



Union Internationale des Avocats  
International Association of Lawyers  
Unión Internacional de Abogados

“Rassembler les avocats du monde • Bringing Together the World's Lawyers • Reunir a los abogados del mundo”

**INTERNATIONAL ASSOCIATION OF LAWYERS  
(UIA – UNION INTERNATIONALE DES AVOCATS)**

***UIA-IROL (Institute for the Rule of Law)  
Protection of Lawyers Department***

***Report on cases monitored  
2015-2016***

**With the support of the**



FONDATION MAGNACARTA

## **INTRODUCTION**

Between November 2015 and October 2016, the UIA-IROL's Human Rights and Protection of Lawyers Committee addressed the following situations within the context of "Protection of Lawyers"<sup>1</sup>:

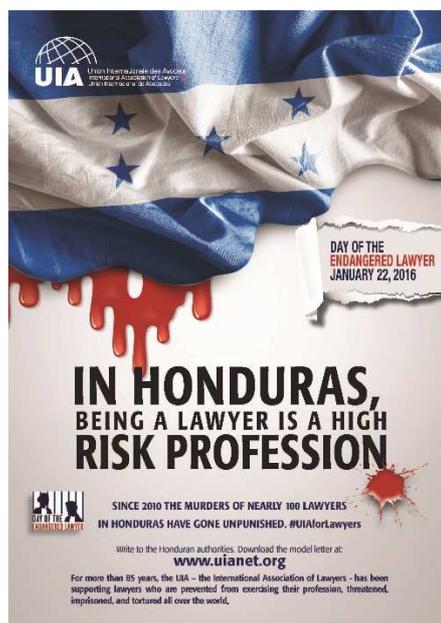
- a) Repeated and improper application and manipulation of systems in charge of granting and renewing professional licenses against lawyers, especially those involved in the defence of human rights and in sensitive cases.
- b) Judicial harassment, combined with the identification of lawyers with their clients or the cause/case of their clients, either by the authorities or the public, especially when dealing with sensitive cases (terrorism, corruption, drug trafficking). For example, the use of anti-terrorism laws, in particular, is a repressive tool widely used against lawyers, whereby, interpreting these provisions broadly, the authorities go so far as to criminalise behaviours that are legitimately related to the defence of clients.
- c) Attacks on the immunity of pleading, through disciplinary, civil and/or criminal proceedings, in particular by characterizing comments made by lawyers in the defence of their clients as defamatory and/or by prosecuting lawyers for "contempt of court" for making comments.
- d) Attacks on the freedom of expression of lawyers, in particular through restrictions or sanctions on the use of the media and/or social networks to denounce human rights violations and malfunctions in the justice system; such measures are frequently used and increasingly so when elections approach.
- e) The use of smear campaigns against the work done by lawyers, especially when their actions are intended to publicise mass violations of human rights or when their mode of action is through the use of international systems for the protection of human rights.
- f) The failure to implement adequate measures of protection for lawyers facing threats, despite binding decisions requiring such protections.
- g) Interference with the independence of bar associations via attacks against their Presidents, the establishment of parallel bars or the adoption of legislation to control the composition of membership and management and their activities.

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<sup>1</sup> This report is therefore not related to other UIA activities in the human rights field

## I. AWARENESS-BUILDING, ADVOCACY and MOBILISATION ACTIVITIES

### A. HONDURAS – January 22, 2016 – Day of the Endangered Lawyer



Since the 2009 coup d'état, serious human rights violations, committed on a large scale, have strongly affected the Honduran people. The lack of an appropriate response from the government, given the gravity of the situation, has been widely condemned by the United Nations and the Inter-American Commission on Human Rights.

Lawyers, too, have been victimized by this situation. As the National Human Rights Commission (known in Spanish as CONADEH) often recalls, the practice of law itself generates risks.

According to the NHRC's data, at least 115 cases of violent death of law professionals (lawyers, judges and public prosecutors) have been recorded, and at least two lawyers seek the Bar's protection every day<sup>2</sup>. The Special Rapporteurs of the UN and IACHR recently stated that Honduras had become one of the most dangerous countries for human rights activists<sup>3</sup>.

The vast majority of these murders were committed with a firearm, and in more than 90% of the cases the perpetrator or perpetrators of these crimes remain unpunished, most often due to omissions and/or failures in the investigation.

There are diverse causes of these crimes. A lawyer is often held responsible for the malfunctioning of the justice system or simply because the judge ruled in favour of the opposing party. Professional failures are also considered valid grounds for attacks.

<sup>2</sup><http://conadeh.hn/conadeh-cah-definen-estrategias-para-combatir-la-impunidad-y-evitar-nuevas-tragedias-contra-abogados/>

<sup>3</sup><http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=20397&LangID=E>

The gravity of the condition of lawyers in Honduras drew the attention of the organisers of the Day of the Endangered Lawyer<sup>4</sup>, who dedicated the day in 2016 to Honduras. Meetings with the authorities made it possible to start a dialogue. Specific support methods need to be put in place, since the current priority for lawyers is to get training for the protection of their physical and mental integrity.

