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Research Article

THE COUNCIL OF EUROPE CONVENTION FOR THE PROTECTION OF THE PROFESSION OF LAWYER: EXPECTATIONS AND PROSPECTS

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ABSTRACT

Background: By joining the Council of Europe, Ukraine undertook to ensure that the status of the legal profession would be protected by law. The Constitution of Ukraine declares that the independence of the legal profession is guaranteed, since the independent professional activity of lawyers requires not only the conscious and volitional nature of the performance of professional duties by lawyers, but must be ensured by guarantees from the state. In conditions of war and mobilization in Ukraine, the situation in the field of violations of the guarantees of legal activity has worsened: systematic interference in professional activity, violence against lawyers, illegal deprivation of liberty, seizure of things and documents containing legal secrets have been noted. However, the permanently difficult situation in the field of security of legal activity is observed not only in Ukraine. Violations of the professional rights of lawyers are also noted in the countries of the European Union, which prompted the EU to introduce more effective mechanisms capable of obliging states to protect the legal profession. March 12, 2025 The Committee of Ministers of the Council of Europe adopted the Council of Europe Convention on the Protection of the Profession of Lawyer, which was signed by 17 countries on 13-14 May 2025.

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The article presents the analysis of the Convention, defining the features of its scope and ensuring its implementation. The need for Ukraine's accession to the Convention is substantiated. The author's analysis was based on the statistical indicators of violations of lawyers' rights in Ukraine, decisions of the Council of Lawyers of Ukraine and the Odesa Regional Bar Council.

Methods: *The authors used a chronological method, synthesis and a method of information analysis. Actual statistical and empirical data are used for proper argumentation of the conclusions.*

Results and Conclusions: *A conclusion was made about the new approach, in which the modern dimension of the protection of the lawyer's profession is carried out not only by protecting the rights of lawyers, but also by other subjects. The mandatory nature of the provisions of the Convention and the monitoring mechanism introduced by it make it a unique tool that ensures the implementation of the tasks of the bar. For Ukraine, in difficult times of war and in light of the hope for post-war recovery, the Convention sends a powerful signal of the European community's attention to the fundamental values that lawyers uphold and protect.*

1 INTRODUCTION

An effective justice system capable of ensuring the realization of the right to a fair trial, in accordance with Article 6 of the Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR), cannot be imagined without a strong and independent bar.

The strength of the bar means its real ability to act in accordance with its mission and core values, granting lawyers the rights that allow them to protect, represent, and provide legal assistance to everyone who needs it. Independence takes on a special meaning due to the specifics of the tasks of advocacy and requires a lawyer not to compromise his professional duties under the influence of personal interest or external pressure.

The implementation of professional tasks depends not only on the will and consciousness of the lawyer, but is ensured by such measures and conditions for the practice of advocacy in the state that make it impossible to put pressure on lawyers, interfere with the state or other entities in the provision of legal assistance by lawyers, the powers of the bodies of self-government of the bar, and the activities of the professional organization of lawyers.

The constantly difficult situation in the field of the safety of lawyers in various jurisdictions, in particular, from intimidation and threats, damage to property, unlawful searches and wiretapping to physical attacks and murders of lawyers, has prompted the introduction of more effective mechanisms capable of obliging states to protect the legal profession, independence and freedom to practice law.

A special role in determining the guarantees of legal practice is played by international documents that proclaim standards in this area and determine the vector of development of

national legislation. In this regard, a significant event is the adoption by the Committee of Ministers of the Council of Europe on 12 March 2025 of the Convention for the Protection of the Profession of Lawyer (hereinafter also referred to as the Convention) - the first international treaty that not only establishes international standards for the protection of lawyers, but also guarantees their independence and protects against risks associated with the performance of professional duties.

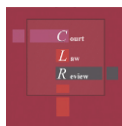
This study applies a range of scientific methodologies appropriate for the analysis of international legal instruments, in particular the Convention. A dialectical approach was employed to trace the evolution of the Convention's adoption and to identify its growing influence within the legal domain. The method of scientific forecasting was utilized to assess the Convention's projected impact on the legal profession and to outline potential directions for its future development. The historical-legal method enabled the identification of objective patterns and trends in the formation of mechanisms for safeguarding the legal profession, as reflected in the legislation of the European Union (EU). Furthermore, a comparative legal method facilitated the alignment of Ukrainian legislation on the legal profession and legal practice with the democratic and legal traditions of the EU. To examine the transformation and interrelation of legal norms protecting the professional rights of lawyers, the study employed the special legal method, the method of systemic analysis, and the logical-legal method. These tools allowed for a comprehensive examination of the legal framework, revealing how individual legal provisions are interconnected within a broader system of professional guarantees. The statistical method was used to quantify and analyze various indicators related to the implementation of legal practice guarantees. All methods applied in the study are interrelated and contribute to a holistic understanding of the subject matter.

This methodological framework supports a nuanced exploration of the Bar's development and the advancement of international standards in legal practice, making the study relevant for scholars, practitioners, and policymakers alike.

2 REASONS AND PREREQUISITES FOR THE ADOPTION OF THE COUNCIL OF EUROPE CONVENTION FOR THE PROTECTION OF THE PROFESSION OF LAWYER

Since the creation of the EU, documents relating to the regulation of legal practice in the European space have mainly contained requirements for lawyers themselves and defined the rules of legal practice in the EU.¹ However, these documents, as well as, for

1 Council Directive 77/249/EEC of 22 March 1977 to Facilitate the Effective Exercise by Lawyers of Freedom to Provide Services [1977] OJ L 78/17; Directive 98/5/EC of the European Parliament and of the Council of 16 February 1998 to Facilitate Practice of the Profession of Lawyer on a Permanent Basis in a Member State other than that in which the Qualification was Obtained [1998] OJ L 77/36.



example, the Code of Conduct for European Lawyers² and the Charter of Core Principles of the European Legal Profession,³ do not provide for legal mechanisms for the protection of the legal profession.

