



RECHTERS VOOR RECHTERS

Newsflash  
2016-02

December 2016

### In this newsflash:

Dear Friends of “Judges for Judges”,

The end of 2016 is rapidly approaching. A lot happened last year; just check our timeline on Twitter. However, the things that took place since the coup in [Turkey](#) dominated our activities.

This is no surprise. Just realise that thousands of judges lost their jobs without any trial, that a great many of them are being detained under miserable conditions.

The Turkish judicial association [Yarsav](#) is annulled and “of course” its chairman is removed and detained. You can read more about this on our website and in this Newsflash.

Being in contact with Turkish judges that have fled or are in hiding, makes the information we receive from the media very tangible indeed. Our foundation joined its force with three other European ‘clubs of judges’: the European Association of Judges (EAJ), the European Association of Administrative Judges (AEAJ) and Medel (Magistrats Européens pour la Démocratie et les Libertés).

In this way we hope to focus the attention, again and again, towards the fates of our Turkish colleagues. If, during the winter holidays, you are a little bored, please check the information on [our site](#) about [Turkey](#) since the start of 2014. As early as that our colleagues with Yarsav raised the alarm about developments within the Turkish judiciary. Who could imagine that we would be confronted with this dark scenario only two years later? We never expected this, not even after we published the letter by Murat Arslan, chairman of Yarsav, on our website, a letter titled “[The last S.O.S. call from free Turkish judges](#)”. I cite the letter:

*Free Turkish judges and prosecutors who are defending democracy, freedoms and independence of judiciary need your immediate support, solidarity and reactions in order to save the last bastion of Turkish democracy. We would like to underline the reality that this may be the last call issued by us to the free world.*

Time and time again it turns out that independent judges in countries that are turned into “illiberal democracies” (for instance Hungary or [Poland](#)) are so to say “the canaries in the colliery”. This underlines the importance of our foundation.

Last month I visited Bulgaria on an invitation to address a meeting of the Bulgarian Association of Judges on “Judicial solidarity”. It is fascinating and enriching to ponder on the necessity of an independent judiciary, to discuss this with foreign colleagues and to individually find an answer to the question how all this may echo in our own roles and daily tasks.

I appreciate your reading our Newsflash very much and I thank you for your [support](#), financial or otherwise.

I wish you all the best for the year that has just started and I end with the words the defense lawyer of Murat Arslan uses at the end of each and every e-mail - notwithstanding the dismal contents -: Keeping faith in the rule of law !

Tamara Trotman  
Chairman



## Colombiana Caravana 2016

**Anne-Marie Smit**, Judge in the Appeals Court of Den Bosch and chair of the [Foundation Colombian Caravan of Jurists, The Netherlands](#) has travelled with the Colombia Caravan for the second time this summer.



She represented Judges for Judges as well, but we didn't have to foot the travel expenses. Here is her brief report on her experiences.

The fourth **Colombia Caravana** took place from 21-28 of August 2016. The findings have been set down in the [Caravana Report](#), presented in London recently.



The report will be presented to the Colombian Embassy in The Hague. Following this Caravana, together with the British Colombia Caravana, we shall support defenders of human rights in Colombia and keep up with specific cases, e.g. by writing letters to authorities and sending observers to legal trials.

Only three judges took part in this Caravana, which explains why no separate judges' report is issued. (click [here](#) for the Judges' Report in 2012 and [here](#) for the Judges' Report in 2014.) Although it is clear that it is not always simple for judges to

work in this country, the subject "judges at risk" only received modest attention in the general Report. Especially regarding the 'land restitution programme', judges are often confronted with the risk of violence, aside from lack of means and manpower. The threats of violence towards family members, sometimes even of liquidation, are also manifest in other situations, e.g. penal cases.

Displaced persons often find difficulty in approaching the law. This became clear to me when I visited a group of displaced persons near Cartagena.

The Dutch members of Colombia Caravana (Wout Albers (Lawyers for Lawyers (L4L), Marit Balkema (L4L), Laura van den Boogaert (board member of Colombia Caravana The Netherlands) and myself have visited the organisation [Corpo Fasol](#). As this visit took place outside the official programme, it is not mentioned in the Report.



The members of the board of [Colombia Caravana The Netherlands](#) showing their certificate of participation to the Caravana (with Wout Albers and Laura van de Boogaert).



Visit to the Supreme Court in Bogota

**Corpo Fasol** is dedicated to those who take part in the process of justice and have become a victim of violence. One of the founders has lost his father, who worked as a public prosecutor, to such violence. It is a small, but active, organisation. During our visit, we have spoken to judge Ana, whose family name is being omitted for her safety. Due to the threats she received she was no longer able to do her job, but she did not receive sufficient protection. The problem is that protective measures relate to the judge himself or herself, but the threats are being directed towards their family. She had to move and **Corpo Faso** supports her actions to draw attention to her situation. We also talked to a public prosecutor. You will find the case of Ana on page 13 of the Caravan Report.

