



Briefing with the UN Special Rapporteur on the Independence of Judges and Lawyers

Background notes on attending organisations

14 December 2023, 13:30 CET – 15:00 CET

The Commonwealth Magistrates' and Judges' Association

Founded in 1970, the CMJA's aims are:

- to promote the independence of the judiciaries in the Commonwealth;
- to advance education in the law, the administration of justice, the treatment of offenders and the prevention of crime in the Commonwealth;
- to disseminate information and literature on all matters of interest concerning the legal process within the various countries comprising the Commonwealth.

The CMJA is in a unique position being the only international judicial organisation bringing together judicial officers of all ranks and judicial bodies/associations and from all parts of the Commonwealth. The CMJA exists to support and inform the work of magistrates and judges and to promote democracy and good governance throughout the Commonwealth. We provide a forum for promoting the highest judicial standards at all levels through our training programmes, annual educational conferences and capacity building projects. For 50 years the CMJA has played a vital role in developing judicial standards and strengthening judicial independence and integrity and enhancing the rule of law across the Commonwealth. It is accredited to the Commonwealth. The CMJA acts as a watchdog when there are threats to judicial independence and integrity and co-operates with other organisations in promoting the implementation of the Commonwealth fundamental values, as expressed in the Commonwealth (Latimer House) Principles on the Accountability of and Relationship between the Three Branches of Government which form an integral part of the Commonwealth Charter.

Priority Issues

- Protecting Judicial Independence across the Commonwealth (including the promotion of implementation of the Commonwealth (Latimer House) Principles and Plans of Action);
- Monitoring compliance of governments with Commonwealth fundamental values in particular as they affect the independence, integrity and impartiality of the judiciary;
- Ensuring that judiciaries across the Commonwealth have adequate funding in line with the CMJA Principles on the Resourcing and Funding of the Judiciary in the Commonwealth.

Activities

- Training of judicial officers on different topics, Ethical Guidelines, Case Management, acting as coroners etc..

- Capacity building (such as development of sentencing guidelines, assistance with the development of court rules etc..)
- Working with other organisations in improving the treatment of offenders;
- Advocacy work with the Commonwealth Law Ministers and the Global Judicial Integrity Network;
- Education Conference on “Environmental Justice”, Kigali, Rwanda 8-12 September 2024.

Recommendations

States must continuously ensure that laws and regulations fully comply and implement with the UN Basic Principles on the Independence of the Judiciary, the UN Basic Principles on the Independence of Lawyers, the UN and the UN Guidelines on the Role of Prosecutors. We ask the Special Rapporteur to continue to advocate for their implementation, especially in the light of the continuous decline in the respect for the rule of law across the globe.

One of the main aims of the setting up of the Group was to urge the Human Rights Council to Special Rapporteur on the Independence of Judges and Lawyers and to ensure that the independence of lawyers and judges is taken into consideration in the Universal Periodic Review process as a matter of course. This is still an ongoing request.

Organisations like the CMJA and other members of the Group stand ready to assist with any requests regarding specific country issues that we deal with. We welcome this consultation and hope that further consultations will take place on a regular basis

Lawyers for Lawyers

Lawyers for Lawyers (L4L) is an independent, non-political and not-for-profit lawyers’ organisation established in 1986. Our mission is to promote the independent functioning of lawyers and the legal profession across the world in accordance with internationally recognized norms and standards. Our work to support lawyers who are at risk as a result of discharging their professional duties, seeks to protect them from threats, risks and reprisals; strengthen their international recognition and protection in laws, policies and practices; and empower them to fulfil their role as essential agents of the administration of Justice. Lawyers for Lawyers was granted special consultative status with the UN Economic and Social Council in July 2013.

Priority issues and activities

- Defend — L4L aims to prevent, mitigate, and end threats faced by lawyers through tailor-made support, [trial monitoring missions](#), and advocacy. This includes actions for specific cases of impunity as well as setting up collaborative [solidarity campaigns](#).
- Empower – L4L seeks to encourage bar associations and lawyers to fulfil their role as agents of the rule of law, upholding human rights and fundamental freedoms, by sharing best practices and [tools](#), organising interactive [trainings](#) on international human rights, and facilitating knowledge exchange between international and national bar associations.
- Influence – L4L lobbies international bodies to advocate for standards, resolutions, and recommendations that strengthen the independence and safety of lawyers. This also includes the promotion of legal recourse mechanisms or, if necessary, the amendment of laws to safeguard independence.

