



Newsletter
2015-02

November 2015

RECHTERS VOOR RECHTERS

The Filipinas, Honduras and much more in this newsletter:

“You have to be such a paragon of independence, impartiality and integrity that even those citizens who have not been put in the right, will say: but the judge did act fair. That is our job as judges.”

Quote from ‘The rule of law and independent judge’, the speech delivered by Geert Corstens, former President of the Supreme Court of the Netherlands, on October 15, 2015 in Lviv, Ukraine.

Friends of Judges for Judges,

A thick newsletter lies before you with a selection of messages that have mostly been previously published on our [site](#).

Worrying reports of a murdered **Filipino colleague** and imprisoned judges in **Turkey** as well as pressurized judges in **Swaziland** and **Botswana**. But also good news about our Honduran colleagues who were rewarded for their long legal battle against their dismissal with a fine judgment of the IACHR in which **Honduras** has been imposed an obligation towards the parties concerned to restore their position within the judiciary.

The second edition of our booklet **Matters for Principle** was published, it is for everyone to consult [online](#), but all new judges in training and deputy-judges receive the booklet in hard-copy.

This beautifully edited booklet will soon also be provided to the judges from the Ukrainian delegation who will visit the Netherlands in early December, at the invitation of the Ministry of Foreign Affairs. Judges for Judges was asked to receive them one afternoon, which we obviously are happy to do. It is nice that in the busy program time is made for a – as it is called – peer to peer roundtable discussion on the importance of independent judges and how it is implemented in practise, and the confidence that citizens can have in the judiciary, important issues that affect us all.

Thank you (again) for taking the time to read about the judges that can (or could) use our support!

Tamara Trotman
Chairman

Judgment Lopez Lone and others

On October 5th., the **Inter-American Court of Human Rights** ruled in the case **Lopez Lone et al.** against the Honduran state. Guillermo Lopez Lone, his wife Tirza Flores Lanza and two other judges were dismissed by the Corte Suprema Honduran for protesting against the coup in 2009, during which President Zelaya was deposed. The ruling took some time, the hearing took place on February 2 and 3, 2015. In a previous newsletter I [reported](#) (in Dutch) on this. But it was worth the wait. In its [judgment](#), the Court put first that the assumption of power in 2009 was **unlawful** by international standards and that the purpose of complainants protest was to restore democracy and the state governed by the rule of law. They not only had exercised their lawful right, but moreover they fulfilled their moral obligation to stand up for democracy, according to the Court. This sets the tone for the rest of the judgement, in which complainants are put in their right on all parts. The Court ruled that the Honduran state has violated the principle of legality, as well



as complainants' **political rights, freedom of speech and right of association and meeting**, and it imposes Honduras the obligation to restore the positions of the parties concerned within the judiciary.

Katrien Witteman – EULEX judge in Kosovo

Judge killed in the Philippines



On September 1 2015, **judge Alaba** was killed in the Philippines (in Baler, northeast of Manila). It took place in daytime, in front of the court. The **National Union of People's Lawyers** (NUPL) immediately made a link to two cases Alaba had dealt with in court. Recently, Alaba has acquitted an alleged leader of the communist New People's Army of charges of involvement in murder on police-officers and of possession of illegal weapons. Shortly after September 1, the Supreme Court of the Philippines immediately requested an investigation into the murder of Alaba, but the government has not given any reaction. In cooperation with the **Lawyers' Rights Watch Canada** Judges for Judges has sent a letter expressing concern about the safety of judges in the Philippines and requesting to be informed about the developments of this case. The letter can be read [here](#).

Interview Rechtspraak magazine

The **magazine Rechtspraak** (September 2015 #3) pays attention to **Matters of Principle** and includes an interview with chair Tamara Trotman.

A fragment from the interview:

"Defending foreign judges in need is a mission for the organisation Judges for Judges. Chair Tamara Trotman said: One is sometimes stunned by the courage of our colleagues-judges."

In some countries it happens that judges are fired, transferred or arrested, only because governments do not like their judgement, despite its legal correctness. These judges are simply doing their job, says the indignant Tamara Trotman, an appeal judge at the court of The Hague and chair of the Dutch organisation Judges for Judges. The objective of the organisation is to bring to attention situations when the independence of foreign judges is at stake."



Tamara Trotman (photo: Serge Lichtenberg)

The [interview \(in Dutch\)](#) can be read [here](#) or can be [downloaded here in PDF format](#).

