

**Criminal complaint against the Rabobank Group on account of money laundering and participation in a criminal organisation – summary in English**

Mr. Hernandez, a Mexican citizen, and the NGO SMX Collective have filed through their lawyer, Göran SLUITER (Prakken d'Oliveira Human Rights Lawyers) a criminal complaint with the Dutch prosecution service, against Dutch bank Rabobank Group.

A direct family member of mr. Hernandez has been killed by the Sinaloa drugs cartel; the NGO SMX Collective seeks a criminal investigations in the interest of human rights protection of the Mexican civilian population.

Plaintiffs accuse the Rabobank Group of having laundered structurally and for a long period of time the proceeds of crimes committed by Mexican drugcartels; by doing this, they assisted the drugcartels in the commission of all their crimes, including crimes against humanity. The alleged criminal conduct took place at the Rabobank branch in Calexico, near the Mexican border, in the period between 2002 and 2015. The crimes are penalised by articles 420bis, 420ter, 420quater and 140 of the Dutch Penal Code.

The criminal complaint contains a background to the crimes, an overview of the facts, an analysis of the applicable law and explains why it is important that a criminal investigation in the Netherlands will be launched against the Rabobank.

As important background information to this complaint it needs to be mentioned that Mexican drugcartels have risen to power for the last two decades and are responsible for widespread and systematic crimes of great severity; according to a recent report of Open Society Justice Initiative the drugs cartels in Mexico commit crimes against humanity.

It follows from many public sources that for their effective functioning drugcartels rely on money laundering. Money laundering allows them to conceal the illegal profits of their crimes and to reinvest this money in their criminal activities. As a result, persons and institutions which launder the money of drugcartels also carry responsibility for their crimes.

In spite of the public information available regarding the activities and money laundering by Mexican drugcartels, especially in the border area, the Rabobank branch in Calexico has engaged in money-laundering for a long period of time. This information comes from news reports in the US and finds corroboration in other sources. The Rabobank has not publicly denied the allegations of money-laundering and at present there is a grand jury investigation on this matter in the US.

It follows from the available information that money-laundering took place in a structural manner and for a long time at the Calexico Rabobank office. This is the more reprehensible in light of the fact that Rabobank had already been warned that its money laundering control mechanisms in the US were not adequate; in spite of this, Rabobank reduced at its American branches staff responsible for supervising unusual financial transactions.

In the legal analysis part the complaint explains, that in light of the available information, the Rabobank engaged in intentional money-laundering. By doing so, the Rabobank also participated in one or more criminal organisations, i.e. Mexican drugcartels, aimed at the commission of extremely serious crimes such as murder and crimes against humanity.

The complaint argues, having regard to article 51 of the Dutch Penal Code providing for criminal liability for legal persons, that the criminal conduct on the part of Rabobank's Calexico branch is attributable to the Rabobank Group as a whole, which has its seat in the Netherlands. An important element sustaining this attribution of criminal liability is the fact that –although warned- the Rabobank

Group seriously failed in organising adequate control and supervision in respect of suspicious transactions.

There is jurisdiction over the Rabobank's conduct in the Netherlands, because this is a Dutch bank. There are furthermore reasons why the Dutch prosecution service should not await the results of the American investigations. The American investigations may not extend to Dutch suspects and are likely not to cover the consequences of money-laundering for the civilian population in Mexico.

The complaint emphasises that the alleged crimes are of a very serious nature and that there is a direct Dutch interest in criminal investigations into the Rabobank's conduct. This conduct is the more serious in light of Rabobank claiming to adhere fully to corporate social responsibility. However, it is submitted that Rabobank has in practice not lived up to the demands of corporate social responsibility, that the Rabobank has been indifferent to the consequences of its actions and has substantially contributed to the suffering of the Mexican population.