



Judicial Conference of Australia

**MEDIA RELEASE BY
THE HON JUSTICE STEVEN RARES
PRESIDENT, JUDICIAL CONFERENCE OF AUSTRALIA
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Turkey's judges should not be disciplined for making decisions against its government

The President of the Judicial Conference of Australia, Justice Steven Rares, today expressed concern about the reported use of internal disciplinary proceedings in Turkey against judges for, what appear to be, political reasons. He emphasised the fundamental importance that the judiciary be, and be seen to be, independent of the political process. It is antithetical to the rule of law for judges to be disciplined or subjected to sanctions if they make decisions adverse to the interests of a government.

The JCA understands that disciplinary investigations have begun against a number of judges on the basis of the Turkish Interior Ministry's complaints that the judges had ruled against the Ministry in a number of administrative cases. The cases related to topics such as civil servants' appointments, relocations, promotions, disciplinary actions, compensation and retirement.

Such action would contravene Article 138 of the Turkish Constitution. That article provides that "No organ, authority, office or individual may give orders or instructions to courts or judges relating to the exercise of judicial power, send them circulars, or make recommendations or suggestions".

Justice Rares said an independent judiciary protects a nation's citizens by applying the law impartially, even when its decisions go against what its government wants. He instanced the Universal Declaration of Human Rights, adopted by the United Nations in 1948, which provides in Article 10 that everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal in the determination of his rights and obligations and of any criminal charge against him.

He said that it is the right and duty of judges to make decisions impartially and in good faith according to their understanding of the law. If a judge's decision is thought to be in error then that should be the subject of appeal processes to other, independent judges, rather than disciplinary hearings. Justice Rares called on the Turkish Government to respect the independence of the Turkish judiciary.

The Judicial Conference of Australia is the professional association of judges and magistrates in Australia.

For further information, contact Christopher Roper, the Secretary of the Judicial Conference of Australia: secretary@jca.asn.au | 0407 419 330