Together with the two other Caravana judges, who came from Canada and Spain, I have visited the Supreme Court of Bogota, where the persons we spoke with were moderately optimistic about the situation in the country, and thoughtful on the role of the Judiciary in the "Justicia Transicional", the legal completion of the peace process.

## Guatemala

In September 2016 four **Guatemalan judges, Haroldo Vasquez Flores, Iris Yassmin Barrios Aguilar, Miguel Angel Galvez Aguilar** and **Claudia Elvira Gonzales** paid a visit to The Netherlands at the invitation of the organisation **Impunity Watch**. The purpose of this visit was to draw attention to the difficult situation of the judiciary in Guatemala and its battle for independence and against corruption and immunity from punishment. The judges had a well-filled programme with talks to give and receptions (we notified the readers of our newsletter by e-mail at the time). On 21<sup>st</sup> of September 2016 they were received at the High Court of The Netherlands by Ybo Buruma on behalf of Judges for Judges. Marlies Stappers of Impunity Watch, Daniel Butler of ICJ, regional Office Central America in Guatemala, Maria van de Schepop, former president of the Dutch Association of Magistrates (NVVR). Please read Ybo Buruma's short report:



From left to right: Claudia Elvira Gonzales, Iris Yassmin Barrios Aguilar, Haroldo Vasquez Flores, and Miguel Angel Galvez Aguilar, while visiting the Dutch Ministry of Foreign Affairs

These independent judges are getting themselves organised, outside the national association of judges, in an association as **Jueces por la Integridad**. They are forming a network of international solidarity to diminish their vulnerability for attacks, libel campaigns and administrative repercussions. Together with the colleagues, whose integrity they have established through balloting, the members of **Jueces por la Integridad** are committed to fighting corruption in **Guatemala** and reform the legal system. They started in 2014 when the elections for the High Court and the Appeal Courts turned out to be completely politicized, to an extent that one of the High Court Judges will be prosecuted for corruption. They are courageous judges. Mrs. **Barrios** chaired the court of justice that convicted former dictator Rios Montt in 2013 for genocide in his own country. Before that, she was just as courageous in other politically sensible cases. An attack on her life has been made after the conviction of a military man in 2001 and she is still regularly being threatened. She has received several decorations, a.o. from the US and Spain. Surprisingly, the powerful Guatemalan Bar Association has suspended her for the duration of one year. This decision is annulled in appeal and by the Constitutional Court as well, but the fact that this happened at all shows that the law is in a difficult situation in that country.

**Miguel Angel Galvez** has become famous by taking into custody and prosecuting former president Perez Molina and vice-President Baldetti on charges of corruption. This so-called "La Linea"-case is not finished yet. Galvez made it known in April that the Minister for the Interior has discovered a plot to have him killed. Although civil society and the population back him vigorously, Galvez and the other judges involved have been removed from the case. Threats, intimidations and, in the cases of Mrs Barrios and Mrs Gonzalez, physical attacks on their person, causes them to seek support abroad. The life of especially Galvez is in danger, and it is being feared that their professional conduct will in some way or another be criminalized. International publicity provides a sort of protection against that. They also look for possibilities to arrange for official forms of cooperation between **Jueces por la Integridad** and other associations of judges. Judges for Judges will keep in touch with them and will see decide on the best way to support them.

## Turkey: "Please do remember us!"

On december 13th Evert van der Molen (member of the board) adressed the judicial meeting at the Amsterdam District Court on the theme: Jurisdiction endangered abroad; judges for judges?? This is his text:

### Turkey: "Please do remember us!"

From Turkey Turkish colleagues inform us that every bit of attention is welcome. They have the feeling that the world doesn't much care, while independent jurisdiction is out of the question in Turkey. The situation has grown ever more dramatic after the failed coup on July 15th 2016, dramatic as it already was before the coup to be fair. Since the end of 2013 there were bad omens. For instance the systematic transfers of critical judges to courts in outside regions of Turkey; furthermore the government strengthened its grip on the Turkish Judicial Council (HSYK) and its compilation and thus on the policy of nominations and dismissals of judges.

Towards the end of April 2015 (that is long before the coup) **Başer** and **Özcelik**, two penal judges in Istanbul, decided to end the preliminary detention of a number of suspects that in 2013 were engaged as police officers in an “anti corruption” investigation. This investigation closed in on today’s ruling class. These police officers were dismissed and arrested. They were suspected to be supporters of Gülen and members of a terrorist organization. The decision to set them free was ignored; however **Başer** and **Özcelik** were immediately dismissed by the HYSK and have been in detention ever since. Judges for Judges follows their trial as much as possible and we succeeded to send an observer from The Netherlands to attend a large number of these sessions. The proceedings are very slow. For our organization it is a heavy burden, both logistically and financially, to attend each session. The next session will be on January 9th, 2017.

