



Judicial Conference of Australia

**MEDIA RELEASE BY
THE HON JUSTICE STEVEN RARES
PRESIDENT, JUDICIAL CONFERENCE OF AUSTRALIA
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Judges in Turkey detained and on trial for decisions unfavourable to its government

Australia's association of judges and magistrates, the Judicial Conference of Australia, has expressed its strong condemnation of the treatment of two Turkish judges, Mustafa Baser and Metin Özcelik. The JCA's President, Justice Steven Rares, expressed his serious concern that the judges' continued detention appears to be contrary to the Turkish Constitution and the European Convention on Human Rights.

Justice Rares said that this abuse of the independence of the Turkish judiciary appeared to be part of a wider attack on the rule of law and respect for human rights in Turkey. He noted that a recent report¹ prepared by very senior members of the English legal profession, including the former Lord Chief Justice, Lord Woolf, outlined systematic human rights violations in Turkey that are directed at those seeking to expose corruption, including supporters of the Gülen movement. Concerted and unprecedented efforts to exert executive control over Turkey's judiciary appeared to be associated with these violations.

¹ "A report on the rule of law and respect for human rights in Turkey since December 2013": Lord Woolf CH; Sir Jeffrey Jowell QC, Sir Edward Garnier QC MP and S. Palin, barrister; July 2015

On 25 April 2015, the two judges ordered the release of a number of media representatives and police officers who had been detained as a consequence of those persons' investigations into corruption. The two judges had based their decisions on the case law of the European Court of Human Rights². On 1 May 2015, Judges Baser and Özcelik were arrested on charges of "attempting to overthrow the Turkish government or hindering the government's operation in part or full" and "being a member of an illegal organisation"³. Both President Erdogan and Prime Minister Davutoglu attacked the two judges' decisions as being linked to the outlawed Gülen movement.

At a hearing on 10 February 2016 in Ankara, the Court of Cassation asked for the indictment of 120 pages to be read. The Court also refused the judges' application for release and adjourned the proceedings to 14 March 2016.

Observers from the International Association of Judges reported that the two judges are being kept in the worst of the six categories of Turkish prisons, where they are imprisoned with criminals convicted of serious crimes, some of whom the judges had sent to jail.

The Woolf Report stated: "By undermining the independence of the Turkish judiciary, the AKP government made possible the detention of outspoken media figures and hundreds of police officers involved in the anti-corruption operation".

The JCA calls on the Turkish government to release the two judges from detention. Justice Rares said that, as the JCA has previously argued, it is the right and duty of judges to make decisions impartially and in good faith according to their understanding of the law. Justice Rares again called on the Turkish Government to respect the independence of the Turkish judiciary.

² Woolf et al p 31 at n 145

³ Woolf et al at p 42 [106]

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

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