Although the issues of improving EU legislation on the protection of lawyers' rights and determining standards for the independent exercise of legal practice have been in the focus of attention of European lawyers, they have remained at the level of discussions and proposals for a long time, and the acts adopted have been exclusively of a recommendatory nature. For example, the minimum standards set out in Recommendation No. 21 (2000) of the Committee of Ministers of the Council of Europe to member states on the freedom of exercise of the profession of lawyer are not binding: they are intended to formulate principles deriving from the mandatory provisions of the Convention for the Protection of Human Rights and Fundamental Freedoms, for the application of these principles in practice.⁴

The Parliamentary Assembly of the Council of Europe (hereinafter referred to as PACE) has repeatedly attempted to strengthen the legal force of acts relating to the protection of the professional rights of lawyers. In particular, the need to develop and adopt a Convention on the Protection of the Professional Rights of Lawyers was emphasized in Recommendation No. 2121 (2018) "The case for drafting a European convention on the profession of lawyer",⁵ the Parliamentary Assembly Resolution No. 2348 (2020) "The principles and guarantees applicable to advocates"⁶ the Parliamentary Assembly Recommendation 2188 (2020) on "The principles and guarantees applicable to advocates",⁷ the Committee of Ministers Reply to Recommendation No. Doc. 15342 (2021) "The principles and guarantees of advocates".⁸

By the Recommendation of Committee of Ministers «The principles and guarantees of advocates», «while minimum standards are set in its Recommendation Rec(2000)21 on the freedom of exercise of the profession of lawyer, the Committee of Ministers is aware that

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- 2 Code of Conduct for European Lawyers (28 October 1988) <https://zakon.rada.gov.ua/laws/show/994_343#Text> accessed 13 May 2025
 - 3 Charter of Core Principles of the European Legal Profession (25 November 2006) <https://www.ccbe.eu/NTCdocument/EN_CCBE_CoCpdf1_1382973057.pdf> accessed 13 May 2025
 - 4 Recommendation № R (2000) 21 Committee of Ministers to Member States on Freedom of Professional Activity of Lawyers (25 October 2000) <<https://rm.coe.int/16804d0fc8>> accessed 13 May 2025.
 - 5 Recommendation 2121 (2018) of the Parliamentary Assembly 'The case for drafting a European convention on the profession of lawyer' (24 January 2018) <<https://pace.coe.int/en/files/24466/html>> accessed 13 May 2025.
 - 6 Resolution 2348 (2020) of the Parliamentary Assembly 'The Principles and Guarantees Applicable to Advocates' (23 October 2020) <<https://pace.coe.int/en/files/28819/html>> accessed 13 May 2025.
 - 7 Recommendation 2188 (2020) of the Parliamentary Assembly 'The Principles and Guarantees Applicable to Advocates' (23 October 2020) <<https://pace.coe.int/en/files/28820>> accessed 13 May 2025.
 - 8 Recommendation Doc 15342 of the Committee of Ministers 'The Principles and Guarantees of Advocates' (2 July 2021) <<https://pace.coe.int/en/files/29379/html>> accessed 13 May 2025.

this instrument may no longer provide the necessary level of protection for lawyers in today's society. Therefore, as concerns a possible new instrument, the Committee recalls that it recently took note of the study carried out by the European Committee on Legal Co-operation (CDCJ) on "The feasibility of a new, binding or non-binding, European legal instrument on the profession of lawyer – possible added-value and effectiveness". The study identified legal protection gaps and problems faced by the profession of lawyer and underlined a clear need for an improved minimum set of standards applicable to lawyers in relation to their professional activities. It recommended that the Committee of Ministers initiate the preparation of a new legal instrument which would offer an effective protection to lawyers allowing them to exercise their profession independently, freely and safely, without prejudice or restraint. The Committee of Ministers also took note of draft terms of reference of a committee of experts subordinate to the CDCJ tasked with drawing up a draft European legal instrument, binding or non-binding, on the profession of lawyer».⁹

The European Committee on Legal Co-operation of the Council of Europe (hereinafter referred to as the CDCJ) began work in this direction in 2020. In 2022, the Committee of Experts on the Protection of Lawyers (hereinafter referred to as the CJ-AV) was established within the CDCJ to work on the draft Convention.¹⁰

The draft Convention on the Protection of the Profession of Lawyer was presented in 2024. Vice-President of the CJ-AV, Deputy Chairman of the National Association of Lawyers of Ukraine, the Council of Lawyers of Ukraine V. Gvozdiy, who participated in the development of the draft Convention, noted: «Completing the work on the Convention is a powerful step towards creating uniform European standards that will guarantee the protection of the profession, regardless of the country in which the lawyer carries out his activities».¹¹

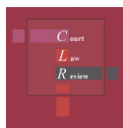
March 12, 2025 At its 1522nd meeting, the Committee of Ministers of the Council of Europe adopted the Council of Europe Convention on the Protection of the Profession of Lawyer (hereinafter also referred to as the Convention) and determined that it would be opened for signature on 13 May 2025 during a meeting of Ministers of Foreign Affairs in Luxembourg.¹² April 13-14, 2025 the Convention was signed by 17 countries - Andorra, Estonia, France,

9 *ibid.*

10 CDCJ, Members of the Committee of experts on the protection of lawyers (CJ-AV) (CDCJ(2022)INF04, 15 March 2022) <<https://rm.coe.int/cdcj-2022-inf04/1680ab4fe6>> accessed 13 May 2025.

11 'Convention on the Protection of the Profession of Lawyers: the Council of Europe has prepared the final text of the draft' (*LIGA360*, 13 September 2024) <https://jurliga.ligazakon.net/news/230498_konventsya-pro-zakhist-advokatsko-profes-u-rad-vropi-pdgotuvali-finalniy-tekst-proktu> accessed 13 May 2025.

12 'Council of Europe adopts international convention on protecting lawyers' (*Council of Europe*, 12 March 2025) <<https://www.coe.int/en/web/portal/-/council-of-europe-adopts-international-convention-on-protecting-lawyers>> accessed 13 May 2025.



Greece, Ireland, Italy, Lithuania, Luxembourg, the Netherlands, North Macedonia, Norway, Poland, Sweden, Belgium, Iceland, the Republic of Moldova and the United Kingdom.¹³

3 CHARACTERISTICS OF THE COUNCIL OF EUROPE CONVENTION FOR THE PROTECTION OF THE PROFESSION OF LAWYER AND THE SPECIFICS OF THE RELATIONS IT REGULATES.

In legal doctrine, a convention is understood as an agreement, mainly, but not exclusively multilateral, between subjects of international law, which regulates relations between them through the creation of mutual rights and obligations. A feature of the convention is that it regulates the entire range of issues related to the relevant topic.¹⁴

The Convention for the Protection of the Profession of Lawyers is an international legal act that defines the principles and standards in the field of protection of the rights of lawyers, determines the methods and establishes mechanisms for implementing the guarantees of legal activity.¹⁵

It should be recognized that, despite the established approaches to the content and types of guarantees of legal activity, a holistic concept of ensuring the protection of the legal profession has not been formed in the legal doctrine. And it is the Convention that allows us to determine the conceptual principles of such protection, establishing a system of standards and guarantees. A scientific analysis of the provisions of the Convention allows us to determine that, based on Art. 2 of the Convention, its scope concerns the protection of the legal profession in a broad sense and in fact extends not only to lawyers, but also to other entities.

