

The **Judges for Judges Foundation** (*Rechters voor Rechters*) was established in 1999 to provide material and moral support to judges abroad when their judicial independence has been threatened or violated.

Today, the Foundation supports or has supported judges in many countries, *inter alia* Botswana, Colombia, The Philippines, Georgia, Honduras, Ukraine, Russia, Serbia, Slovakia, Sri Lanka, Surinam, Swaziland, Tunisia, Turkey and Venezuela. We examine each case brought to our attention individually before deciding how we can best help in a situation. In some cases, we seek contact with the national authorities, the national or the European Parliament, the Dutch Embassy in the respective country, the bodies of the Council of Europe, Amnesty International, international organisations of judges, etc. Sometimes silent diplomacy is the best option, but we also seek publicity when we consider it necessary, Tamara Trotman tells us.

Serbia

837 judges were dismissed with a single government order, which was later repealed by the Constitutional Court following an intervention on the part of European institutions.

In December 2009, at least 837 judges in Serbia were dismissed by a single government order. One of the dismissed judges was Dragana Boljevic, Chair of the Serbian Judges Association and a leading figure in the struggle for an independent judiciary in Serbia.

Judges for Judges has monitored the mass dismissal of hundreds of judges, and in particular the *mock* disciplinary proceedings against judge Boljevic. Together with MEDEL, we called for national and international attention to the case of the dismissed Serbian judges, in light of the country's aspirations to join the European Union (Justice Trotman has commented the tactic as a classic *carrot and stick* approach). To do this, the Foundation maintained regular contact with the European Commission, and more specifically with the office of the Commission for Enlargement (then Štefan Füle) in the context of EU requirements for respect of justice and fundamental rights.

In October 2012, the dismissal of judge Boljevic and hundreds of other judges was reversed by the Serbian Constitutional Court by a detailed reasoned judgment applicable to all dismissals. In its judgment, the Court held that the decision of the Supreme Judicial Council by which it had confirmed the dismissal of the judges was adopted in stark violation of the rules or procedure and should be annulled. *The silver lining was that the Serbian judiciary managed to correct its own flawed working mechanism and there was no need to file a lawsuit in Strasbourg*, Justice Trotman explained. In summary, she added that despite this outcome a simple reinstatement of the judges cannot—in and of itself—create an independent judiciary overnight.

In January 2014, the first interstate conference on the negotiations for Serbia's accession to the European Union was held. A fully independent judiciary was clearly spelled out as one of the most important conditions for Serbia's membership of the EU. According to the latest report on Serbia's progress to membership, published in November 2016, possibilities still exist for political influence on judicial appointments.

Ukraine

A judgment of the ECHR reinstates the Supreme Court Justice Oleksandr Volkov in office and the EU approved €52 500 000 in grant assistance to reform the judiciary

The lawyer of the dismissed Ukrainian Supreme Court Justice Olexandr Volkov, Professor Philip Leach from the European Human Rights Advocacy Centre in the UK, turned to Judges for Judges in 2013 when it became clear that the Ukrainian authorities had no intention of complying with the judgments delivered by the European Court for Human Rights (ECHR) and providing for the reinstatement of Justice Volkov in office within the shortest possible time.

The Court noted that the Volkov case reveals serious systemic problems in the functioning of the Ukrainian judiciary, particularly with regard to the separation of powers. For this reason, the ECHR did not consider it appropriate in the circumstances to recommend that Ukraine resumes the process of seeking a suitable form of compensation for Justice Volkov due to there being no possibility to decide the case in a fair trial at present or in the near future. The Court further recommended that Justice Volkov be reinstated while Ukraine undertakes an urgent restructuring of the institutional basis of its judiciary.

Seeking a solution to the case, Judges for Judges sent a letter to the Committee of Ministers of the Council of Europe requesting a special note in the Volkov case. Justice Volkov was ultimately reinstated at the Supreme Court in February 2015. In the meantime, Ukraine has announced an ambitious reform programme and the European Union has pledged € 52 500 000 in assistance for judiciary reform.

Photograph: Miroslava Todorova

Since 2014 all training programmes for new judges in the Netherlands include information about the Miroslava Todorova case. In the context of the case, the toxic combination of external (political and media) pressure within the judiciary (SJC) and the arbitrary application for workload and quality performance criteria to judges with an openly critical stance are discussed.

The joint report (ICJ and Judges for Judges) on the monitoring of the disciplinary procedure against Judge Todorova will be published early next year.

Turkey

Expectations of a fair trial at the moment are wholly unrealistic

Judges for Judges has an active role in the platform for an independent judiciary in Turkey, along with three other European organisations of judges — the Association of European Administrative Judges, the European Association of Judges and MEDEL. At the same time, the Foundation is monitoring the cases of the judges Mustafa Başer and Metin Özçelik since their arrest in July 2015.

The arrest of judge Mustafa Başer from the Istanbul Criminal Court came only a day after he released on bail a group of police officers charged with affiliation with Gülenist affiliations. Some of the police officers had been instrumental in an earlier investigation of alleged government corruption in December 2013 after which they were detained on various allegations of conspiracy to overthrow the government. The government-controlled High Council of Judges and Prosecutors (HCJP) made a statement according to which judge Başer and his colleague judge Özçelik had exceeded their powers.

Only a day after Judge Başer's ruling on the release of the accused on bail, the then Prime Minister Ahmet Davutoğlu gave a speech in which he condemned the two judges, accusing them of conspiracy against the State and affiliation with a parallel Gülenist structure. It is particularly worrying to see that the initial accusation of exceeding their judicial authority quickly evolved into a criminal prosecution over alleged crimes against the State. As soon as President Erdoğan accused the HCJP of delaying its response, the Council apologised and immediately suspended judges Başer and Özçelik, recommending pre-trial detention. Two days later, the court confirmed their detention and they were sent to prison on allegations of having released the police officers on bail on orders received from Mr. Gülen in the United States. The two judges are standing trial on charges of an attempt to overthrow the government and membership of an armed organisation.

No one expects a fair trial in Turkey at the moment, Justice Trotman said.