It is essential today for the authorities to abide by their obligations, especially by adopting measures for the implementation of the 2015 Act, which included provisions mandating the protection of human rights activists, journalists, broadcasters and others working in the justice system.

The UIA, which has supported the Day of the Endangered Lawyer since its inception, has actively mobilised around this event by:

- Creating a poster that was used by most of the organisations participating in the event
- Asking to meet the Honduran authorities in Paris
- Sending calls to action to its individual and collective members
- Organizing an online petition
- Publishing an article on January 22 in the Honduran newspaper, *La Tribuna*, aimed at raising public awareness about the situation of lawyers in the country.
- Launching a brainstorming process on long-term support for Honduran lawyers.



<sup>4</sup> The Day of the Endangered Lawyer is a call to all European lawyers to protest in their robes in front of the embassy of the country in which lawyers are facing threats because of their professional practice. The country targeted is chosen every year in accordance with different criteria, including the topicality and magnitude of the threat. The Day has been organised 5 times at the initiative of the European Democratic Lawyers Association (AED - EDL).

## B. SAUDI ARABIA: WALEED ABU AL KHAIR (see below also, Point II)



Waleed Abu Al-Khair, the recipient of the 2015 Ludovic Trarieux Prize, is a human rights defender, a lawyer by training, and the Director of the Monitor of Human Rights in Saudi Arabia.

Since March 2012, Waleed Abu Al-Khair has been continuously targeted by the Saudi authorities<sup>5</sup>. The Saudi government refused to register his association and also rejected his application for registration as a lawyer. However, as permitted by Saudi law, he represented numerous clients in court, including:

- Samar Badawi, imprisoned in 2010 for disobeying her father; she is one of the most well-known activists for the equality of women in Saudi Arabia. In 2012, she received the International Women of Courage Award, sponsored by the Secretary of State of the United States. She later became the wife of Mr. Abu Al-Khair.
- Abd al-Rahman al-Shumairi, a retired teacher, was among the "Jeddah reformers," a group of a dozen people known for their public statements calling for political reforms and the respect of human rights in Saudi Arabia, arrested in 2007 for having "raised money for terrorism."
- Raif Badawi, a famous Saudi blogger, sentenced in May 2014 to ten years in prison, 1,000 lashes and a fine of 1 million Saudi Riyals for allegedly insulting religious leaders by creating and administering a website.

Like other international organisations, the UIA has been following this case with great commitment and has engaged in significant advocacy for the release of Waleed Abu Al Khair. It is in regular contact with his lawyer and seeks changes to the position adopted by Saudi authorities. Saudi authorities have not yet responded to the UIA's appeals. The UIA hopes to send a mission to Saudi Arabia and to meet with members of the government as well as civil authorities in charge of human rights in order to address the UIA's human rights concerns.

<sup>5</sup> In 2012, the Saudi Interior Minister confirmed its previously-imposed ban on travel by Mr. Waleed Abu Al Khair. The measure was allegedly dictated by "reasons of security."

## **II. MONITORING OF CASES AND SUPPORT TO BARS AND LAWYERS ON THE GROUND**

### **AFRICA**

#### **1. ANGOLA**

##### ***Arrest of Mr. Arão Bula Tempo***

On October 22, 2015, Mr. Arão Bula Tempo, a lawyer and President of the Provincial Council of the Bar Association of Angola in Cabinda, was charged with attempting to "collaborate with foreigners to force the Angolan State" (maximum penalty of 5 years in prison) and with rebellion (maximum penalty of 12 years in prison). The two charges were categorised as crimes against State security.

He was arrested on March 14, 2015 and was granted a conditional release two months later.

At the start of the proceedings, he was alleged to have invited journalists from the Republic of Congo to cover a peaceful demonstration – which he had helped to organise – against what organisers saw as poor governance and corruption.

On March 6, 2015, in his inaugural speech as President of the Provincial Council of the Bar, Mr. Arão Bula Tempo had stressed the necessity of independence for lawyers in Cabinda and in other regions of the country.

The UIA has written repeatedly to the Angolan National Bar Leader to inform him that it was actively monitoring his case.

On July 11, 2016 the Provincial Court of Cabinda dropped the charges against Mr. Arão Bula Tempo for lack of evidence. Throughout the proceedings, Mr. Arão Bula Tempo had received direct support from the Cabinda Bar.

#### **2. BURKINA FASO**

##### ***Prosecution of former Bar President Mamadou Traoré***

On April 25, 2016, the former Burkina Faso Bar Leader, Mamadou Traoré, was arrested in Ouagadougou. He was incarcerated in the Army Remand Home (MACA – “Maison d'arrêt de correction des armées”), following the hearing.

