

**Mandate of the Special Rapporteur on the independence of judges and lawyers**

Ref.: AL MDV 1/2025  
(Please use this reference in your reply)

2 April 2025

Excellency,

I have the honour to address you in my capacity as Special Rapporteur on the independence of judges and lawyers, pursuant to Human Rights Council resolution 53/12.

In this connection, I would like to bring to the attention of your Excellency's Government information I received concerning disciplinary actions and suspensions of three Supreme Court Justices – Justice Dr. Azmiralda Zahir, Justice Husnu Al Suood, and Justice Mahaz Ali Zahir – reportedly to impede judicial review of a constitutional amendment.

According to the information received:

*Context*

The current government has a supermajority in Parliament with 75 out of 93 seats. In November 2024, the People's National Congress supermajority in Parliament passed Constitutional amendments, inter alia, to add new sub-article (e) to article 73. This amendment introduced anti-defection measures for Members of Parliament (MPs), through which any MP who changed political parties, became an independent candidate, or voluntarily left or were expelled from their political party, would lose their seat in Parliament. This was pushed through Parliament and ratified within a day.

A Maldivian lawyer filed a constitutional motion at the Supreme Court, challenging the anti-defection amendment to the Constitution. As it is a sensitive constitutional matter, the full bench of the Supreme Court was assigned to hear the case. The Supreme Court is comprised of seven judges. The first hearing of the case was scheduled at the Supreme Court on 17 February. At that hearing, the Attorney General's Office raised a procedural objection, arguing that the Supreme Court lacks jurisdiction to hear cases related to constitutional amendments. It contended that amendments are part of the Constitution and should not be treated as laws subject to judicial review. On 18 February, the Supreme Court bench rejected the procedural objection by the Attorney General and decided to proceed with the case, stating that their views on the jurisdictional matter would be included in the final ruling.

On 23 February, a member of the ruling party submitted a bill to Parliament to amend the Judicature Act. The main purpose of this amendment was to downsize the Supreme Court bench from seven judges to five judges, making it mandatory for the Judicial Service Commission (JSC) to send names of two judges to be removed from the Supreme Court bench on the basis of incompetency. On 24 February, Parliament opened preliminary debate of this

bill.

On 25 February, an application for an interim order was submitted to the Supreme Court by the claimant in the constitutional matter, seeking a temporary stay on the enforcement of anti-defection amendment to the Constitution. The same day, Parliament accepted the amendment bill to the Judicature Act to downsize the Supreme Court bench and in less than three hours, the Judiciary Committee, reportedly controlled by the ruling party decided to pass the bill without any changes.

On 25 February, the Supreme Court scheduled a hearing regarding the interim order application and informed the parties to attend the Supreme Court for a hearing at 11:00 a.m. the following day.

On the morning of 26 February, the Speaker of Parliament, after bypassing normal procedures, decided to call for a vote to pass the amendment to the Judicature Act. Around 10 a.m., the bill was passed by Parliament through the ruling party's supermajority. That same day, the Bar Council of Maldives made a public statement and urged the President against ratifying the amendment passed by the Parliament to downsize the Supreme Court bench, stating that the bill was unconstitutional.

#### *Actions by the Judicial Services Commission*

The 2008 Constitution of the Maldives sets up a Judicial Service Commission (JSC) to appoint judges and act as the judicial watchdog. The JSC is comprised of: the Speaker of the Parliament, a representative of Parliament, a representative of the President, a Supreme Court Justice, a High Court judge, a lower court judge, a representative of the general public approved by Parliament, the Civil Service Commission's President, the Attorney General, and a representative of the legal profession.

The information suggests that the involvement of politicians in the JSC undermines judicial independence. It also suggests a practice that, at times when the government disagrees with a court ruling or a judge's decision, unfounded disciplinary actions have been initiated against judges, leading to dismissals. As a result, judicial officers are left in a constant state of fear while performing their duties. Moreover, politicians on the JSC frequently exert influence over judges, directing them in specific cases and pressuring them to deliver decisions in the government's favour.

