

In this Newsletter: Turkey, Venezuela, Geneva, Botswana and more:



Dear friends of Judges for judges,

Many things happened last year. We are very worried about the situation in which the judicial authorities in **Turkey** find themselves. When interviewed, Andrew Gardner, Turkey-researcher with Amnesty International, said the following: *"I watch Turkish Rule of law wither away and I can't see any improvement in the near future"*.

We try to attend as many sessions as possible of the lawsuit that involves the **two judges Başer and Özçelik**; both are still being kept in custody. They are accused of being members of a terroristic organisation, since in April 2015 they released from custody some suspects in a case that was deemed politically sensitive. In this Newsletter we publish two open letters by **Yarsav**, one of the Turkish organisations of Judges that we are in contact with. Their contents offer an alarming glance at the State with which the European Union re-opened negotiations on the entry into the European Union, last June. A recent headline in the Volkskrant read "Largest part of Turkish judges dismissed". After several thousand judges have forcibly been transferred earlier this year, Parliament passed a law in June making it possible to dismiss the greater part of 711 judges sitting at the two highest courts of the country. This photo shows a group of protesting judges in these courts, giving a statement to the press and standing in front of the building of the Supreme Court of Appeals in Ankara.

In **Venezuela** there is much ado politically and economically but the same cannot be said about the criminal and disciplinary prosecution of **Maria Afiuni**. Procedures are slow; the harsh conditions under which her order of detention is upheld are still in full force and her state of health is a cause for concern. We donated towards her necessary medication and treatments.

We have also made a contribution to the trial funds of the four **High Court judges in Botswana**, that are suspended from duty since August 28th, 2015. They had been critical about the Chief Justice and their working conditions. Please, read the text of the common statement of the **Commonwealth Magistrates' and Judges' Association (CMJA)** we published in last month Newsletter. This moral support was appreciated by the Judges it concerned: "we felt we were not abandoned".

The report by the **ICJ (International Commission of Jurists)**, published at the beginning of this year, did not end our involvement with **Swaziland**. The **'Joint submission'** we wrote together with the **International Bar Association's Human Rights Institute (IBAHRI)**, **Lawyers for Lawyers (L4L)** and the **Southern Africa Litigation Centre (SALC)** was the basis for the lobbying activities during the UPR (Universal Periodic Review) pre-session on Friday April 1st in Geneva. Undoubtedly, this contributed to formulate the **recommendations** by several countries in order to strengthen the

independence of the judicial authorities in Swaziland. The acceptance by Swaziland of these recommendations creates a common basis to refer to in the future, if necessary.

Please, also read about the situation of our colleagues in [Surinam](#), [Colombia](#), [Lesotho](#) and [Poland](#).

Finally, this newsletter offers various statements, co-signed by Judges for Judges and formulated during the meeting of the **U.N. – Human Rights Council** in Geneva in June 2016. We are proud that well respected organisations as **IBAHRI** and **ICJ** asked our foundation to join them whenever the judicial independence is at risk.

On June 17th 2016 our boardmember Ybo Buruma was a guest on the TV programme The Philosophical Quintet, this time devoted to judicial independence.

We appreciate your reading about judges that face problems, while in function. You will understand that donations are more than welcome. It is the only way in which we can effectively support our colleagues in [Turkey](#), [Botswana](#), [Venezuela](#) or elsewhere.

We wish you all a beautiful summer!

Tamara Trotman
Chairman

Colombia Caravana 2016



Two years ago **Anne-Marie Smit** ('s Hertogenbosch Appeals Court) and **Peter Ingelse** (at the time Amsterdam Appeals Court) took part in the **Colombia Caravana**. It was an extremely interesting trip, organized by the [Caravana UK Lawyers' Group](#) together with the **Human Rights Lawyers (ACADEHUM) of Bogota**.

Inspired by this experience, Anne-Marie and the other participants of **Lawyers for Lawyers** founded **Caravana Nederland**. This foundation aims to create a place for the difficult situation of judges in Colombia, especially in cases regarding the program of land restitution. Where it is possible, Judges for Judges works together with this foundation.

The [general report](#) about the experiences during this **Caravana** has been presented to the **Colombian ambassador** in The Hague on 28th May 2015. The [report](#) which refers specifically to the situation of judges in Colombia has been presented to the Colombian ambassador on 14th of February 2016.