Mr. Traoré was charged by the military investigating judge with "endangering State security", "complicity in undermining State security," "intentional assault and battery, complicity to intentional assault and battery". The facts underlying the accusations were related to the failed September 2015 coup d'état.

The procedural lapses that had occurred, in particular during Mr. Traoré's arrest, were denounced, especially by the Conference of Bar Associations of the West African Economic and Monetary Union (WAEMU), which noted that mandatory consultation with the Bar President did not take place before the arrest.

Mr. Traoré was released on bail on June 6, 2016. The UIA shall continue to monitor this case carefully.

### **3. KENYA**

#### ***Murder of the lawyer, Willie Kimani***

Mr. Willie Kimani, a lawyer with the NGO, International Justice Mission, Josphat Mwendwa, one of his clients, and their taxi driver were found dead in a river 73 kilometres northeast of Nairobi. The three men had disappeared on June 23, 2016, just after a court hearing in Mavoko, about 60 kilometres southeast of Nairobi. They were said to have been abducted by agents of the administrative police.

Willie Kimani was representing Mr. Mwenda, who had filed a complaint against a Kenyan police officer for harassment.

Mr. Kimani had defended many political prisoners and victims of government abuse in Kenya.

The UIA sent a letter to the Law Society of Kenya (LSK) to express its solidarity with the victims and the LSK members, and to support the actions undertaken by the representatives of the profession.

In August 2016, the Nairobi High Court concluded that Willie Kimani and the other two men had actually been victims of enforced disappearance, before being killed by the police. Four police officers were prosecuted for murder.

### **4. DEMOCRATIC REPUBLIC OF CONGO**

#### ***Assassination of Mr. Jean Kisumbule Muteba***

On February 20, 2016, Mr. Jean Kisumbule Muteba, a lawyer with the Bar of Kinshasa/Gombe, was murdered in front of his family by unidentified persons in the municipality of Bandalungwa in Kinshasa. The exact reasons for the murder are still unknown.

The UIA sent a letter to Mr. Edouard Mukendi Kalambayi, the Kinshasa/Gombe Bar President, expressing its support for the appeal he had made to the competent authorities so that all possible light be shed on the crime of Mr. Kisumbule Muteba's murder.

On March 2, 2016, many lawyers took part in a peaceful protest march, denouncing the insecurity to which they were exposed in the practice of their profession. On this occasion, Bar President Mukendi Kalambayi publicly announced a number of commitments made by the Congolese authorities, concerning both the investigation and prosecution of the perpetrators of Mr. Kisumbule Muteba's murder and the adoption of measures to raise awareness about the profession and ensure some security to lawyers facing threats.

## AMERICAS

### 1. COLOMBIA

#### ***Mission to support human rights lawyers: Colombian Caravana***

As it has been doing since 2010, UIA, represented by the lawyer, Max Adam Romero, participated in the 5<sup>th</sup> edition of the *Caravana de Juristas* (Colombian Caravana). The Caravana travelled to Colombia from August 20-28, 2016 to monitor the situation of Colombian lawyers, who continue to be murdered in increasing numbers.

53 delegates from fifteen different nationalities travelled to Colombia and visited the cities of Barranquilla, Bucaramanga, Cali, Cartagena, Tumaco, Cucuta and Medellin. There, the Caravana met with human rights activists, victims' collectives – sometimes from minority groups – representatives of Colombian official bodies and national and foreign authorities to assess the human rights situation in the country, paying special attention to the difficulties faced by the legal profession. The issue of prison conditions was also a focus of the visit. The context in which the 2016 Caravan took place was of additional interest in light of the peace agreement that had been negotiated with the FARC.

The UIA's representative, Mr. Romero, was assigned to the town of Tumaco, in south-western Colombia, near the border with Ecuador. Several issues were raised in the course of the various meetings held. Among them were the following:

- The shortcomings of the system of protection set up by the institutions.
- The lack of resources invested in the justice system, which was functioning at a slow pace and where overworked staff often worked under external pressures.
- The widespread distrust of the victims by the authorities and government institutions, resulting, in particular, from a very high rate of impunity and the fact that even when proceedings did take place, the conviction rate was very low.
- The growing number of internally displaced persons fleeing growing violence from illegal armed groups.
- The details of the violence suffered by vulnerable groups and minorities.
- Deplorable prison conditions, where convicts and defendants are mixed together, overcrowded cells, and pre-trial detentions that can last more than four years.
- Drug trafficking as a social model of success for a portion of the population.
- The peace agreement that unfortunately was perceived with suspicion by much of the population.

In Bogotá, the Caravana met with the Colombian authorities, representatives of embassies and the European delegation to inform them of the concerns identified during the regional visits.

To learn more about UIA's participation in the 2016 edition of the Caravana and the conclusions reached as a result of the visit, look for a report available on the UIA website.