Recommendations:

It is of fundamental importance that States respect and uphold the UN Basic Principles on the Role of the Lawyers to guarantee lawyers the free and independent exercise of their profession, without unwarranted interference of any kind. L4L therefore asks the Special Rapporteur to continue to address this and put lawyers on the agenda of the Human Rights Council.

In particular, L4L requests the Special Rapporteur to investigate and condemn the widespread surveillance of lawyers and its detrimental effects on the rule of law and human rights of both lawyers

and clients, as described in the [L4L report](#) on Legal Professional Privilege and Confidentiality (LPPC). L4L invites the Special Rapporteur to:

- document the scale and depth of LPPC breaches and resultant human rights violations;
- encourage States to enhance LPPC protection in their respective jurisdictions;
- research under which circumstances a breach of LPPC is, or should be, considered justified;
- recognise LPPC violations caused by (digital) surveillance as a major threat to the free and independent exercise of the legal profession as well as the proper functioning of the rule of law.

The Geneva Bar Association (Ordre des avocats de Genève)

The Geneva Bar Association (GBA) is a private-law association that represents the legal profession in Geneva, Switzerland and abroad.

The GBA defends and represents the interests of the profession with a strong focus on the defense of the rule of law and lawyers in danger (“défense de la défense”). Among others, the GBA is an active member of the International Observatory for Lawyers in Danger (IOLAD), the Ludovic Trarieux International Human Rights Prize and the Foundation for the Day of the Lawyer in Danger. The actions of the GBA are based on the United Nations Basic Principles on the Role of Lawyers and can be summarised as follows:

- Support for colleagues practising abroad when the exercise of their profession puts them at risk, through a "Rapid Response Mechanism" whereby the GBA calls on the Swiss or foreign authorities;
- Hosting and meeting colleagues practising abroad in Geneva as part of training and exchange programmes;
- Training, observation or legal action missions abroad.

Priorities

- Protection of the independence of the legal profession in relation to international sanctions – fight against the prohibition of legal services: The EU and Switzerland have issued a prohibition on legal services whereby EU and Swiss lawyers are prohibited to provide advisory services to Russian companies. This prohibition is unprecedented and is a breach of the rule of law, the independence of the legal professional and lawyers' professional secrecy. The Belgian and Paris Bars have appealed against this prohibition before the EU courts and the GBA is intervening in the proceedings in support of the request for annulment. The GBA and other bar associations intend to refer to the Special Rapporteur in the very near future, with a view to having the prohibitions on providing legal advice in Switzerland and the EU examined considering the infringements of (i) access to the law, (ii) respect for professional secrecy and (iii) the lawyers' independence.
- Offer the GBA as a platform of exchange and collaboration for the protection of lawyers in danger with the UN bodies present in Geneva and colleagues abroad

Ukrainian Bar Association

Since its establishment in 2002, the main objective of the Ukrainian Bar Association (UBA, Association) has been to strengthen the rule of law in Ukraine, promote the protection of human rights, and development of the legal profession. The Association unites 7,000+ members of various legal specialties, has 23 regional branches in and 27 specialized committees. The latest annual report on the activities of the UBA (for 2022) can be viewed at the [link](#).

From the very beginning of the full-scale invasion of the Russian Federation (RF) into Ukraine on February 24, 2022, opposing aggression on the legal front became the main UBA's priority. Acting on behalf of the legal community of Ukraine, the UBA succeeded in synchronizing the efforts of Ukrainian

lawyers and international /foreign legal associations, thus forming a united legal front. UBA became the legal voice of Ukraine abroad and called for the immediate introduction of economic and financial sanctions against the RF and Belarus, advocating the establishment of the Special Tribunal for the Crime of Aggression Against Ukraine, supporting national authorities in ensuring accountability at the national level and collecting evidence of war crimes, etc.

