



## Judicial Conference of Australia

### ***Concerns in regard to infringements on the independence of the judiciary in other countries***

The JCA has continued to act on concerns as to impacts on the independence of the judiciary in other countries. This is in accordance with one of the JCA's objectives that it "maintain, promote and improve the quality of the judicial system, as an instrument of the rule of law, in Australia and internationally". The country of particular concern during the previous year has been Turkey.

As outlined above, the JCA has issued four media releases over the last year or so, all in regard to the situation in Turkey:

*Turkey's judges should not be disciplined for making decisions against its government* – on 16 February 2016.

*Judges in Turkey detained and on trial for decisions unfavourable to its government* – on 23 February 2016.

*Australian judges condemn suspension and prosecution of Turkey's judges* – on 17 March 2016.

*Australian judges express grave concerns about Turkish judiciary* – on 17 July 2016.

Copies of the media releases were sent to the Turkish Ambassador in Canberra, the Australian Ambassador to Turkey, the Department of Foreign Affairs & Trade, the Law Council of Australia, the legal professional journals throughout Australia, and the International Association of Judges Secretariat in Rome. As well, they were all placed on the JCA's website.

On 13 September 2016 I met with His Excellency, Vakur Gokdenizler, the Turkish Ambassador in Canberra at his Embassy. The Ambassador and I engaged in a frank, but friendly, discussion. I explained that the JCA was deeply troubled by the apparently disproportionate response of the Turkish Government to the attempted coup on 15 July 2016 that had led to the arrest and seeming removal from office of 2,750 judicial officers and prosecutors within days of the failed coup.

I said that this conduct appeared to be consistent with the pattern of treatment of the Turkish judiciary that had prompted the JCA's media releases of 16 and 23 February 2016 and 17 March 2016. I explained that the JCA saw this treatment of judges as inconsistent with the fundamental principles of judicial independence and security of tenure, reflected in Art. 138 of the Turkish Constitution and in international human rights instruments such as the United Nations 1948 Universal Declaration of Human Rights.

His Excellency responded by explaining that his Government understood the concerns of the JCA and that he would convey what I had said to Ankara. He said that the attempted coup had necessitated action to secure and preserve the integrity of the Turkish State. He explained that the Gulenist movement had been the perpetrator of the attempted coup and its followers were embedded in all aspects of Turkish society. He asked for the JCA to be patient whilst the emergency administration investigated those currently only suspected of involvement in the coup attempt. His Excellency suggested that that process should be substantially completed over the three month period of the state of emergency and that it would be expected that some, perhaps many, affected Turkish judges would be released and able to resume their offices.

I said that I hoped that this would be the case for all of them. His Excellency expressed the wish to meet again later, after the state of emergency had ceased, to review the position and I agreed that this would be a good idea.

I consider that the Ambassador would report our discussion to the Turkish Government and that he fully appreciated the JCA's concerns.

## **International Association of Judges**

During this year the JCA continued its participation in the work of the International Association of Judges (IAJ) as a member of that organisation. A small group of JCA members, who have previously been involved in the work of the IAJ, now acts as the representatives of the JCA.

As was said in the 2015 Report, the JCA's principal focus remains on matters which affect the judiciary in Australia, but the objects of the JCA provide a role, where appropriate, in contributing to the independence and standing of the judiciary outside this country. In participating in the IAJ, the JCA can better contribute to the international judicial community. It also benefits JCA members by providing to the JCA direct access to the work of this longstanding prestigious international organisation with a membership drawn from over 80 countries.

Justice Tony Pagone of the Federal Court of Australia, a Vice-President of the IAJ, continues as a co-opted member of the Governing Council in order to be a point of contact between the JCA and the IAJ. However, particular responsibility for this role has now been assumed by Justice Glenn Martin. He is assisted by a sub-committee of the Governing Council comprising Justice Tony Pagone, Justice Michael Brett, Justice Glenn Martin, Justice Peter Murphy and Justice Roslyn Atkinson.

The Annual Meeting of the IAJ will be held in Mexico City in October 2016, shortly after the JCA's Annual General Meeting. The JCA will be represented by Justice Pagone, Justice Roslyn Atkinson and Justice Jennifer Davies.