The next **Colombia Caravana** is planned for 20th to 28th of August 2016. Anne-Marie Smit will represent Judges for Judges. The following targets have been set for this trip:

- to prevent/reduce threats against lawyers and other defenders and the communities they work with by shining a spotlight on their work and making the Colombian authorities aware of the international concern;
- to identify and through first-hand accounts and open discussion, gather information on the current challenges facing Colombian human rights lawyers in several regions of the country, with special attention to challenges posed by the transitional justice process.
- to hold workshops on relevant subjects aiming to share expertise and information.
- to influence the government by engaging in dialogue with officials from relevant departments and raising ACADEHUM's concerns, to encourage these departments to take action on them.
- to use the information gathered to compile a report detailing the findings of the mission and including a series of recommendations for future action on the part of both the Colombian authorities and the international community.
- to draw up a framework with Colombian lawyers for future collaboration, support and exchange.

Click [here](#) for more information on **Colombia Caravana 2014** (in Dutch) and [here](#) for more information about **Caravana Nederland** (in Dutch).

Note on the judgement of the ECHR *Ivanovski v. Macedonia*

The magazine EHCR has recently published the judgment of 21st January 2016 of the ECHR in the case of **Ivanovski v. Macedonia**, with a note by the chairperson of Judges for Judges, Tamara Trotman.

Ivanovski, born in 1946 has been a judge since 2003 and later became the president of the **Constitutional Court** of the former Yugoslav Republic of Macedonia. The Purge Law of 2008 prevented those, who had been collaborating with the State Security Service between August 1944 and January 2008, from being appointed in civil service. All civil servants needed to submit a statement of non-collaboration to the Purgatory Commission. The Plaintiff submitted such statement on 3rd of September 2009.



The Plaintiff's case was the first under this bill. Through confidential correspondence of the Purgatory Commission, the Plaintiff has been informed that his statement did not match the information from the State Archives, which were in the Commission's possession. At his request, a public hearing was held on 27th of September 2010. As early as 24th of September the Macedonian Prime Minister has circulated through the media an open letter informing "the opponents of the purge" that the Purgatory Commission has revealed that a member of the Constitutional Court, appointed by the previous president, had been collaborating with the former regime. The Prime Minister claimed that this explained why a number of reform bills by his government, have been declared null and void by the Constitutional Court (par. 3.2)

The judgement and the note as published in issue 5 of ECHR 2016: EHCR 2016/94, click [here](#) and [here](#).

June 2016: Surinam – judgement of the Court Martial 9th of June 2016

Earlier (click [here](#) and [here](#) (both in Dutch)) Judges for Judges informed you about the penal trial brought before the **Court Martial** in the "December 8th proceedings". During a session on March 4th, 2016 the Military Auditor Roy Elgin asked for a year's prolongation of the suspension of the prosecution in the trial of this case. However, the **Court Martial** denied the request.

The **Court Martial** disregarded Article 1 of the Amnesty Law, that was accepted in the course of this lawsuit. The **Court Martial** decided that the amendment is to be regarded as an intervention in an ongoing lawsuit, that is in an advanced stage already. Their decision is based on Article 137 of the Constitution of the Republic of Suriname, which reads as follows: *"Insofar as the judge considers the application of a provision of a law in the particular case brought before him to be contrary to one or more constitutional rights mentioned in Chapter V, the application in that case shall be declared unlawful by him."*

The **Court Martial** ruled that the court investigation will be proceeded with as it was at the time of the suspension, namely the statement to be made by the Public Prosecutor. This statement would be made before the Court on its session of June 30th, 2016, but it never came to that. According to **President Bouterse**, one of the defendants in this trial, a constitutional crisis arose by the ruling of the **Court Martial**. He was of the opinion that state security would be at risk because of this ruling. On that ground the Government decided to activate article 148 of the Constitution. This article reads as follows: *"The Government determines the general prosecution policy. The Government may in specific instances give the Procurator General orders with regard to prosecution in the interest of state security."*

During the court session on June 30th, the Military Auditor Roy Elgin informed the **Court Martial** that the Procurator General had ordered to end the "December 8th trial" by governmental resolution. The Court Martial, presided by Cynthia Valstein-Montnor, decided to postpone the session until August 5th. On that date the demand of the Public Prosecution to end the trial will be reacted upon.

In a [reaction](#) a representative of the **International Commission of Jurists (ICJ)** said to the Surinam newspaper 'Starnieuws' that the Commission will stress the importance of an independent jurisdiction in Suriname again and again: *"As we have stated many times before, the Court Martial must be allowed to rule independently. This is in the interest of both the defendant and the complainants (i.e. the surviving relatives). An independent jurisdiction also is in the general interest of Suriname."*

Judges for Judges strongly supports this point of view. Click [here](#) to read the ruling of the Court Martial (in Dutch).

