

1. The new binding instrument on the protection of lawyers devised by the Council of Europe (CJ-AV)

2. Survey on aggression, threatening behaviour and harassment, targeted at lawyers

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Jeroen Soeteman:

- ▶ Member of the general council of The Netherlands Bar
- ▶ Criminal defense lawyer at Jebbink Soeteman advocaten in Amsterdam, The Netherlands

Aim of the CJ-AV

- ▶ Draft legal instrument aiming at strengthening the protection of the profession of lawyer and the right to practice the profession without prejudice or restraint, which sets out a comprehensive set of minimum standards applicable to a lawyer's right to freely exercise their professional activities and ensure protection and independence of the profession, and may include establishing a mechanism entrusted with the implementation of the standards by member States or giving guidance on their application.



Main purpose of CJ-AV

Main purpose of the legal instrument is the strengthening of the protection of the profession of lawyer

Committee of Experts on the protection of lawyers

- ▶ There was formed a **Committee of Experts on the Protection of Lawyers**, existing of 14 representatives from member states, and the chairperson designated by the European Committee on Legal Co-operation (CDCJ) from amongst its members.
- ▶ The representatives should be “**of the highest possible rank** (judges, prosecutors, lawyers, civil servants or researchers or other highly qualified specialists” → the majority are lawyers
- ▶ They will be working on a future legal instrument, if possible binding, on the protection of lawyers.

PARTICIPANTS MAY SEND REPRESENTATIVES WITHOUT THE RIGHT TO VOTE

- ▶ - Parliamentary Assembly of the Council of Europe;
- ▶ - European Court of Human Rights;
- ▶ - Council of Europe Commissioner for Human Rights;
- ▶ - Conference of INGOs of the Council of Europe;
- ▶ - Committees or other bodies of the Council of Europe engaged in related work, as appropriate.
- ▶ - European Union (one or more representatives, including, as appropriate, the European Union Agency for Fundamental Rights (FRA));
- ▶ - Observer States to the Council of Europe: Canada, Holy See, Japan, Mexico, United States of America;
- ▶ - Office of the United Nations High Commissioner for Human Rights (OHCHR);
- ▶ - United Nations Special Rapporteur on the Independence of Judges and Lawyers;
- ▶ - United Nations Special Rapporteur on the Situation of Human Rights Defenders;
- ▶ - Organisation for Security and Co-operation in Europe (OSCE);
- ▶ - Office for Democratic Institutions and Human Rights (OSCE-ODIHR).

OBSERVERS MAY SEND REPRESENTATIVES WITHOUT THE RIGHT TO VOTE

- ▶ - Belarus;
- ▶ - non-member States with which the Council of Europe has a Neighbourhood Partnership activities;
- ▶ - Avocats Sans Frontières;
- ▶ - Council of Bars and Law Societies of Europe (CCBE);
- ▶ - European Bars Federation (FBE);
- ▶ - European Association of Lawyers (EAL);
- ▶ - **European Criminal Bar Association (ECBA);**
- ▶ - International Bar Association (IBA) and its Human Rights Institute ((IBAHRI);
- ▶ - International Commission of Jurists (ICJ);
- ▶ - International Association of Lawyers (UIA);
- ▶ - “Lawyers for Lawyers” foundation;
- ▶ - International Observatory of Endangered Lawyers (OIAD).

CONVENTION ON THE PROTECTION OF THE PROFESSION OF LAWYER (FIRST DRAFT)

The purpose of this Convention is to strengthen the protection of the profession of lawyer and the right to practice this profession without prejudice or restraint.

- ▶ Definitions:

- ▶ “Lawyer”,
- ▶ “Client”
- ▶ “public authorities”
- ▶ “professional association” → like the national bars

"professional associations"

- ▶ are informed immediately about the arrest and legal basis for the arrest or detention of any lawyer and the place where she or he is detained
- ▶ can have through their representatives prompt access to the lawyer arrested or detained.
- ▶ promote the welfare of lawyers and assist them and their families wherenecessary;
- ▶ defend the role of lawyers in society and, in particular, maintain their honour, dignity and integrity;
- ▶ Are consulted in a timely and effective manner on proposals for any change in legislation, policy or practice relating to the practice of law

Parties shall take the necessary legislative and other measures to ensure that lawyers can:

- ▶ agree or refuse to accept any person as their client;
- ▶ have prompt and effective access to their clients even where they are deprived of their liberty;
- ▶ be confident that any form of communication between them and their clients is at all times confidential
- ▶ have prompt and unrestricted access to all relevant files when defending rights and interests of their clients;
- ▶ refuse to provide information or give evidence in connection with the proceedings against their clients
- ▶ require the presence of representatives of their professional association to be present and supervise the search of any premises used for professional purposes, as well as the seizure of documents

Protection (of us)

Parties shall:

- ▶ refrain from engaging in any form of **attack, threat, harassment or intimidation of lawyers** and from improperly hindering or interfering the undertaking of professional activities by lawyers
- ▶ **investigate, punish and provide reparation** for any form of attack, threat, harassment or intimidation of lawyer and for any improper hindering or interfering with the undertaking of professional activities by lawyers that is perpetrated by public authorities, as well where such conduct is committed by non-State actors.

