

President's statement protesting against the search and seizure at the law office of the former defense lawyers

January 31, 2020

Chikara Shinozuka, the President of Tokyo Bar Association

On January 29, 2020, prosecutors from the Tokyo District Public Prosecutor's office raided and searched the office of Mr. Carlos Ghosn's former defense lawyers, despite the lawyers explicitly exercising their right to refuse seizure. The public prosecutors unlocked a door to enter the office, broke the keys on the door and videotaped the lawyers' office rooms where the case files existed. They stayed in the office for a long period of time even though the lawyers repeatedly requested them to leave.

Lawyers have a right to refuse seizure of items containing confidential information of others which they have been entrusted with and retain and possess in the course of their duties, except when the refusal is deemed to be an abuse of rights (Article 105 of Code of Criminal Procedure). Once the lawyer exercises the aforementioned right, any search for the items is prohibited accordingly.

The prosecutors' conducts obviously violated the spirit of the law and thus were illegal.

Our Constitution guarantees the rights for suspects and defendants to defend themselves and to retain defense counsels, which obliges lawyers to conduct their best to defend their clients' rights.

The public prosecutors' violation of the law and their opposite party' rights not only interfere with the defense lawyers' duties but also significantly harms the fairness of the criminal justice system.

In addition to significantly harming the fairness of our criminal justice system, the prosecutors undermined the lawyers' right to refuse seizure and it would be resulted in impairing the citizens' legal rights to have effective legal assistance by disclosing their secrets to the lawyers.

The Tokyo Bar Association strongly protests against the prosecutors' illegal conducts. Furthermore, we are deeply concerned that the prosecutors' illegal conducts would undermine the trustworthiness of Japan's criminal justice system not only among Japanese citizens but also from the viewpoint of the global community, especially under the circumstances that it draws strong criticism worldwide.