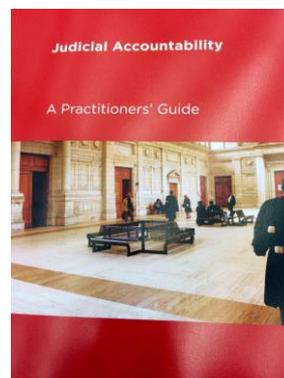
June 2016: Who judges the judges?



During the annual meeting of the **UN Human Rights Council** in Geneva, the **International Commission of Jurists (ICJ)** along with the **International Bar Association (IBA)** once again organized a so called Side Event, a meeting in which a specific theme is addressed. Judges for Judges was one of the co-sponsors of the Side Event. Board member Jolien Schukking attended the event.

The theme of the meeting on June 14 was “*Who judges the judges? Accountability for judicial corruption and judicial complicity*”. There was a panel, among others participated by **Monica Pinto**, the new UN Special Reporter on the Independence of Judges and lawyers and **Thulani Maseko**, a lawyer from Swaziland who has been fallen victim to *judicial misconduct* and has long been imprisoned on arbitrary grounds. The panel discussed the afore-mentioned theme. The stress was laid on the way inappropriate judicial behavior should be dealt with and

through which procedures. Attention was also paid to the situation of countries in transition, where in many cases the courts still have close ties with the former regime. The multitude and variety of questions posed by the present delegates of a large number of UN countries, clearly indicated that this is a topic that is very much of interest and, as delicate as it is, also needs our attention. At the end of the meeting the IBA presented a recent report “Judicial Systems and Corruption” and **Matt Pollard**, member of the ICJ Centre for the Independence of Judges and Lawyers, launched the “ICJ Practitioners' Guide on Judicial Accountability”, which is a guide that provides practical information on how serious *judicial misconduct* could be challenged and addressed. This guide can be downloaded via this [link](#).



June 2016: Statement on the impeachment of Justices Dingake, Thebe, Busanang and Letsididi of the High Court of Botswana

For some background information you can read for example the message that [Amnesty International](#) released on the suspension of the four judges.

The judges, **Key Dingake**, **Mercy Thebe**, **Rainer Busanang** and **Modiri Letsididi** were suspended on 28 August 2015 under Section 97 of the Botswana Constitution for alleged misconduct and bringing the judiciary into disrepute. This followed a petition signed by 12 judges, including the suspended four, calling for the impeachment of Chief Justice Maruping Dibotelo.

Recalling that at its General Assembly on 19 September 2015, the **Commonwealth Magistrates' and Judges' Association (CMJA)** expressed its concern about the processes put in place to impeach the **Justices of the High Court** mentioned above.

Recalling the **CMJA** Statement issued on 3 October 2015 in relation to the suspension of Justices Dingake, Thebe, Busanang and Letsididi and the concerns expressed therein.

Recalling the provisions of the Commonwealth (Latimer House) Principles on the Accountability of and the Relationship between the Three Branches of Government (2003) which state that “*Disciplinary proceedings which might lead to the removal of a judicial officer should include appropriate safeguards to ensure fairness*”.

Whilst not wishing to comment on current court cases which will run their normal course, the **CMJA** is concerned that the authorities in **Botswana** seem to be treating some judges more favourably than others and this gives the impression that there is a lack of equality before the law.

Any measure which is capable of being seen as eroding the independence and impartiality of the judiciary, or the fundamental rights to which all citizens of **Botswana** are entitled to, is a matter of serious concern and could undermine the international standing of the **Botswana** judiciary.

We therefore call upon the **Botswana** authorities to ensure that all processes followed are dealt with in a just and equitable manner to resolve the issues quickly to safeguard the good reputation of the **Botswana** judiciary for independence and impartiality.

Commonwealth Magistrates' and Judges' Association (CMJA)
Commonwealth Legal Education Association (CLEA)
Judges for Judges (Rechters voor Rechters), Netherlands

16 June 2016

June 2016: UN statement: judicial accountability, attacks on lawyers

Judges for Judges joined a statement on June 16th delivered by the **ICJ** at the **UN Human Rights Council**, on judicial accountability, and attacks on lawyers. **ICJ** made the statement on behalf of a group of eight NGOs, including professional organisations of judges and lawyers.

The statement, read out by Swaziland lawyer Thulani Maseko during the Interactive Dialogue with the **UN Special Rapporteur** on the Independence of Judges and Lawyers, read as follows:



"Madame Special Rapporteur on the Independence of Judges and Lawyers,

Our organizations strongly support your mandate. An independent judiciary and legal profession are essential to the rule of law and to the effective protection of human rights.

