KEY THEME[1]
Articles 8 and 10 of the Convention and Article 1 of Protocol No. 1 to the Convention
The rights of lawyers in the Court's case-law

(Last updated: 28/02/2026)

Introduction[2]

To begin with a few words on terminology, the French term "***avocat***" is used for a member of the Bar, while "*juriste*" is a broader term for lawyer (and *défenseur* is used for defence counsel)[3]. In English, while **lawyer** is a generic term, together with **legal adviser**, and in the broad sense, (legal) **counsel** and **advocate**, various specific designations can be found. While in some jurisdictions there may only be one title for the profession, in others there is a distinction between lawyers with a right of audience (who represent clients in court, "at the bar") and those who have an advisory role. In some common-law jurisdictions the terms barrister and solicitor are thus used (England and Wales and Ireland) or advocate[4] and solicitor (Scotland, the Channel Islands), while in others there is no distinction, e.g., advocate (Cyprus, Malta) and attorney (North America). The translations used in relation to other languages of Council of Europe States tend to vary between the above terms, where necessary drawing a distinction[5]. It is for the States to determine who is authorised to practise law and provide legal advice or assistance within their jurisdiction, and under what conditions (*Kruglov and Others v. Russia*, 2020, § 137).

Having regard to their fundamental role in a democratic society – to defend litigants and to ensure public confidence in the action of the courts – lawyers have a particular and special status under the Convention which gives them a central position in the administration of justice. Lawyers contribute to the proper administration of justice, and thus to maintaining public confidence therein (see, for example, *Rodriguez Ravelo v. Spain*, 2016, § 40).

This special status entails a heightened protection of the confidentiality of lawyer-client communication (Article 8), a certain latitude regarding arguments used in court (Article 10), and the protection of lawyers' possessions (Article 1 of Protocol No. 1).

The Convention protection for lawyers entails a number of specific duties, particularly with regard to their conduct (*Morice v. France* [GC], 2015, § 133), thus especially ethical requirements (*Lekavičienė v. Lithuania*, 2017, § 52), such as a duty of care in relation to the secrecy of judicial investigations, the duty to defend diligently the interests of clients, the duty to abstain from insulting or defamatory

[1] Prepared by the Registry. It does not bind the Court.
[2] This introduction (first paragraph) is not a strict translation of the French version but has been redrafted for an English readership.
[3] The legal profession in France formerly included the titles "*conseil juridique*" and "*avoué*" before their abolition and merger with that of "*avocat*" to create a single profession.
[4] Advocates in the jurisdictions mentioned are still members of the bar even though they are not called barristers. However, in England and Wales the term "advocate" is used in a more generic sense in various contexts.
[5] For Ukraine and Russia, for example, an "advocate" is a member of the bar representing clients in court, and "lawyer" or "legal adviser" is used for others, while for Croatia "advocate" is used for a single profession.

remarks about the judiciary, the obligation to report suspicions about certain offences committed by clients and even an obligation to refrain from advertising services, among others.

There is an extensive body of case-law on all these subjects.

Principles drawn from current case-law under Article 8

Respect for professional confidentiality (inspections/seizures/searches/interception of communications):

Article 8 affords strengthened protection to all communication between lawyers and their clients (*Denysyuk and Others v. Ukraine*, 2025, § 101). This covers, among other things, letters, telephone or oral conversations, and electronic correspondence (*Klaus Müller v. Germany*, 2020, § 37). The Court does not distinguish between different categories of correspondence with lawyers depending on its content or purpose, since the borderline between correspondence concerning contemplated litigation and that of a general nature is difficult to draw (*Altay v. Turkey (no. 2)*, 2019, § 51, and *Campbell v. the United Kingdom*, 1992, § 48).

Professional secrecy being the basis of the relationship of confidence between lawyer and client, their correspondence enjoys privileged status in terms of confidentiality, whatever its purpose (*Denysyuk and Others v. Ukraine*, 2025, § 102) and regardless of whether it is stored on the lawyer's or on the client's device (*Černý and Others v. the Czech Republic*, 2025, § 62). This also imposes certain obligations on lawyers (*Michaud v. France*, 2012, §§ 117-119, and references cited), as the Convention does not prevent the imposition of such obligations concerning their relations with clients (*Altay v. Turkey (no. 2)*, 2019, § 56).

Lawyers who do not defend clients in court (as members of the Bar) but practise as legal advisers should also be afforded certain procedural safeguards in their relations with clients (*Kruglov and Others v. Russia*, 2020, § 137; *Bersheda and Rybolovlev v. Monaco*, 2024, § 76).

It is not decisive for the purposes of Article 8 whether, at the time of the particular conversation, the lawyer had concluded a formal legal representation contract with the client (*Denysyuk and Others v. Ukraine*, 2025, § 146).

Moreover, the Court has found that the particular weight attached to the protection of lawyers' professional privilege may also apply to the protection of information relating to the exercise of other legal professions that involve the processing of client information covered by professional secrecy, such as the profession of notary in the Slovak legal system (*Kavečanský v. Slovakia*, 2025, § 61).

