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The case for drafting a European Convention on the profession of lawyer

Motion for a recommendation

tabled by Mr Bernd FABRITIUS and other members of the Assembly

This motion has not been discussed in the Assembly and commits only those who have signed it

Lawyers contribute to respect for the rule of law by defending individual freedoms, and in particular by ensuring that the right to a fair trial, guaranteed by Article 6 of the European Convention on Human Rights (ECHR) is upheld. Unfortunately, when the rule of law is threatened, the rights associated with the exercise of this profession are often also restricted.

In its Recommendation [No. R\(2000\)21](#) on the freedom of exercise of the profession of lawyer, the Committee of Ministers underlined “*the fundamental role that lawyers and professional associations of lawyers also play (...) in ensuring the protection of human rights and fundamental freedoms*”. Moreover, the [United Nations Basic Principles on the Role of Lawyers](#) of 1990 emphasise the vital role which associations of lawyers play “*in upholding professional standards and ethics, protecting their members from persecution and improper restrictions and infringements, providing legal services to all in need of them, and co-operating with governmental and other institutions in furthering the ends of justice and public interest.*”

These texts serve as benchmarks in this field, but are nevertheless “soft law” instruments, and as such have no binding legal force. Even though the right of defence in criminal matters is enshrined in Article 6.3c of the ECHR, there is no international convention on the profession of lawyer, and the rules on the exercise of this profession vary from one State to another.

Consequently, the Committee of Ministers should initiate work on the drafting of a European Convention on the profession of lawyer.

Signed (see overleaf)



*Signed*¹:

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