



FACULTY OF LAW

Macdonald Hall, Union Street
Queen's University
Kingston, Ontario, Canada K7L 3N6
Tel 613 533-2220

17 September 2020

The Canadian Judicial Council
Ottawa
By email

Dear Council Members:

I write in complaint about the reported conduct of a judge in Canada's Tax Court.

It is reported today that a sitting member of the Court attempted to influence the outcome of the search for a new Director of the distinguished International Human Rights Program (IHRP) at the University of Toronto's Faculty of Law.

The judge has not been publicly identified. A name circulates in electronic correspondence and social media.

The *Globe and Mail* for 17 September 2020 reports:

'In an e-mail to law dean Edward Iacobucci on Sept. 12, two former directors of the program allege that the school made an offer to [Dr Valentina Azarova] , and that in mid-August she accepted it. But when a judge on the Tax Court of Canada pressed him on the matter, Mr. Iacobucci rescinded the offer, says the e-mail, which The Globe and Mail obtained. It does not state the name of the judge. The Globe attempted to reach the Tax Court in repeated e-mails and telephone calls to its media representative but received no response.'

The *Toronto Star* for 17 September 2020 reports:

'Several national and international scholars wrote to the university to express their consternation that the reversal came after reports of pressure from a sitting judge — a major donor to the faculty. He reportedly expressed concerns in private over Azarova's past work on the issue of Israel's human rights abuses in Palestine. All the letters mentioned here have been seen by the Star.'

It is further reported that, as a result of what the Advisory Board of the IHRP regarded as a failure of procedure and lack of transparency, its Chair and all academic members of the Board resigned.

In the published reports, neither the University of Toronto nor Dean Iacobucci has clearly denied:

- (a) that a judge on the Tax Court knew or was told which candidates were under consideration for this appointment;
- (b) that there were private discussions between a judge on the Tax Court and members of the Faculty of Law regarding this appointment;
- (c) that a judge on the Tax Court attempted to influence, or did in fact influence, the outcome of the appointment.

Kelly Hannah-Moffat, Vice-President of Human Resources & Equity is reported as saying **'Personnel searches at the University of Toronto are confidential and bound by policies and applicable privacy legislation.'**

Dean Iacobucci is reported as saying: **"The uninformed and speculative rumours have reached such a level that, no offer of employment having been made, the University has decided to cancel the search for a candidate at this time."**

These statements do not answer the legitimate concerns of the public:

- (1) The reports suggest that the search was not confidential to a member of the Tax Court.
- (2) Whether any offer of employment was made is irrelevant. It would be wrong for a judge to attempt to influence a university appointment in this way, no matter in what direction or with what outcome.
- (3) It is irrelevant whether the published allegations are 'uninformed and speculative'. What is relevant is whether they are true.

The reports further allege that the interference may have been motivated by a judge's disapproval of Dr Azarova's research on Israeli occupation of Palestinian lands. If that were so, it would be very troubling. It would put the integrity and impartiality of the Court in jeopardy. Any party or lawyer before it who is Palestinian, Arab, or Muslim could reasonably fear bias.

I respectfully request that Council investigate this matter and, if necessary, take appropriate action.

Yours truly,



Leslie Green, D.Phil.
Professor of Law and Distinguished University Fellow*

*Writing in a personal capacity. Affiliation for identification purposes only.