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Dr. Jonas Christoffersen
Director
Danish Institute for Human Rights
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Amsterdam, 6 January 2010

Dear Dr. Christoffersen,

I write to you in the aftermath of the disappointing conclusion of the Copenhagen climate summit to express my concern about the handling of members of civil society by the Danish authorities during and after the summit, and in particular the ongoing detention of four Greenpeace activists.

The Danish Institute for Human Rights (DIHR) has already criticised the excessive use of force by police against demonstrators. Unfortunately, the conference was marred in several other ways by an overbearing security effort, which left insufficient space for freedom of expression and civil society participation in a meeting where public pressure was essential to ensure a fair and transparent outcome. The purpose of this letter is to highlight three issues that deserve the Institute's attention.

First, many accredited NGO representatives, including from Greenpeace, were arbitrarily barred from the conference venue at short notice and during the final few days of the summit. Second, several individuals, again including a Greenpeace staff member, were taken into preventative detention on weak grounds. This kind of policing casts protestors collectively as a suspect group and may well have the effect of discouraging ordinary citizens from joining protests and making their opinion heard. We hope the authorities, based on advice from the DIHR, will draw lessons from the conference and ensure that future international meetings are organised and policed in a way which is consistent with Denmark's strong international reputation in the field of human rights, and with the Aarhus Convention's provisions on public participation in environmental decision-making.

The third issue is of immediate concern. Four Greenpeace activists spent Christmas and New Year's in jail and remain there today. You will probably be aware that on the evening of 17 December 2009, three activists held up banners reading "Politicians Talk, Leaders Act" inside the Danish Parliament at the start of the State Banquet hosted by Queen Margrethe II. Four individuals – Joris Thijssen from the Netherlands, Nora Christensen from Norway, Juan Lopez de Uralde from Spain, and Christian Schmutz from Switzerland – have been remanded in custody in relation with this activity for three weeks without a trial. They are being held in Vestre Fængsel in Copenhagen, under so called "visitor-and-letter-control", and so far the police have declined most visit requests, even from closest relatives. The current period of pre-trial detention expires on 7 January 2010, at which time a judge must decide whether to renew it.

Such prolonged detention appears to us to be disproportionate to what was a safe and simple peaceful protest with a legitimate objective, namely to impress on world leaders the urgency of acting to prevent catastrophic climate change. As you know, Greenpeace organises many peaceful protests to call attention to environmental problems each year, and it is highly exceptional in any democracy for our activists to be held in pre-trial detention for this long.

As a matter of principle, Greenpeace always accepts the legal consequences of its activities. The activists in question have a long record of commitment to Greenpeace; there is no question that they will return for their trial and stand up in court, if granted a conditional release. Therefore, in our view

– which is shared by international lawyers Greenpeace consulted - the prolonged detention is contrary to Article 9(3) of the International Covenant on Civil and Political Rights, which states:

"... It shall not be the general rule that persons awaiting trial shall be detained in custody, but release may be subject to guarantees to appear for trial, at any other stage of the judicial proceedings, and, should occasion arise, for execution of the judgement."

It is also incompatible with Article 5(3) of the European Convention on Human Rights, which states similarly:

"Everyone arrested or detained in accordance with ... this article shall be brought promptly before a judge or other officer authorised by law to exercise judicial power and shall be entitled to trial within a reasonable time or to release pending trial. Release may be conditioned by guarantees to appear for trial."

It is difficult to avoid the impression that the prolonged pre-trial detention of the four activists has more to do with the embarrassment their peaceful protest caused the Danish authorities than with the objective severity of the offence or the risk of flight. Greenpeace has made all efforts to cooperate with the police to secure the activists' release from pre-trial detention, including providing details of how the protest was organised and reaffirming the commitment of all Greenpeace activists to submit themselves to judicial process and accept the legal consequences of their actions. Despite these efforts, the police have extended the pre-trial detention for no apparent reason.

I am aware that the DIHR does not have a general mandate to investigate individual cases. However, the ongoing detention of the four is clearly connected to the wider pattern of problems surrounding the policing of the climate conference and lends urgency to a response from those concerned with respect for human rights in Denmark. There are also other protestors who remain in detention and while we are not aware of the facts and circumstances of those cases, it is possible that they raise similar issues.

I would greatly appreciate it if I could meet with you to consider the possibilities for the DIHR, within its mandate, to remind the responsible authorities of the principle that persons awaiting trial are to be presumed innocent and should therefore normally be granted a conditional release pending the trial. Where the person is detained in response to the expression of a political opinion, this guarantee takes on additional importance, given the need to avoid any undue "chilling effect" on the future exercise of freedom of expression by the same person or others.

I will be in Copenhagen January 6 and 7 in relation to the situation of the Greenpeace activists. Despite the very short notice, I very much hope we could meet during that time.

I look forward to your response.

With best wishes for the New Year,



Dr. Kumi Naidoo
Executive Director
Greenpeace International