An amendment to the JSC Act in 2019 brought the administration of the Supreme Court and other courts under the JSC's control. In addition, the JSC now oversees the budget and appointment of all court administrative staff.

In the early hours of 26 February, at around 1:15 a.m. reports indicate that an anonymous complaint was filed with the Anti-Corruption Commission (ACC) against the three judges who had taken strong positions during the earlier deliberations on the interim order application seeking review of the anti-defection amendment. Between 9:40 and 10:30 a.m. on 26 February, the

President of the ACC informed the JSC that they were investigating corruption complaints against the three judges.

On that same day, the JSC scheduled an extraordinary meeting for 10:30 a.m., with a notice of 13 minutes to its members. One of the members who requested the extraordinary meeting was the Attorney General, who was representing the respondent of the constitutional case scheduled for 11 a.m. on the same day at the Supreme Court. Around 15 minutes before the Supreme Court hearing, in which the court was expected to hear arguments from both parties regarding the interim order application, the JSC decided to suspend Supreme Court Justice Dr. Azmiralda Zahir, Justice Husnu Al Suood and Justice Mahaz Ali Zahir resulting in cancellation of the scheduled hearing.

At 10:43 a.m., as the judges were about to enter the courtroom to hear the application for the injunction, the three judges received notice of their suspension. The notice reportedly did not specify the duration of their suspension but simply stated that it was issued based on "the matter being investigated by the ACC."

The JSC's decision to suspend the three judges was based on a letter sent by the ACC informing the JSC of a "criminal investigation" being conducted against the three judges. The information suggests that at the time of suspension, the ACC was yet to question the judges about the "allegations" and that the JSC had not been informed about the specifics of the allegations.

On 26 February, Justice Dr. Azmiralda Zahir, Justice Mahaz Ali Zahir, and Justice Husnu AlSuood were served with notices of disciplinary proceedings initiated by JSC.

On 27 February, Justice Dr. Azmiralda Zahir wrote a detailed letter to the JSC rejecting its allegations, and argued that her suspension was an attempt to influence the ongoing constitutional case at the Supreme Court as well as highlighted that the Attorney General had previously attempted to intimidate and influence her. That same day, Justice Dr. Azmiralda Zahir submitted a complaint against the Attorney General, Minister of Homeland Security and Technology and members of the JSC to the ACC requesting the latter to investigate acts of corruption against those individuals for their involvement in influencing her and the constitutional case at the Supreme Court.

On 3 March, Justice Dr. Azmiralda Zahir through her lawyer wrote to the JSC requesting copies of the letter sent by the ACC, which was the basis for the judges' suspension.

On 4 March, the ACC rejected Justice Dr. Azmiralda Zahir's complaint submitted on 27 February and decided not to register it. Justice Mahaz Ali Zahir wrote to the ACC asserting his suspension by the JSC was based on a communication from the ACC that lacked specific details regarding criminal allegations made against him, and requesting the ACC formally to provide details. Justice Husnu Al Suood who was also suspended by JSC, resigned in protest, citing claims of undue influence by the President and the Attorney

General on judges in connection with the Supreme Court's constitutional case regarding the anti-defection provision.

On 9 March, Justice Dr. Azmiralda Zahir sent an application requesting the ACC to review its decision to reject corruption complaints filed against the Attorney General and others. The Commission is yet to respond to this. The following day, the JSC decided not to disclose any information sought by Justice Dr. Azmiralda Zahir related to her suspension, thus depriving her of making a proper application to review her suspension.

On 10 March, Justice Dr. Azmiralda Zahir submitted another complaint to the ACC against the ACC President, requesting it to investigate his acts of corruption and use of his authority to assist in the unlawful suspension of the Supreme Court judges in order to influence the constitutional case. The ACC is yet to respond to the complaint.

### *Disciplinary Investigations by the Judicial Service Commission*

#### Justice Mahaz Ali Zahir

On 6 March, the ACC replied to Justice Mahaz Ali Zahir stating that it had "obtained information" that he had misused official authority to confer an undue benefit upon another individual, an act constituting an offense under section 513(b) of the Penal Code.