Key activities:

- In December, 2023, UBA published a report on monitoring of trial proceedings in war crimes cases. The report identifies a number of possible shortcomings of practice of Ukrainian courts. For example, 44 (100%) analyzed court decisions in war crimes cases are guilty verdicts. Not a single acquittal verdict was delivered. The monitoring also revealed great pressure by society on defense attorneys who defend those accused of war crimes cases. Thus, this project demonstrates importance of strengthening independence of judges, prosecutors and defense attorneys in this category of cases.
- Comprehensive support to the bar reform and development of the legal profession in Ukraine. The justice sector reform as of 2014 included vast-scale judiciary and prosecution system reforms. However, the reform of the bar was left out. Consequently, a number of flaws continue to persist. For example, the issues of access to the profession, disciplinary liability of advocates, regional self-governance of advocates and others need to be addressed. The UBA supports legislative initiatives/policy development activities and conducts events on the subject.

Recommendations:

- Draw the attention of Ukrainian authorities to the importance of ensuring – via professional education, awareness raising and communication activities – independence of lawyers (be it judges, prosecutors or defense attorneys) involved in war crimes investigation in trials. Such lawyers should not be ostracized for performing their professional duties, for example defending Russian soldiers, or delivering non-guilty verdicts.
- To urge Ukrainian authorities to implement the reform of the bar in line with international standards and by means of transparent and inclusive dialogue with all stakeholders, including civil society.

Commonwealth Lawyers Association

Who we are: the CLA is an international non-profit membership organisation, which exists to promote and maintain the rule of law throughout the Commonwealth by ensuring that an independent and efficient legal profession, with the highest standards of ethics and integrity, serves the people of the Commonwealth. Lawyers share substantial common ground in their legal systems, education and practice and have much to learn from the comparative experience of other Commonwealth countries. <https://www.commonwealthlawyers.com/>

Events: CLA is the convenor of the Commonwealth Law Conference (CLC) held biennially. In Goa in March 2023 this included a Bar Leaders Forum at which over 40 Commonwealth countries were represented. Bar Leaders agreed the following declaration: <https://www.commonwealthlawyers.com/cla/preserving-and-strengthening-the-independence-of-the-judiciary-and-on-ensuring-the-independence-of-the-legal-profession/>

The next full CLC will be held in Matla 6-10th April 2025 and we have an interim event in Kota Kinabalu in February 2024: <https://web-eur.cvent.com/event/240ab573-ec20-4ef6-b524-643acfc6a953/summary?RefId=BorneoRainforest>

Statements on the independence of the judiciary and attacks on the legal profession: noting that the CLA makes regular statements, often with sister Commonwealth accredited organisations on the independence of the judiciary. <https://www.commonwealthlawyers.com/statements/>

Of particular concern: the situation in Kiribati. The CLA has made representation to the Tribunal into the conduct of Judge David Lambourne for permission to act as observers in the proceedings and we await response. We continue to work closely with the Commonwealth Magistrates & Judges Association (CMJA) to keep a watching brief on the grave circumstances that exist for the Rule of Law in Kiribati without properly functioning and independent courts.

International Association of Judges

The International Association of Judges was founded in Salzburg (Austria) in 1953. It is a professional, non-political, international organisation, bringing together national associations of judges, not individual judges, approved by the Central Council for admission to the Association.

The main aim of the Association is to safeguard the independence of the judiciary, which is an essential requirement of the judicial function, guaranteeing human rights and freedom.

The organization currently encompasses 92 such national associations or representative groups, from five Continents.

The International Association of Judges is organised in four Regional Groups (EAJ, IBA, AG, ANAO) and has four Study Commissions which are dealing with topics, Independence and organization of justice (I com), Civil law (II Com), Criminal law (III Com) and Labor law (IV com).

All relevant information can be found on IAJ website :www.iaj-uim.org .

Law Council of Australia

The Law Council of Australia (Law Council) is the peak national representative body of the Australian legal profession.

The Law Council of Australia represents the legal profession at the national level; speaks on behalf of its Constituent Bodies on federal, national, and international issues; promotes and defends the rule of law; and promotes the administration of justice, access to justice, and general improvement of the law.

The Law Council is a federal organisation representing 90,000 Australian lawyers through their bar associations and law societies and Law Firms Australia (the Constituent Bodies).