Timeframe CJ-AV

Proposed period: 1 January 22 - 31 December 23 (3 meetings a year)

First meeting: 6-8 april 2022

Second meeting: 11-13 july 2022 (discussing preliminary draft text of the legal instrument)

Third meeting: november 2022

Biggest questions:

1. **Possible to come to a convention accepted by all member states?**
2. **Will it be binding?**

Survey on aggression, threatening behaviour and harassment targeted at lawyers 2022

by The Netherlands Bar

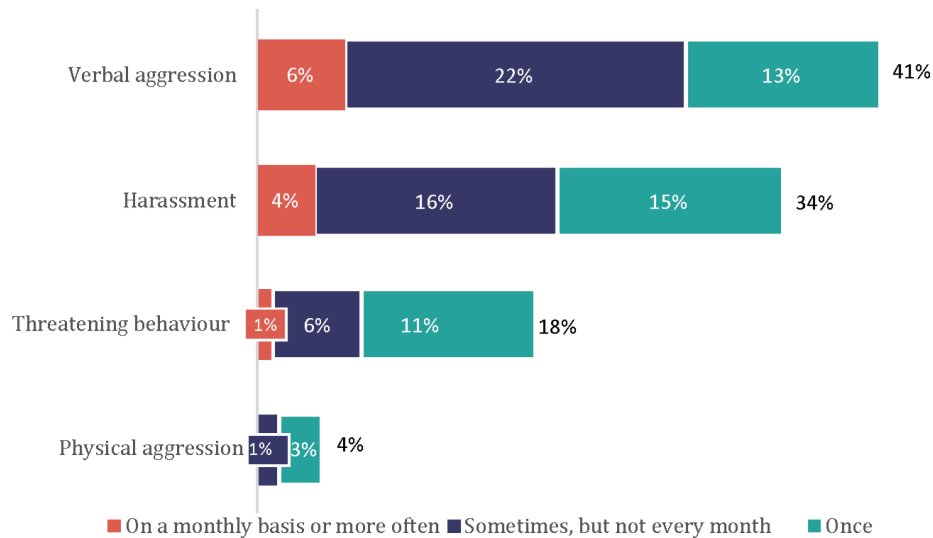
- ▶ ***The research questions were:***
- ▶ *1. To what extent do lawyers experience threats, harassment and other forms of improper pressure and aggressive behaviour in their professional practice?*
- ▶ *2. What is the context and the reason for the threats?*
- ▶ *3. What is known about the perpetrators, their background and motives?*
- ▶ *4. What is the impact of the threats?*
- ▶ *5. How do lawyers experience the existing support and protection measures?*
- ▶ *6. What ideas and suggestions for (improvement of) help, support and protection do lawyers have?*

Results of the survey aggression, threatening behaviour and harassment

Aggression, threatening behaviour and harassment

Experience of aggression, threatening behaviour and harassment

Figure 1 - Percentages of lawyers who experienced verbal aggression, harassment, threatening behaviour and physical aggression



50%

..of all lawyers have faced aggression, threatening behaviour or harassment at least once in the past year

37%

..rated the incident they experienced as serious or very serious

Where does the aggression come from?

- 1. In 50% of the cases the aggression comes from the (former or current) client, especially in the form of verbal aggression.*
- 2. In 33% of the cases, the aggression comes from the opposing party, especially in the form of a threat.*

Which fields of law?

Background characteristics

Areas of law in which aggressive behaviour is above average:

1. Insolvency law
2. Criminal
3. Personal injury law
4. Law of persons and family law

Aggression in the legal profession occurs in all areas of law and court districts as well as in firms of all sizes and in every job type. Major factors contributing to the likelihood of incidents of such behaviour occurring are the area of law and the size of the firm in question.

Who did they contact?

Figure 3 - Who do lawyers discuss an incident of aggression with? (more than one answer allowed)

** The principal is a point of contact for trainee lawyers only*