3.1. Lawyers

In some countries, terms other than “lawyer” are used to designate a person who practices law within the meaning of the Convention. The Explanatory Report to the Convention states that for the purposes of the Convention, the term “lawyer” is defined as any natural person who is qualified and authorised under national law to practice law.¹⁶ This definition is intended to take into account the differences that exist between legal systems regarding the

13 Chart of signatures and ratifications of Treaty 226 [Council of Europe Convention for the Protection of the Profession of Lawyer] <<https://www.coe.int/en/web/conventions/full-list?module=signatures-by-treaty&treaty=226>> accessed 14 May 2025.

14 Borys Demyanenko, ‘Convention’, *Political Encyclopedia* (2011) 348.

15 Council of Europe Convention for the Protection of the Profession of Lawyer (12 March 2025) [2025] CETS 226 <<https://rm.coe.int/1680b4c6be>> accessed 14 May 2025.

16 Council of Europe, ‘Explanatory Report to the Council of Europe Convention for the Protection of the Profession of Lawyer’ [2025] CETS 226 <<https://rm.coe.int/1680b4c6c0>> accessed 14 May 2025.

rules for a person to be admitted to practice law and the use of a professional title, which may not be the term “lawyer”.

Lawyers must exercise their professional activities and exercise their rights without being subjected to any form of physical attack, threat, harassment or intimidation; or any unlawful obstruction or interference; they must themselves refrain from such acts.

Article 6 of the Convention requires lawyers: to have access to a lawyer of their own choosing if deprived of their liberty; to be able to inform, without undue delay, the representative of their professional association of their deprivation of liberty, the legal grounds for their detention and the place where they are being held; have been provided with the presence of an independent lawyer or a representative of their professional association during: any search carried out in the framework of a civil, criminal or administrative investigation or proceeding, whether of themselves or of any premises, means of transport or devices used by them for their professional activities; the seizure or copying of documents, any other data and any equipment used by them in their professional activities; except in cases where the persons conducting the search or seizure will not examine the documents or data; have been informed of their rights during deprivation of liberty, as well as before the search, seizure or copying of documents.

The concept of protection of the rights of lawyers also includes the provision of Article 6, Part 5 of the Convention, which provides that lawyers shall not suffer adverse consequences as a result of their identification with their clients or with their clients' cases.

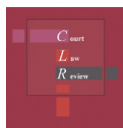
From the point of view of content, “identification” (Latin *identifico*, *identitas*, *idem*, *eadem* – “identity”, “same”, “the same”) of one person with another is the process of establishing identity, that is, recognizing in one person the signs, manifestations, characteristics of another, and, in our opinion, both consciously and unconsciously.¹⁷

Based on this understanding, the identification of a lawyer with a client can be defined as the recognition of a lawyer as a person who has the same or similar attitude to the client towards the offense or the subject of the dispute, comparing the lawyer with the client from the point of view of their unity as a procedural party in the case, establishing their similarity in the context of the result of the case that they seek to achieve.

The legal doctrine expresses a controversial thesis that the identification of a lawyer with a client is an interference in the legal position of the lawyer.¹⁸ However, it is seen that the

17 Nana Bakaianova, ‘On the Problem of Identifying a Lawyer with a Client in Conditions of Martial Law’ (European Guidelines for the Development of Ukraine in Conditions of War and Global Challenges of the 21st Century: Synergy of Scientific, Educational and Technological Solutions: International Scientific and Practical Conference, Odesa, 19 May 2023) vol 2, 123.

18 Decision of the Bar Council of Ukraine No 49 ‘On Preventing the Identification of Lawyers with Clients and Interference with the Professional Rights of Lawyers’ (5 August 2020) <https://unba.org.ua/assets/uploads/legislation/rishennya/2020-08-05-r-shennya-rau-49_5f4637e9c8bd4.pdf> accessed 14 May 2025.



identification of a lawyer with a client and interference with the legal position of a lawyer are independent types of violations of the professional rights of lawyers and do not coincide in content. In practice, there are cases when there is no interference with the legal position of a lawyer while simultaneously identifying the lawyer with the client. Conversely, in some proceedings, the lawyer is not compared with the client, from the point of view of their unity in the issue of their attitude to the commission of a crime, but attempts are made to interfere with the legal position of the lawyer in the context of the result of the case that the lawyer seeks to achieve.

It should also be noted that the Law of Ukraine "On the Bar and Practice of Law" distinguishes between the prohibition of identifying an advocate with a client (clause 16, part 1, article 23 of the Law) and the prohibition of interference in the legal position of an advocate (clause 11, part 1, article 23 of the Law) as different guarantees of advocacy, which are closely related to each other and to other guarantees¹⁹. All of them constitute a system. Each of the guarantees of advocacy supports the others and allows the advocate to use all opportunities to protect the rights, freedoms and legitimate interests of clients.

The prohibition of identifying an advocate with a client should be considered as a method of legal regulation that does not allow the perception of an advocate, when performing any type of advocacy, as a person whose actions or beliefs are similar or identical to the actions and beliefs of the client.

Article 7 of the Convention establishes the freedom of expression of a lawyer, which is manifested in the due guarantee of the right of lawyers to inform the public about matters concerning their clients' cases, subject only to such limitations as are prescribed by law, are required by professional obligations, the requirements of the administration of justice and respect for private life and are necessary in a democratic society. Professional associations of lawyers must contribute to the rule of law and its observance, participate in public debate on the content, interpretation and application of existing and proposed legal norms, judicial decisions, the administration of justice and access to it, the promotion and protection of human rights, and submit proposals for reforms in these matters.

3.2. Law firms and other bar associations

In the modern world, there are various forms of practicing law with a noticeable tendency to expand their list. It is clear that in each country they are defined at the legislative level. Considering the Convention provision in the context of the current legislation of Ukraine, it is said that the Convention protects not only lawyers who practice law individually, but also law firms and bar associations as entities providing legal assistance. This approach seems

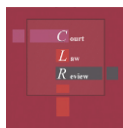
¹⁹ Law of Ukraine No 5076-VI 'On the Bar and Practice of Law' (5 July 2012) <<https://zakon.rada.gov.ua/laws/show/5076-17#Text>> accessed 14 May 2025.

justified, based on the fact that a party to a contract for the provision of legal assistance with a client may be not only a lawyer, but also a law firm or bar association. The protection provided by the Convention, thus, applies to any organizational form of legal practice.

3.3. Any person who, in violation of Articles 5 and 8 of this Convention, has either been refused the qualification of lawyer or a license to practice or has had these revoked or suspended

The legality of admission to the profession of advocate is based on the fact that the procedure for admission to practice law must be determined at the legislative level, formed on the basis of objective, relevant and transparent criteria, not contain discriminatory norms on any grounds, and the decision on obtaining the right to practice law is made by a professional association or other independent body and may be appealed in court in accordance with the procedure established by law. The Convention requires that decisions on admission to or admission to the profession, the renewal of authorization or re-admission to practice be taken by professional associations or other independent bodies following due process and that these decisions are subject to some form of challenge, such as appeal or judicial review, by the persons concerned to independent and impartial courts or tribunals established by law. For the purposes of the Convention, admission to or admission to the profession, as well as the renewal and renewal of authorization to practice, concern the determination of compliance with the standards established by law in order to be able to pursue the professional activities of a lawyer.