Our History: For almost 90 years the Law Council of Australia has worked in the interests of Australia's lawyers and the Australian community. The Law Council of Australia was created in 1933 as the peak national body representing the legal profession. Existing state and territory legal professions recognised the need for a united front on a national level that could represent their interests to the Federal Government. They also recognised the value in having a national body which could add its weight in support of the state and territory representative organisations on issues of concern to them.

Our Role: The Law Council of Australia represents the legal profession at the national level; speaks on behalf of its Constituent Bodies on federal, national, and international issues; and promotes the administration of justice, access to justice, and general improvement of the law.

The Law Council advises governments, courts, and federal agencies on ways in which the law and the justice system can be improved for the benefit of the community. The Law Council also represents the Australian legal profession internationally, and maintains close relationships with legal professional bodies throughout the world. The Law Council represents its Constituent Bodies: 16

Australian State and Territory law societies and bar associations, and Law Firms Australia. The Law Council's Constituent Bodies are:

- Australian Capital Territory Bar Association
- Law Society of the Australian Capital Territory
- New South Wales Bar Association
- Law Society of New South Wales
- Northern Territory Bar Association
- Law Society Northern Territory
- Bar Association of Queensland
- Queensland Law Society
- South Australian Bar Association
- Law Society of South Australia
- Tasmanian Bar
- Law Society of Tasmania
- The Victorian Bar Incorporated
- Law Institute of Victoria
- Western Australian Bar Association
- Law Society of Western Australia
- Law Firms Australia

Through this representation, the Law Council acts on behalf of more than 90,000 Australian lawyers. Through its specialist Sections, working groups, standing and ad-hoc committees, the Law Council provides interest groups and professional development opportunities for lawyers across a variety of specialised areas of law.

Bar Human Rights Committee of England and Wales

BHRC is an independent and non-political body of barristers called to the Bar of England and Wales, dedicated to promoting principles of justice and respect for fundamental human rights through the rule of law.

Our vision is for a world in which human rights are universally protected, through every government and state actor's adherence to international law obligations and internationally-agreed norms.

BHRC members are barristers called to the Bar of England and Wales, pupil barristers, legal academics or law students. Our members include some of the UK's foremost human rights barristers, legal practitioners and academics. Our members offer their services pro bono, alongside their independent legal practices, teaching commitments and legal studies.

BHRC elects an Executive Committee every two years to lead on the policy, strategy and delivery of our work. They are supported by a full-time Project Officer, part-time Administrative Assistant and an Advisory Board. BHRC's Constitution was adopted in 1996 and amended in 2009, 2013 and 2015.

BHRC focuses on four key and ongoing objectives reflecting its strategic priorities:

- Upholding the rule of law and internationally recognised human rights norms and standards, with particular focus on the right to peaceful protest, which has come under acute strain, and on atrocity crimes.
- Protecting and supporting practising lawyers, judges, and human rights defenders, with particular focus on the shrinking space for civil society.
- Promoting knowledge and interest in human rights law and practice through training programmes, workshops and events, which have been almost entirely conducted remotely owing to the pandemic; and

- Supporting and collaborating with other organisations and individuals working for the promotion and protection of human rights and the rule of law, through creative and persistent use of technology, outreach, and partnerships.

These objectives have translated into work in which BHRC has developed expertise and strong relationships on the ground, in the following core areas of focus.

Lawyers' Rights Watch Canada

Lawyers Rights Watch Canada (LRWC) is a committee of Canadian lawyers who promote human rights and the rule of law by providing support internationally to human rights defenders in danger. LRWC promotes the implementation and enforcement of international standards designed to protect the independence and security of human rights defenders around the world. In its work, LRWC:

- Campaigns for lawyers whose rights, freedoms or independence are threatened as a result of their human rights advocacy;
- Produces legal analyses of national and international laws and standards relevant to human rights abuses against lawyers and other human rights defenders; and
- Works in cooperation with other human rights organizations.

Around the world, lawyers and others who defend human rights are often singled out as targets of repression, much of which is perpetrated by governments or government-controlled agencies. Criminal offences against human rights defenders occur with alarming frequency. In addition, authorities use existing laws and legal procedures to prosecute or otherwise intimidate advocates representing unpopular clients or causes, often in violation of international standards. Methods used to silence intimidate or punish advocates are often illegal pursuant to the law of the state itself.