## 2. VENEZUELA

### ***Murder of the lawyer, Héctor Sánchez Lozada***

The lawyer, Héctor Sánchez Lozada, was murdered on January 22, 2016 in the city of Maturin in Monagas state. He was on his way to visit one of his clients. To date, the perpetrators and motive for the murder remain unknown.

Mr. Sánchez Lozada was a lawyer and human rights defender and was part of the National Human Rights Commission of the National Federation of Bar Associations of Venezuela.

## ASIA

### 1. SAUDI ARABIA

#### ***Arrest and detention of Waleed Abu Al Khair (also see above, Point I, B)***

On July 6, 2014, Waleed Abu Al Khair was sentenced to 15 years in prison (including a 5 year suspended sentence) for, in particular, "attempting to overthrow the State and the authority of the King"; "criticism and insults against the judicial system" and "gathering of international organisations against the Kingdom." The suspension was removed by a subsequent decision, and on February 15, 2015, the Riyadh Specialised Court of Appeal upheld his sentence.

During his detention, Waleed Abu Al-Khair has been transferred repeatedly, and is now in a prison far from his family. He has been deprived of sleep, placed in solitary confinement and has had difficulty communicating with the outside world, including with his lawyer. On June 7, 2016 he began a hunger strike to protest against his prison conditions. Five days later, he stopped the protest measures after the prison officials promised some improvements, including granting him access to the hospital and the right to visit the prison library daily.

The arbitrary nature of Waleed Abu Al-Khair's detention was confirmed by the United Nations Working Group on Arbitrary Detention in November 2015.

### 2. CHINA

#### ***"709 Crackdown"***

Since July 9, 2015, hundreds of lawyers, jurists and law firm staff, all committed to human rights, were arrested and/or detained by police in several Chinese provinces (*the "709 Crackdown"*<sup>6</sup>).

The arrests followed that of Mrs. Wang Yu, a lawyer with the Fengrui Law Firm in Beijing. Mrs. Wang Yu's husband was also arrested on July 9. Practicing commercial law at the beginning of her legal career, Mrs. Wang Yu has been actively involved in the defence of politically sensitive cases and several victims of human rights violations, including members of vulnerable groups such as women, children, migrant workers, disabled people and ethnic and religious minorities. Before her arrest, she had been the subject of threats and frequent assaults by the police authorities.

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<sup>6</sup> For more information, refer to the reports of the association, China Human Rights Lawyers Concern Group <http://www.chrlawyers.hk/en/content/%E9%A6%96%E9%A0%81>

More than 100 Chinese lawyers wrote a joint letter to protest Mrs. Wang's disappearance. Some of these lawyers, as well as her colleagues from the Fengrui Law Firm in Beijing, were then also arrested, including Mr. Zhou Shifeng, the Fengrui Law Firm's Director.

A total of 319 lawyers and activists have been taken in for questioning, arrested, detained, harassed, placed under a travel ban and/or subjected to various forms of custody since then.

From the start of the interrogations of these lawyers, the UIA has mobilised itself to strongly support them, meeting with Chinese lawyers in exile, prompting human rights defence lawyers to share their experiences with its members, supporting the candidacy of Mrs. Wang Yu for the Ludovic Trarieux Prize and co-signing emails, some of which have been widely covered by the media.



In June 2016, Mrs. Wang Yu, who had become the emblem of the "709 Crackdown", was designated the winner of the 2016 Ludovic Trarieux Prize and, most recently, the American Bar Association's Human Rights Award.

On August 1, 2016, the Chinese and Hong Kong media mentioned that the Chinese lawyer, Wang Yu, had been released on bail, but this information could not be verified.

Moreover, in an "interview" broadcast the same day by a Hong Kong television station, Mrs. Wang Yu expressed her regrets and apologised in particular for the activities she had undertaken in the Fengrui law firm, the critical comments she had posted on her blog and the interviews she had granted to the foreign press.

She also refused the Ludovic Trarieux Prize because, according to her statements, she could not acknowledge this award, which would be used to harm the reputation of the Chinese government. Relatives of some of the activists and lawyers arrested during Crackdown 709, however, said that they believed that Mrs. Wang's statements were the result of pressure from the Chinese authorities. The Trarieux Prize Jury also expressed doubts about the sincerity and freedom of the statements made by the lawyer and decided to maintain the award to Mrs. Wang.

#### *Situation of Mr. Zhou Shifeng*

On August 4, 2016, Mr. Zhou Shifeng was given a seven-year prison sentence for "subversion against the State", after a trial that lasted less than a day before the People's Court of Tianjin No. 2 in north-eastern China. Despite the presence of 40 people at the hearing, neither his family nor the lawyer he had freely appointed were able to attend. According to press reports, Mr. Zhou Shifeng pleaded guilty, thanked the prosecutors and said he would not appeal.