Article 8 of the Convention concerns the specifics of disciplinary proceedings against a lawyer. It is worth noting that in Ukraine, in accordance with Art. 23 of the Law, the features of disciplinary proceedings against a lawyer are determined by the guarantee of legal activity, which is a progressive approach in the light of the Convention, since such an approach is not applied in the legislative acts of certain European countries. The grounds for bringing lawyers to disciplinary liability must be based exclusively on professional standards of conduct, which are provided for by law and in themselves correspond to the rights and freedoms enshrined in the Convention for the Protection of Human Rights and Fundamental Freedoms. The provisions of the Convention allow us to distinguish and determine the following standards of disciplinary proceedings against a lawyer: 1) the grounds for bringing lawyers to disciplinary liability must be based exclusively on professional standards of conduct, which are provided for by law and in themselves correspond to the rights and freedoms enshrined in the Convention for the Protection of Human Rights and Fundamental Freedoms; 2) the consideration of disciplinary cases shall be carried out by an independent and impartial disciplinary committee established by a professional association, or by an independent and impartial body, or by an independent and impartial court or tribunal established in accordance with the law; 3) the consideration of disciplinary cases shall be timely; 4) the consideration of disciplinary cases shall be carried



out in accordance with the requirements of a fair trial, in accordance with Article 6 of the Convention for the Protection of Human Rights and Fundamental Freedoms; 5) when considering disciplinary cases, the lawyer has the right to free choice of lawyer and legal assistance from a lawyer; 6) the right of the lawyer to appeal the decision in a disciplinary case shall be exercised in an independent and impartial court or tribunal established in accordance with the law; 7) the legality of the disciplinary procedure; 8) the absence of any discrimination in disciplinary proceedings; 9) proportionality in the imposition of disciplinary sanctions; 10) application of a ban on the right to practice law as a form of disciplinary liability only for the most serious violations of professional standards.

The standards of disciplinary proceedings in their entirety act as a legal mechanism for protecting humanistic values, according to which a lawyer who has committed a disciplinary offense is held liable in proportion to the severity of his offense; in case of innocence, he should not incur disciplinary sanctions, and the complainant, in turn, has exercised the legal possibilities provided for by law.

3.4. Persons who are recognised by an international court or tribunal, or a body established by an international organisation, as competent to act in proceedings before it when advising on or acting in such proceedings

Representation before an international court or tribunal (for example, the European Court of Human Rights, the International Court of Justice, the International Criminal Court) or a body established by an international organization may be exercised by persons other than lawyers, such as, for example, academics or representatives of non-governmental organizations (NGOs). The Convention shall apply to such persons only in respect of proceedings for which they have been specifically designated to give advice or to take action, and provided that they are recognized as representatives by the said court, tribunal or body and meet certain criteria established by that court or body.

In paragraph 15 of the Explanatory report to the Convention, “a body established by an international organization” means one established by an intergovernmental organization in which a party is represented in proceedings relating to a violation of rights contained in an international treaty, for example, the collective complaint procedure before the European Committee of Social Rights established under the European Social Charter adopted by the Committee of Ministers of the Council of Europe, or the procedure for examining individual communications before the Human Rights Committee established under the International Covenant on Civil and Political Rights adopted by the General Assembly of the United Nations.²⁰

²⁰ *ibid.*

3.5. Persons employed or engaged by lawyers to assist them insofar as they contribute directly to the carrying out of the professional activities of those lawyers

The Convention provides that, under certain circumstances and subject to certain limitations, provided that they are established by law, the scope of its protection extends to persons who assist lawyers, since they directly contribute to the performance of professional activities by these lawyers, but only when they act as employees or under a specific contractual agreement with lawyers. The extension of the Convention applies exclusively to those aspects of the work of such persons that are directly related to assisting the performance of the professional duties of a lawyer.

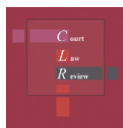
In the context of Ukrainian legislation, the question of whether lawyer trainees are covered by these provisions of the Convention is interesting. The text of the Convention and the Explanatory Report to it do not mention the term "lawyer trainee". However, the legislation of Ukraine provides for the institution of internship, which is carried out according to the plan and amounts to at least 550 hours, of which at least 50 (fifty) hours of working time the intern carries out legal practice. Types of activities within the framework of legal practice mainly correspond to Art. 19 of the Law "On Advocacy and Legal Activities, in particular, except for defense against accusation. The internship supervisor is obliged to personally and in advance agree with individuals and legal entities the types and nature of the intern's participation in measures to protect, represent and provide legal assistance to such persons. Thus, although the intern is not employed, in the light of the Convention, "he is engaged by the lawyer to provide assistance in the performance of advocacy activities." It seems that the provisions of the Convention also apply to a trainee lawyer when he carries out the attorney's instructions within the framework of the internship plan.

The Explanatory Report to the Convention draws attention to the fact that when persons who are employed or engaged by the lawyer to provide assistance in the performance of advocacy activities have violated the trust of the lawyers who have entrusted them with specific activities, and as a result the contract (agreement) with them has been terminated or they have been removed from providing assistance, they will not be able to benefit from the provision protection guaranteed by the Convention.

3.6. Professional associations of lawyers

A separate group of standards defined by the Convention are standards in the field of rights of professional associations of lawyers.

The activities of professional associations fall under the scope of the Convention in connection with their support and representation of the interests of lawyers and their profession; their support and protection of the independence of lawyers and their role in



society; their development of professional standards of conduct and promotion of their observance; their promotion of access to the profession, continuous professional training and improvement of the professional level of lawyers; their cooperation with lawyers, other professional associations and international, intergovernmental and non-governmental organizations on issues of law and advocacy, including support and protection of the role of lawyers. Professional associations of lawyers should contribute to the rule of law and its observance, participate in public debate on the content, interpretation and application of existing and proposed legal norms, judicial decisions, the administration of justice and access to it, the promotion and protection of human rights, and submit proposals for reforms in these matters.

The Convention defines the term “professional association” as a representative body to which some or all lawyers belong or are enrolled, directly or indirectly, and which has some responsibility for the organization or regulation of their profession in accordance with national law.²¹

Professional associations are, in particular, granted the Convention the rights to obtain free access through their representatives to lawyers deprived of their liberty, if the lawyers so request; to receive, without undue delay, information about cases of attacks on lawyers or their murders known to law enforcement authorities, if there are grounds to believe that this occurred in connection with their professional activities, and these cases have not been made public otherwise, and lawyers are unable to inform professional associations about it themselves; to be able to attend hearings in any proceedings brought against lawyers, if there are grounds to believe that this is related to their professional activities.