J4J, IBAHRI, L4L, SALC Joint Report to the 2nd Cycle Universal Periodic Review of Swaziland



Between April and May 2016, [the Kingdom of Swaziland](#) has had its human rights record reviewed by a peer of states in a process known as [the Universal Periodic Review \(UPR\)](#). This is the second time **Swaziland** is reviewed under the **UPR**. Prior to this, civil society organisations are provided an opportunity to present their own report regarding the country's human rights record. As part of this process, Judges for Judges (J4J), [the International Bar Association's Human Rights Institute \(IBAHRI\)](#), [Lawyers for Lawyers \(L4L\)](#) and [the Southern Africa Litigation Centre \(SALC\)](#) prepared a joint report.

The report covers the organisations' concerns regarding the continued suppression of freedom of expression, association and assembly in the country; violations of the rights of arrested and detained persons; the absence of the rule of law, lack of external and internal [independence of the judiciary](#); as well as the failure of Swaziland to guarantee effective access to legal services provided by an independent legal profession as set out in the **UN Basic Principles on the Role of Lawyers**.

Informal meeting Special Rapporteur Mónica Pinto and NGO support group

On the invitation of [Mónica Pinto, the United Nations Special Rapporteur on the independence of judges and lawyers](#), an informal meeting took place on September 16, 2015 in Geneva. Ngo's such as **International Commission of Jurists (ICJ)**, **Lawyers for Lawyers (L4L)**, the **International Bar Association's Human Rights Institute (IBAHRI)**, **Human Rights Watch (HRW)** and Judges for Judges (J4J) were also invited. In total, there were representatives of 15 ngo's present. J4J was represented by one of the board members Evert van der Molen.

Mónica Pinto said in her opening speech that she was very pleased with the high turnout and that she was interested to hear which themes should get priority in the coming period. This produced a list of suggestions, such as:

- attention for increasing use of special forces by governments which leads to tension with regard to respect of human rights;
- the difficult circumstances of lawyers for example in China and Iran;
- the influence/effects of social media and its potential threat for judges and lawyers;
- attempts of security forces to exert power on judiciary and lawyers.

The question to which countries specific attention must be paid let also to many ideas. J4J asked attention for the concerning situation of judges, lawyers and public prosecutors in Turkey.

The **Special Rapporteur** concluded the meeting with the remark that resources to implement her mandate are limited and that she will have to prioritise. She will do so in the coming months. It was agreed that this meeting was not an one-off and that meetings will take place on a yearly basis. Furthermore, it was agreed that the organisations present will exchange information, to avoid duplication/overlap of work.



Evert van der Molen hands over a copy of Matters of Principle to Mónica Pinto

On this occasion, Evert van der Molen handed over a copy of [Matters of Principle](#) to Mónica Pinto.

25/30 years of Basic Principles on the Independence of judges and lawyers



On Tuesday 15th of September 2015 the 25th/30th anniversary of the **Basic Principles** was marked in the Palais des Nations in Geneva at the invitation of the **International Bar Association's Human Right Institute (IBAHRI)** and the **International Commission of Jurists (ICJ)**. Board member Evert van der Molen was present on behalf of Judges for Judges. [The venue was a side-event of the Council for Human Rights](#). Among others, [Mónica Pinto, brand-new Special Reporter on the independence of judges and lawyers](#), Anne Ramberg, Secretary General of the Swedish bar, Irene Patras, executive director of the Zimbabwe Lawyers for Human Rights and Nazir Afzal, retired attorney general from the UK, held speeches.

It was widely recognized that the independence of judges, lawyers and prosecutors remains an important and actual subject. This was illustrated by one of the speakers in the audience, himself/herself a lawyer in Egypt, who said that about 600 Egyptian colleagues are presently detained in view of the practice of their profession, and in dire need of help. In many countries, the Principles are broadly recognized as keynotes, but everyday practice may be quite different. The **Special Rapporteur** therefor remarked that it is vital that countries will be called to account about the effectiveness of their actions to guarantee the independence of judges, lawyers and prosecutors. This is not a matter of rights but a matter of duty by the State. The fact that both legal professionals and the greater public have little knowledge of the Principles is a cause for concern. A lot can be gained by educating the legal professionals and informing the general public. **Mónica Pinto** drew the conclusion that much work remains to be done. Broad support was given to her first thoughts on the actual form she wants to give to her Mandate.

- [Basic Principles on the Independence of the Judiciary](#)
- [Pagina 16 e.v. in Matters of Principle](#)
- [Basic Principles on the Role of Lawyers](#)
- [UN Side Event: 30 Years Protecting Legal Professionals](#)

J4J condemns the unreasoned removal of Murat Arslan against his will

Constitutional Court of the Republic of Turkey

“Dear Mr. President,

The Dutch Foundation Judges for Judges — which aims to support fellow judges abroad who have experienced or may experience problems related to their profession — kindly draws your attention to the case of our Turkish colleague Murat Arslan.