### **3. EGYPT**

#### ***Mahienour El-Massry and other human rights activists***



The 2014 Ludovic Trarieux Prize winner, Ms. El-Massry is a human rights activist and lawyer, well-known for her unwavering commitment to the respect of fundamental rights and freedoms under all the regimes that have succeeded in recent years in Egypt.

She was released on August 13, 2016 after serving a sentence of 15 months in prison.

The UIA, along with other professional lawyers' organisations, is currently preparing a mission to Egypt to support Mahienour El-Massry and other Egyptian lawyers who have been arrested, prosecuted and/or banned from leaving the country because of their human rights related activities.

Among them is the lawyer, Malek Adly, a specialist in human rights, the Director of the Lawyers Network within the Egyptian Centre for Economic and Social Rights (ECESR) and the founder of the Front for the Defence of Egyptian Protestors, a group consisting of 34 organisations and several lawyers, who inventory the illegal practices perpetrated by police forces against peaceful protestors. Mr. Adly was arrested on May 5, 2016 in Cairo, accused of having attempted to overthrow the regime after calling for protests against abuses and crimes committed by security forces, the policies of the regime in power and the handing over of two islands in the Red Sea to Saudi Arabia in April. He was released at the end of August after more than three months of solitary confinement. Lawyers Haitham Mohamedein and Sayed El-Banna, were also detained within the framework of protests.

### **4. UNITED ARAB EMIRATES**

#### ***Arrest and detention of Dr. Mohammed al Roken***

Dr. Mohammed al-Roken is an eminent professor and a lawyer specialising in human rights defence. He was arrested by the security forces on July 17, 2012 while en route to report the disappearance of his son and son-in-law. He was detained in a secret location where he was tortured and ill-treated.

His arrest is one in a wave of mass arrests of lawyers, teachers and students -- all activists demanding constitutional reforms and a greater participation of citizens in politics.

On July 2, 2013, as part of a mass trial of 94 activists, which came to be known as the “UAE 94”, the United Arab Emirates’ Federal Supreme Court sentenced Mohammed al-Roken to ten years in prison and banned him from practising his profession, for “forming an organisation aimed at overthrowing the government”. Both the detention conditions and the judicial process to which Mr. al-Roken and others of the 94 activists were subjected were extensively criticized, as they did not meet international fair trial standards. It appeared that most of the accused, who were detained in secret locations, were forbidden to contact their lawyers or families. Furthermore, the UAE was alleged to have disallowed the entry of observers during the trial. In addition, the federal Supreme Court’s decisions are not subject to recourse.

In 2013, the United Nations Working Group on Arbitrary Detention acknowledged the arbitrary nature of the arrests and asked for the release of Mr. al-Roken and the other detained activists.

Highly engaged in the defence and promotion of human rights, Mohammed al-Roken had already been the target of intimidation and harassment, including judicial harassment. He had been arrested several times and prohibited from leaving the country. He had himself alerted UIA about the human rights situation in his country, and the association had intervened in 2006, on one occasion when he had been arbitrarily arrested.

The authorities have been asked to release Mohammad al-Roken and to refrain from harassing him.

## **5. LEBANON**

### ***Assault against the lawyers, Zeinab Dahboul, Zeinab El Hajj, Raed Hamdan and Zaher Azoury***

On February 5, 2016, the lawyers Zeinab Dahboul, Zeinab El Hajj, Raed Hamdan and Zaher Azoury, members of the Bar Council, were attacked by a group of armed individuals. The lawyers were on their way to a General Assembly of Joint Owners at the Inmaa Tower, a residential building in Beirut, representing their clients, having been granted powers of attorney.

The Beirut and Tripoli Bar Associations called for a strike on February 8 in support of their colleagues.

In a press release circulated on February 22, 2016, the UIA condemned the attacks and expressed its solidarity with the Lebanese lawyers.

## **6. MALAYSIA**

### ***a) Prosecution of the lawyer, Matthias Chang***

Between June and August 2015, Dato Sri Khairuddin, a former official in the United Malays National Organisation (UMNO) party, along with his lawyer, Mr. Matthias Chang, submitted a report to several Swiss, UK, Singapore and Hong Kong authorities detailing acts of corruption involving the Prime Minister. This case is known in Malaysia as “1Malaysia Development Berhad” (1MDB).

On September 18, Mr. Khairuddin was arrested in the course of an inquiry into activities deemed “prejudicial to parliamentary democracy as being in charge of the application of laws, whereas the case was already being investigated by the Malaysian authorities”. He was released five days later. On September 23, he was once again arrested on account of the highly criticised law pertaining to security offences (SOSMA), which authorises detention up to 28 days without any judicial controls and which precludes any form of bail.

Mr. Chang was also arrested on October 8 despite his repeated statements that he had accompanied Khairuddin solely as his attorney.

