

**Resolution of the European Criminal Bar Association (ECBA) on
the protection of the work of members of the Ukrainian National Bar Association (UNBA)
adopted on 6 May 2023, in Warsaw.**

The spring conference of the European Criminal Bar Association (ECBA), which took place in Warsaw on May 6, 2023, with the participation of lawyers from thirty one countries, including European Union and Council of Europe Member States, and beyond, once again discussed the legal consequences of the ongoing illegal invasion of Ukraine.

The ECBA condemns the Russian Federation and reiterates its solidarity with the people of Ukraine.

Noting the understandable outrage of all reasonable people at the evidence of massive war crimes and crimes against humanity, we emphasize that even in such circumstances, the rule of law must be protected.

We applaud our colleagues at the Ukrainian National Bar Association (UNBA) for their commitment to protecting the right to a fair trial for all, no matter how heinous the crimes charged are. Their stance is courageous because it is not popular and for many difficult to understand, given the aggressor's actions.

Despite this provocation, Ukrainian advocates deserve praise for upholding the rule of law, guaranteeing the integrity of the future, and facing down the despots. The highest calling of the legal profession is to ensure that all people, regardless of the gravity of the charges, receive due process without fear or favor.

We call for respect for the sanctity of life, for respect for human dignity, for respect for the principle of humanity, and for the proper fulfillment of our humanitarian obligations.

We observe that current court cases are accompanied by harassment of Ukrainian advocates by society, officials, police and other law enforcement agencies. It is not only about physical attacks and intimidation of advocates but also such attempts to prevent the provision of the very opportunity to defend oneself in court with the help of a qualified defence counsel through, for example, arbitrary termination or threats of termination of contracts in the system of free legal aid, etc. We are equally witnessing numerous searches of Ukrainian advocates with signs of persecution and harassment, a global problem that threatens the profession's independence and cannot be justified even in wartime conditions.

Such situations are not compliant with Principle no. 18 of the UN Basic Principles on the Role of Lawyers (“*Lawyers shall not be identified with their clients or their clients' causes as a result of discharging their functions*”) and make it impossible to access effective and independent legal assistance for the protection of human rights, contrary to the rights of both advocates and their clients.

The rule of non-identification of the advocate with the client should be applied in any country and under any circumstances without derogations, regardless of the categories of cases (prisoners of war, traitors, collaborators, etc.), and its enforcement is a positive obligation of every state.

Special protection of the advocate from identification with the client or the client's case, regardless of the categories of cases is especially necessary when society is most tense and vulnerable in wartime and gets used to such identification. The state's positive obligation to provide such protection is even stronger in these circumstances.

The ECBA thus urges that the Ukrainian authorities ensure the protection of Ukrainian advocates, that the Prosecutor General's Office and law enforcement agencies take measures to stop any acts of interference with the activities of advocates, any attacks on advocates, and any attempts to exert pressure on them; condemn all acts of violence and promptly, impartially and effectively investigate all violent attacks on advocates.

Warsaw, May 6th, 2023.

The ECBA

The European Criminal Bar Association (ECBA) is an association of independent specialist defence lawyers, with members from European Union and Council of Europe Member States, and beyond. It was founded in 1992 and since then it has established itself as the pre-eminent organisation of defence lawyers across Europe. The association itself is wholly independent and free from outside interference. The primary purpose of ECBA is to be a leading group of independent criminal defence lawyers and criminal law experts in Europe promoting the fundamental rights of persons under criminal investigation, suspects, accused and convicted persons. For more information, please refer to our website www.ecba.org.