



Strasbourg, 11 September 2024

CJ-AV(2024)09

**Committee of Experts on the Protection of Lawyers  
(CJ-AV)**

**9<sup>th</sup> meeting**

**9-11 September 2024**

**Strasbourg, Palais, Room 11**

**MEETING REPORT**

CJ-AV website: [www.coe.int/cj-av](http://www.coe.int/cj-av)  
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## **1-2. Opening of the meeting and adoption of the agenda**

1. The Committee of Experts on the Protection of Lawyers (CJ-AV) held its 9<sup>th</sup> and last meeting in Strasbourg from 9 to 11 September 2024, under the chairmanship of Mr Christoph Henrichs (Germany).

2. The agenda of the meeting is contained in Appendix I. The list of participants appears in Appendix II.

## **3. CJ-AV Tour de table**

3. The Chair welcomed all participants, including the participants attending a CJ-AV meeting for the first time (Ms Sevil Bostancı, Türkiye; Ms Sophie de Graaf, Lawyers for Lawyers).

## **4. Statements by the Chair and Secretariat**

4. In her opening words, Ms Clare Ovey, Director of Human Rights, underlined the important work undertaken by the committee to strengthen the protection of lawyers. She emphasised how the draft convention will represent a significant step forward for their better protection considering the increasing risks that lawyers face in exercising freely their profession.

5. Mr Gianluca Esposito, Director General of Human Rights and Rule of Law, reiterated, in his closing remarks, that without the free and independent exercise of the legal profession, justice systems cannot function effectively. He stressed the role that lawyers play in defending human rights. Mr Esposito concluded by thanking the committee for its hard work in preparing this groundbreaking legal instrument.

6. The Chair informed the committee of the results of the examination of the draft convention and its draft explanatory report by the CDCJ at its 102<sup>nd</sup> plenary meeting (11-13 June 2024). The current versions of the draft convention (document CJ-AV(2022)05 prov14) and its explanatory report (document CJ-AV(2023)10 prov7) were revised to reflect amendments agreed by the CDCJ. Furthermore, additional comments were submitted by several CDCJ members after the plenary meeting (document CJ-AV(2024)10 rev).

## **5. Draft legal instrument aiming at strengthening the protection of the profession of lawyer and the right to practice the profession without prejudice or restraint: examination of the draft text and the draft explanatory report (CJ-AV deliverable)**

7. The CJ-AV carried out a careful examination of the 14<sup>th</sup> version of the draft text of the future legal instrument (document CJ-AV(2022)05 prov14) with a particular focus on the amendments made by the CDCJ and aspects identified by the CDCJ as needing further discussions. The CJ-AV also examined in detail all additional comments and drafting proposals provided by several delegations (document CJ-AV(2024)10 rev). The relevant parts of the draft explanatory report were reviewed in parallel.

8. The Committee reviewed Article 2 para. 4 on the extension of the protection afforded by some provisions (Articles 6 para. 3 (b) and (c) and 9 para. 3) to persons employed or engaged directly by lawyers in order to underline that this protection would apply when such persons contribute directly to the exercise of their professional activities. This was further elaborated in the explanatory report.

9. As regards Article 4 para. 3, it was further clarified that the consultation of professional associations as part of the legislative process should concern proposals by the government, whether initiated or endorsed by it, and not initiatives coming from individual members of parliament. This followed the thrust given by the CDCJ and was reflected in the explanatory report.

10. As to Article 6 para. 2, there was agreement among the committee that lawyers should not be held liable – either civilly or criminally – for presenting their clients’ versions and views of the facts. The CJ-AV decided to further clarify in the explanatory report that the notion of “diligence” should not be read as requiring lawyers to investigate the veracity of their clients’ presentation of the facts but to exercise reasonable care. It was emphasised that a lawyer’s liability should not be engaged on account of a client’s dishonest or misleading instructions, unless the lawyer knowingly participates in fraud or wrongdoing. This was crucial for preventing lawsuits against lawyers who were acting in good faith.