Murat Arslan, chairman of Judges and Prosecutors Association (YARSAV) was recently removed from his duty as reporter in the Constitutional Court. He was informed earlier this month by the Court’s Secretary-General that he had been relieved of his post which he had held for the past 10 years. No reasons therefore were given.



[...]

We condemn the unreasoned removal of Murat Arslan against his will to his former judicial post, we therefore ask you as the President of the Constitutional Court for reinstatement of Murat Arslan to his duty as reporter in your Court.”

[\[Read the whole letter \(pdf\)\]](#)

MEDEL Resolution on the Imprisonment of Judges and Prosecutors in Turkey

[...]

- **MEDEL** stresses that the arrests of Judges and Prosecutors based on decisions they made as part of their job clearly contradicts the **Turkish Constitution, the European Convention of Human Rights**, all other international texts on this matter and the basic principles of Judicial Independence.
- MEDEL declares that it is unacceptable to use arrests and dismissals to intimidate and deter Judges and Prosecutors when they work on critical cases and stresses that arrests and dismissals must not be misused as punishment from the government.
- MEDEL **condemns** the arrest and dismissal of Judges and Prosecutors on the basis of decisions taken in the exercise of their judicial functions and calls for the immediate release of the Judges and Prosecutors and their reinstatement in their former duties.

[...]

Click [here](#) for the PDF file.

J4J concerned by the arrest and ongoing detention of two Turkish judges



Judges for Judges is very concerned by the arrest and **ongoing detention** of **two Turkish judges Metin Özçelik and Mustafa Başer** since April 30th and the 1st of May respectively.

In a society based on the rule of law it is the duty of the government to respect and protect the **independence of the judiciary**. But we are alarmed by this apparent serious interference with the work of these judges in politically sensitive cases.

This because there are serious indications that these two judges were arrested and detained as a result of decisions they made while discharging their professional duties rather than on evidence of criminal activity.

Tamara Trotman had a meeting in Istanbul on July 27th 2015 with Başer's and Özçelik's lawyers Hacer Yilmaz and Önder Durdu. Afterwards there was a press conference in front of the Court in Istanbul where both lawyers made statements about the cases of their clients.

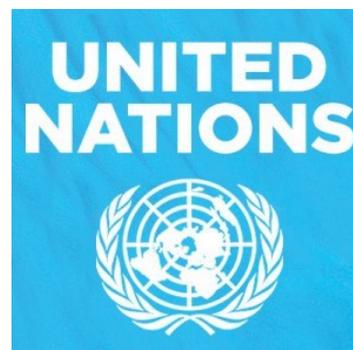
Further reading:

- [Judges for Judges press statement \(pdf\)](#)
- [News article with video \(bugun.com.tr\)](#)
- [News article \(cihan.com.tr\)](#)
- [The European Judges Association \(EJA\)](#)
- [The Consultative Council of European Judges \(CCJE\) \(pdf\)](#)
- [The Venice Commission \(pdf\)](#)

Human Rights Council (15th Juni – 3rd of July 2015)

The 29th session of the Human Rights Council (HRC) of the United Nations took place in Geneva from 15th of June until 3rd of July. The Netherlands are a member of this Council in 2015-2017.

During this session **Gabriela Knaul**, the **former Special Rapporteur on the Independence of Judges and Lawyers**, presented her latest [report 'Protecting Children's Rights in the Justice System'](#) (click [here](#) to see the relevant corrigendum). Judges for Judges was invited to attend some of the meetings that took place in the margin of this large international assembly. After all, aside from the national delegations, a number of NGO's operating in the field of Human Rights were in Geneva at the time. Hence, an excellent opportunity to see and speak with a number of different people and to establish or strengthen useful contacts for Judges for Judges.



On June 16th an **informal drafting meeting** was held with respect to the HCR [resolution on the independence of judges and lawyers](#), supported by Hungary, Australia, Botswana, the Maldives, Mexico and Thailand. The purpose of this resolution is to support the mandate and the work of the Special Rapporteur.

Later that day the meeting organised by the **ICJ** with the purpose:

"to reflect together with the Rapporteur on the last six years of the mandate, while at the same time jointly anticipating the challenges and possible recommendations for the new Special Rapporteur".

During this meeting some 20 NGO's, present either through Skype or in person, provided for a good discussion. On the photograph below you may see the presentation of the second revised edition of the booklet *Matters of Principle* to Gabriela Knaul.



From left to right: Jolien Schukking, Gabriela Knaul and Tamara Trotman

The presentation of the report by Gabriela Knaul, planned for Wednesday afternoon 17th June was postponed to Thursday morning 18th June, because the other parts of the programme overran their schedule. Representatives of Judges for Judges assisted at a side-event relating to 'Council of Europe initiatives for the independence and effectiveness of the judiciary'.

