

(Translated by Fredrik S. Heffermehl
from the Swedish original *Stämningsansökan*)

Stockholm, December 4, 2015

Stockholm District Court
Box 8307
104 20 Stockholm

Our ref
8112/L

**PETITION FOR A SUMMONS
[BRIEF TO OPEN CASE]**

Plaintiffs

1. Mairead Maguire
2. Jan Öberg
3. David Swanson
4. Lay Down Your Arms/Nobel Peace Prize Watch

Counsel

Advokat Kenneth Lewis
Lewis & Partners Advokatbyrå AB
Box 2104
103 13 STOCKHOLM

Respondents

1. Marcus Storch
Grevgatan 65, lgh 1401
11459 STOCKHOLM
2. Göran K Hansson
Sankt Eriksgatan 14, lgh 1304,
112 39 STOCKHOLM
3. Lars Heikensten
Odengatan 75
11322 STOCKHOLM
4. Peter Englund
Dragarbrunnsgatan 63 C

753 20 Uppsala

5. Tomas Nicolin
Karlavägen 11, lgh 1603
114 24 Stockholm

6. Kaci Kullman Five
Lille Toppenhaug 4
1353 Baerums Verk
Norge

7. Staffan Normark
Långängsvägen 27
182 75 Stocksund

Case Board members' liability to compensate the Nobel Foundation according to the Foundations Act (1994:1220)

Forum Ch. 10, Art. 14 Rättegångsbalken (Civil Procedure Act)

As the retained counsel of Mairead Maguire, Jan Öberg, David Swanson and Lay Down Your Arms (Below *plaintiffs*) I hereby apply for summons of Marcus Storch, Göran K Hansson, Lars Heikensten, Peter Englund, Tomas Nicolin, Kaci Kullman Five, and Staffan Normark and will present these

CLAIMS

The City Court should obligate each of Marcus Storch, Göran K Hansson, Lars Heikensten, Peter Englund, Tomas Nicolin, Kaci Kullman Five, and Staffan Normark, to, as a solidary liability, pay to the Nobel Foundation a compensation of SEK 8 000 000, with interest according to the interest Act.

Plaintiffs further demand compensation of their costs of litigation, amount later to be detailed.

REASONS

The Norwegian Nobel Committee in October 2012 resolved that the peace prize of Alfred Nobel should be awarded to the European Union. The European Union received a prize amounting to eight million (8 000 000) crowns.

The award clearly violates Alfred Nobel's will and testament.

Under the law the Board of the Nobel Foundation bears the superior and final responsibility for the Foundation assets being used in accordance with the purpose of the foundation.

The Nobel Foundation has suffered loss as a consequence of its board members in 1902 having failed to fulfill their obligation to maintain the articles of purpose in the will of Alfred Nobel regarding the award of the 2012 peace prize.

Each member of the board has either passively accepted that the prize for 2012 was awarded to the European Union or actively contributed to the succession of events by, for at the expense of the Nobel Foundation, having approved the decision to award the Nobel Peace Prize to the European Union. There is a direct causality between the actions of the individual board members and the loss. In any event their action has been negligent.

The members of the board of the Nobel Foundation in 2012 are liable to compensate loss caused to the foundation in the execution of their assignment. Their liability is individual.

DETAILS OF THE COMPLAINT

Applying law (lege lata)

Sweden got a new Foundations Act in 1996. The entry into force of this act constituted a substantial change in the legal situation gathering full responsibility in the Board. This applies also when, in certain tasks, the board is assisted by other bodies within the foundation.

According to Ch. 2, Art. 1, of the Foundations Act the use or consumption of the assets of a foundation must be in conformity with the statutes of purpose of the foundation. The board of directors or the trustee/manager, is responsible for the provisions of the statutes being followed, see Ch. 2, Art. 3, of the Foundation Act. A member of the foundation board or a manager of a trust therefore in various respects is obliged to protect the interests of the foundation.

Furthermore the Board bears the ultimate responsibility for the Foundation Statutes being followed regardless of how the Foundation in other respects is organized (see Isoz, Henning; Foundation Act - A commentary, 1 ed, comment to Ch. 2, Art. 3). Even where the Board has given a mandate to an independent subject to decide a specific issue, it thus remains the Board's responsibility to ensure that such subject complies with the statutes and that the foundation's assets are being used in accordance with the statement of purpose.