On October 12, Mr. Chang and his client were charged by the High Court with attempts to sabotage the Malaysian financial and banking systems by virtue of Article 124L of the Penal Code. They face up to 15 years of imprisonment.

On November 18, the Kuala Lumpur Magistrates Court decided that SOSMA could not be applied to offences under Art. 124L. The two lawyers were therefore released on bail. However, the prosecutor appealed the decision.

The UIA wrote several times to the Malaysian authorities to express its concern about the prosecution of Mr Chang based solely on the legitimate exercise of his profession. It requested that the Malaysian Bar Association act on its behalf as an international observer in the various hearings during the appeal proceedings.

### ***b) 1976 Legal Profession Act (LPA) Reform Bill***

On April 6, 2016, during the Dewan Rakyat's (Chamber of Representatives) session, one of the parliamentarians suggested that the Public Prosecutor should be automatically appointed as the President of the Malaysian Bar Council.

This parliamentarian is known for his criticism of the Bar Association and his appeal to the government for greater control over it.

The Malaysian Bar Association, very committed to the protection of the Rule of Law, criticised several laws and policies adopted by the government, such as the 1948 Sedition Act, as being prejudicial to human rights. In March, the Bar Association also adopted a motion<sup>7</sup> calling for the resignation of the Public Prosecutor for his improper handling of the "1MDB" case (see above).

At the end of May 2016, the President of the Malaysian Bar, Mr. Stephen Thiru, alerted the profession about the risks they face in light of the proposed reform of the 1976 Legal Profession Act, which will be discussed at the next parliamentary session (October-November 2016). The following reforms have been proposed:

- The inclusion of two government representatives appointed by the Legal Affairs Ministry in the Bar Council.
- A significant increase in the quorum required by the General Assemblies, which would raise serious, including logistical, problems with regard to holding meetings and taking decisions.
- The power of the Legal Affairs Ministry to regulate the Malaysian Bar Association's elections.
- Other reforms concerning the Bar Council's election process, such as the exclusion of voting by correspondence and restrictions in terms of the eligibility of some individuals within the Bar Council or its Bar Association.

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<sup>7</sup> On March 31, the secretary of the Malaysian Bar Association, Ms. Karen Cheah Yee Lynn and the lawyers, Charles Hector, Francis Pereira and Shanmugam Ramasamy, members of the Bar Council, were taken in for questioning in the context of an inquiry opened against them pursuant to Article 4 (1) a) of the 1948 Sedition Act. regarding the presentation of the motion.

The UIA communicated its concerns to the Malaysian authorities with regard to the reforms proposed and is following the situation closely. It also demonstrated its support of the Malaysian Bar by awarding it the first "UIA Rule of Law Award" at the Budapest Congress.

## **7. MYANMAR**

### ***Prosecution of the lawyer, Ms. Khin Khin Kyaw***

Ms. Khin Khin Kyaw is a human rights lawyer and is part of the defence team of 50 students who were arrested when they were participating in the peaceful protests against the National Education Act in Letpadan, Myanmar. On September 15, Ms. Khin Khin Kyaw was accused of causing a disturbance during the legal proceedings against her clients. She faces up to six months of imprisonment, a fine and the revocation of her lawyer's licence.

Her trial began on October 14, 2015 in the Thayawady Township Court and is still ongoing.

The UIA wrote to the Myanmar authorities to express its concern about Ms. Khin Khin Kyaw's situation.

## **8. PAKISTAN**

### ***Bomb attack in Baluchistan***

On August 8, 2016, a suicide attack in front of the Civil Hospital in Quetta, the capital of Baluchistan province, caused at least 70 deaths and wounded about a dozen others.

At the time of the attack, about 200 persons, including many lawyers and journalists, were gathered together in front of the hospital's Emergency area to collect the body of Bilal Anwar Kasi, a resident and member of the Baluchistan Bar, who had been shot dead a few hours earlier.

As a sign of protest, lawyers boycotted the courts for seven weeks. The Bar Leader, who is a lawyer in the Baluchistan Supreme Court, announced that he intended to adopt new measures to protest against the failures by the authorities to investigate the attack.

In a press release circulated on August 9, the UIA condemned the attack, expressing its solidarity with Pakistan's community of lawyers and particularly the Baluchistan Bar Association.

## **9. VIETNAM**

### ***Situation of the lawyer, Nguyen Van Dai***

On December 16, 2015, Mr. Nguyen Van Dai, a human rights lawyer and co-founder of the Human Rights Committee of Vietnam, was arrested in Hanoi for activities against the State pursuant to Article 88 of the Vietnamese Penal Code, for "propaganda against the Socialist Republic of Vietnam". The arrest took place when he was preparing to meet the delegates of the European Union in Hanoi for the EU-Vietnam dialogue on human rights, on the day after he was attacked by about 20 masked men. He is still being detained in a secret location.

