99. This does not, however, mean that the Court must refrain from reviewing ESA's interpretation of information of an economic nature. Not only must the Court establish, among other things, whether the evidence relied on is factually accurate, reliable and consistent, but also whether that evidence contains all the information which must be taken into account in order to assess a complex situation and whether it is capable of substantiating the conclusions drawn from it (compare *Spain v Lenzing*, cited above, paragraphs 56 and 57; and, most recently, KME v Commission, cited above, paragraph 121).

(II) If Review Application is Interpreted ITO Criminal Procedure Act Section 306:

If you insist that my Application for Review should be interpreted in accordance to Norwegian Criminal Procedure Act section 306; I herewith request you to ask the Oslo District Court to provide me with the following Official Oslo District Court documentation from the Pre-Trial Hearings and Trial of Mr. Anders Breivik:

1. The court transcript of the day upon which Judge Nina Opsahl publicly acknowledged receipt of my Habeus Mentem (Right of Legal Sanity on behalf of Mr. Breivik) application in open court proceedings, including her interpretation of how my application was interpreted by the court, and the subsequent ruling by the court, approving or denying my application and hence confirming my alleged 'non-party' status, in response to my application.

2. The court transcript of the day upon which Judge Nina Opsahl publicly acknowledged receipt of my Amicus Curiae application in open court proceedings, including her interpretation of how my application was interpreted by the court, and the subsequent ruling by the court, approving or denying my application and hence confirming my alleged 'non-party' status, in response to my application.

[9] http://www.eftacourt.int/images/uploads/15_10_JUDGMENT.pdf

(III) If Review Application is Interpreted ITO Criminal Procedure Act Section 377:

> **Interlocutory Appeal: Section 377**: An interlocutory appeal may be brought against a court order or decision by any person who is affected thereby unless it may be the subject of an appeal proper or may serve as a ground of such an appeal by the said person, or it is by reason of its nature or a specific statutory provision unchallengeable.

If so, the Court can refer the matter to the Interlocutory Court in terms of Sections 381 to 388.

(IV) If Review Application is Interpreted ITO Criminal Procedure Act Section 389:

> **Reopening a Case: Section 389**: A case that has been decided by a legally enforceable judgement may on the petition of one of the parties be reopened for a new trial when the conditions prescribed in sections 390 to 393 are fullfilled.
>
> Section 391. In favour of the person charged reopening of a case may be required... (3) when a new circumstance is revealed or new evidence is procured which seems likely to lead to an acquittal of summary dismissal of the case or to the application of a more lenient penal provision or a substantially more lenient sanction.
>
> Section 392. Even though the conditions prescribed in section 390 or 391 are not fulfilled, the court may order the case to be reopened in favour of the person charged when ... special circumstances make it doubtful whether the judgement is correct, and weighty considerations indicate that the question of the guilt of the person charged should be tried anew.

If so, the court can refer my application to the Criminal Cases Review Commission, as an Application for reopening the Breivik Judgement 'Necessity' and 'Guilt' Rulings in a criminal case.

If Review Application is Interpreted ITO The Dispute Act: Section 29-8 (2)[10]

> **Section 29-8 Legal standing**
>
> (1) The parties to the action may appeal against judicial rulings to have them amended in their favour. Any person who will be affected by the amendment shall be cited as respondent.
>
> (2) **A person who is not a party to the action may appeal against rulings that relate to his procedural rights or obligations**. **Such persons shall be cited as respondents in appeals brought by other persons**.

If so, the court can refer my application to a relevant Appeals Court. What the court cannot do, is to deny me due process access to a court. I cannot find any statutory authority that allows a Secretary General to deny me due process access to a court, to make a judicial finding on legal standing (if or where any respondent so demands) in the official proceedings.

Respectfully Submitted

LARA JOHNSTONE, Pro Se
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[10] The Dispute Act: Mediation & Procedure in Civil Disputes, Act 90 of 17 June 2005 http://www.ub.uio.no/ujur/ulovdata/lov-20050617-090-eng.pdf

SUPREME COURT OF NORWAY

Ms. Lara Johnstone
George, South Africa

E-mail: jmcswan@mweb.co.za

Application for review of Oslo District Court's judgment of 24 August 2012 (2011-188627-24)

Reference is made to your e-mails sent 27 August, 28 August and 31 August 2012 regarding the above mentioned matter.

I wish to draw your attention to the Norwegian Criminal Procedure Act section 306 (a copy in English is enclosed). According to this regulation, 1st paragraph, the parties may appeal against a criminal judgment rendered by the district or appellate court. Persons or legal entities that are not parties to the case are not given the right of appeal. Mr. Anders Behring Breivik and the prosecution authority are the only parties in the specific case mentioned above, and the right of appeal is constricted to these.

Consequently, the Supreme Court of Norway will not be able to comply with the request set forth in your e-mails. Further requests and applications from you will neither be handled nor answered by the Supreme Court.

Yours sincerely,

Gunnar Bergby
Secretary-General