While professional secrecy is one of the fundamental principles on which the administration of justice in a democratic society is based, it is not, however, inviolable (*Michaud v. France*, 2012, § 123).

In this area, legislation and practice must afford effective safeguards against abuse or arbitrariness and any interference must be subjected to particularly strict judicial scrutiny (*Kırdök and Others v. Turkey*, 2019, § 51, and the references cited; as regards safeguards in the context of secret surveillance, *Denysyuk and Others v. Ukraine*, 2025, §§ 103-105).

At the same time, the safeguarding of professional secrecy falls within the rights of the defence for the purposes of Article 6 of the Convention: it is in particular the corollary of the right of a lawyer's client not to incriminate himself, which presupposes that the authorities seek to prove their case without resorting to evidence obtained through methods of coercion or oppression in defiance of the will of the "person charged" (*Kırdök and Others v. Turkey*, 2019, § 50, and the references cited).

The Court has also found that an interference with the professional secrecy of a lawyer was all the more serious where its aim was to discover the source of a journalist – the lawyer's client – and was

thus an interference with the rights of a third party protected by Article 10 (*Roemen and Schmit v. Luxembourg*, ECHR 2003-IV, § 71).

In a number of cases, the Court has found a violation of Article 8 on account of the quality of the law (see, for example, *Vasil Vasilev v. Bulgaria*, 2022), or, more generally, holding that the alleged interference was not "in accordance with the law" (see *Kopp v. Switzerland*, 1998, and *Särgava v. Estonia*, 2021; *Denysyuk and Others v. Ukraine*, 2025). In cases of an interference with presumed legal basis, the Court has stated that such law should be precise, taking into account the necessary safeguards against arbitrariness or unfettered discretion (*Namazli v. Azerbaijan*, 2024, § 48-54). The Court has also noted that in some cases it is not the legal basis but the specific conditions of its implementation that holds weight (*Bersheda and Rybolovlev v. Monaco*, 2024, §§ 94-95; *Romanchenko and Kharazishvili v. Georgia*, 2025, § 54). In certain – relatively rare – cases the Court has left open the question of the lawfulness of the interference taking the view that, in any event, it was disproportionate (*Iliya Stefanov v. Bulgaria*, 2008, § 36, *Kırdök and Others v. Turkey*, 2019, § 47; *Reznik v. Ukraine*, 2025, §§ 71 and 77). Most often, it focuses its main analysis on the proportionality of the interference.

The factors taken into account by the Court in its examination of proportionality are, *inter alia*, the following: the seriousness of the offence being investigated by the authorities, the authorities' suspicions as to the lawyer's involvement in the offence, the existence of a previous or subsequent judicial authorisation (warrant), the circumstances in which it has been issued, in particular the other evidence available at the time, the content and scope of the warrant, the manner in which the search/inspection/seizure has been carried out, including whether or not there are independent observers and the application of a data processing protocol and also the extent of possible repercussions for the work and reputation of the person concerned by the measure (*Sérvulo & Associados – Sociedade de Advogados, RL and Others v. Portugal*, 2015, § 100, and *Kruglov and Others v. Russia*, 2020, §§ 125 and 132, and the references cited).

While the presence of the *bâtonnier* (chair of the Bar Association) is seen as a special procedural safeguard (*André and Another v. France*, 2008, §§ 42-43, *Xavier Da Silveira v. France*, 2010, §§ 37 and 43), it does not automatically mean there has been no violation of Article 8 (see, for example, *André and Another v. France*, 2008, § 44). It is important that the role of the representative of the Bar Association, if present during the search, would not be purely symbolic and formal, and that he or she would be entitled to interfere in the search and seizure in a manner to actually ensure practical and effective protection of the confidential information covered by lawyer-client privilege (*Kulák v. Slovakia*, 2025, § 85.

However, the presence of certifying witnesses is not regarded as a procedural safeguard in the circumstances where they are mere laymen without any legal qualifications and therefore unable to identify privileged material (*Iliya Stefanov v. Bulgaria*, 2008, § 43, *Yuditskaya and Others v. Russia*, 2015, § 30) .

Noteworthy examples

- *Niemietz v. Germany*, 1992. First judgment where the Court expressly held that Article 8 applied to professional premises and to lawyers' strictly professional correspondence (see also references to previous case-law at § 32 *in fine*).
- *Kopp v. Switzerland*, 1998. First judgment on telephone tapping in a lawyer's office; violation on account of the quality of the law, found incompatible with the rule of law.
- *Roemen and Schmit v. Luxembourg*, 2003. Search in a lawyer's office with the aim of discovering sources of a journalist represented by the lawyer; violation.
- *Wieser and Bicos Beteiligungen GmbH v. Austria*, 2007. Seizure of electronic data during a search in a lawyer's office; violation for non-compliance with procedural safeguards.