The members of a foundation board in other words hold a position of trust in relation to the foundation. One of the most central tasks of the board is to ensure that the will expressed by the founder in the Foundation statutes is being realized. The principle is that the use or consumption of a foundation's assets must conform to the foundation's statement of purpose. The board or the manager thus is obliged to, in the discharge of their power of decision, to keep within the frames prescribed by the statement of purpose.

According to Ch. 5, Art. 1, first sentence, of the Foundations Act a board member is liable for damages he or she intentionally or by negligence inflict upon the foundation in the execution of their duties. The liability is individual. In cases where several members of a board are responsible for the same loss the liability is solidary, see Ch. 5, Art. 3, second sentence, of the Foundations Act.

The foundation is normally entitled to compensation in cases where the board member or the manager have failed to observe their obligations under the rules of the foundation statutes or other provisions. A behavior not "compatible with the statutes" as a rule shall be considered negligent. As a condition for the Foundation to be entitled to compensation it must be possible to consider the damage caused an adequate result of the mode of action in question. According to the commentary of Henning Izos to Ch. 2 Art. 3, of the Foundations Act a loss may be caused by for instance a decision to spend Foundation assets in violation of the stated purpose. This means that a foundation has suffered loss if the capital has been reduced for purposes other than, or a circle of designees other than, those that the foundation shall promote. (See Isoz, Henning; The Foundation Act - A commentary, 1 ed, under paragraph 2.2.2, commentary to Ch. 2 Art. 3).

The decision of the County Board (the Swedish Foundations Authority)

Occasioned by information supplied by Fredrik S. Heffermehl to the County Board stating that the Board of the Nobel Foundation did not execute its obligation to promote the purpose of the will of Alfred Nobel regarding the award of the peace prize, the County Board in January 2012 opened an investigation, dossier no. 20622-3359-2012, against the Board of the Nobel Foundation.

The Nobel Foundation was requested to submit a written statement covering a.o. the claim of Fredrik S. Heffermehl that the Nobel Committee for the peace prize did not try the Peace Prize nominees against the directions on the Peace Prize in the will of Alfred Nobel.

In its opinion to the Administrative Board of March 8, 2012, the Nobel Foundation accepted that the board has a duty to oppose a prize-awarding committee's decision if the Board considers that "the decision will imply a mode of action that is contrary to the foundation statutes."

The County Administrative Board, nevertheless, decided to write off the case, see Appendix 1. Basis for the County Board's decision was that the Nobel Foundation in its letter of March 8, 2012, had stated clearly that the Foundation's Board by law bears the superior and ultimate responsibility for ensuring that the foundation's assets are used in accordance with the foundation's purpose. In its decision the County Administrative Board notes that the purpose and how it will be fulfilled belong to the most important provisions of a foundation, and that the Board is ultimately responsible for the management of asset and the further fulfillment of the statutes. The County Administrative Board determined that the Nobel Foundation by its response has expressed a satisfactory understanding of its obligations.

The County Board further notes that although the Nobel Foundation has its special design, with a board that in charge of management and different award juries, the responsibility for the foundation's funds being used in accordance with the appropriate regulations still rests with the Foundation's board. The Board of Directors is obliged to intervene if it finds that awarding committees in their choice of laureates deviate from the foundation's statute on that prize. The County Administrative Board also emphasizes that it considers as understood in the Nobel Foundation's response that the Board shall intervene if the peace prize committee is working in a way the Board considers not satisfying the purpose stated in the statutes. The County Administrative Board assessment, however, did not include whether or not the Nobel

Foundation's Board of Directors had failed in the past, but expected a number of measures to be taken to ensure that the enterprise in the future would be run in accordance with the statement given by the Nobel Foundation.

After receiving the County Administrative Board's decision the Nobel Foundation applied for an exemption from its obligation to supervise under Ch. 9, Art. 10 a, of the Foundation Act. In the application, the Nobel Foundation claims that this obligation is incompatible with of the Board's obligations under the foundation statutes. The Nobel Foundation therefore petitioned the Kammarkollegiet to decide that obligation of the Nobel Foundation's obligation under the Foundations Act should not include the compatibility of prize decisions with the substantive criteria in the foundation statutes. The Kammarkollegiet, however, rejected the Nobel Foundation's application.

