

French court has no jurisdiction over Razak Baginda, says lawyer
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By Debra Chong

KUALA LUMPUR, April 22 — While Suaram has formally filed a complaint with the French court over the scandalous Scorpene submarine sale to Malaysia, it holds no illusions that those named as witnesses, including Abdul Razak Baginda, will actually step forward to testify.

Lawyer Fadhiah Nadwa Fikri told The Malaysian Insider the Paris tribunal has no jurisdiction over the Malaysian seen as a key witness in the ongoing hearing over allegations government officials were bribed by French defence giant DCNS.

“Since he’s the main person who represented Perimekar, Razak Baginda is obliged to answer to the subpoena.

“The crux of the matter is he has to testify before the French court,” she told The Malaysian Insider yesterday, fresh from returning from Paris.

Fadhiah who was part of a three-member Suaram team that filed a formal complaint with the Tribunal Grand Instance de Paris on Thursday.

The local human rights group has accused Putrajaya of failing to address the serious allegations of multimillion ringgit kickbacks involving high-ranking government officials, suggesting a deliberate suppression of information to keep the issue under wraps.

Malaysia paid RM6.7 billion in 2009 for the two submarines of which RM574 million was earmarked for co-ordination and support services for Perimekar Sdn Bhd, owned by Abdul Razak, a close associate of Prime Minister Datuk Seri Najib Razak.

Abdul Razak and his wife, Mazlinda Makhzan, a director in the company, top the list of witnesses submitted by Suaram, Fadhiah said.

She added the French court has yet to issue a subpoena for Abdul Razak as it has yet to finalise the list of witnesses, and that the former could choose to defy the court order and not fall foul of action by the French authorities.

“There’s nothing the French court can do,” the lawyer-activist admitted.

She said she had confirmed the matter with Suaram’s two French counsel, Joseph Breham and William Bourdon.

“In case he defies the subpoena, the French court will issue a warrant to compel appearance, and if he refuses, it could issue a warrant of arrest against him.

“But it’ll be difficult to execute the warrant of arrest if he is on Malaysian soil as it’s not within French jurisdiction,” she said.

Fadiah added: "Same with Najib. If he receives a subpoena and does not answer it, the court may be unable to take action. He might be placed on a suspect list. If he sets foot in France, they can take action against him."

The prime minister is also named as a witness in Suaram's list submitted to the French inquiry, Fadiah said, and added that Najib may also be summoned to testify in the French probe as the court had yet to finalise its witnesses.

"He was the then Defence Minister. He has to expect to receive a subpoena. He has a moral obligation to answer the subpoena," she said.

"It's going to look so bad if he doesn't entertain the subpoena, what more as Malaysian government officials are involved. It will be bad on Malaysia," she said.

Fadiah stressed that it was still early for such speculation as things would happen "in due course".

Recent media reports have pinned Najib to the RM7.3 billion Scorpene submarine deal by French authorities.

Human rights groups and opposition parties have linked the submarine purchase to the 2006 murder of Mongolian translator Altantuya Shaariibuu, a one-time lover to Abdul Razak.

The former political analyst who headed think-tank Malaysian Strategic Research was acquitted of a charge of abetting two Special Action Squad members — Azilah Hadri and Sirul Azhar Umar — to commit the murder in 2006.

Earlier this month, Altantuya's father Dr Setev Shaariibuu told a press conference in Petaling Jaya that he had offered himself as a witness in the Scorpene submarine probe, claiming that his testimony would be able to "connect the dots" between her death and the Scorpene case.

Fadiah said that the tribunal was currently investigating the matter as a civil case but that Suaram's French counsel had told them the prosecutors may be filing criminal charges soon.

The French court is conducting its own inquiries into Abdul Razak's current address to subpoena him for the trial. He is believed to be living in Britain with his family currently.

But Fadiah also said there were various legal ways to get Abdul Razak to testify before the French court.

Lawyer Andrew Khoo, who heads the Malaysian Bar's human rights committee, echoed her view.

"It is possible that France could ask for the Malaysian government's help under the Mutual Assistance in Criminal Matters Agreement. But there is no guarantee that Malaysia will assist.

"However, if RB is in the UK at the moment, it may be that France will seek the UK government's help instead under the EU's mutual assistance framework," he told The Malaysian Insider when contacted for comment.

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