

Karabus sues former UAE employers



Lawyers acting for former Red Cross Children's Hospital oncology veteran Professor Cyril Karabus are suing his former United Arab Emirates (UAE) hospital employers for millions. They are also exploring a similar action against Emirates Airlines, which flew him to Dubai, where he was arrested and informed that he had been found guilty *in absentia* (under Sharia law) of patient manslaughter 10 years earlier.

Emirates Airlines' Toronto boarding staff initially warned Karabus that there was a 'security alert' on his passport but failed to tell him why. The airline may therefore be legally liable for delivering him into UAE custody. His lawyer, Michael Bagraim, said that notice has been served on Karabus' former employers, Interhealth Canada, for 'damages and out of pocket expenses', the latter alone amounting to over R2 million. Interhealth Canada's options are to either negotiate a settlement or face the possibility of a court-ordered amount in favour of Karabus, whose Canadian legal team believe he 'has a very strong case'.

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Interhealth Canada owned the Sheik Khalifa Medical Centre in Abu Dhabi, where Karabus had been acting as a locum at the time of the death of the patient in question. The company afterward sold the medical centre to the UAE government, 7 months after Karabus' locum ended. Bagraim accused them of having effectively 'abandoned' his client. 'They had two terrible excuses – first they said it was a criminal matter and had nothing to do with them, and second, they said the 3 years in which their risk insurance covered healthcare staff [civilly] had expired. It's highly disingenuous ... to tell their UAE staff they're covered civilly for 3 years when they know full-well the UAE has no provision for civil litigation – only a criminal system.'

Emirates Airlines 'acted as arm of the UAE police'

Karabus had been in Canada to attend his son Matthew's wedding, and was returning home to Cape Town with a 12-hour stop-over in Dubai. Bagraim said that on 18 August 2012, Emirates Airlines boarding-pass desk officials in Toronto picked up the 'alert' on Karabus' passport and went into a back office to check with management.



Professor Cyril Karabus.

They returned and effectively told the oncologist 'there's no need to worry – it's sorted', according to Bagraim, issuing him with boarding passes for Dubai and Cape Town, plus a UAE visa and a hotel voucher for the stop-over. Karabus had no inkling that he'd been a 'wanted man' in the UAE for 10 years – or that he'd been tried and convicted *in absentia*. He was arrested on arrival at Abu Dhabi International Airport and would be effectively held in the UAE for 9 months, of which he spent 57 days behind bars. Adds Bagraim: 'Cyril's supposition is that the Emirates Airline staff must have known [about the arrest warrant] but chose to ignore it, which means they acted as the unofficial arm of the UAE police. As a passenger they owed him a duty of care to say it was unwise to enter the UAE.'

Last month a group of Cape Town advocates began calculating the cost-benefits of such a suit, given that the airline did tell Karabus that there was an alert on his passport. This may arguably be a mitigating factor if liability can be established and an amount awarded. If he loses the suit, Karabus could be ordered to pay the respondent's legal costs. Matthew Karabus is a lawyer in Canada and senior partners in his firm are now handling his father's claim against Interhealth Canada.

The UAE criminal charges related to Karabus' treatment of a 3-year-old Yemeni patient, Sara Al Ajaily, for leukaemia and

associated pancytopenia. The child died of a cerebral haemorrhage on 19 October 2002 and a grieving father and nurse alleged – with what turned out to be a gross lack of substantiation – that Karabus had failed to give her platelet transfusions and falsified records of platelet administration after her death. Karabus was convicted *in absentia* of manslaughter and forgery and sentenced to 3 years in jail (plus a R250 000 fine) in March 2004. After his arrest, Karabus rapidly liaised with Bagraim in Cape Town and had to deposit R1 million in legal surety. A UAE lawyer took on his case and had the charges suspended – on condition that he agreed to a full retrial. Karabus was finally acquitted after 7 months of hearings, but then had to endure a failed state appeal and two more months of painfully drawn-out bureaucratic return clearance procedures. He finally boarded a flight home in May this year.

Kudos for some

Dr Iqbal Survé, philanthropist and founder of the South Africa Sekunjalo Group, (and a former medical pupil of Karabus'), used his business ties with the UAE royal family to help secure the acquittal and speed up the grindingly slow bureaucracy, clearing Karabus to fly home.

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Survé flew to Abu Dhabi twice. The first time, he met with the royal family as part of a three-person SA business delegation to complain about the 7 months of inaction by the court's medical advisory committee – the committee met the next day and exonerated Karabus, resulting in his acquittal the following day. Survé returned after the court dismissed an appeal by a seemingly obdurate prosecution, which then dragged its heels in providing a written undertaking that it would

not appeal a second time, effectively delaying Karabus' return by another 2 months.

For their efforts to help Karabus weather his ordeal and contribution to his eventual release, Bagraim and the Department of International Relations and Co-operation (DIRCO) were recognised for 'services to the medical profession', at an award ceremony hosted by the South African Medical Association, (SAMA) in Gauteng on 16 August. SAMA Deputy Chairperson Dr Mark Sonderup told *Izindaba* that Bagraim put his life and practice on hold to 'fight this relentlessly, undaunted, for 9 months'. He has also helped countless other healthcare professionals seeking urgent advice about working in the UAE and lobbied for better legal preparation of healthcare workers planning to work in overseas jurisdictions. SAMA 'strongly appreciated' DIRCO's issuing of a political *démarche*, the toughest form of political protest short of cutting diplomatic ties with the UAE – and an unprecedented move in the tenure of this government. Sonderup and Dr Poppie Ramathuba, head of SAMA's public sector



Michael Bagraim.

committee, jointly nominated the award winners. Sonderup conceded that the DIRCO was initially highly reluctant to get involved, but stressed that 'they came to the party' with

the *démarche* and DIRCO Deputy Minister Marius Fransman travelling to the UAE to intervene. Karabus told *Izindaba* that the staff of the South African embassy in Abu Dhabi also helped him with transport for his many court visits and in finally obtaining his passport and exit visa.

Today, Karabus is much sought-after on the South African speaker circuit and has given several talks, mostly to charity organisations at fund-raising dinners, including for the Red Cross Children's Hospital where he founded the paediatric oncology unit.

Izindaba emailed a detailed list of questions to Interhealth Canada's international legal advisor, Mr John Hyland, at least a month before publication. Hyland acknowledged receipt, but failed to respond by the time of going to print, in spite of a reminder.

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This month in the SAMJ ...



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*Battersby J, McLachlan M. Urban food insecurity: A neglected public health challenge. *S Afr Med J* 2013;103(10):716-717. [http://dx.doi.org/10.7196/SAMJ.7463]



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