The UIA sent a letter to the Vietnamese authorities, expressing its grave concern about the lawyer's arrest and will continue to follow the case closely.

In 2007, Mr. Van Dai was previously arrested for "propaganda against the State" and spent four years in prison and then another four years under house arrest. Mr. Van Dai had been actively supported by UIA even then, along with Le Thi Cong Nhan, both of whom had been prosecuted together and sentenced at the end of the same trial.

## EUROPE

### 1. FRANCE

#### ***a. Summons to the lawyers, Julien Brel and Benjamin Francos, of the Toulouse Bar Association***

On March 7, 2016, the lawyers, Julien Brel and Benjamin Francos, were summoned by the *Inspection générale de la police nationale (IGPN – General Inspectorate of the National Police)* in the context of an inquiry initiated after a complaint was filed by the police for "rebellion and false accusation".

The two lawyers, along with over ten other colleagues, had reported that they had been victims of "blows by the baton and squirts of tear gas" while they were protesting in front of the *Palais de Justice* (law courts) on October 22, 2015. During the investigation, Mr. Brel and Mr. Francos had formally identified two policemen as having perpetrated the violence.

The UIA has written to the Bar Leader, Anne Fauré, to express its support, as well as to all Toulouse lawyers.

#### ***b. Questioning and disciplinary proceedings against Mr. Bernard Ripert***

The lawyer, Bernard Ripert, was taken in for questioning on May 23, 2016 from his residence in Détrier, Savoy upon the order of Grenoble's Public Prosecutor.

The interrogation seems to have been ordered as he had not responded to a summons to the police headquarters in relation to proceedings against him, allegedly for having "prevented the exercise of justice" and for "threats or act of intimidation against a magistrate in order to influence his conduct in the exercise of his duties". He had been accused of intending to intimidate a magistrate in the Court of Appeals, who was in charge of ruling on a case of disciplinary action against him.

At the Prosecutor's request, Mr. Ripert was examined in the evening of May 23 by a psychiatrist who was of the view that the lawyer should be institutionalised. Mr. Ripert began a hunger strike to protest against this measure. His release from the hospital was finally signed on May 25.

The UIA had sent a letter to the French authorities deploring the disproportionate and outrageous nature of the treatment meted out to Mr. Ripert during his arrest by the police and Grenoble's Public Prosecutor's Office. The French Ministry of Justice responded that Mr. Ripert's rights had been respected.

Mr. Ripert was acquitted in May by the regional disciplinary council, ruling on the previous prosecution against Mr. Ripert arising from his alleged representation of a client during the period when he was suspended from practicing law. The Public Prosecutor appealed this decision. On June 23, 2016, Grenoble's Court of Appeals disbarred Mr. Ripert for a period of three years, with a one-year suspended sentence.

### **3. ROMANIA**

#### ***Arrest of the lawyer, Robert Rosu***

On December 9, the National Anti-Corruption Office conducted a search of the Țuca Zbârcea & Asociații law offices in Bucharest. Although the objects indicated in the warrant were handed over voluntarily, the search was nonetheless conducted. Personal objects as well as storage devices with data that was unrelated to the inquiry also were seized. The Prosecutor was not present at the time of the search, in violation of Art. 35 of the 51/1995 Act.

The next day, Mr. Robert Rosu, one of the law firm partners, was arrested. He was accused of having established a criminal enterprise, trading favours and money laundering. The acts leading to the proceedings were manifestly linked to the prosecution initiated against one of his clients and concerned acts obviously pertaining to his capacity as the legal adviser. Hence, this was the result of identifying the lawyer with his client's activities, in the course of the exercise of the lawyer's duties.

As this case was submitted to it, the UIA wrote to the Romanian authorities to remind them in particular of the principles applicable to searches of law firms, as well as the principle prohibiting any identification of a lawyers with his client or with a client's case in the exercise of the lawyer's professional duties.

On February 2, 2016, the Brasov Court of Appeals decided to uphold Mr. Rosu's house arrest.

### **4. TURKEY**

#### ***a. Murder of Mr. Tahir Elçi, Diyarbakir Bar Leader***

Mr. Tahir Elçi, the Diyarbakir Bar Leader and a human rights activist, was shot dead on Saturday November 28, 2015 shortly after a press statement in the Central Sur district in Diyarbakir, calling for peace and reconciliation.

Mr. Tahir Elçi was the main lawyer for numerous cases associated with the Kurd issue and had represented several victims of serious human rights violations in the European Court of Human Rights. As the Bar Leader, he had also conducted exploratory missions on the curfews imposed in several cities in South-East Turkey and documented the human rights violations perpetrated by the security forces against civilians.

In October 2015, Mr. Elçi was briefly arrested in relation to an inquiry initiated by a Turkish prosecutor regarding the "dissemination of PKK propaganda." Mr. Elci had made statements on a Turkish television programme that the Kurdistan Workers Party (PKK) was not a terrorist organisation but an armed political movement that had sometimes committed terrorist acts.