Since the coup the situation of the jurisdiction worsened rapidly:

- About 4000 judges were dismissed, as are police officers, teachers, academics and other civil servants; their income was stopped, their passports are declared invalid and their possessions confiscated;
- Almost 3000 of them are being detained; among them members of the Turkish High Court and the Constitutional Court;
- These draconic measures came into effect immediately after the coup. There is no doubt that the list of names was already compiled;
- The detention is under a state of siege, this means no public hearings, hardly any judicial assistance and no clear indictment;
- Some judges that are on the list and that awaited arrest managed to flee and now remain abroad (among others the USA, Belgium and Germany), others hide in Turkey.

In our personal contact with judges that fled we are moved by their own refusal to believe that this was possible: to cross from an honoured magistrate to a refugee or a detainee is shocking. A very bad film indeed. But no, it is not a film; this is reality. The wife of an arrested member of the High Court described in moving terms the life of her husband shortly after the coup. During the day he presided a number of sessions, at night at home he worked on a booklet on cybercrime and in the early hours of the next morning he was arrested and he remains detained until this very day, without being told the reason why and under very miserable conditions.



In August 2016 we raised a Platform in behalf of Turkey. The following organizations take part: **European Association of Judges (EAJ)**, **European Association of Administrative Judges (AEAJ)**, **Medel (Magistrats Européens pour la Démocratie et les Libertés)** and **Rechtens voor Rechtens (Judges for Judges)**.

Our activities:

- To draw the attention of the European Union and the Council of Europe (of which Turkey is a member) to the position of Turkish judges;
- To keep in contact with individual judges that have fled and to tell their stories;
- To prepare trial attendance (it is uncertain if we can actually attend, as the procedures find place in chambers);
- To offer material support. A fund has been raised in behalf of the Turkish colleagues. As soon as a bank account is opened, you will be told. Because of this plan we were labelled supporters of terrorists by the Turkish media. Furthermore we will have to gather funds to finance our attendance of sessions;
- In preparation is “Alert day” in each and every courthouse in Europe to claim attention for judges in Turkey.

“Don’t expect any results soon; this is a matter of years”. Thus the expectation of Turkish colleagues that have fled and stay in Europe. They expect it will take a long time before things get better in Turkey. The part Europe can play is important. And despite damaging reports about Turkey, like the recent one by the [Venice Commission](#), it is a sad thing that Europe hardly acts.

## ICJ Round Table on Independence, Effectiveness and Quality of Judiciary in Moskou

On September 26<sup>th</sup>, the **International Commission of Jurists (ICJ)**, in cooperation with the **Institute of Law and Public Policy**, organised a seminar between judges, lawyers and academics. The meeting focussed on subjects that are currently important to the Russian judiciary and jurisdiction: “Assessing efficiency while upholding independence of judges”, “The system of allocation of cases”, “Ensuring quality and independence of judgements while coping with caseload” and “Enforcement of judgements”. The meeting was attended by several participants from Russia, an ICJ-

representative from Geneva, an Italian judge (and her assistant), a judge and ICJ representative from Norway and myself.

The seminar concluded a three-year **ICJ**-project (financed by ICJ Norway) about the *“State of the judiciary in the Russian Federation”*. This project paid attention to the topics *“Securing justice: The Disciplinary system for judges in the Russian Federation”* and *“Selection, training and the appointment of judges in the Russian Federation”*. The last topic brought me to Moscow before, in May 2014, on behalf of the Judges for Judges.



One of the points raised during the seminar regarded the workload of judges in the **Russian federation**. This is a problem for civil judges especially. The vast amount of ‘small’ cases, for instance concerning unpaid energy or telephone bills, causes the high workload. The Russian system does not have a simplified procedure to deal with such cases, so they take up a lot (maybe too much) of the available capacity of the court. Added to this is the accessibility of the Russian judicial system: the absence of court-fees or other (financial) thresholds means there is no system to filter cases of lesser importance. Another problem is the failing execution of court rulings in these petty cases. Because of this, many cases reappear before the courts to enforce the execution of a previous ruling. A quarter of the complaints lodged with the **European Court of Human Rights** against the **Russian Federation**, concerns the failure to execute domestic court rulings. The participants explained that first instance judges are required to complete 40 cases per week. To reach this target it is only logical that many prefer the easy ‘stamp’ cases over more complicated – and time consuming – cases. This means that the real legal work remains on the shelf. The pressing question was how to solve this problem. Discussion of possible solutions revealed reluctance to introduce thresholds in the access to the judiciary, because such thresholds could invite improper use.