LRWC seeks to identify illegal actions against advocates, campaign for the cessation of such actions, and lobby for the implementation of effective immediate and long-term remedies.

LRWC was incorporated as a non-profit society on June 8, 2000 and Lawyers' Rights Watch (Legal Research) Canada – LRW(LR)C – was incorporated January 2, 2002, pursuant to the provisions of the Canada Corporations Act. LRWC is run by volunteers and funded solely by membership fees and donations from individuals. Donations are needed for the continuation of this work.

Judges for Judges

Established in 1999, Dutch Foundation Rechters voor Rechters (Judges for Judges) is an independent and non-political foundation set up by judges to support fellow judges abroad who have run into problems or risk problems on account of their professional practice. These problems are mostly related to (presumed) violation of their professional independence. J4J also concerns itself with judges, who have been discharged for disturbing reasons, have been arrested and imprisoned, put under pressure, are threatened or even assassinated.

See our website for our activities : www.rechtersvoorrechters.nl

Priorities:

- As we are small and with limited means but flexible, we decide on short term basis if we think our foundation could be effective (often but not exclusively in cooperation with others) in supporting fellow judges abroad. One priority we would like to mention though is that we (together with the platform for Turkey) will try to ensure an effective defence for Turkish judge [Murat Arslan](#) (detained since October 2016 and sentenced to 10 years imprisonment) as soon as he will bring his case to the ECHR.

Recommendations:

- We would like to explore ways how we could support persecuted Afghan (female) judges in relocating with their families to safe countries.

- We would like to draw your attention to the fact that on 20 December 2023, the Hof van Justitie, the highest court in Suriname, is expected to issue its final decision in the appeal by former president Desi Bouterse against his conviction for the 1982 murders of 15 political prisoners. That a final decision will be delivered, after so many delays and detours, is not only a tribute to , the perseverance of the victims’ families but also to the courage and independence of Surinamese judges and the resilience of the rule of law. (see for background: [Suriname | Region and country | International Commission of Jurists \(icj.org\)](#))
- We would also recommend you to find ways to keep the ongoing Rule of Law crisis and the undermining of the independence of the judiciary in Turkey on the agenda of the Human Rights Council.
- Support the call for adequate security for and protection of justice operators in Colombia as the State must protect the judiciary. J4J was part of the Colombia Caravana 2022 (Confronting impunity: protect lawyers and judicial independence): [NEWS: Spanish Report of VII Caravana available : Haciendo Frente a la Impunidad: Protección para la Abogacía y la Independencia judicial - colombiancaravana.org.uk](#)
- We would also like to draw your attention to the fact that the EU General Court in Luxembourg will hear (probably beginning of 2024) the arguments on the substance of the Rule of Law Lawsuit against the Polish Recovery and Resilience Plan. On 28 August 2022, the four European judges’ organisations (Association of European Administrative Judges (AEAJ), the European Association of Judges (EAJ, a regional branch of the International Association of Judges – IAJ), Rechteren voor Rechteren (Judges for Judges), and Magistrats Européens pour la Démocratie et les Libertés (MEDEL) filed lawsuits in the EU General Court for annulment of the Council’s approval of the Polish Recovery and Resilience Plan (“RRP”).The judges’ organisations argue that the RRP contains inadequate safeguards (so-called “milestones”) regarding the rule of law.
- (as CMJA) To ensure that the independence of lawyers and judges is taken into consideration in the Universal Periodic Review process as a matter of course.
- Support to name January 11th* “International Day of Judicial Independence – 1000 Robes March” to mark the daily brave and peaceful call of judges for an independent judiciary which all citizens of the world are entitled to.

* On January 11th, 2020, members of the judicial profession from 22 European countries participated in the “1000 Robes March” in Warsaw together with 30 000 supportive citizens. The immediate reason for the organisation of this march was the adoption of the Muzzle Act by Poland, a law that fundamentally undermines international standards of independence of judiciary and especially United Nations Basic Principles on the Independence of the Judiciary.