The UIA had protested against the irregularities in the proceedings that had marred Mr. Elçi's arrest and the serious threat that the proceedings posed for the freedom of expression.

Mr. Elçi's murder was unanimously condemned within the profession, which asked the authorities for an independent and impartial inquiry.

**b. Prosecution of lawyers, members of the Lawyers' Association for Freedom (Ozgurlukcu Hukukcular Dernegi – OHD)**

On March 16, 2016, the lawyers, İrfan Arasan, Hüseyin Boğatekin, Şefik Çelik, Adem Çalışçı, Tamer Doğan, Ramazan Demir, Mustafa Ruzgar, Ayşe Acinikli, and Ayşe Gösterişlioğlu were arrested. Their homes were searched by the police as part of anti-terrorist operations, which targeted over 80 persons in several cities of Turkey.

Along with others, these lawyers were to defend 46 lawyers prosecuted for their participation in the defence of the Kurdistan Workers Party (PKK) leader, Abdullah Öcalan.

They were accused of “being part of an illegal organisation”, apparently in association with acts going back to the period between 2011 and 2014. The lawyers were questioned on interviews they had given to the media, petitions filed before the ECHR and visits made to their clients. It was alleged that the authorities did not reveal the exact grounds for prosecution.

Between March 18 and 19, the OHD lawyers were finally released after the court determined that the evidence presented was insufficient and that the detention seemed disproportionate.

On March 22, a ruling was made on the prosecutor's appeal, ordering the arrest of Hüseyin Boğatekin, Ayşe Gösterişlioğlu, Ayşe Acinikli and Ramazan Demir. The first two were released on April 1 by order of the Court of Appeal. Ayşe Acinikli and Ramazan Demir were released only recently, September 8, but the ban on travel outside the country was upheld.



The UIA intervened several times in the case of the lawyers who were OHD members, reminded the Turkish authorities of their international obligations and asked them for explanations. It also closely followed the proceedings and sent observers. It invited its members to join in with the actions initiated in support of the lawyers being prosecuted, by expressing their concern to the Turkish authorities and sending a post card to the lawyers, Ayşe Acinikli and Ramazan Demir, in their places of detention.

**c. Prosecution of the lawyer, Saliha Sera Kadigil**

The Union of Turkish Bar Associations (UTBA) referred to the UIA the case of a lawyer, Saliha Sera Kadigil, sentenced to 1 year and 9 months of imprisonment for “having insulted the President” pursuant to Article 299/1 of the Penal Code.

According to the information sent by the UTBA, the events related to the Attorney Act and not the Penal Code. In fact, the lawyer was being accused for comments that she was alleged to have made in the 3<sup>rd</sup> Civil Court for Intellectual and Industrial Rights of Istanbul in the course of defending one of her clients. The proceedings against Ms. Kadigil therefore constituted an attack on the immunity of defence pleas. Furthermore, it was marred by procedural irregularities.

The UIA had sent a letter to the Turkish authorities expressing its concern and calling for the respect of the principles of the legal profession and for a fair trial in Ms. Kadigil's case.

***d. Mass arrests following the failed attempt at a coup d'état on July 15, 2015***

Since the failed coup d'état of July 15, 2016, the government has initiated acts of repression on an exceptional scale, leading to vast purges within the justice, teaching and army spheres, as well as other State departments. Over 2,700 judges and prosecutors have been suspended from their duties and 450 magistrates are alleged to have been detained.

At least 11 lawyers were arrested in Izmir during the night of July 20. Their apartments and law firms were searched and documents were seized. The Turkish police forces were allegedly searching actively for fourteen other lawyers.

In a press release disseminated on July 26, 2016, the UIA, along with CCBE and FBE, expressed its serious concern in the face of the measures taken by the government, as they constituted an attack on the Rule of Law and fundamental liberties.

The UIA will continue to follow this case closely, including in particular individuals arrested in the context of mass purges in judicial institutions.

**For more information about these cases, please refer to:**

Union Internationale des Avocats

[www.uianet.org](http://www.uianet.org)

Amnesty International

[www.amnesty.org](http://www.amnesty.org)

FIDH (International Federation for Human Rights)

[www.fidh.org](http://www.fidh.org)

Front Line Defenders

<http://www.frontlinedefenders.org>

European Bar Human Rights Institute (IDHAE)

[www.idhae.org](http://www.idhae.org)

Lawyers for Lawyers

<http://www.advocatenvooradvocaten.nl>

Monitoring Committee on Attacks on Lawyers

(Blog): <https://defendlawyers.wordpress.com/>

World Organisation against Torture (OMCT)

<http://www.omct.org/>

On LinkedIn (in French)

Avocats du monde pour la défense des droits de l'homme