Independence and impartiality of the judiciary require integrity of individual judges and judicial institutions.

Accordingly, there must be accountability for judicial corruption and judicial involvement in human rights violations.

Accountability mechanisms must themselves be independent, fair and transparent, in order to ensure they do not undermine the independence of the judiciary and that victims and the broader population see them as credible and accessible.

*We note in this regard the **International Commission of Jurists'** newly published [Practitioners' Guide on Judicial Accountability](#), and the International Bar Association's recent report on Judicial systems and Corruption.*

We also must highlight the growing problem of repression of lawyers who act in cases perceived to have human rights or political aspects, including through: harassment, suspension or disbarment; arrest, detention, unfair trial, and arbitrary imprisonment; torture or other cruel, inhuman or degrading treatment, enforced disappearance, or even unlawful killings.

*This is inconsistent with the **UN Basic Principles on the Role of Lawyers** and incompatible with the rule of law. It violates the rights of individual lawyers and undermines the independence of the legal profession. It denies the rights of the people the lawyers are trying to protect.*

Among current examples, the scale and depth of repressive measures against lawyers and HRDs in China is particularly stark, but similar concerns arise in, for instance, Egypt, Turkey, Thailand, Azerbaijan, Malaysia, Tajikistan, and Vietnam. (I myself was arbitrarily imprisoned in my own country Swaziland, for publicly expressing my opinions about judicial misconduct.)

We accordingly will urge lawyers, legal professional associations and others around the world to respond to the questionnaire you have prepared for your upcoming General Assembly report on the legal profession.

I thank you."

The following organizations also joined or otherwise supported the statement:

International Commission of Jurists
International Service for Human Rights
Commonwealth Magistrates' and Judges' Association
Commonwealth Lawyers Association
Lawyers for Lawyers, Netherlands
Avocats Sans Frontières Suisse
Southern Africa Litigation Centre
Strategic Advocacy for Human Rights (added support after delivery)

June 2016: Publication Open Letter of Yarsav (Turkish Association of Judges and Prosecutors): "Final conquest of the last bastion of Turkish judiciary: government purging high judiciary"

After relocation of nearly 9000 judges (out of approx. 15000) in less than 20 months and recruiting thousands of politically loyal people as judges and prosecutors to high judicial ranks, the government, under the guise of "judicial reform", "judicial re-organization", using the pretext of purging "parallel structure members" is reducing the number of members of the supreme courts by half.

A draft law aiming to change the structures of supreme courts, **Council of State** and **Court of Cassation**, has been submitted to the Parliament by the Justice and Development Party with plans to have it passed before the Parliament goes to recess at the end of June.

According to the draft, the number of judges at the Court of Cassation will be reduced from 516 to 200, while the number of judges at the Council of State will drop from 195 to 90. Tenure of high judges will be terminated when the law goes into effect. Right after this, the **Judicial Council**, which is under direct control of the government, will make reappointments to the high courts in 5 days among the same group. Some members of the Council of State will directly be appointed by **President Erdoğan**. Judges, whose tenure will be terminated and who are not reappointed to the supreme courts as high judges will be sent to different lower instance courts as a plain judge. Newly reappointed high judges' tenure will be limited to 12 years.

In a stark contrast with the newest measure, the same government in 2011 and 2014 had increased the number of members of the high judiciary and had doubled the member quantity under the pretext of huge workload. Now in order to get rid of all dissidents, it reduces the number of high judges in a way that can only be described as "Civil Coup". After guardians of the democracy are removed people will become vulnerable against dictatorial acts and actions of the government.

Turkish constitution allows judges to remain in their positions until the retirement age of 65 which includes high judges. Thus, the draft law is against the constitutional principle of security of tenure and irremovability of judges. It appears that Serbian model is followed by the government.

President Erdoğan is taking this action irrespective of the fact that it is unconstitutional and **Constitutional Court** will eventually annul this law. Unfortunately annulment decisions of the **Constitutional Court** have no retroactive effect so in practice annulment of law in question will be meaningless and useless. Damage will already be done until the **Constitutional Court** passes a judgement without possibility of restitutio in integrum.

It is obvious now that only those high judges who pledged allegiance to **Erdoğan** will be reappointed and will save themselves from this unimaginable, unlawful, unconstitutional purge. **Erdoğan** will be in full control of both lower courts and high judiciary after this law goes into force. Instrumentalisation of the judiciary by **Erdoğan** will be completed and the judiciary will serve as a government tool to silence and punish all kinds of opposition more than ever before.

