

FIDH – International Federation for Human Rights
and its member organizations in Japan
Center for Prisoners' Rights

Joint press release

Japan: Prosecution of Carlos Ghosn exposes flawed criminal justice system

Paris, Tokyo - 20 February 2019: The Japanese government must urgently take concrete steps towards addressing serious flaws in the country's criminal justice system in order to bring it into line with international human rights standards, FIDH and its member organization Center for Prisoners' Rights (CPR) said today.

“The international community has finally paid attention to Japan’s flawed criminal justice system because of the arrest and detention of former Nissan president Carlos Ghosn. The denial of Mr. Ghosn’s right to a lawyer during interrogation, his prolonged detention prior to indictment, and his prison conditions expose some of the serious failings that have characterized Japan’s criminal justice system for too long,” said CPR Secretary-General Maiko Tagusari.

Japan's criminal justice system had already been a target of serious concerns of international bodies and human rights organizations for decades. In August 2014, the UN Human Rights Committee (CCPR) recommended that the Japanese government abolish the substitute detention system (*daiyo kangoku*) and guarantee alternatives to detention - such as bail during pre-indictment detention and the right to a lawyer during interrogation. In 2013, the UN Committee against Torture (CAT), expressed its concerns over the justice system's heavy reliance on evidence obtained as a result of defendants' confessions, which are often made without a lawyer being present. The CAT also recommended Japan improve conditions of detention in conformity with the standard minimum rules for treatment of prisoners (SMR), also known as the 'Mandela Rules.' Although the CCPR expressed its concerns over "harsh rules of conduct in prisons that restrict the fundamental rights of prisoners" in 1998, inmates are still placed under unreasonably restrictive prison rules, which do not comply with respect for human dignity. These rules are therefore inconsistent with Japan's obligation under the International Covenant on Civil and Political Rights (ICCPR), to which the country is a state party.

These concerns are exacerbated by the government's failure to duly submit its periodic reports to the CAT and the CCPR – the deadlines for which were 31 May 2017 and 31 July 2018, respectively.

“A first step towards the overhaul of the criminal justice system should be the establishment of genuine and constructive dialogue with key UN human rights bodies. The Japanese government must submit its overdue reports to UN human rights bodies in compliance with its obligations under the relevant international instruments,” said FIDH Vice-President Adilur Rahman Khan.

Japanese authorities arrested Mr. Ghosn on 19 November 2018 on suspicion that he underreported his income as Chief Executive Officer (CEO) of carmaker company Nissan for fiscal years between 2010 and 2014. He was hit by new allegations on 10 December for underreporting his income from 2015 to 2017, and, again, on 21 December 2018, he was accused of having shifted more than US\$16 million in personal losses incurred in 2008 to Nissan.

Under Japanese law, courts can approve prosecutors' requests to detain suspects for up to 20 days after an arrest before prosecuting them for a crime. This process can be repeated if additional charges are brought against suspects, as in the case of Mr. Ghosn. After suspects are indicted, they are continued to be detained unless a court approves a request for bail or a court itself decides not to renew the detention - either of these scenarios rarely happen when defendants deny their charges. Just as all the other suspects, Mr. Ghosn was not allowed to have his defense counsel present at his interrogation and was denied conditional release before indictment.