Given the diversity of existing systems, the Convention leaves the definition quite broad and adds a reference to national legislation to cover different systems. In particular, the scope of responsibility for the organization or regulation of the profession may vary significantly, especially where there is a separate regulatory body. Thus, a professional association of lawyers under the Convention is either a single professional association to which all lawyers belong, or separate associations for different branches of the profession or those covering only a certain city or region.

In Ukraine, the bar is made up of all lawyers who are entitled to practice law (Part 2, Article 2 of the Law), and the National Association of Lawyers is a professional organization that unites all lawyers in Ukraine (Part 1, Article 45). In this context, it is important to distinguish the NAAU as a regulatory professional association from other organizations operating within the framework of the Law “On Public Associations”.

In Part 4 of Art. 4 of the Convention concerns the right of lawyers to establish and participate in other associations for the advancement of their professional interests and

²¹ *ibid.*

activities (this may include, for example, associations in specific areas of law) regardless of any requirements for membership in a professional association. This right also corresponds to the right recognized in the UN Basic Principles on the Role of Lawyers (Principle 23) and is based on the right to freedom of association provided for in Article 11 of the Convention for the Protection of Human Rights and Fundamental Freedoms.

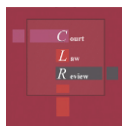
The right of citizens to freedom of association in public organizations in Ukraine is enshrined at the constitutional level (Article 36 of the Fundamental Law) and at the level of the Law "On the Bar and the Practice of Law" (Article 18). On the eve of the war, about 50 public organizations were registered in Ukraine, the activities of which were somehow related to the legal professions (the most well-known and numerous are the all-Ukrainian public organizations "Association of Lawyers of Ukraine" and "Association of Advocates of Ukraine").

The Explanatory Report to the Convention states that the right of lawyers to associate under Article 11 of the European Convention for the Protection of Rights and Fundamental Freedoms is not intended to provide a basis for the creation of bodies claiming a role and duties that should be performed only by those professional associations that fall under the definition of "representative body". Therefore, mandatory membership in a professional association allows lawyers to create other professional associations that can act, in accordance with the statutory tasks, but do not replace the professional association as the regulator of the profession. They are not subject to the duties provided for a "professional association", a representative body responsible for the organization or regulation of the profession.

In Part 3 of Article 4 of the Convention, the State is obliged to involve professional associations and consult them in the process of amending legislation, procedural and administrative rules that directly affect the professional activities of lawyers. These rules concern the provision of legal services, the procedures to be followed, fees and professional standards of conduct. In this case, the Convention requirement to conduct consultations applies to proposals by the state, regardless of whether they are prepared or adopted by it.

The specified provision of the Convention in Ukrainian legislation has not yet been implemented. One of the consequences of the lack of a legislative requirement for the participation of a professional association in the process of amending the legislation on the bar and legal practice was an attempt to reform the bar under Bill No. 9055 of September 6, 2018, initiated by the Council for Judicial Reform under the Administration of the President of Ukraine. The bill contained both dubious ideas, such as combining legal practice with civil service, and progressive ones, but was criticized, primarily because it was developed without the involvement of the National Bar Association of Ukraine, and, despite political pressure, did not find support in the Verkhovna Rada of Ukraine.

In general, under the Convention, states must refrain from taking any measures or encouraging any actions that would undermine the independence and self-governing



nature of professional associations. National legislation should be developed not only in the direction of strengthening the safety of lawyers and the effectiveness of mechanisms for holding accountable those guilty of unlawful intimidation and persecution of lawyers, but also the safety of members of bar self-government bodies, strengthening guarantees for the exercise of their powers defined by law, and protection from interference in their lawful activities.

3.7. Persons employed or engaged to assist professional associations insofar as the carrying out by them of the professional activities of those associations is concerned

In a broad sense, a professional association of lawyers consists of all lawyers who are members of the association. In a narrow, purely functional sense, the activities of each professional association of lawyers are also provided by persons who are not required to have the status of a lawyer. Therefore, in the modern world, professional associations of lawyers consist of both lawyers and persons who are not lawyers, but who work in professional associations. In addition, professional associations have the right to engage other persons to assist in the performance of statutory tasks. The provisions of the Convention, which extend its effect to persons who are not lawyers, are justified, based on the role of employees who provide organizational and technical services for the proper functioning of professional associations, as well as the importance of involving other persons to ensure the resolution of certain tasks of professional associations of lawyers.

3.8. Members of the Group of Experts on the Protection of the Profession of Lawyer (hereinafter referred to as GRAVO)

GRAVO - a special group of experts established to respond to serious or systemic violations of the rights of lawyers and professional associations, and members of delegations - the independent national experts and the specialists, staff members of the Council of Europe and interpreters employed by the Council of Europe accompanying GRAVO during its country visits (hereinafter referred to as other members of the country visit delegations).

Article 10 of the Convention and Appendix to Article 10 "Privileges and immunities" establishes for the members of GRAVO and the other members of the country visit delegations the following privileges and immunities, while exercising their functions relating to the preparation and the carrying out of country visits, as well as the follow-up there to and travelling in connection with those functions: 1) immunity from personal arrest or detention and from seizure of their personal baggage; 2) immunity from legal process of every kind in respect of words spoken or written and all acts performed by them in their official capacity; 3) exemption from any restrictions on their freedom of movement

on exit from and return to their country of residence, and entry into and exit from the country in which they exercise their functions, and from alien registration in the country which they are visiting or through which they are passing in the exercise of their functions; 4) in the matter of customs and exchange control, be accorded the same facilities as those accorded to representatives of foreign governments on temporary official duty; 5) the documents relating to the evaluation of the implementation of this Convention carried by members of GRAVO and other members of the country visit delegations shall be inviolable; 6) official correspondence or official communications of members of the GRAVO and other members of delegations visiting a country may not be detained or censored; 7) in order to secure for the members of GRAVO and the other members of the country visit delegations complete freedom of speech and complete independence in the discharge of their duties, the immunity from legal process in respect of words spoken or written and all acts done by them in discharging their duties shall continue to be accorded, notwithstanding that the persons concerned are no longer engaged in the discharge of such duties.

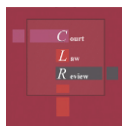
During visits, the delegation has the right to freedom of movement within the relevant jurisdiction; to be able to contact the public authorities; not to be hindered in private meetings with persons they wish to interview; to have access to materials relating to the visit to the country (Article 11 of the Convention).

