



BUNDESRECHTSANWALTSKAMMER

The President

Bundesrechtsanwaltskammer
Littenstraße 9 | 10179 Berlin

YAB Dato' Sri Mohd Najib bin Tun Abdul Razak
Prime Minister
Office of the Prime Minister of Malaysia
Main Block, Perdana Putra Building
Federal Government Administrative Centre
62502 Putrajaya
Malaysia

By e-mail to ppm@pmo.gov.my

Berlin, 12 July 2016

Open Letter

Serious threat to the independence of the Malaysian Bar

Your Excellency,

The Bundesrechtsanwaltskammer (The German Federal Bar) represents the interests of the 28 German Bars and thus of the entire legal profession in the Federal Republic of Germany, which currently consists of approximately 164,000 lawyers, vis-à-vis authorities, courts and organisations – at national, European and international level.

The German Federal Bar notes with deep concern the intention of the Government of Malaysia to amend the Legal Profession Act 1976.

According to the information available to us, there are several amendments to the LPA, scheduled to be tabled in Parliament in October 2016.

These are:

1. Government to appoint two members of the Bar to sit on the Bar Council to “represent the government”
2. Quorum requirement for all general meetings of the Malaysian Bar and State Bars to be increased to twenty-five percent of the membership
3. A complete overhaul of the process of electing the members of the Bar Council

Bundesrechtsanwaltskammer

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4. Division of "elected members" of the Bar Council
5. Direct election of Office Bearers
6. Disqualification of State Bar Chairs and immediate past Vice-Presidents from election as an Office Bearers
7. The Minister in charge of legal affairs will be empowered to determine the electoral rules and regulations of the Malaysian Bar.

In accordance with the UN Basic Principles on the Role of Lawyers governments shall ensure that lawyers are able to perform all of their professional functions without intimidation, hindrance, harassment or improper interference.

The principles also provide that lawyers shall be entitled to form and join self-governing professional associations to represent their interests, promote their continuing education and training and protect their professional integrity. The executive body of the professional association shall be elected by its members and shall exercise its function without external interference. The Bar needs to be free to elect its own leaders and act without government interference.

The independence of the legal profession is crucial for the lawyer to carry out his/her special role in society. The lawyer's activities serve in particular the common good. As an agent of the administration of justice, the free and independent legal profession is an integral part of a state governed by the rule of law. Any interference from the government with this independence is not acceptable.

Against this background, The German Federal Bar is deeply concerned about the scheduled amendments in Malaysia. I kindly ask you to inform us if the information available to us is correct and how you view the situation.

The independence of the legal profession is an essential prerequisite for a state governed by the rule of law. Therefore, I urge you to make sure that there will be no interference to the independence of the Malaysian Bar.

Yours sincerely,



Ekkehart Schäfer