11. As regards Article 9 para. 1 (c), the committee clarified the exception to the right of a lawyer to have an independent lawyer or a representative of professional association present during the search, seizure and copying of materials or documents pertaining to their professional activities. This exception reflects the case law of the European Court of Human Rights whereby the presence of an independent lawyer or a representative of a professional association is not required when there will be no examination or copying of the documents or data by those conducting the search or seizure.

12. While previously presented as an exception under Article 9 para. 1 (c), the committee decided to introduce a separate paragraph to deal with inspections and similar measures concerned with the supervision of the profession with the understanding that these would be less intrusive than searches dealt with under Article 9 para. 1 (c) and would be implemented, for example, in some countries by professional associations and in others by other supervisory bodies. At the same time, states parties should ensure that safeguards consistent with Articles 6 and 8 of the European Convention on Human Rights are in place and observed in such cases. The explanatory report was supplemented with text to provide context and how this provision deals with situations different from those covered by Article 9 para. 1 (c).

13. There was agreement to leave the length of monitoring cycles flexible. It was underlined that the explanatory report already indicates that cycles should be of a length that does not impose an unrealistic burden on state parties. Ms Ana Gomez, Head of the Public International Law Division and Treaty Office, underlined that this followed the usual practice in similar instruments of the Council of Europe so as to preserve flexibility and avoid having to revise a treaty in order to adapt cycles if the practice commands it. Ms Gomez proposed a few amendments in respect of the final clauses to bring them in line with usual practice, in particular the harmonisation of Articles 20 and 23.

14. The CJ-AV instructed the secretariat, with the assistance of the consultant, to make the final editorial changes to the draft convention and explanatory report to reflect the agreements reached during the meeting.

**6. Any other business**

15. The committee expressed its gratitude to the Chair, Mr Christoph Henrichs, for his efficient chairmanship throughout the work of the committee, which had allowed it to reach a full draft convention and explanatory report within the timeframe set by the Committee of Ministers.

**7. Adoption of the meeting report**

16. The CJ-AV adopted the report of its 9<sup>th</sup> meeting.

## Appendix I

### Agenda

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1. Opening of the meeting

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  2. Adoption of the agenda and order of business

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  3. CJ-AV tour de table

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  4. Statement by the Chair and Secretariat

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  5. Draft legal instrument aiming at strengthening the protection of the profession of lawyer and the right to practice the profession without prejudice or restraint: examination of the draft text and the draft explanatory report (*CJ-AV deliverable*)

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  6. Any other business

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  7. Adoption of the meeting report

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## Appendix II

### Participants

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#### MEMBERS / MEMBRES

<b>AUSTRIA / AUTRICHE</b>	<b>Dr Marcella PRUNBAUER GLASER</b> Lawyer Österreichischer Rechtsanwaltskammertag / Austrian Bar
<b>CZECHIA / TCHÉQUIE</b>	<b>Mr/M. Ondřej RICHTER</b> Senior Ministerial Counselor Legislative Department Ministry of Justice
<b>DENMARK / DANEMARK</b>	<b>Mr/M. Nicolai PII</b> Legal director, Attorney The Danish Bar and Law Society
<b>FRANCE</b>	<b>Mr/M. Gilles ACCOMANDO</b> Directeur de l'Ecole de Formation des Barreaux (EFB) du ressort de la cour d'appel de Paris
<b>GERMANY / ALLEMAGNE</b>	<b>Mr/M. Christoph HENRICHS (Chair / Président)</b> Head of Section "International Law" Law of International Organisations Federal Ministry of Justice
<b>IRELAND / IRLANDE</b>	<b>Ms/Mme Claire LOFTUS</b> Solicitor
<b>LITHUANIA / LITUANIE</b>	<b>Ms/Mme Vaida RUDENAITE</b> Senior adviser Legal Services Policy Group Ministry of Justice
<b>LUXEMBOURG</b>	<b>Ms/Mme Valérie DUPONG</b> Avocate Etude Dupong, Krieps, Du Bois & Dias Videira
<b>NETHERLANDS / PAYS-BAS</b>	<b>Mr/M. Jacques WIJNEN</b> Senior Policy Advisor Judicial System Department Ministry of Justice and Security
<b>PORTUGAL</b>	<b>Mr/M. Joao PERRY DA CAMARA</b> Partner / Lawyer / Arbitrator Law Firm - Rogério Alves & Associados — Sociedade de Advogados, R.L.