Georg Stawa, president of the European Commission for the Efficiency of Justice (CEPEJ), and **Bart van Nierop of the Consultative Council of European Judges (CCJE)** spoke about the content of their work, the differences and the common ground with the work of the Special Rapporteur, who sat on the panel. Matt Pollard of ICJ acted as Moderator during this meeting. Due to a last-minute change in venue, the meeting was attended by less people than hoped, but this did not affect the liveliness of the discussion.

Finally, beside the moved-up presentation of the Report and the clustered interactive dialogue with the Special Rapporteur in the afternoon, we attended an assembly of a group of NGO's active within the mandate of the Special Rapporteur organised by IBAHRI. There the possibilities to form an 'informal NGO support Group on the independence of judges and lawyers at the level of the UN' were discussed. We think that this is an excellent initiative!

By the end of this session of the Council of Human Rights the appointment of the successor of Gabriela Knaul as the **new Special Rapporteur** on the independence of judges and lawyers was announced: it is **Mónica Pinto** from Argentina!

We are looking forward to continuing the good contacts with the new Special Rapporteur!

Second edition of Matters of Principle

The **magazine Rechtspraak** (*administration of justice*) of September 2015 #03 featured **Matters of Principle** and an interview with our chairperson Tamara Trotman (viz page 2 of this Newsletter).

We in The Netherlands are well off : a number of investigations rate our legal system among the best in the world. To us it is a matter of simple logic that judges work with integrity and complete independence at all times. This is not self-evident all over the world. The new edition of **Matters of Principle, Codes on the independence and impartiality of the judiciary**, edited by J4J, contains the requirements for a sound legal system and the codes of conduct to which judges should adhere. The book shows that there is no sound administration of justice without the core values of independence, autonomy, impartiality, integrity, professional competence and professional attitude.

In the interview in magazine Rechtspraak, Tamara Trotman puts it this way:

"Matters of principle shows what society may expect from the Judiciary and what judges stand for. It also contains what State Governments should do to guarantee a properly functioning Judiciary. With this booklet we also try to put heart into judges abroad who find themselves in a difficult position."



- [Download](#) the new edition of Matters of Principle or read it [online](#)
- [PDF of the above text](#)
- [Click to read the interview](#) with Tamara Trotman in Rechtspraak (in Dutch).

Letter to Egyptian Judges

The [Euro-Mediterranean Human Rights Network \(EMHRN\)](#) strongly condemns the **death sentences** levelled against former Egyptian President Mohamed Morsi and about a hundred others in the same case. The verdict, pronounced on 16 May, is but the latest example illustrating both the increasing instrumentalisation of justice to eradicate any dissent and the repressive and draconian measures that the Egyptian authorities have taken since the overthrow of the former president in 2013.



The Network reiterates its principled opposition to capital punishment and to any cruel, inhuman or degrading treatment, regardless of the circumstances, crime or identity of the accused. The Network also reminds the **Egyptian authorities** that legal proceedings can take place only following investigations by the defence and the prosecution. A verdict must be pronounced by an independent and impartial court that fully respects human rights, conditions that have never been met in these cases.

In their efforts to address the alarming ongoing erosion of the rule of law and people's confidence in Egypt's justice system, a group of individuals and organisations, including **Judges for Judges**, has reached out to Egyptian judges in a letter calling on them to join forces to restore national and international confidence in the Egyptian judiciary.

Left unaddressed, the blatant manipulation of justice for political ends is likely to aggravate political and social tensions as well as the security situation in Egypt and the region.

The Network also calls on the EU to urgently address the situation with the authorities of its southern neighbour. The **EU-Egypt dialogue** on cooperation was resumed in February 2015 in defiance of the [Foreign Affairs Council conclusion](#) of August 2013 stipulating that the "EU will closely follow the developments in Egypt and will readjust accordingly its cooperation". In line with this and its own values and principles, the EU should clearly express its rejection of the use of justice to stifle dissent and the application of death penalty. It should also call for an end to the judicial harassment of human rights defenders and the restrictions on freedom of assembly and expression.

If Egyptian authorities fail to address the situation, the EU should halt its cooperation with the country.

The Network calls on the Egyptian authorities to urgently:

- Put an end to the instrumentalisation of the judiciary for political purposes;
- Retry all political prisoners in impartial and independent civil courts guaranteeing standards of a fair trial;
- Establish a moratorium on the death penalty.

Press contact: Samer Abu Rass, +32 2 503 19 73

[Read full EMHRN-article](#) | [\(PDF english\)](#) | [\(PDF العربية\)](#)

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Support & Donations

The **Foundation** can also benefit from your help and support. All contributions (whether financial or material) from judges in the Netherlands and others who are concerned about the fate of judges abroad facing professional problems, are most welcome!

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