

Dr. H. Susilo Bambang Yudhoyono
Jl. Alternatif Cibubur Puri Cikeas Indah No. 2
Desa Nagrag Kec. Gunung Putri
Bogor - 16967, Indonesia

Brussels, 18 September 2014

Re: Concerns regarding an investigation open against Mr. Gustaf Kawer, a human rights lawyer

Your Excellency,

I am writing to you on behalf of the Council of Bars and Law Societies of Europe (CCBE), which, through the national Bars and Law Societies of the Member States of the European Union and the European Economic Area, represents more than 1 million European lawyers. In addition to membership from EU bars, it also has observer representatives from a further thirteen European countries' bars.

The CCBE, through its Human Rights Committee, places great emphasis on respect for human rights and the rule of law. The CCBE is particularly concerned by the situation of human rights defenders in the world.

The CCBE writes to express its serious concern over the situation of the human rights lawyer Mr. Gustaf Kawer. The Papua Regional Police has opened an investigation against him in connection with his professional duties as a defence lawyer in a case in front of the Jayapura State Administrative Court.

Mr Kawer is being investigated for alleged crimes "against public authority" under articles 211 and 212 of the Indonesian Criminal Code. These charges could lead to up to four years in prison.

The CCBE has been informed that the events are alleged to have occurred during a court hearing on 12 June 2014 where Mr Kawer is a lawyer in a land dispute case between his client and the government. The week preceding the hearing, Mr Kawer had applied for a postponement of the hearing on behalf of his client. Nonetheless, at the hearing, the court decided to deny the postponement and proceeded with the hearing in the absence of Mr Kawer and his client. Upon his arrival at court, the human rights lawyer protested on the basis that the court had previously granted a postponement on three previous occasions at the request of the government. Then, Mr Kawer was asked to leave the courtroom if he disagreed with the court's decision, and he did.

The CCBE has been told that on 25 August 2014, a police investigator submitted a summons to the Indonesian Bar Association (PERADI), requesting that Mr Kawer appear before the Papua Regional Police headquarters for interrogation on 1 September 2014. On 27 August 2014, the Chairperson of the Executive Board of the Papuan Branch of PERADI announced that Mr Gustaf Kawer will not follow the summons until the Board of PERADI had carried out an investigation in the case, the results of which will be communicated to the authorities.

The CCBE would like to highlight the agreement between the Indonesian National Police and the Indonesian Bar Association (PERADI) on "Investigatory Procedures for Carrying Out The Profession as Advocate", whereby any summons issued to lawyers in relation to their work should be directed to PERADI.

In this context, the CCBE wishes to draw to your attention the following Principles of the United Nations Basic Principles on the Role of Lawyers (1990):

Principle 16 says that:

Governments shall ensure that lawyers (a) are able to perform all of their professional functions without intimidation, hindrance, harassment or improper interference; (b) are able to travel and to consult with their clients freely both within their own country and abroad; and (c) shall not suffer, or be threatened with, prosecution or administrative, economic or other sanctions for any action taken in accordance with recognized professional duties, standards and ethics.

Principle 20 states that:

Lawyers shall enjoy civil and penal immunity for relevant statements made in good faith in written or oral pleadings or in their professional appearances before a court, tribunal or other legal or administrative authority.

Furthermore, Principle 28 states that:

Disciplinary proceedings against lawyers shall be brought before an impartial disciplinary committee established by the legal profession, before an independent statutory authority, or before a court, and shall be subject to an independent judicial review.

In view of the above, the CCBE respectfully urges you to drop the police investigations into Mr Gustaf Kawer, and to guarantee the security and physical and psychological integrity of Mr. Kawer. In addition, the CCBE asks you to take all necessary measures to guarantee that in all circumstances all human rights lawyers are able to perform their professional duties without fear of reprisal, hindrance, intimidation or harassment.

I look forward to hearing from your Excellency urgently.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Aldo Bulgarelli', with a long vertical line extending downwards from the end of the signature.

Aldo BULGARELLI
President