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## Concerns as Dr Yang Hengjun faces trial

The Law Council of Australia strongly supports Minister for Foreign Affairs, Senator the Hon Marise Payne, in calling on the Chinese Government to permit Australian citizen Dr Yang Hengjun access to legal representation and consular assistance.

This includes permitting Australian consular staff to attend Dr Yang's closed trial when it begins on 27 May.

Law Council President, Dr Jacoba Brasch QC, said "the right to independent legal assistance must be ensured from the moment of deprivation of liberty, and access to effective legal representation guaranteed to all persons at all stages of criminal proceedings.

"This is a fundamental precondition to realising the right to a fair trial."

"The seriousness of the charges against Dr Yang render the protracted deprivation of legal assistance even more egregious, falling well short of international fair trial standards," Dr Brasch QC said.

Since Dr Yang was detained in January 2019, the Law Council has repeatedly voiced grave concerns for his welfare and the lack of procedural fairness. In particular, concern has been raised over the delayed and restricted access to consular assistance and legal advice made available to Dr Yang, who was formally charged with espionage in October 2020, and first granted access to a lawyer in September 2020.

Under the Vienna Convention on Consular Relations to which China is a party, as well as the bilateral consular agreement in force between Australia and China which incorporates these principles, Australian consular officials are entitled to communicate with Dr Yang, receive information on the charges against him, and attend Dr Yang's trial and other legal proceedings.

"We would expect that any caveats on these obligations – arising from the nature of the charges against Dr Yang – must give full effect to the purpose to ensure fairness, transparency, and humane treatment for which these rights were accorded," Dr Brasch QC said.

The international legal community should continue to insist upon procedural guarantees for all persons in accordance with international fair trial standards, irrespective of the offence for which they are accused.

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Contact: Dr Fiona Wade: P. 0403 810 865, E. [Fiona.Wade@lawcouncil.asn.au](mailto:Fiona.Wade@lawcouncil.asn.au)

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