In the name of all values, standards, fundamental rights and freedoms that contemporary world has paid heavy price to achieve and maintain we, free and independent Turkish judges and prosecutors, call upon international institutions to react strongly against rise of dictatorship at the doorsteps of Europe. Take into consideration what has happened in our region in the last couple of years and imagine what a dictator can do with a limitless power.



It is not only responsibility but also a duty for the international community to react in order to stop this act of madness. Respectfully submitted to your attentions.

Murat Durmaz
Turkish Association of Judges and Prosecutors

June 2016: UN Statement: indicators of independence of justice systems

Judges for Judges today joined a statement delivered by the **International Bar Association** on indicators of independence of justice systems. The statement came during the interactive dialogue with the **UN Special Rapporteur** on the Independence of Judges and Lawyers.



It read as follows:

"As international organisations of legal professionals, we endorse the recommendation made by the Special Rapporteur to develop a set of international indicators to assess the independence of justice systems.

The Special Rapporteur has previously stated: 'No ideal justice system exists; rather, there are universal principles that must be respected in the structure and functioning of any judicial system, so that it can duly fulfil its purpose'. (Report of the Special Rapporteur on the independence of judges and lawyers, (2014) UN Doc A/69/294, para 92.)

Achieving Sustainable Development Goal 16 – that is, providing access to justice for all and building effective, accountable and inclusive institutions – will require respect for the universal principles of independence and impartiality of justice systems and the independence of the legal profession.

*In 2015, the **International Bar Association (IBA)** and the **International Commission of Jurists (ICJ)** proposed two indicators under SDG16, regarding the independence of the judiciary and an independent and self-governing legal profession. The IBA is currently developing 'indicia of independence' that can be used to assess the state of independence of the legal profession in a given jurisdiction. The **Commonwealth Lawyers Association (CLA)** and the **Commonwealth Magistrates' and Judges' Association (CMJA)** continue to monitor judicial and legal independence through the Commonwealth Latimer House Working Group.*

We therefore, Madam Special Rapporteur, fully support your endeavour to develop universal indicators that complete the UN Rule of Law Indicators, and build on the UN Basic Principles on the Independence of the Judiciary, the Basic Principles on the Role of Lawyers, and the Guidelines on the Role of Prosecutors.

We further call upon States to ensure that national targets and indicators duly align with international indicators and international principles.

Thank you, Mr President"

The following organisations also endorsed the statement:

Avocats Sans Frontières -Suisse
Commonwealth Magistrates' and Judges' Association
Commonwealth Lawyers Association
International Bar Association's Human Rights Institute
International Commission of Jurists
Lawyers for Lawyers
Southern Africa Litigation Centre

Judges for Judges was as observer present at the meeting of the **European magistrates association [Medel](#)**. The following statement was adopted at the meeting:



Pisa, March 12, 2016.

medel declaration

Is Europe under Siege?

Dark clouds hang over Europe as threats to fundamental rights and freedoms arise from all countries and governments. In the last months, European governments – under the passivity of the European institutions – have carried out a series of measures aimed to destroy the basis of the rule of law.

[...]

3. *The attacks on the independence of justice in Poland, Romania and Turkey*

All over Europe, governments have been carrying out attacks against the independence of justice at a scale that not so long ago was unimaginable.

In Poland, the Constitutional Tribunal has been paralyzed through ignoring its rulings, amendments of the law, and factual actions of politicians. In this way the Tribunal has stopped to be an effective element of the system guaranteeing protection of human rights and the rule of law. Judgments of the Constitutional Tribunal must be promulgated and respected. The blockade of the Constitutional Tribunal does not allow for an urgent assessment of several laws adopted in the last few months by the Parliament which deeply interfere into, *inter alia*, the right to privacy, the freedom of media, and the administration of justice. The adopted *Law on the Police* has expanded significantly the powers of police and special services to conduct surveillance without sufficient safeguards for the protection of the right to privacy, journalistic sources and information covered by professional secrecy. Public media, which in a democratic society should be independent and pluralistic, have been placed under direct control of the government which has the powers to appoint and dismiss the members of the supervisory and management boards of public service television and radio. The merger of the position of the Minister of Justice with the Prosecutor General, combined with almost unlimited competence of interfering into any criminal proceedings can undermine the fundamental guarantees of division of powers and the fair trial.