The presentation by the Italian judge showed that the Italian justice system has to deal with long throughput times. There have been many efforts to tackle this problem, but these remain largely unsuccessful so far. The Norwegian judge spoke about their problems to have prison sentences executed, because of a shortage in cell capacity. The Norwegian solution to this problem has been to rent prison cells in the Netherlands. I presented the new professional standards on balancing capacity and quality, which we have recently introduced in the Netherlands. I also informed the participants that we are currently working on new national regulation for case distribution, because the current system is not in accordance with the standards of the Council of Europe (see: Venice Commission, Opinion 663/2012, CDL-AD(2012)001, para. 91 and EHRM *Miracle Europe KFT v. Hungary*, 12 Jan 2016, No. 57774/13)

Jolien Schukking

## Treasurer report

**Judges for Judges** undertook some activities in 2016 that cost a lot of money. We need your help, financially, to continue our work.

One of these activities was attending the lawsuit against two Turkish judges, **Baser** and **Özcelik**, that took place at two Turkish courts in Ankara. At the end April 2015, these judges ruled in a case regarding the provisional detention of suspects (62 policemen and a journalist). The 63 suspects were arrested after their revelations, in December 2013, brought to light a bribery and corruption scandal implicating people from the highest government circles surrounding Erdoğan. The whistleblowers were subsequently suspected by the Turkish authorities for being Gülen-supporters and members of a terrorist organization. The group - consisting mainly of policemen - was then fired and arrested. Judge Baser (after being referred the cases by Judge Özcelik) decided that these police officers and the journalist were to be released. A few days later, the judges themselves were arrested and fired. After almost 20 months they are still imprisoned, suspected of membership of a terrorist organization (i.e. the Gülen movement) and an attempt to overthrow the government. On behalf of J4J, Gerritjan Furnace (our former chairman) is observing the hearings at the Turkish Supreme Court (**Yargıtay**) against these two judges. Gerritjan was present at several court hearings in Ankara. One time, J4J had to pay for interpretation. The process is important because since the failed coup in July 2016 a very large number of dismissed judges is still imprisoned – on similar suspicions of being Gülen followers and, subsequently, of involvement in a terrorist organization – while their cases’ proceedings have not even started.

**Please help us to continue to support the observation of this case, and our other activities.**

PS: The European Association for Judges, [EAJ](#), recently opened an emergency fund from which (the family members of) Turkish colleagues who need it most can get financial support. Once the account is known, you will hear it.

## Join us, get active!

Judges for Judges is currently looking for new people to join some of the country-teams and to carry out translation work. Join us now!

By now, the number of countries that J4J is working on has seriously [expanded](#). This means an increase in activities for the foundation. To remain actively committed to the judges-in-trouble in these different countries J4J needs more manpower.

Currently, J4J is specifically looking for:

- Someone who can strengthen the (mainly virtual) secretariat;
- People who want to work on the situation of the judiciary in **Poland**;
- People who know **Arabic** (possibly also legal Arabic);
- People who know **Turkish** (possibly also legal Turkish);
- People who know **Georgian** (possibly also legal Georgian);
- Their main task will be to scan items on the Internet / tweets for information that could interest the Foundation and to translate those if necessary. People who (only) want to do some occasional translation work are also invited to sign up. You do not need formal training.

If some of this appeals to you or if there is any other way in which you would like to become active for J4J, please reach out to us, using the email address [\[info@rechtersvoorrechters.nl\]](mailto:info@rechtersvoorrechters.nl). If applicable, please let us know any specialist knowledge, experience or interest in a country or region that you want to work on.

If you know judges and/or counselors who are, or could be, interested in the work of the Foundation, please do not hesitate to inform them about our work.

## Donate now!

Your financial support is indispensable for Judges for Judges (J4J). Your support makes it possible for us to stand up for judges who are (threatened to be) fired, threatened or prosecuted because they are exercising their profession. The foundation is **entirely dependent on donations** for its income.

**Financial support** can be sent to accountnumber: IBAN/SEPA NL12INGB0008071562 in the name of Stichting Rechters voor Rechters in The Hague (BIC/Swift code INGBNL2A, ING Bank, The Netherlands).

**SUPPORT US**

It is also possible to organize a **fundraising event** for the Foundation. If you want to organize a fundraising event, please contact us at [\[info@rechtersvoorrechters.nl\]](mailto:info@rechtersvoorrechters.nl).

## Registering or signing out for the newsletter/newsflash

This newsletter has been sent to persons who have expressed or are thought to have an interest in receiving it. Please let us know through [\[info@rechtersvoorrechters.nl\]](mailto:info@rechtersvoorrechters.nl) if you prefer not to receive any further newsletters.

Please let us know via the same email address if you did not receive this newsletter directly but would like to do so in future.

The same applies if you have changed your email address or if you prefer the newsletter to be sent to another email address



Follow Judges for Judges via **twitter** [[@Judges4J](https://twitter.com/Judges4J)]