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Le Président

30 April 2010

URGENT APPEAL IDHAE : Lin Hongnan

Nos réf : 0220905 BF/CH

Your Excellency,

The European Bar Human Rights Institute (IDHAE) whose affiliated are the the International Committee of the Human Rights Institutes of the Bar of Paris, Brussels, Montpellier and Bordeaux, as well as the Union of European Lawyers and the Polish Bar human Rights Institute , *l'Unione forense per la tutela dei diritti dell'uomo (Roma) and the Rechtsanwaltskammer Berlin, barreau de Luxembourg AND THE Union Internationale des Avocats* .

IDHAE has as among its aim interventions, regardless of the limitations of borders, in favour of freedom and the fundamental rights of lawyers with its World Observatory for Defence Rights and attacks against lawyers : "*Attorney Urgent Alert*".

Or Institute is very concerned for respect for human rights and the rule of law and by the situation of human rights lawyers in the world.

Or Institute is very concerned for the safety of lawyer Lin Hongnan, defence lawyer of defendant Wu Huaying in the Case of the Fujian Netizens, who has been given an administrative punishment in the form of a one year suspension from practice by the Justice Bureau of Fuzhou City, at a time when the time limit within which a verdict ought to be announced in the Fujian Netizen Case has already been exceeded.

On 20 April 2010, a few days after the three netizens were convicted of libel, Mr. Lin received another notice from Fuzhou City Bureau of Justice, enforcing the dissolution of his law firm by accusing the firm of being subject to unlawful statutory conditions of establishment.

Lin Hongnan, took up the case of “Three Fuzhou Netizens”, which aroused territory-wide concern. The three internet users, Fan Yanqiong, Wu Huaying and You Jingyou, were accused of “false accusation and defamation” after helping a petitioner, Lin Xiuying, to post up records of her grievance on internet. Mr. Lin took up the case and defended Wu Huaying.

About 5 days before the first trial in December 2009, Lin received a penalty notice from the Fuzhou City Bureau of Justice, ordering a 1-year suspension of his licence, thus immediately preventing him from legally representing any of the three defendants.

Citing the fact that Mr. Lin could not assume his duty as a law firm partner during his licence suspension, the Fuzhou City Bureau of Justice stated that his firm had failed to maintain the statutory conditions of

Lawyer Lin Hongnan, president of the Fujian Fawei Law Firm and a famous senior lawyer now in his seventies, has throughout his professional career respected and preserved professional ethics and consistently taken facts as the basis and the law as the standard.

In taking on cases of nationwide significance such as the Fuqing City Discipline Committee Bomb Attack Case, the ‘Fuzhou Police and Bandits Collusive Murder Case’ and the ‘Fujian Netizen Case’ of the netizens accused of making false accusations, he has always sought to obtain the fullest possible protection for citizens’ legal rights, and ensure respect for the laws of the state.

But due to Lawyer Lin Hongnan’s insistence on respecting the minimum requirements of justice and conscience, and due to his persistence in speaking up in the interests of justice, he has now himself become a victim of injustice. Five days prior to the hearing in the case of the Fujian internet activists, during a meeting with the defendant Wu Huaying, Lawyer Lin was suddenly served with a ‘Notification of the hearing in the case of an administrative punishment imposed on Lawyer Lin Hongnan’.

The purported reason for the Fuzhou City Justice Bureau’s 23 December 2009 decision to suspend Lawyer Lin Hongnan from practice for one year was that in 2002, when Lawyer Lin Hongnan was acting as defence lawyer in the ‘Fuqing City Discipline Committee Bomb Attack Case’ (NB a case that was not classified as secret and that was tried publicly), he had without having obtained the Court’s permission photocopied the minutes of a Fuqing City Discipline Committee meeting designated as ‘secret’ and handed a copy to the family of the defendant, with the result that the contents of this document were later disclosed on an overseas website.

We believe that the evidence for this administrative punishment is insufficient, that it was procedurally incorrect, that the decision violates Lawyer Lin Hongnan’s legal right to exercise his profession and that it is contrary to the principle of ruling the country in accordance with law.

1) The administrative punishment seriously lacks factual evidence

The document referred to by the Fuqing City Justice Bureau is a document entitled ‘Minutes of a meeting on the handling of three major suspected lapses of discipline of Wu Jianxi;’ these ‘minutes’ were materials relevant to the case of the Fuqing City bomb attack and they were included in the file of this case kept by the investigating authority, the police. Having undergone scrutiny by the prosecution office at two levels, followed by public indictment, they were

transferred to the Court; and [the minutes] were produced at trial and their value as evidence discussed then. The Fuqing City bomb attack was a case that was tried in public and attracted nationwide attention; the aforementioned minutes were part of the case file and they were in no way ‘secret’ within the meaning of the State Secrets Law. Apart from this, Lawyer Lin Hongnan was only one among ten lawyers for the six defendants in this case. All of these lawyers could have made a photocopy of the document when accessing it in the Court. The Fuzhou City Justice Bureau has no evidence whatsoever to demonstrate that the document was leaked by Lawyer Lin Hongnan; and it cannot even be excluded that it was taken out by a member of the court or the prosecution office.

2) Even if the evidence could be established, the administrative punishment in this case would still violate the statutory time limitation [for administrative punishment] of two years.

The ‘notice on a hearing regarding the administrative punishment against Lawyer Lin Hongnan’ was served on 6 November 2009 and the hearing took place on 20 November 2009. But this hearing procedurally violated the ‘Administrative Punishment Law’ and section 22 of the ‘Procedural Rules for Hearings on Administrative Punishments by Justice Administration Authorities.’ The justice administration authority failed to make the ‘Suggestion Letter on Administrative Punishment’ and the evidence in this case available to the Applicants, and the appraisal authority in this case, the State Secrets Bureau, did not appear at the public hearing. The witnesses Chen Kebin, Wu Huaying, Chen Wei and others did not attend the hearing, There was no opportunity for the affected party to discuss the evidence in the presence of the appraisal authority and witnesses, and thus the party was not given its full rights to present its own summary of the case and engage in advocacy to make its case. Several lawyers tried to attend the hearing but were not admitted to it; yet the affected party was not informed in advance of the reason why the hearing was not public. There has moreover been a violation of section 22 of the ‘Procedural Rules for Hearings on Administrative Punishments by Justice Authorities’ which requires that the parties in a hearing on administrative punishment be given a written decision within fifteen days; no such written decision was provided within fifteen days.

An further aspect is that the photocopying of the minutes of the meeting took place in 20002 and that in November 2004 the Fuzhou City criminal investigation squad of the police already called Lin Hongnan and three other lawyers in for question, and that Lin Hongnan at the time gave an explanation, after which the police neither produced an assessment nor took any further measures. From this it can be seen that the time limitation for administrative punishment of two years had already been exceeded.

On this basis, we call upon the Ministry of Justice and the All China Lawyers’ Association to discharge its responsibility for protecting the professional rights of the legal profession, and to set up an investigation team to examine the case of Lawyer Lin Hongnan.

Sincerely yours,

Bertrand FAVREAU
Président

Mario LANA
Vice-Président

Georges-Albert DAL
Vice-Président

Christophe PETTITI
Secrétaire Général