In Romania, a general of the Romanian Intelligence Service (SRI) has admitted that the courts became “tactical fields” for this secret service, that all the judges are profiled using behavioural patterns and that this secret intelligence agency is currently “maintaining its interest/attention until a final court decision is reached in each case”. This raises serious concerns about the integrity of the judiciary system as a whole, as well as the independence of the judges. In almost a year since this scandal erupted, the Romanian authorities have failed to clarify the involvement of SRI in the judiciary process. The SRI Director stated publicly that this secret service agency is in partnership with the prosecutors to conduct criminal investigations, an activity that it is forbidden by the law. At the same time, invoking classified procedures and secret protocols, the Romanian authorities have failed to explain in a transparent way how they conducted the investigation to conclude that there are no undercover agents of any intelligence agencies among the magistrates. In the context that SRI is part of the criminal investigation and it is also involved in the courts, corroborated with the failure of authorities to clarify transparently these matters, this raises serious doubts about the respect for basic human rights and the guarantee of a fair and just trial of any person accused by the state. The most recent attacks to the Romanian Constitutional Court, for ruling unconstitutional the article used by prosecutors to delegate SRI to conduct acts of penal investigation, confirms that there is an unhealthy involvement of SRI in the judiciary process. The solution of the Romanian Government to fix this unconstitutional article in the law, by passing an emergency ordinance making SRI a “special organ” to conduct penal investigations, legalizes actually the involvement of a secret intelligence agency in the judiciary process which is undermining its independence. With SRI legally participating now in the penal investigation, and with SRI transforming the courts as their “tactical fields”, profiling judges and “maintaining their

interest/attention until a final court decision is been reached in each case”, Romania is violating the human rights, independence of the judiciary, rule of law and separation of power principles.

In Turkey, for over a year judges Metin Özçelik and Mustafa Başer and prosecutors Süleyman Bağrıyanık, Ahmed Karaca, Aziz Takçı and Özcan Şişman are in detention only because of their judgments and for their professional judicial activity (judges Özçelik and Başer because of release orders they issued for police officers involved in anti-corruption investigations; prosecutors Bağrıyanık, Karaca, Takçı, and Şişman for investigations against illegal arm-smuggling). Requests for visiting them by international observers were rejected and when a representative of MEDEL tried to attend a hearing as international observer, it was decided that the trial was to be continued *in camera*, raising strong doubts about the compliance of the proceedings with the international standards of transparency and respect for the rule of law.

All these situations are notorious attempts of the executive power to control the judiciary, violating severely the fundamental rights and freedoms. The access to an independent judiciary is a fundamental right of any citizen and one of the cornerstones of the rule of law – to violate it is to put at risk the basis of all European values and standards.

Is Europe is under siege? Yes, but not by migrants or asylum seekers – by policies that risk to destroy the basic freedoms and the rule of law on which Europe was built.

Taking into consideration that the EU needs the support of Turkey tackling the refugee crisis, MEDEL expects that the European Union makes no concessions to the authoritarian regime in Turkey in regard with the rule of law, state of liberties and human rights, which are the fundamental values upon which the European Union is based and must be respected also by Turkey, which applied to join the EU.

Particularly in times of crisis, we must not abandon our democratic, social and humanitarian achievements. MEDEL therefore is committed to joining forces in the spirit of tolerance, solidarity, democracy and the rule of law in Europe.

The Council of Administration of MEDEL, gathered in Pisa:

- **Supports a Europe that protects human dignity and provides prospects for a harmonious society and a dialogue on cultural, religious and social diversity and the creation of forums for people to come into contact with one another;**
- **Appeals for the rigorous prosecution of inhumane attacks by right-wing extremists on refugees and their accommodation, as well as on the police, the media, and volunteers;**
- **Recalls the urgent need for the definition of a clear and humane common policy for migrants and refugees;**
- **Calls on all European governments to immediately cease all attacks on individual liberties and fundamental rights;**
- **Demands full respect for the independence of the judiciary, mainly by the Polish government, and demands the immediate release of the detained Turkish colleagues and the immediate ceasing of any kind of interference of secret services in the judiciary in Romania.**

March 2016: Joint UPR statement IBAHRI

Human Rights Council, 31st session

Agenda Item 6: General Debate – Universal Periodic Review (18 March 2016)

Mr President,

The **International Bar Association’s Human Rights Institute (IBAHRI)** released this week its [report](#) on the ‘Role of the UPR in advancing human rights in the administration of justice’. The report assesses more than 38,000 recommendations made between 2008 and 2014 for references to the legal profession.

The report's key findings include:

UPR recommendations still insufficiently address the role of judges, lawyers and prosecutors, or the threats they face, as extensively documented by the **Special Rapporteur on the Independence of Judges and Lawyers**. Significantly, these recommendations often make no reference to relevant UN standards.

