

Resolution 2348 (2020)¹

The principles and guarantees applicable to advocates

Parliamentary Assembly

1. The Parliamentary Assembly refers to its [Recommendation 2121 \(2018\)](#) on the case for drafting a European convention on the profession of lawyer, in which it underlined the vital contribution of lawyers to the effective administration of justice. Lawyers play a central role in protecting human rights, in particular people's right to a fair trial, and in implementing principles of the rule of law.

2. The Assembly remains concerned by the numerous cases of violations of lawyers' rights, including attacks on their safety and independence, in recent years. Lawyers continue to be targeted for their involvement in human rights-related cases, such as defending the rights of refugees, asylum seekers, migrants, women, members of national and linguistic minorities, and lesbian, gay, bisexual, transgender and intersex (LGBTI) people. They have also been targeted for their work denouncing government unaccountability or corruption, or for representing particular individuals (such as terrorist suspects, opposition politicians, civil society activists and independent journalists). Lawyers have also been identified with their clients and, by extension, their clients' political affiliations or the offences of which they are accused.

3. Attacks against lawyers' personal safety and liberty often take place against a general background of lack of respect for the rule of law. Lawyers may face administrative and judicial harassment, including abusive interference with their professional rights and privileges, such as intrusions into privileged lawyer–client communications, searches of their persons or their professional premises, seizures of case-related documents, illegal audio and video surveillance, non-communication of essential case-related information, blacklisting or travel bans. Advocates have even been summoned as witnesses in cases against their clients. Advocates have experienced numerous restrictions while conducting their professional activities, including non-admission to the pretrial detention centre or place of detention where their client is being held, thereby undermining the confidentiality of lawyer–client privilege, and failure to inform an advocate about a client's location. The authorities have also interfered in the work of independent bar associations.

4. The Assembly underlines that Council of Europe member States have subscribed to the minimum standards currently laid out in [Recommendation Rec\(2000\)21](#) of the Committee of Ministers on the freedom of exercise of the profession of lawyer. It continues to encourage the effective and full implementation of these provisions, pending their translation into an international legally binding instrument.

5. The Assembly emphasises the importance of the roles of the Assembly's General Rapporteur on the situation of human rights defenders, as well as of the Commissioner for Human Rights, who can both engage in dialogue on the issues concerning lawyers. In addition, the Assembly continues to encourage improved implementation of standards through co-operation and training activities provided by the Council of Europe.

6. The Assembly urges all Council of Europe member States to ensure effective protection of the profession of lawyer, including by:

6.1. prohibiting State interference in the legal profession and clearly identifying the specific activities that amount to prohibited interference;

1. *Text adopted by the Standing Committee, acting on behalf of the Assembly, on 23 October 2020 (see [Doc. 15152](#), report of the Committee on Legal Affairs and Human Rights, rapporteur: Mr Aleksandr Bashkin).*

See also [Recommendation 2188 \(2020\)](#).



6.2. establishing a domestic legislative framework that guarantees the efficiency, independence and safety of lawyers' work, in particular by:

6.2.1. ensuring that national legislation and law-enforcement practice improve the conditions of and guarantees for lawyers' work in full compliance with the existing standards set out in the United Nations Basic Principles on the Role of Lawyers (1990), the Committee of Ministers [Recommendation Rec\(2000\)21](#) and Assembly [Resolution 2154 \(2017\)](#) on securing access of detainees to lawyers;

6.2.2. ensuring appropriate national safeguards against abuses and unlawful interference with lawyers' professional activities, also in contexts which may justify some greater restrictions of lawyers' rights, such as the fight against terrorism, organised crime or money laundering;

6.2.3. investigating and holding to account the perpetrators in all instances of unlawful intimidation, harassment or physical attacks and prosecuting any criminal offences committed against lawyers, regardless of the source of the threat.