<b>SPAIN / ESPAGNE</b>	<b>Mr/M. Alfredo IRUJO ANDUEZA</b> Lawyer, Law office in Pamplona Professor of Master in Law, Public University of Navarre Chair of Council of Navarre
<b>SWITZERLAND / SUISSE</b>	<b>Ms/Mme Simone FÜZESSÉRY</b> Avocate Département fédéral de justice et police DFJP Office fédéral de la justice OFJ Domaine de direction Droit public Unité Projets législatifs II
<b>TÜRKIYE / TURQUIE</b>	<b>Ms/Mme Sevil BOSTANCI</b> Judge Head of Department at the Directorate General for Foreign Relations and EU Affairs Ministry of Justice
<b>UKRAINE</b>	<b>Mr/M. Valentyn GVOZDIY (Vice-Chair / Vice-Président)</b> Vice-president of the Ukrainian National Bar Association Managing partner / International Law Firm GOLAW
<b>UNITED KINGDOM / ROYAUME-UNI</b>	<b>Mr/M. Tony FISHER</b> Partner Fisher Jones Greenwood LLP – Solicitors

**MEMBER STATES / ÉTATS MEMBRES**

<b>BOSNIA AND HERZEGOVINA / BOSNIE ET HERZEGOVINE</b>	<b>Ms/Mme Slavica LJUBIŠIĆ</b> Attorney at law Bar association of the Republic of Srpska  <b>Ms/Mme Tanja HADŽAGIĆ</b> Apologised/ <i>Excusé</i> Lawyer Bar Association of the Federation of Bosnia and Herzegovina
<b>FINLAND</b>	<b>Ms/Mme Assi SUOMINEN</b> Senior Specialist Ministry of Justice
<b>FRANCE</b>	<b>Mr/M. Guillaume VIEILLARD</b> Apologised/ <i>Excusé</i> Magistrat Chef du bureau des questions institutionnelles et diplomatiques Délégation aux affaires européennes et internationales (DAEI) Ministère de la Justice

	<p><b>Ms/Mme Marie KASSASSEYA</b> Rédactrice Bureau des questions institutionnelles et diplomatiques Délégation aux affaires européennes et internationales (DAEI) Ministère de la Justice</p> <p><b>Ms/Mme Sonia AMROUCHE</b> Stagiaire Bureau des questions institutionnelles et diplomatiques Délégation aux affaires européennes et internationales (DAEI) Ministère de la Justice</p>
<b>GEORGIA / GEORGIE</b>	<p><b>Mr/M. Vakhtang KACHIBAIA</b> Senior Specialist of First Category Analytical Department Ministry of Justice</p>
<b>GERMANY / ALLEMAGNE</b>	<p><b>Ms/Mme Susanne MÜNCH</b> Head of unit Federal Ministry of Justice</p>
<b>ITALY / ITALIE</b>	<p><b>Ms/Mme Nadia Giacomina Germana TASCONA</b> Attorney / <i>Maître</i></p>
<b>LUXEMBOURG</b>	<p><b>Ms/Mme Roberta SPOTO</b> Attachée juridique Représentation Permanente de la Luxembourg auprès du Conseil de l'Europe</p> <p><b>Mr/M. Dylan SIRY</b> Chargé de mission Représentation Permanente de la Luxembourg auprès du Conseil de l'Europe</p>

**PARTICIPANTS / PARTICIPANTS**

<p><b>EUROPEAN COURT OF HUMAN RIGHTS / COUR EUROPEENNE DES DROITS DE L'HOMME</b></p>	<p><b>Mr/M. Adrien RAIF-MEYER</b> Senior Lawyer Registry of the European Court of Human Rights</p>
<p><b>OFFICE FOR DEMOCRATIC INSTITUTIONS AND HUMAN RIGHTS (OSCE-ODIHR) / LE BUREAU DES INSTITUTIONS DEMOCRATIQUES ET DES DROITS DE L'HOMME (OSCE/ODIHR)</b></p>	<p><b>Mr/M. Thibaut NOEL</b> Legal Officer Legislative Support Unit</p>



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