In general, the arsenal of legal possibilities when monitoring compliance with the provisions of the Convention, as defined in Articles 10, 11, 12, 13 of the Convention, is worthy of attention. For example, if the GRAVO receives reliable information that requires immediate attention to prevent or limit the scale or number of violations of the Convention, it may: require the State in which the violations have been committed to submit an urgent special report on the measures taken to prevent such violations; appoint one or more of its members to conduct an investigation and report urgently to the GRAVO; transmit the results of the investigation to the State concerned and, if necessary, to the Committee of the Parties, the Committee of Ministers and PACE, together with any comments and recommendations. However, it seems that the outlined actions of the GRAVO should be defined not only as rights in relations with any subjects, but should be considered as obligations of the GRAVO towards lawyers and professional associations of lawyers.

The protection of the profession of lawyer, thus, can be defined as a set of organizational and legal measures that ensure proper conditions for the implementation of legal activities and the implementation of the tasks of lawyer self-government, guaranteed not only by states, but also by international institutions.

Analysis of the content of the Convention leads to the consideration of the question of whether its provisions can also be applied to other persons not specified in the Convention?

In particular, it seems that the list of subjects to whom protective measures should apply should legitimately include: 1) members of the lawyer's family, against whom unlawful actions



are committed precisely in connection with the purpose of pressure, intimidation of the lawyer, interference in the practice of law. Although, as a rule, pressure in many cases is directed specifically at lawyers and their professional associations, its application to family members should also be considered covered if it is obvious that the purpose is to influence the behavior of lawyers and professional associations to which they relate; 2) persons in respect of whom the right to practice law has been suspended or suspended, if the guarantees of legal practice are violated (for example, regarding legal secrecy), because in such cases it is precisely about the protection of the profession and its fundamental principles.

4 ANALYSIS OF THE STATE OF PROTECTION OF LAWYERS' RIGHTS IN UKRAINE IN THE LIGHT OF THE PROVISIONS OF THE CONVENTION OF THE PROTECTION OF THE PROFESSION OF LAWYER.

Upon accession to the Council of Europe, Ukraine assumed the obligations contained in subparagraph IX of paragraph 11 of the Conclusion of the Parliamentary Assembly of the Council of Europe (hereinafter referred to as PACE) on Ukraine's application for accession to the Council of Europe 190 (1995) of 26 September 1995, including that the status of the profession of lawyer will be protected by law.²²

Article 131² of the Constitution of Ukraine declares that the independence of the bar is guaranteed.²³ The content of the constitutional norm is conditioned by the fact that the independent professional activity of lawyers requires not only the conscious and volitional nature of the performance of professional duties by lawyers, but must be ensured by guarantees from the state. The Law of Ukraine "On the Bar and Practice of Law" enshrines the principle of independence of the bar, including from the state and local self-government bodies, defines the professional rights and obligations of lawyers, guarantees of advocacy, principles of advocate self-government, and other important provisions relating to the profession of lawyer.²⁴

In the scientific literature expressed the thesis that «despite the legally established principles of relations between the state and the bar, according to which the latter is independent of state authorities, local self-government bodies, their officials and employees, and the state has undertaken to create appropriate conditions for the activities of the bar and ensure

22 Opinion of the Parliamentary Assembly of the Council of Europe No 190 (1995) on Application by Ukraine for membership of the Council of Europe (26 September 1995) <<https://pace.coe.int/en/files/13929/html>> accessed 14 May 2025.

23 Constitution of Ukraine No 254к/96-BP (28 June 1996) <<https://zakon.rada.gov.ua/laws/show/254к/96-бп#Text>> accessed 14 May 2025.

24 Law of Ukraine № 5076-VI (n 18).

compliance with the guarantees of legal activity, such independence cannot be absolute, but must be sufficient for the effective implementation of the assigned functions»²⁵.

One can agree that absolute independence is unattainable, but it is also obvious that understanding the adequacy of the independence of the bar cannot be based on the state's position on how best to implement its functions, especially since, historically, political and legal transformations in a particular state have often led to restrictions on the rights of lawyers and the suppression of the bar as an institution of civil society. It is seen that the independence of the bar should be ensured based on recognized international standards in this area.

The statistics on violations of the rights of lawyers in Ukraine, which are reflected annually in the reporting documentation of the National Bar Association of Ukraine, are thought-provoking. Thus, according to the Report of the Committee for the Protection of the Rights of Lawyers and Guarantees of Advocacy of the National Bar Association of Ukraine, during 2023, the said Committee received 98 complaints about violations of the rights of lawyers and guarantees of advocacy, and members of the committee participated in 137 investigative actions - searches of lawyers.²⁶ No less impressive figures are contained in the official data of the Prosecutor General's Office: during 2023, information on 167 crimes committed against lawyers was entered into the Unified Register of Pre-Trial Investigations. During the same period, only 5 proceedings were considered in court. At the same time, only one case ended with a verdict, all the others were closed.²⁷

In 2024, the Committee for the Protection of Advocates' Rights and Guarantees of Advocates' Activities of the National Bar Association of Ukraine received 86 complaints of violations of advocates' rights and guarantees of advocates' activities. As part of the consideration of advocates' complaints, the Committee sent 105 letters, 16 of which were addressed to the CCC and the Joint Venture with demands to stop violations of advocates' rights, and to conduct official investigations and bring the violators to disciplinary responsibility.²⁸

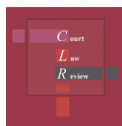
To understand the situation at the regional level, it is worth citing data from the Committee for the Protection of Lawyers' Professional Rights and Compliance with the Guarantees of Advocacy of the Odessa Region Bar Council: in 2023, 50 investigative actions were carried out against lawyers, 11 appeals from lawyers regarding gross and systematic violations of

25 Maryna Stefanchuk, 'Trends in the Development of the Functions of the Bar in Ukraine' (2022) 69 Uzhhorod National University Herald, Series Law 433. doi:10.24144/2307-3322.2021.69.71.

26 Ukrainian National Bar Association, *Report of the Committee for the Protection of the Professional Rights of Advocates and Guarantees of Advocacy of the UNBA for 2023* (UNBA 2024) 4, 15 <<https://unba.org.ua/komitety>> accessed 14 May 2025.

27 Ukrainian National Bar Association, *Report of the Committee for the Protection of the Professional Rights of Advocates and Guarantees of Advocacy of the UNBA for 2024* (UNBA 2025) 7 <<https://unba.org.ua/komitety>> accessed 14 May 2025.