On 9 March, Justice Mahaz Ali Zahir appeared before the JSC investigation committee accompanied by his legal counsel. During the proceedings, his attorney formally requested information regarding the registration details of the alleged ethical complaint and the procedural framework governing the formulation of the Investigation Committee, as stipulated in the JSC Act. While this request was not officially recorded by the Committee, the members agreed to include these details in the initial investigation report. However, the report subsequently failed to provide the requested information. Additionally, the Committee denied Justice Mahaz's attorney the opportunity to speak, asserting that while Justice Mahaz had the right to legal assistance, his counsel was not permitted to address the Committee. In response, Justice Mahaz argued that no provision within the JSC Act or any other applicable law imposed such a restriction. He further proposed that he would personally respond to all factual inquiries while allowing his attorney to address legal matters. This request was denied by the Committee.

#### Justice Dr. Azmiralda Zahir

When the investigations into Justice Dr. Azmiralda Zahir were initiated, and statements of the Criminal Court judges were taken, the three-member Investigation Committee included the Attorney General. The Attorney General continued to participate in the Investigation Committee despite complaints being submitted against him. However, following public outcry and harsh criticism from the legal community, the Attorney General stepped down from the Committee. He was subsequently replaced by the President of the Civil

Service Commission.

Justice Dr. Azmiralda Zahir was initially notified to appear before the JSC for a hearing scheduled for 11:00 a.m. on Sunday, 9 March. The hearing was later postponed to 10 March and again postponed to 11 March. Prior to the hearing, Justice Dr. Azmiralda Zahir requested publicly to have open hearings (which is allowed under the Judicial Service Commission Act). However, the request was denied by the JSC citing that an open hearing could “harm the public interest”. It should be noted that on previous occasions, the JSC held open hearings of disciplinary proceedings against judges.

On 11 March, Justice Dr. Azmiralda Zahir appeared before the investigation Committee with her attorney and requested the Committee to allow her lawyer to submit some procedural objections related to the investigation. However, the Committee refused to allow her attorney to speak, stating that although Justices have the right to legal assistance, the lawyer cannot address the Committee, and thus prevented her from availing themselves of legal assistance during the investigation.

Despite the denial of the right to legal assistance by the JSC, Justice Dr. Azmiralda Zahir responded to all of the JSC’s questions and denied all allegations against her, and told the Committee how the state has been trying to frame her, and how the Attorney General had tried to pass messages to her through a messenger trying to influence her regarding the constitutional case at the Supreme Court, and that she was even threatened with possible disciplinary cases.

On 13 March, Justice Dr. Azmiralda Zahir received the investigation report and transcripts of the testimonies of three judges from the Criminal Court. Not a single judge had alleged influence, coercion or even communication by Justice Dr. Azmiralda Zahir. The information suggests it was clear from these testimonies that the allegations against Dr. Azmiralda Zahir were false. Yet, the JSC committee in its investigation report falsely stated that Justice Dr. Azmiralda Zahir had communicated to Criminal Court judges in an attempt to influence them.

On 13 March, Justice Dr. Azmiralda Zahir sent a letter to the JSC, requesting an open hearing in the second disciplinary case which was initiated by the JSC against the Justices. The second allegation involved an incident which was reported to the JSC in 2022 regarding the Supreme Court judges questioning the Assistant Registrar of the High Court over handing over documents related to an appeal lodged at the Supreme Court. The initial complaint was against Justice Husnu Al Suood, which the JSC decided to investigate on 26 February. However, upon his resignation, the JSC decided that this complaint should also be applicable to Justices Dr. Azmiralda Zahir and Mahaz Ali Zahir, simply because both were present at the meeting.

On 15 March, the request for an open hearing was denied by the JSC, citing that an open hearing could “harm the public interest.”

On 16 March, Justice Dr. Azmiralda Zahir submitted a disciplinary complaint to the Judiciary Committee of Parliament against members of the JSC for their continued efforts to deny her of her fundamental rights and depriving her of a fair and impartial investigation.

The Justices were only given two to three days to reply in this case. The Justices were also not able to bring in their own lawyers and had to speak in the hearings on their own behalf.

Despite several efforts by the Justices, the information suggests that procedures continue to deprive them of their fundamental rights.