Interpretation of the testament of Alfred Nobel

Alfred Nobel's last will, was dated and signed on November 27, 1895, in the presence of two witnesses. Through his will, Alfred Nobel donated most of his assets to "a fund, the interest on which shall be annually distributed in the form of prizes to those who, during the preceding year, shall have conferred the greatest benefit on mankind." The prize, according to the will, shall be awarded in five categories: physics, chemistry, physiology or medicine, literature, and peace.

That the respective Nobel Prizes are awarded in accordance with the substantive criteria must objectively be considered to be the single most important part of the Foundation's activities. The mission of the Nobel Foundation is today, as well as at its creation, to realize the intentions of Nobel's testament. The goal of the interpretation of a will and establishing its content is to find out what the testator's intention was. In the interpretation of Nobel's will one therefore has to observe the text, and the prehistory that helps us understand what Nobel had in mind, and his idea of the most deserving and legitimate recipients of the Nobel Peace Prize. The part of the testament where Nobel describes "the prize for the champions of peace" reads as follows:

... one part to the person who shall have done the most or the best work for creating the brotherhood of nations, for the abolition or reduction of standing armies, as well as holding and promoting peace congresses.

In his books, the Norwegian lawyer Fredrik S. Heffermehl has shown a number of examples of the Norwegian committee having transformed the Nobel prize for the "champions of peace" who sought a global peace solution through the "fraternity of nations" to a general prize for "peace" in a very broad meaning. This is not an interpretation in a legal sense, in practice it means to ignore Nobel's intentions for the peace prize. Instead, since World War II, the Norwegian Nobel Committee has developed its own concept of peace and awarded a peace prize based on its own opinions about peace work. The prize has become totally disconnected from Alfred Nobel's intention with the peace prize and the description of purpose in the testament. Although the Nobel Foundation and the Norwegian committee claim that they welcome a discussion about the prize they have for six years never shown any interest in Nobel and what kind of "champions of peace" he intended to support.

To understand what Nobel envisaged, and his idea of the most deserving and legitimate recipients of the Nobel Peace Prize one has to consider the terms used in the will. Nobel expressed his idea of the greatest benefit to humanity in the different areas that he wanted the natural science prizes to cover with the words *discovery* and *improvement* and in *ideal direction* for the literature prize. To describe the recipients Alfred Nobel had in mind for the Peace Prize, he used the term "champions of peace".

Using the term *champions of peace* Nobel chose side in of one of the major political and cultural battles of the day, between supporters of strong military defenses, on the one hand, and the alternative movement that advocated cooperation and general disarmament on the other. In Alfred Nobel's description of the "champions of peace" three key concepts can be identified; fraternization, disarmament and peace congresses. These concepts show the aspects of the peace movement he emphasized and should not only be interpreted separately, but should be read as a whole. In the nationalist late 1800s the issue of peace was a watershed of sorts: those who worked for peace were also internationally oriented, like Nobel himself. Many of those involved wanted international law to apply over national law and saw it as part of the enlightenment. Alfred Nobel felt attachment to the movement that wished to contribute to peace through cooperation, international law, international organizations and general disarmament as well as abolition of the military tradition and meant that international disputes must be resolved on the basis of law and not on the battlefields.

The interpretation of what Alfred Nobel intended by the concept "champions of peace" must take on a time dimension with two elements. First and foremost, the interpretation must address what Alfred Nobel wanted when he issued the testament, secondly, his ideas must be translated from 1895 to the present.

To formulate Nobel's intentions for the Peace Prize in modern language must be done with some regard to the way the world looks today. Nobel intended, in modern usage, to support the movement and the persons who work for a demilitarized world, for law to replace power in international affairs, and for all nations undertaking to work together to abolish all weapons instead of competing for military superiority.

The European Union as peace prize winner

The Norwegian Nobel Committee in October 2012 resolved that the peace prize for 2012 was to be awarded to the European Union, EU. The committee motivated the award as follows:

*The Norwegian Nobel Committee has decided that the Nobel Peace Prize for 2012 is to be awarded to the **European Union (EU)**. The union and its forerunners have for over six decades contributed to the advancement of peace and reconciliation, democracy and human rights in Europe.*

In the inter-war years, the Norwegian Nobel Committee made several awards to persons who were seeking reconciliation between Germany and France. Since 1945, that reconciliation has become a reality. The dreadful suffering in World War II demonstrated the need for a new Europe. Over a seventy-year period, Germany and France had fought three wars. Today war between Germany and France is unthinkable. This shows how,

through well-aimed efforts and by building up mutual confidence, historical enemies can become close partners.