Recommendations relating to the independence of judges are often too vague to be an effective response to the shortcomings of any given jurisdiction. Serious issues in the appointment and removal of judges are mostly ignored.

The independence of lawyers was considered in fewer than 100 of the 38,000 **UPR recommendations**.

Prosecutorial independence is addressed in less than 10 per cent of the recommendations calling upon States to effectively investigate or prosecute rights violations.

Guarantees for legal professionals' rights to freedom of expression, assembly and association are barely addressed. This fails to reflect the key role that self-governing organisations of legal professionals should play in upholding human rights and the rule of law, the independence of the legal profession and law reform processes.



As international organisations of legal professionals, we foster the engagement of the legal profession in UN human rights mechanisms and in monitoring the implementation of UPR recommendations.

We call upon the **Human Rights Council**, as well as States, to ensure that in the third cycle of the UPR, the role of judges, lawyers, and prosecutors receives the heightened attention that it is due, as recognised by the UN Basic Principles on the independence of the judiciary, the UN Basic Principles on the role of lawyers and the UN Guidelines on the role of prosecutors.

Thank you, Mr President

The following organisations have endorsed this statement:

Commonwealth Magistrates' and Judges' Association
Commonwealth Lawyers Association
International Bar Association's Human Rights Institute
International Commission of Jurists
Judges for Judges
Lawyers for Lawyers
Southern Africa Litigation Centre

March 2016: Publication of Open letter of Yarsav (Turkish Association of Judges and Prosecutors): "THE LAST S.O.S CALL FROM FREE TURKISH JUDGES"

According to government controlled [daily newspaper \(Sabah\)](#) which functions as a mouthpiece and precursor of government attacks to the judiciary, the **High Council of Judges and Prosecutors** will suspend a total number of **680 judges and prosecutors** on the grounds of being members of "**Parallel Structure**" and "**Gülenists**". Ensuingly judges and prosecutors will be disbarred from profession and put on trial in a very short time. According to the news, although this number (5.000) is denied by HCJP, there are a total number of 5.000 judges and prosecutors who are being investigated and this will be the first step to disbar and try all of them.



This will be the greatest purge that we have ever seen and we know that without concrete evidence our colleagues and ourselves will be labeled as members of "Parallel Structure" and "Gülenist" and persecuted accordingly as it has happened to many of our colleagues previously.

| info@rechtshoorrechtshoor.nl | rechtshoorrechtshoor.nl | twitter.com/Judges4J | Postbus 95959, 2509 CZ Den Haag |
| Rekeningnr: 8071562 | IBAN/SEPA NL12INGB0008071562 | BIC/Swift code INGBNL2A, ING Bank, The Netherlands |
| KvK-nummer 27172198 |

As a first step there will be **120 administrative judges and 560 civil and criminal judges and prosecutors** most probably including many **members of our association "Turkish Association of Judges and Prosecutors"**.

According to said newspaper **the vice president of the Judicial council, Mr. Metin Yandirmaz**, told them that judicial leg of this parallel organization (a term which is coined by **President Erdoğan**), has 5.000 judges and prosecutors and they will all be dealt with step by step.

So far 14 judges and prosecutors were disbarred from profession, being put on trial, some arrested and 80 judges and prosecutors have been suspended under this pretext.

Executive's modus operandi is to make this kind of news in his own media firstly and after weighing reactions and see that there is not enough reaction he carries out his plans accordingly. We have seen this many times. It is obvious that this news is laying the groundwork for a huge purge.

This is the last chance of the contemporary world and international community that believe in democracy, fundamental rights and independence of judiciary to react strongly otherwise there will be a dictatorship on the doorsteps of Europe under your watch.

We, **Turkish Association of Judges and Prosecutors**, invite international institutions to react and stop executive's latest attempt to eradicate the last obstacle in front of it in order to establish a dictatorship within the boundaries of Turkey which will have detrimental effect on our region and Europe. This is the last chance to say stop this madness or in order to save today, tomorrow will be lost for all of us who wants to see peace in the region and Europe.

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.

Respectfully...

Murat Arslan
President of YARSAV (Turkish Association of Judges and Prosecutors)

February 2016: Trial observation regarding Turkish judges Baser and Öczelik



On **February 10th, 2016**, the former chair of Judges for Judges, Gerritjan Van Oven observed the second hearing in the criminal trial against the **judges Baser and Öczelik** in Ankara (Turkey).

Judges for Judges has been following their cases since their arrest and detention in May 2015 (see for more information: <http://www.rechtersvoorrechters.nl/judges-for-judges-concerned-by-the-arrest-and-ongoing-detention-of-two-turkish-judges/>).