28 ibid 5.



the guarantees of advocacy and 80 statements from lawyers regarding violations of their right to information were received; in 2024 - 58 investigative actions against lawyers, 9 appeals from lawyers regarding gross and systematic violations of the guarantees of advocacy and 76 statements from lawyers regarding violations of their right to information.²⁹ A separate scientific publication was devoted to the observance of guarantees for legal practice in the Odessa region in 2022, in particular in the first months of the war.³⁰

In the context of war and mobilization measures in Ukraine, in addition, a specific group of violations of the guarantees of legal activity by employees of territorial recruitment centers and social support (hereinafter referred to as TRC) has arisen: in particular, such as: interference in professional activities, violence against lawyers, unlawful deprivation of liberty, seizure of personal belongings, including those containing attorney-client privilege.³¹

The regional councils of lawyers receive numerous appeals from lawyers about violations of professional rights and guarantees of legal activity by employees of the TRC. For example, in May 2024, in the city of Reni, Odessa region, a lawyer received an order from the local center for providing free legal aid and arrived to participate in an investigative action. Before the start of the investigative action, the investigator informed the lawyer that, if he did not stop providing active defense, he would have problems with the local TRC. On the same day, in the presence of numerous witnesses who were in a public place, two local police officers and several armed men, whose faces were hidden by masks (balaclavas), approached the lawyer. The latter aggressively and cynically grabbed the lawyer by force, pulled him from behind the table, and took him out of the institution in the direction of a vehicle, where they forcibly placed the defender, and then, just as forcibly, took him to the local TRC.³²

The above-mentioned example of violation of the guarantees of legal activity is not unique.³³ Violation of the rights of lawyers cannot be justified by martial law, based on the constitutional obligation of the state to uphold the principle of the rule of law.

Considering that the Convention establishes obligations of the participating states not only to protect the rights of lawyers, but also to professional associations of lawyers, of

29 Official information was provided by the Committee for the Protection of Lawyers' Professional Rights and Compliance with the Guarantees of Advocacy of the Odessa Region Bar Council at the request of the author of the article. There are currently no published data.

30 Oksana Khotynska-Nor and Nana Bakaianova, 'Transformation of Bar in Wartime in Ukraine: on the Way to Sustainable Development of Justice (On the Example of the Odesa Region)' (2022) 5(3) *Access to Justice in Eastern Europe* 146. doi:10.33327/AJEE-18-5.2-n000322

31 Olena Dzhaburia, 'The Bar of Odessa Region under Martial Law in 2024 Indicators' (The Bar: Past, Present and Future: XIV International Scientific and Practical Conference, Odessa, 8 November 2024) 40-1.

32 *ibid.*, 41.

33 Decision of the Bar Council of Ukraine No 38 'Regarding Violations of Lawyers' Professional Rights and Guarantees of Legal Practice During Mobilization Events' (8 June 2024) <https://unba.org.ua/assets/uploads/legislation/rishennya/2024-06-08-r-shennya-rau-38_6686b397de1dc.pdf> accessed 14 May 2025.

fundamental importance for the Ukrainian bar is the obligation of the parties to the Convention, enshrined in Part 3 of Article 4, to involve professional associations and consult with them in the process of making changes to the legislation, procedural and administrative rules that directly affect the professional activities of lawyers. The above-mentioned provision of the Convention in Ukrainian legislation has not yet been implemented. One of the consequences of the lack of a legislative requirement for the participation of a professional association in the process of amending the legislation on the bar and legal practice was an attempt to reform the bar under Bill No. 9055 of September 6, 2018, initiated by the Council on Judicial Reform under the Administration of the President of Ukraine.³⁴ The bill was criticized, primarily because it was developed without the involvement of the National Bar Association of Ukraine, and, despite political pressure, did not find support in the Verkhovna Rada of Ukraine.³⁵

In addition, in the context of the implementation of the provisions of the Convention, the problems of obstruction of the lawful activities of the bodies of bar self-government and the lack of responsibility for such actions are also worthy of attention.

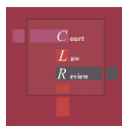
Even in the pre-war period, illegal activities of persons who called themselves activists, but in fact committed arbitrariness under various slogans, were observed in Ukraine.

In 2019, significant public resonance in the Odessa region was caused by the events that occurred during the consideration by the disciplinary chamber of the Qualification and Disciplinary Commission of the Bar of the Odessa region (hereinafter referred to as QDCA of the Odessa region) of disciplinary case No. 224/19 based on the complaint of Judge B. against the actions of attorney K.³⁶ The essence of the case was that attorney K., together with the so-called activists – persons who, as the attorney explained, "helped him on a public basis to defend the rights of clients and fight for justice", appeared before the Odessa District Administrative Court, in which B. worked as a judge to communicate with her within the framework of a civil case in which he acted as a representative. The lawyer and activists obstructed the administration of justice in an administrative case, did not let the judge out of the courtroom and then harassed her in the courtroom, in connection with which criminal proceedings were subsequently initiated under Part 2 of Article 296 of the Code of Criminal Procedure of Ukraine. In addition, the judge filed a complaint against the lawyer's actions with the disciplinary body of the bar.

34 Draft Law of Ukraine No 9055 'On the Bar and Legal Practice' (6 September 2018) <http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=64557> accessed 14 May 2025.

35 The Bar Council of Ukraine called on people's deputies not to support Bill 9055 due to threats to the constitutional rights of citizens.

36 Case No 224/19 [2019] QDCA. Official information was provided by the Qualification and Disciplinary Commission of the Bar of the Odessa region at the request of the author of the article. There are currently no published data.



Lawyer K. appeared for consideration of the disciplinary case accompanied by more than 10 people, some of whom were intoxicated. These persons, whom the lawyer presented as fighters for justice, blocked the work of the disciplinary body of the bar, behaved cynically and defiantly, violating public order, using offensive language towards members of the QDCA of the Odessa region. During the meeting on December 4, 2019, one of the activists, out of hooligan motives, sprayed an unknown poisonous substance in the face of the Head of the QDCA of the Odessa region, as a result of which she was hospitalized. All other members of the QDCA of the Odessa region and secretariat employees who were in the Odesa Region QDCA premises at that time also suffered bodily injuries as a result of the spraying of the poisonous substance. Despite the constant pressure on the members of the disciplinary chamber and attempts to block the work, on December 4, 2019, the disciplinary chamber of the QDCA of the Odessa region made a decision to hold lawyer K. to disciplinary liability for committing a disciplinary offense and to impose a disciplinary penalty on him in the form of deprivation of the right to practice law with subsequent exclusion from the Unified Register of Advocates of Ukraine.

December 11, 2019, QDCA of the Odessa region based on the decision of the disciplinary chamber, the lawyer's right to practice law was terminated, and the certificate of the right to practice law was canceled.

However, in this case, all the efforts of the regional bar community remained fruitless. Under pressure from activists, the Higher Qualifications and Disciplinary Commission of the Bar adopted a decision on August 28, 2020, by which it canceled the decision to hold the lawyer accountable for a purely procedural alleged violation - the absence of the signature of the Head of the QDCA of the Odessa region on the decision of the disciplinary chamber, despite the fact that the legislation of Ukraine does not provide that the head of the of the QDCA must be present at the meeting of the disciplinary chamber, and even more so to sign the decision, during the adoption of which she was absent, since she did not directly participate in the meeting of the disciplinary chamber.

