

United Nations Human Rights Council  
26<sup>th</sup> Regular Session, 10 to 27 June 2014  
Agenda Item 3

**Oral Statement of International Commission of Jurists (ICJ) in the Clustered  
Interactive Dialogue with the Special Rapporteur on independence of judges and  
lawyers and Special Rapporteur on Migrants**

**INDEPENDENCE OF THE JUDICIARY IN THE RUSSIAN FEDERATION, AND THE  
CASES OF JUDGE AFIUNI IN VENEZUELA AND LAWYER THULANI MASEKO IN  
SWAZILAND**

16 June 2014

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Madam Special Rapporteur,

The ICJ welcomes the report of your visit to the Russian Federation. The report highlights weaknesses in the Russian judicial system, which are at the root of systemic human rights violations, including arbitrary detention and unfair trial.

Reforms to support the development of a strong and independent judiciary in Russia are of the utmost importance. Although some progress has been made in legal and institutional reforms, advances remain extremely fragile and are threatened by corruption, undue influence, and recent potentially regressive legislative measures. The greatest obstacle is a pervasive mind-set amongst judges who see themselves as executive officials rather than as exercising an autonomous judicial role.

The ICJ shares your concern at the large number of judges dismissed every year in Russia. Underlying problems, in particular improper influence often wielded by Court Presidents in this process, were analysed in a 2012 ICJ report, *Securing Justice: the Disciplinary System for Judges in the Russian Federation*.

The ICJ also agrees that reform of the selection and appointment system for judges must be a priority. In May, an ICJ mission to Russia investigated the selection, appointment and promotion of judges. It found that the processes established in law can in practice be manipulated to ensure the appointment of candidates favoured by executive or other interests, and that law enforcement agencies have significant and inappropriate influence in the process.

As you noted, the Supreme Court and High Arbitration Court are being merged into a new unified Supreme Court for the Russian Federation. Existing judges must apply for re-appointment through a specially established procedure and not all will be retained. The relevant selection criteria are not prescribed by law or published guidance, remain unclear, and may be arbitrary. It has been reliably reported to the ICJ that individuals will face exclusion merely for having a relative living abroad, or having a relative who is a judge, prosecutor or lawyer. The merger must not be permitted to result in the loss of good practices introduced by the High Arbitration Court.

Finally, the ICJ would like to commend you for your attention to the case of Judge María Lourdes Afiuni from Venezuela. Her case is emblematic of the weak state of the rule of law in the country, documented in an ICJ report published ten days ago. After lengthy arbitrary detention and gross human rights abuses, she remains enmeshed in a seemingly endless criminal procedure, targeted solely for having duly performed her functions as a judge by ending a detention recognised as arbitrary by the Working Group on Arbitrary Detention. We thank you too for the joint statement of concern you issued last week about human rights lawyer Thulani Maseko and journalist Bheki Makhubu, who are under arbitrary detention and unfair trial in Swaziland, and would invite you to elaborate.

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