



International
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Mr. Sang Sothun

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Dear Mr. Sang Sothun,

Thank you for meeting with us at your office on 26 July 2013. We hope that you found the discussions as beneficial as we did.

We are writing to you today to confirm our understanding of the points you made during our conversation, particularly on the subject matter of Article 17 of the new Code of Ethics. As you know, we had expressed in a previous communication to the Bar Association, that the language of Article 17 was ambiguous and raised fears that lawyers will not be able to exercise their right to express their opinions freely.

Thank you for taking the time to explain to us how you believe both Article 17 and the Bar President's Letter No. 067/B.A/13 ensure accuracy when lawyers discuss and interpret laws in public forums, such as television or radio shows.

We are pleased to hear that the Bar Association does not interpret Article 17 in a way that makes it mandatory for lawyers to seek permission from the Bar Association before speaking to the media. Rather, you clarified that, under Article 17, lawyers are free to express their opinion in any radio or television program without prior permission from the Bar President or other persons from the Bar Association.

We also appreciate your clarification that Letter No. 067/B.A/13 does not make it mandatory for lawyers to consult with the Working Group on Research, Education and Dissemination of Laws prior to speaking to media. We appreciate your emphasis that it is only optional for lawyers to notify the Working Group of the topic or subject matter to be discussed on the television or radio shows. Lawyers may choose to notify the Working Group or not. Moreover, they will not be subjected to disciplinary measures should choose not to notify the Working Group.

The ICJ welcomes these interpretations of Article 17, which we believe will better safeguard the right to freedom of expression and the independence of lawyers as enshrined in Article 19 of the International Covenant on Civil and Political Rights (ICCPR) and Principle 23 of the UN Basic Principles on the Role of Lawyers. As you are aware, the latter provides that lawyers, like other citizens “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” in a manner consistent with recognized standards and ethics of the legal profession.

We also understand from our discussion with you that the Bar Association has not, to date, sanctioned any lawyers for allegedly violating Article 17. We commend the Bar Association on this and hope that the Bar Association will continue to encourage more open public discussions between lawyers and the greater Cambodian population.

Appreciating the Bar Association’s need to ensure its members’ competence and integrity, the ICJ, during the meeting with you, also proposed several recommendations on ways that could develop and improve the standards and safeguards of independence of the legal profession, in a manner that is consistent with international standards and respect for lawyers’ rights. We recommended that the Bar Association consider:

- (i) Establishing and implementing non-discriminatory, objective, clear and uniform criteria related to the admission to the Bar, including the requirement to pass examinations that ensure that candidates for admission possess the requisite education and training, including on the law, the independence and role of lawyers, professional ethics and human rights;
- (ii) Making it mandatory for lawyers to regularly and periodically attend continuing legal education courses accredited by the Bar Association; and
- (iii) Setting up an independent Committee that will oversee disciplinary proceedings against those lawyers who are alleged to have committed professional negligence or misconduct; ensuring that allegations of misconduct are considered in the course of an expeditious, impartial and fair procedure that respects the lawyer’s right to a fair hearing; and ensuring that any findings of misconduct and any resulting sanctions imposed are subject to independent judicial review.

We hope that you will take into consideration the above recommendations and should the Bar Association wish to pursue any of these endeavors, please do not hesitate to contact us and we would be more than willing to provide you with assistance in this regard.

Thank you. We look forward to hearing from you soon.

Very truly yours,



Sam Zarifi
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For questions and clarifications, please contact Ms. Emerlynne Gil, International Legal Adviser for Southeast Asia, tel. no. +662 619 8477 (ext. no. 206) or emerlynne.gil@icj.org