After these events, the Bar Council of Odessa Region addressed an open letter to the Bar Council of Ukraine, which decided to consider unacceptable the actions of lawyers who, with the aim of exerting pressure and preventing the consideration of a disciplinary complaint, disrupting the meeting of the disciplinary chamber of the regional QDCA, involve "professional activists". The Bar Council of Ukraine also established that the fact of involving a lawyer "professional activists" when the regional QDCA considers disciplinary proceedings is regarded as a gross one-time violation of the rules of lawyer ethics, which undermines the authority of the Ukrainian bar.³⁷ However, the aforementioned decision of

37 Decision of the Bar Council of Ukraine No 70 'On consideration of the open appeal of the Odesa Region QDCA No 719/0/9-20 dated September 17, 2020 regarding interference and obstruction of the work of the Odesa Region QDCA' (21 September 2020) <https://unba.org.ua/assets/uploads/legislation/rishennya/2020-09-18-r-shennya-rau-70_5f9aaa9d4afc7.pdf> accessed 14 May 2025.

the Bar Council of Ukraine was adopted after the decision of the Supreme Bar Council, by which lawyer K. was released from liability. Criminal proceedings were initiated on the fact of the attack on the head and members of the Supreme Bar Council of Odessa region, but the case is still pending in the Primorsky District Court of Odessa and has not been considered due to the search for the accused.

National legislation should be developed, thus, not only in the direction of strengthening the safety of lawyers and the effectiveness of mechanisms for bringing to justice those guilty of illegal intimidation and persecution of lawyers, but also the safety of members of bar self-government bodies, strengthening guarantees for the exercise of their powers defined by law, and protection from interference in their lawful activities.

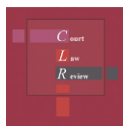
5 CONCLUSION

The Convention for the Protection of the Profession of Lawyers is an international legal act that forms a holistic concept of ensuring the protection of the profession of lawyer, defines the principles and standards in the field of protection of the rights of lawyers, determines the methods and establishes mechanisms for implementing the guarantees of legal activity.

Ukraine's accession to the Convention can strengthen the protection of human rights in Ukraine, as it obliges the state to refrain from actions that may violate the provisions of the Convention, to conscientiously fulfill the obligations defined by the Convention.

The signing and ratification of the Convention is important for the development of the legal profession through strengthening the international legal framework for ensuring the implementation of legal activities, harmonizing approaches in organizing the legal profession, and in the context of Ukraine's European integration - for achieving greater unity between Ukraine and the EU countries.

It is concluded that the modern dimension of the protection of the legal profession in the light of the Convention: is based on a system of legal ideas and principles; applies not only to lawyers, but to the profession as such; is mandatory for states that have acceded to the Convention; will be ensured, among other things, by the activities of a special body, which is created to monitor the implementation of the provisions of the Convention; consists of legal and organizational mechanisms for preventing violations in this area and eliminating violations. The development of EU legislation on the bar and advocacy is able to accelerate positive changes in national legislation in this area, especially since the Development Strategy of the National Bar Association of Ukraine for 2021-2025, approved by the Decision of the Bar Council of Ukraine No. 38 of July 2, 2021, identified the protection of the professional rights of lawyers as one of the priority tasks for the further development of



the NAAU.³⁸ It is seen that the provisions of the Convention should be taken into account when developing the strategic plan for the development of the NAAU for the new period.

For Ukraine in difficult times of war and in light of the hope for post-war recovery, the Convention sends a powerful signal of the attention of the European community to the fundamental values that lawyers uphold and protect.

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38 Decision of the Bar Council of Ukraine No 38 'On approval of the Development Strategy of the National Bar Association of Ukraine for 2021-2025' (2 July 2021) <<https://zakon.rada.gov.ua/rada/show/vr038871-21#Text>> accessed 14 May 2025.

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ABOUT THIS ARTICLE

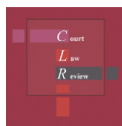
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Keywords: *Bar, Lawyer, Protection of the Profession of Lawyer, Professional Rights of Lawyers, Professional Associations of Lawyers, Convention for the Protection of the Profession of Lawyer.*



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АНОТАЦІЯ УКРАЇНСЬКОЮ МОВОЮ

Дослідницька стаття

КОНВЕНЦІЯ РАДИ ЄВРОПИ ПРО ЗАХИСТ ПРОФЕСІЇ АДВОКАТА: ОЧІКУВАННЯ ТА ПЕРСПЕКТИВИ

Нана Бакаянова

АНОТАЦІЯ

Вступ: Вступивши до Ради Європи, Україна взяла на себе зобов'язання, що статус юридичної професії буде захищено законом. Конституція України проголошує, що незалежність юридичної професії гарантується, оскільки незалежна професійна діяльність адвокатів вимагає не лише свідомого та вольового характеру виконання адвокатами професійних обов'язків, а й має бути забезпечена гарантіями з боку держави. В умовах війни та мобілізації в Україні ситуація у сфері порушень гарантій юридичної діяльності погіршилася: констатовано систематичне втручання у професійну діяльність, насильство щодо адвокатів, незаконне позбавлення волі, вилучення речей та документів, що містять юридичну таємницю. Однак перманентно складна ситуація у сфері безпеки юридичної діяльності спостерігається не лише в Україні. Порушення професійних прав адвокатів у країнах Європейського Союзу спонукало ЄС запровадити більш ефективні механізми, здатні зобов'язати держави захищати юридичну професію. 12 березня 2025 року Комітет Міністрів Ради Європи прийняв Конвенцію Ради Європи про захист професії адвоката, яку підписали 17 країн 13-14 травня 2025 року.

У статті представлено аналіз Конвенції, визначено особливості сфери її дії та забезпечення її виконання. Обгрунтовано необхідність приєднання України до Конвенції. Авторський аналіз ґрунтувався на статистичних показниках порушень прав адвокатів в Україні, рішеннях Ради адвокатів України та Ради адвокатів Одеської області.

Методи: Автором використано хронологічний метод, методи синтезу та аналізу інформації. Для належної аргументації висновків використовуються фактичні статистичні та емпіричні дані.

Результати та висновки: Зроблено висновок, що сучасний вимір захисту адвокатської професії здійснюється не лише шляхом захисту прав адвокатів, а й інших суб'єктів. Обов'язковий характер положень Конвенції та запроваджений нею механізм моніторингу роблять її унікальним інструментом, що забезпечує належне виконання завдань адвокатури. Для України, у складні воєнні часи та у світлі надії на післявоєнне відновлення, Конвенція є потужним сигналом уваги європейської спільноти до фундаментальних цінностей, які адвокати відстоюють та захищають.

Ключові слова: адвокатура, адвокат, захист адвокатської професії, професійні права адвокатів, професійні об'єднання адвокатів, Конвенція про захист професії адвоката