

PROTECTING LAWYERS, PRESERVING ACCESS TO JUSTICE

CONFERENCE TO MARK THE ADOPTION AND OPENING FOR SIGNATURE OF THE COUNCIL OF EUROPE CONVENTION FOR THE PROTECTION OF THE PROFESSION OF LAWYER

Strasbourg, 16 June 2025

Panel Intervention by Christoph Henrichs, member of the CDCJ and former Chair of the Committee of Experts on the Protection of Lawyers (CJ-AV)

It is an honour for me to speak on this distinguished panel and to contribute to this high-level conference which marks a true milestone for the rule of law in Europe and beyond, the adoption of the new Convention for the protection of the profession of lawyer.

A lot has been said already why it is necessary to protect lawyers as an integral element of our effective justice systems and why we need this Convention. I would now like to get into the details of the Convention a little more and introduce some of its key features to you.

I had the honour to be the Chair of the Committee of Experts that drafted the Convention over a period of three years. This Committee was formed of 15 members designated by the member states. In addition to these 15 regular members, we had a large number of representatives from lawyers' associations that are active in the field of international protection of lawyers, for example the CCBE (the Council of Bars and Law Societies of Europe), Lawyers for Lawyers, Avocats Sans Frontières, the International Association of Lawyers and many others. Some of these are also represented on this panel and will speak on the Convention from their point of view.

The result was a unique and very fruitful mixture of government representatives and practitioners, each of them bringing in their individual expertise and own perspectives into our work. This mixture ensured that the text strikes a good balance, is consistent with the applicable rules and practices pertaining to the legal profession, and sets standards that are efficient and actually do work in practice for all the different legal systems under which lawyers and professional associations work.

Let me highlight some of the key elements of the convention now. The protection the Convention provides is twofold: in view of the individual lawyer and in view of professional associations. This is a very important message highlighted right at the outset of the

Convention: Professional associations play a vital role for the protection of lawyers. They do so in double function: They can speak and act on behalf of an individual lawyer that is being threatened or harassed, and they can also promote and represent the interest of lawyers collectively in the public and political debate. To be able to do so, professional associations need to be independent and self-governing bodies, immune to any external influences and free to exercise their function, which is what the Convention guarantees.

Another key article of the Convention is the Article on the professional rights of the individual lawyer. That Article lists a number of activities that lawyers typically exercise in the conduct of their profession and it obliges State Parties to ensure that they can exercise these activities freely. This includes the freedom to have access to their clients even when they are detained, to communicate with their clients confidentially and the ability to address courts and participate in court proceedings on behalf of their clients. Most of these rights and freedoms may seem obvious but as we have heard they certainly are not everywhere and in all circumstances, and this is why we need this protection by the Convention. That Article also grants freedom from civil or criminal liability for statements made in good faith in the conduct of proceedings.

Adding to these articles, the Convention provides for protective measures for both lawyers and professional associations. According to these provisions, lawyers must have access to a lawyer or a representative of their professional association when they are detained or when their premises are being searched or material of theirs is being seized. There is also an obligation on State Parties to refrain from physical attack, threat, harassment or other hindrance against lawyers and also to ensure that lawyers do not become the target of such behaviour from non-state actors. Similarly, State Parties are obliged to refrain from adopting any measures that would undermine the independence and self-governing nature of professional associations. There are many more details in the drafting of these provisions that I cannot go into right now but I hope you get the picture: The Convention guarantees freedom for both individual lawyers and professional associations to exercise their activities, and it establishes clear standards to protect these freedoms and rights.

Another important element of the Convention is the monitoring mechanism that we establish. A convention that imposes obligations on States can only be as good as the mechanism is to supervise them. The Council of Europe has a lot of experience with such monitoring mechanisms in various conventions. We had a very good look at them in our Committee and we picked out the best elements of all of them and combined them in order to make the protection as efficient as possible. Given the fact that in many cases it could be state actors

that are behind the challenges lawyers are faced with, we considered that protection and supervision should not be left in the hand of state representatives alone. To set up an efficient system, we installed a group of independent experts tasked with monitoring the convention. And we also gave them a catchy name, in line with the typical naming for such monitoring bodies in the Council of Europe: GRAVO.

These experts will be nominated and elected by the state parties but they will act entirely independently. They will conduct regular evaluation rounds and they can also be seized in an ad hoc situation outside the regular cycles about a particular critical situation in a state party. To avoid misunderstandings, this group of independent experts does not replace a court; they cannot issue court-like decisions in an individual case. But they can produce reports and conclusions addressing systematic shortcomings and deficiencies in the implementation of the convention in a certain state. On the basis of this, the Committee of the State Parties may then adopt formal recommendations to a particular State Party concerned and bring them to political attention.

This finishes my quick overview over the contents of the convention. As we have heard, the Committee of Ministers adopted the Convention on 12 March 2025 and it was opened for signature on 13 May in Luxembourg. What is important to notice in this context, is the fact that our Convention is a so-called „open Convention“. It is not reserved for member states of the Council of Europe, but it is open for accession by non-member States of the Council of Europe. Through this mechanism, this Convention has the potential to become a real landmark: the first binding instrument on the protection of lawyers worldwide, setting a new international standard and having a real impact on the situation for lawyers, safeguarding their rights and safety around the globe. It is an instrument the Council of Europe can really be proud of.

I thank you very much for your attention.