After the hearings, Justice Dr. Azmiralda Zahir's lawyers gave a press statement, stating that they were not able to speak during the hearings. This statement has also been alleged to constitute misconduct by the Justices. The written response period has been shortened to seven days and the Justices are currently in the process of filing their defenses. The documents from this process are confidential.

Without prejudging the accuracy of these allegations, I would like to express my serious concern about what appears to be undue interference in the exercise of the judicial authorities of the Maldives. In particular, I am concerned about the series of actions undertaken which, separately and in combination, appear to be aimed at undermining the independent functioning of these institutions in the country.

For instance, the reports of proposed legislative amendments aimed at changing the structure of the Supreme Court, together with pressure from high-level officials on the Justices, as well as disciplinary action or suspension based on spurious allegations, amount to interference in the work of the Supreme Court, and pose a threat to the independence of the judiciary and the separation of powers. If these reports are confirmed, this course of action would constitute a violation of international human rights standards relating to the right to a fair trial and the independence of the judiciary.

In this regard, I would like to recall that the right to a fair and public hearing by an independent and impartial tribunal is provided for in international human rights law, and that a competent and independent tribunal is one of the guarantees of a fair trial. The requirement of independence refers, in particular, to the procedure and qualifications for the appointment of judges, guarantees concerning their security of tenure and guarantees of respect for their independent decisions. Such a requirement would be closely linked to the work of the JSC, which reports suggest is not working to ensure the independence of the judiciary in the Maldives.

The reported disciplinary cases brought against three Justices of the Supreme Court appear to violate the principle that judges can only be dismissed for serious reasons of misconduct or incompetence, and in accordance with fair procedures guaranteeing objectivity and impartiality, as provided for by the constitution or law.

In this regard, I would like to recall the guarantee of the right to a fair and public hearing by an independent and impartial tribunal, provided in article 10 of the Universal Declaration of Human Rights and article 14 of the International Covenant on Civil and

Political Rights, ratified by the Republic of Maldives on 19 September 2006. These provisions highlight that a competent court is one of the guarantees of a fair trial. The rights to equality before the courts and tribunals, to a fair trial, and to effective remedies are key elements of human rights protection and serve as a procedural means to safeguard the rule of law. International standards on the independence of the judiciary make clear that judges may be suspended only for reasons of proven incapacity or behavior that renders them unfit to exercise their duties. Such suspensions may only be imposed by an independent body following appropriate procedures.

I am therefore concerned about the information received stating that Justice Dr. Azmiralda Zahir and Justice Mahaz Ali Zahir's legal counsel of choice were not given the opportunity speak at the proceedings, and that these proceedings were not public. I would like to recall that the guarantees provided in article 10 of the Universal Declaration of Human Rights and article 14 of the International Covenant on Civil and Political Rights, require that in the determination of any charge against any individual, the individual is entitled to a number of minimum guarantees, including the right to defend himself/herself in person or through legal assistance of his/her own choosing.

Finally, I am seriously alarmed at the information provided, which indicated that with the suspension of the three Justices, the plenary of the Supreme Court was functionally barred from holding deliberations. This state of affairs is reportedly impeding the ability of ordinary citizens to access justice as it entails a crisis in the judiciary as a whole. The lack of a functioning Supreme Court also undermines the ability of the judicial branch of the state to provide guidance, or – if required – to act as a check on the powers of the executive or parliamentary branches.

In connection with the above alleged facts and concerns, please refer to the **Annex on Reference to international human rights law** attached to this letter which cites international human rights instruments and standards relevant to these allegations.

As it is my responsibility, under the mandate provided to me by the Human Rights Council, to seek to clarify all cases brought to my attention, I would be grateful for your observations on the following matters:

1. Please provide any additional information and/or comment(s) you may have on the above-mentioned allegations.
2. Please explain how the actions taken in this case are compatible with international human rights standards under article 10 of the UDHR, and article 14 of the ICCPR, as well as the Basic Principles on the Independence of the Judiciary, and in particular principles 11, 12, 17, 18 and 19.
3. Please explain how the proceedings at the JSC are in line with the judges' right to a fair and impartial trial.
4. Please indicate the measures taken to ensure the independence of the judiciary in the Maldives, access to justice, and the right to a fair trial in the country. In particular, please describe the measures taken to address the lack of a functioning Supreme Court in the Maldives.