The full announcement text is enclosed, see [attachment 2](#).

The prize was paid over by the Nobel Foundation, despite protests from among other four Nobel Peace Prize winners; Mairead Maguire (1976), Desmond Tutu (1984), Perez Esquivel (1980), International Peace Bureau (1910), and even others who considered the selection a manifest violation of Nobel's will. A comparison with Alfred Nobel's last will shows that the European Union can not be seen as a champion of peace of the kind that Alfred Nobel had in mind writing his will.

In its motivation the Norwegian Nobel Committee referred to the EU's peace promoting role in a historic perspective. The EU is often described as a project for peace and no doubt in times past has meant a great deal to unite the continent. At the same time the EU belongs to the most heavily armed regions of the world and has an extensive military cooperation. The armaments include nuclear weapons owned by France and the UK as well as US nuclear weapons in the Netherlands, Italy, Germany and Turkey. The EU has established its own military units, and has extensive cooperation in the field of armaments and a significant export activity. The same week as, in Oslo, the EU heads of state had received the Nobel prize for peace and disarmament they gathered in Brussels to sign comprehensive agreements to strengthen their joint military capacity, expand armaments, improve coordination of weapon systems as well as research and development, etc. Since 2003, the EU has conducted some 30 civilian missions and military operations in three continents.

According to the EU main treaties the main objective of the Union certainly is to promote peace, see among other the Lisbon Treaty. However, the peace concept as such has never been defined by the EU. In comparison the UN Charter, in Article 1.1 states that the UN's objectives among other include the maintenance of international peace and security by peaceful means and to, in conformity with the principles of justice and international law, adjust or settle international disputes which might lead to a breach of the peace. Considering the basic treaties governing the goals and work of the union, the EU appears to advocate peace and security primarily through military means rather than dialogue, negotiation and reconciliation. The preamble to the Treaty on the European Union, consolidated version, clarifies that EU Member States have committed to pooling their resources to preserve and strengthen the protection of peace and freedom. Art. 42 of the same Treaty further stipulates that the common security and defense policy is an integral part of the common foreign and security policy; that this policy provides the union with an operational capacity resting on civilian and military capacities; that the union may use this outside the union for the tasks referred to in Article 43 of the Treaty on European Union in order to preserve peace, prevent conflicts and strengthen international security; and that the execution of these tasks is based on the capabilities provided by the Member States, in accordance with the principle of one single set of forces.

The EU is clearly not a legitimate recipient of an award for cooperation between all countries on a global demilitarization. Its main treaties lack information about disarmament, human security or dialogue. Also missing are known efforts or ambitions of the EU to contribute to a global pact between all countries on disarmament, international law and peace. It is therefore not possible,

neither in 2012 nor today, to consider the EU as the kind of champion of peace campaigning for the global disarmament issues Alfred Nobel aimed at in his will

Standing to sue

According to the Foundations Act the one who is a designee under the foundation statute has standing to sue. The reports preparing the act state that a person who objectively belongs to the circle of designees has standing to sue. The circle of designees thus comprise not only the persons and organizations who have received or been nominated to the Nobel Peace Prize but also persons or organizations suited to be nominated to the Nobel Peace Prize

Mairead Maguire received the Nobel Peace Prize in 1976 and is still a very active peace mediator and advocate for general disarmament. David Swanson and Jan Oberg both were nominated for the Nobel Peace Prize in 2015. Lay Down Your Arms / Nobel Peace Prize Watch is promoting peace in such a way that they have a real possibility to be nominated for the Nobel Peace Prize and therefore must be counted to the circle of designees under the Foundations Act.

A list of evidence will be submitted as soon as it is clear what is contentious in the case.

Powers of attorney enclosed, [attachment 3-7](#). Since Mairead Maguire up to very recently has been in Syria, we can at this point only attach a scanned copy of the power of attorney. We will supply the original as soon as we receive it.

The court fee has been transferred to the City Court today.

As stated

(s.)
Kenneth Lewis

(s.)
Peter Lindahl

(s.)
Hedwig Westerberg