IAJ Honorary President Mr. Gerhard Reissner observed the trial as well, he had been also present at the hearing of January 21st.

Although three days were earmarked for this trial, it was postponed after the first day. After motions of the defense lawyers concerning the competency of the court were denied earlier that day finally all the lawyers stepped down and the two accused judges remained without defense lawyers. Due to the type of the offenses the two judges are suspected of a defense lawyer is necessary, so the trial had to be adjourned. The prosecutor put forward a motion to keep the judges in detention. Both of them delivered in response a long and impressive argumentation showing why there is no legal basis to keep them in prison.



In spite of their arguments, after a break the court announced that the accused judges should remain in detention and that they had 15 days to reorganize their defense otherwise a court appointed defense counsel would be assigned.

The court also announced which witnesses the court is going to hear. The two accused judges made clear that they wanted to be present during the questioning of the witnesses and that they also want to have the possibility to ask them questions in order to defend themselves.

The court made it possible that the accused could see their families, which had traveled from Istanbul to **Ankara** to follow the hearing, among them the wife of defendant Öczelik, a medical doctor, who used to work for the Bezmialem Vakif University Hospital but who was fired without reasoning but right after the arrest of her husband and the couple's 5 year old son, who was probably for the same reason expelled from his kindergarten. The observers also had a short possibility to speak with the accused judges and their families.

The next hearing will take place March 14th, Judges for Judges plans to send an observer again.

[Judges for Judges has sent a trial observer on both March 14th and on May 30th, 2016. The case of the two judges has recently been back on trial on July 13th. The case is then held until September 7th, 2016. Our brief report of the trial on May 30th has been put on our Twitter account, a longer report will be published on our website at a later date.]

February 2016: News from Lesotho



Lawyers for Lawyers drew our attention to the situation in Lesotho, a little State in South Africa. A "hitlist" circulates containing the names of lawyers that defend causes the army opposes. For instance: soldiers that are detained for no clear reason. One of the lawyers on the list has indeed been murdered. We investigated the situation using our contacts in South Africa. We learned that in Lesotho judicial independence is also under heavy pressure. For instance, the president of the Court was dismissed and prosecuted, allegedly on tax related grounds. It is, however, crystal clear that this is a political action.

We informed the **Chief Justice of Lesotho** that we will support wherever and whenever needed. We received a grateful reaction in return. A fact finding mission may be set up this year in which Judges for Judges will participate. The possibility to attend procedures is under consideration, if and when the case against this President will be tried.

We will watch the situation closely, in cooperation with the **South African Southern Africa Litigation Centre (SALC)** and the **International Commission of Jurists (ICJ)**.

February 2016: Report on judiciary in Swaziland published: Justice Locked Out: Swaziland's Rule of Law Crisis

Judges for Judges participated in the International Fact Finding Mission in Swaziland (IFFM-SZ) held in May 2015 by the **ICJ**, in collaboration with the **Africa Judges and Jurists Forum (AJJF)** and the **Commonwealth Magistrates' and Judges' Association (CMJA)**.

On 18 February 2016 the report was [presented](#) that scrutinizes judicial independence and accountability in **Swaziland** and makes several findings and recommendations regarding the independence and accountability of the judiciary in the country. The mission was conducted at the backdrop of a number developments of concern for the independence and accountability of the judiciary in Swaziland.



The [report](#) observes that:

The Kingdom of Swaziland has a constitutional and legislative framework that does not respect the separation of powers or provide the necessary legal and institutional framework and safeguards to ensure the independence of the judiciary;

The former **Chief Justice Ramodibedi** failed to protect and defend the institutional independence of the judiciary;

The Executive failed to respect the independence of the judiciary; and
The failure to respect the independence of the judiciary by the Executive and the failure by the Chief Justice to defend the institutional independence of the judiciary created conditions conducive to abuse of the legal system for personal gain

Presenting the Mission's findings, the ICJ Africa Regional Programme Director, **Arnold Tsunga** urged the Crown, Judiciary, civil society and international community to collectively work towards the implementation of the recommendations to strengthen the institutional and structural independence of the judiciary thereby restoring citizen's and stakeholders confidence in the judiciary and the rule of law.

Registering or signing out for the newsletter

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] 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.

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!

For donations, our banking details are the following:

- Account number (ING Bank): 8071562
- Attn. Stichting Rechters voor Rechters
- IBAN/SEPA: NL12INGB0008071562
- BIC/Swift code: INGBNL2A



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