5. Please provide information on the measures taken to ensure that the terms of office of judges in the Maldives, their independence, security, adequate remuneration, conditions of service, pensions, and the age of retirement are in line with international standards described in the Annex. In particular, please describe the safeguards in place to ensure that the JSC does not misuse its powers to exert influence over judges' deliberations and decisions and / or as a means of rewarding and punishing judges.

This communication and any response received from your Excellency's Government will be made public via the communications reporting [website](#) within 60 days. They will also subsequently be made available in the usual report to be presented to the Human Rights Council.

While awaiting a reply, I urge that all necessary interim measures be taken to halt the alleged violations and prevent their re-occurrence and in the event that the investigations support or suggest the allegations to be correct, to ensure the accountability of any person(s) responsible for the alleged violations.

I may publicly express my concerns in the near future as, in my view, the information upon which the press release will be based is sufficiently reliable to indicate a matter warranting immediate attention. I also believe that the wider public should be alerted to the potential implications of the above-mentioned allegations. The press release will indicate that I have been in contact with your Excellency's Government's to clarify the issue/s in question.

Please accept, Excellency, the assurances of my highest consideration.

Margaret Satterthwaite  
Special Rapporteur on the independence of judges and lawyers

## **Annex**

### **Reference to international human rights law**

In connection with above alleged facts and concerns, I would like to draw the attention of your Excellency's Government to the relevant international norms and standards that are applicable to the issues brought forth by the situation described above.

I refer to the International Covenant on Civil and Political Rights (ICCPR), ratified by the Republic of Maldives on 19 September 2006, and, in particular, article 14 upholds the right to a fair trial and equality of all persons before the courts and tribunals, the right to a fair and public hearing by a competent, independent and impartial tribunal established by law, as well as the right to legal assistance.

I would particularly like to highlight the clarifications made by the Human Rights Committee in its general comment No. 32, on the competence, independence and impartiality of a court contained in article 14. In this observation, the Committee details that: "The requirement of independence refers, in particular, to the procedure and qualifications for the appointment of judges, and guarantees in relation to their security of tenure until the mandatory retirement age or the expiration of their term of office, where it exists, the conditions governing promotions, transfers, suspension and termination of their functions and the effective independence of the judiciary from political interference by the executive and legislative branches. States should adopt specific measures that guarantee the independence of the judiciary, and protect judges from any form of political influence in decision-making by means of the Constitution or the adoption of legislation establishing clear procedures and objective criteria for appointment, remuneration, tenure, promotion, suspension and dismissal, and disciplinary sanctions in relation to members of the judiciary. (...) To safeguard their independence, the law should guarantee the status of judges, including their tenure, independence and security, as well as adequate remuneration, conditions of service, pensions and retirement age" (para. 19).

Similarly, the Basic Principles on the Independence of the Judiciary, adopted by the United Nations in 1990, state that judges shall decide the matters before them impartially, on the basis of the facts and in accordance with the law, without any restrictions and without undue influence, inducement, pressure, threats or interference, direct or indirect, from any quarter or for any reason whatsoever (principle 2).

According to the United Nations Basic Principles on the Independence of the Judiciary, judges must be guaranteed tenure, independence and security of tenure, as well as adequate remuneration, pensions and conditions of service and retirement (art. 11). Judges may only be suspended or removed from office for incapacity or behavior that disqualifies them from continuing to perform their duties (art. 18). In addition, any disciplinary, suspension or removal proceedings should be conducted in accordance with established standards of judicial conduct (art. 19) and decisions in disciplinary, suspension or removal proceedings should be subject to independent review (art. 20).

According to the United Nations Basic Principles on the Independence of the Judiciary, judges should decide matters before them without any restrictions and

without undue influence, inducement, pressure, threats or interference, direct or indirect, from any quarter or for any reason whatsoever (art. 2). States must also guarantee the security of judges (art. 11).