

Kingdom of Cambodia
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Bar Association of the Kingdom of Cambodia (BAKC)

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Phnom Penh, 21 June 2018

President Suon Visal

- BAKC Council:
- BAKC Council:
- 1. SAING Vannak
- 2. ING Kerya
- 3. KET Khy
- 4. IV Poly
- 5. KHIEV Sambo
- 6. CHEA Soknorn
- 7. SAN Chuoy
- 8. THAN Phanith
- 9. CHU Chanthyra
- 10. KENG Somala
- 11. MEY Osphea
- 12. SENG Sokhim
- 13. LIV Sovanna
- 14. CHHIV Phyum
- 15. SAM Sokong
- 16. NORNG Meanun
- 17. OU Thydapoeuv
- 18. LY Ping
- 19. YIM Visoth
- 20. LIM Chanlida
- 21. KAY Visal
- 22. HO Lyhow
- 23. VAR Pisey
- 24. CHEA Hongry
- 25. SAO Kanha
- 26. MON Vimean Champa
- 27. CHHY Sambath

Respectfully submitted to

President NIL Nonn, Trial Chamber,

Extraordinary Chambers in the Courts of Cambodia (ECCC)

Subject: Status of International Co-Counsel for NUON Chea in Case 002/02

- Ref:**
- o The ECCC Letter of 31 May 2018
 - o The Bar Council Meeting of 14 June 2018
 - o Article 48 of the Law on the Bar

With reference to the abovementioned subject and references, I have the honour to inform you that after having received your letter, the Bar Council held a meeting on 14 June 2018 to discuss and look into your request. Based on the outcomes of the meeting, I would like to respond to your questions as follows:

Question A: Following registration with the BAKC, are foreign counsel practising before the ECCC required to maintain membership in a foreign bar association on a continuing basis?

Answer: Foreign lawyers practising the profession before the courts of the Cambodia depend on two criteria as provided in Article 5 of the Law on the Bar.

The first criterion: Those foreign lawyers who have been recognised and authorised by the countries of their origin to practise the legal profession have the right to practise the profession with a Khmer lawyer before the courts of Cambodia. This is a criterion which allows foreign

lawyers to register with the BAKC.

The second criterion: The phrase “the countries of their origin recognise and authorise [their lawyers] to practise legal profession”, when taking into account the period, synchronizes the period of practising the profession in Cambodia. This means that if the recognition were to be terminated, the practice of the profession in Cambodia would be terminated at the same time. Admission to the BAKC is applicable given the applicant’s status as a lawyer. When a person loses his/her status as a lawyer of the country of his/her origin, the BAKC does not recognise him/her as a lawyer and that person is not authorised to practise the legal profession before the courts of Cambodia.

Question B: If a foreign counsel practising before the ECCC ceases to be a member of any foreign bar association, what effect if any does this have on the foreign counsel’s registration with the BAKC?

Answer: When a foreign or national lawyer has registered with the BAKC, that lawyer shall be subject to the rules of the Law on the Bar alike. When a lawyer loses his/her qualification, that lawyer shall be placed outside of the List. Article 41 of the Law on the Bar states that, “The Bar Council shall decide to put any lawyer outside of the List if such lawyer is in a situation of incompatibility or if such lawyer is unable to practice his or her profession. Complaints against such decisions shall be conducted in accordance with the procedures established in Article 33.”

In this regard, if a foreign lawyer is no longer a member of a foreign bar association, in global principle, that lawyer is not qualified to practise the legal profession in that country. The Bar Council shall eliminate that lawyer’s name from the BAKC List.

Question C: Mr Victor Koppe has not been a member of any foreign bar association since 1 January 2016 – is he still entitled to be registered with the BAKC?

Answer: Pursuant to Article 41, placing any lawyer outside the List shall be conducted in accordance with the procedures. Such decisions shall be made in the meeting of the Bar Council. The meeting of the Bar Council shall be held in accordance with the internal regulations of the Bar Association.

Question D: If he is no longer entitled to be registered with the BAKC, what steps would he need to take to rectify this situation?

Answer: Pursuant to Article 42 of the Law on the Bar “Any lawyer who [is] placed outside of the List may not perform his or her profession and may not use his or her title as a lawyer and moreover he or she shall be excused from all obligations related to the profession; but still he or she shall remain under the administration of the Bar Association.” The last phrase “remain under the administration of the Bar Association” means that the lawyer may be included in the Bar List if the period of the placement outside of the Bar List is limited. If Mr Koppe wants to re-perform his profession in the courts of Cambodia, he shall re-register in the bar association in his country of origin and submit an application to the BAKC, requesting for re-inclusion [of his name] in the List on which the Bar Council shall make a decision.

With regard to Mr Koppe, I would respectfully request Mr President to officially provide specific documents and information regarding his title with the foreign bar association to the Bar Association at the latest before Thursday 28 June 2018, thus enabling the Bar Association to decide his status as a lawyer.

As aforementioned, please, Mr President, be informed accordingly.

[Signed and sealed]

President

Lawyer SUON Visal