



The Law Society of
Upper Canada | Barreau
du Haut-Canada

July 21, 2016

H.E. Recep Tayyip Erdoğan
President of the Republic of Turkey
T.C. Cumhurbaşkanlığı Genel Sekreterliği
06100 Ankara, Turkey
Fax: +90 312 468 5026
Email: cumhurbaskanligi@tccb.gov.tr

Office of the Treasurer

Osgoode Hall
130 Queen Street West
Toronto, Ontario
M5H 2N6

Tel 416-947-3415
Fax 416-947-7609

Your Excellency:

Re: Arrest and Suspension of Lawyers and Judges in Turkey

I write on behalf of the Law Society of Upper Canada to voice our grave concerns about the mass arrests and suspensions of lawyers and judges in Turkey. When serious issues of apparent injustice to lawyers and the judiciary come to our attention, we speak out.

Reports indicate that following a failed military coup d'état attempt in Turkey on Friday, July 15, 2016, approximately 755 judges and prosecutors have been detained. Furthermore, an additional 2,745 judges and prosecutors have been suspended by the Turkish High Council of Judges and Prosecutors. It is the Law Society's understanding that the number of judges and prosecutors arrested and suspended amounts to one-fifth of Turkey's justice system. Human rights organizations note that there is no evidence to support the allegations that the judges and prosecutors in question were linked to the attempted coup.

The Law Society has noted that since 2014, a number of lawyers and judges have faced barriers to their abilities to exercise their legitimate duties, including attacks and threats; prosecutions; and sanctions against judges who make controversial or unpopular rulings. The Law Society believes strongly that the protection of judicial independence and the independence of the legal profession are essential to the maintenance of the rule of law.

The Law Society of Upper Canada strongly urges Your Excellency to comply with Turkey's obligations under international human rights laws, including the *European Convention on Human Rights* (ECHR), the *International Covenant on Civil and Political Rights* (ICCPR) - which both speak to the obligation to respect human rights, the prohibition of torture, the right to liberty and security, and the

right to a fair trial - the United Nations' *Basic Principles on the Independence of the Judiciary* and the United Nations' *Basic Principles on the Role of Lawyers*.

Article 1 of the *Basic Principles on the Independence of the Judiciary* states:

The independence of the judiciary shall be guaranteed by the State and enshrined in the Constitution or the law of the country. It is the duty of all governmental and other institutions to respect and observe the independence of the judiciary.

Additionally, Articles 17, 18, 19 and 20 read as follows:

17. A charge or complaint made against a judge in his/her judicial and professional capacity shall be processed expeditiously and fairly under an appropriate procedure. The judge shall have the right to a fair hearing. The examination of the matter at its initial stage shall be kept confidential, unless otherwise requested by the judge.

18. Judges shall be subject to suspension or removal only for reasons of incapacity or behaviour that renders them unfit to discharge their duties.

19. All disciplinary, suspension or removal proceedings shall be determined in accordance with established standards of judicial conduct.

20. Decisions in disciplinary, suspension or removal proceedings should be subject to an independent review. This principle may not apply to the decisions of the highest court and those of the legislature in impeachment or similar proceedings.

Article 16 of the *Basic Principles on Role of Lawyers* states:

Governments shall ensure that lawyers (a) are able to perform all of their professional functions without intimidation, hindrance, harassment or improper interference; (b) are able to travel and to consult with their

clients freely both within their own country and abroad; and (c) shall not suffer, or be threatened with, prosecution or administrative, economic or other sanctions for any action taken in accordance with recognized professional duties, standards and ethics.

Moreover, Article 23 states:

Lawyers like other citizens are entitled to freedom of expression, belief, association and assembly. In particular, they shall have the right to take part in public discussion of matters concerning the law, the administration of justice and the promotion and protection of human rights and to join or form local, national or international organizations and attend their meetings, without suffering professional restrictions by reason of their lawful action or their membership in a lawful organization.

The Law Society urges the government of Turkey to:

- a. release and reinstate lawyers and judges who have been arrested or suspended in relation to the attempted coup on July 15, 2016 unless credible evidence can be provided of their involvement in criminal activity;
- b. guarantee all the procedural rights that should be accorded to lawyers and judges who have been arrested or suspended in relation to the attempted coup on July 15, 2016;
- c. guarantee in all circumstances the physical and psychological safety and integrity of reinstated lawyers and judges who have been arrested or suspended in relation to the attempted coup on July 15, 2016;
- d. put an end to all acts of harassment against judges, lawyers and human rights defenders in Turkey; and
- e. ensure in all circumstances respect for human rights and fundamental freedoms in accordance with international human rights standards and international instruments.

Yours very truly,

Paul Schabas
Treasurer

**The Law Society of Upper Canada is the governing body for more than 50,000 lawyers and 8,000 paralegals in the province of Ontario, Canada. The Treasurer is the head of the Law Society.*

The mandate of the Law Society is to govern the legal profession in the public interest by upholding the independence, integrity and honour of the legal profession for the purpose of advancing the cause of justice and the rule of law.

cc:

Mr. Ahmet Davutoglu
Foreign Minister of Turkey
Basbakanlik,
06573 Ankara, Turkey
Fax: +90 312 417 0476
Email: receptayyip.Erdoğan@basbakanlik.gov.tr

H.E. Mr. Selcuk Unal
197 Wurtemberg Street
Ottawa, ON
Canada K1N 8L9
Fax:+1 (613) 789 34 42
Email: embassy.ottawa@mfa.gov.tr

The Honourable Stéphane Dion
Minister of Foreign Affairs
House of Commons
Ottawa, Ontario
K1A 0A6
Email: stephane.dion@parl.gc.ca

Alex Neve, Secretary General, Amnesty International Canada

Mary Lawlor, Executive Director, Front Line Defenders

Vincent Forest, Head of European Union Office, Front Line Defenders

Kenneth Roth, Executive Director, Human Rights Watch

Ümit Kocasakal, Istanbul Bar Association

Adrie van de Streek, Executive Director, Lawyers for Lawyers

David F. Sutherland, Chair, Lawyers' Rights Watch Canada

Yves Berthelot, President, Observatory for the Protection of Human Rights Defenders

Michel Forst, Special Rapporteur on the situation of human rights defenders, Office of the United Nations High Commissioner for Human Rights

Gabriela Knaul, Special Rapporteur of the Human Council on the independence of judges and lawyers, Office of the United Nations High Commissioner for Human Rights

Sarah Smith, Human Rights and Rule of Law Policy Adviser, The Law Society of England and Wales