- *Smirnov v. Russia*, 2007. Search and seizure of documents on a computer at a lawyer's home, used in evidence in a criminal case in which the lawyer was representing the defendants; violation.
- *André and Another v. France*, 2008. Search and seizure of documents (including personal ones) in a law firm by tax inspectors to discover evidence against a company which was a client of the firm; the presence of the chair of the Bar Association and his express opposition were not such as to prevent the actual consultation of all the documents in the firm and their seizure; violation.
- *Iliya Stefanov v. Bulgaria*, 2008. The Court expressed doubts as to the lawfulness of a search and seizure in a law firm whereas Bulgarian law at the time expressly stated that lawyers' documents were "inviolable" and could not be inspected or seized; disproportionate measure; violation. However, the applicant had not shown that his mobile phone calls had been intercepted and the Court found the complaint manifestly ill-founded.
- *Xavier Da Silveira v. France*, 2010. Search of the home of a lawyer who was a member of a foreign Bar Association, without a *bâtonnier* (chair) being present; violation.
- *Michaud v. France*, 2012. Legal obligation for lawyers to declare suspicions about money laundering by their clients; this duty did not impair the very essence of the defence role; the law provided for procedural safeguards; no violation.
- *Vinci Construction and GTM Génie Civil et Services v. France*, 2015. Seizure of all professional electronic messages in commercial companies including exchanges with lawyers unrelated to the investigation. The subsequent judicial review was a mere formality without any concrete examination; violation.
- *Sérvulo & Associados – Sociedade de Advogados, RL and Others v. Portugal*, 2015. One of the first judgments finding no violation, in relation to a large-scale seizure in a law firm.
- *Versini-Campinchi and Crasnianski v. France,* 2016. Finding of no violation, concerning the use of the transcription of a conversation with a client when the applicant's telephone calls were intercepted during disciplinary proceedings against her (she was a lawyer).
- *Sommer v. Germany*, 2017. Inspection of a lawyer's professional bank account in the context of a criminal investigation against one of his clients; the bank had sent to the public prosecutor a list of transactions; violation (insufficient procedural safeguards).
- *Wolland v. Norway*, 2018. Retention by the authorities of material seized in a law firm without any formal seizure decision, and steps taken by the applicant (a former lawyer) to obtain restitution; no violation.
- *Laurent v. France*, 2018. Interception and reading by a police officer of handwritten notes containing professional contact details that a lawyer had given to his clients who were under police escort. Objection as to lack of significant disadvantage rejected, as the application concerned a means of information exchange on which the Court had not yet had occasion to rule; violation.
- *Kırdök and Others v. Turkey*, 2019. Seizure followed by refusal to return or destroy electronic files of the applicants, lawyers, in criminal proceedings against another lawyer who was sharing the same offices. Doubts about foreseeability of interference (lawfulness). Violation on account of lack of necessity and no procedural safeguards (in particular, summary reasoning of judicial decision on request for restitution/destruction of files).
- *Altay v. Turkey (no. 2)*, 2019. Presence of prison official during interviews between a prisoner and his lawyer; violation.
- *Kruglov and Others v. Russia*, 2020. Seizure of devices through searches, also referred to as "inspections" and "crime-scene examinations", in the offices of lawyers and legal advisers, without any procedural safeguards; violations.

- *Klaus Müller v. Germany*, 2020. Administrative fine imposed on lawyer who had refused to testify in criminal proceedings against the former management of companies which were his clients, after they had waived privilege. Measure found to be legal (foreseeable) in spite of divergent domestic case-law and proportionate; no violation.
- *Särgava v. Estonia*, 2021. Seizures in a lawyer's home and car of his computer and mobile phone, their content being subsequently examined by the authorities in the context of criminal proceedings against him. Unlawful interference; violation.
- *Vasil Vasilev v. Bulgaria*, 2021. Unlawful recording of conversation between a lawyer and his client resulting from covert surveillance of the client's telephone line. The domestic courts later found that the recording should not be admitted in evidence in the criminal proceedings against the client. However, they did not order (they were not so empowered) the destruction of that recording but sent it to the court which had authorised the measure. The applicant's claim for compensation was rejected. Violation for lack of sufficient clarity in legal framework concerning destruction of unlawful recordings of lawyer-client communication (absence of procedural safeguards relating concretely to that destruction).
- *Mateuț v. Romania* (dec.), 2022. Interception and recording of telephone conversation between the applicant – a lawyer – and his client, as they were about to sign a contract. The applicant was first summoned as a witness in the case concerning his client, then a court decided that such testimony was unlawful and ordered the exclusion from the file of the transcription of the conversation on the ground that the evidence had not been taken lawfully. The Court found that the authorities had implicitly acknowledged a violation of the applicant's right to respect for his private life and correspondence and had provided redress and that the applicant could bring proceedings for compensation. Inadmissible because the applicant could no longer claim to be a victim of a violation of Article 8.
- *Bersheda and Rybolovlev v. Monaco*, 2024. Extensive examination of a lawyer's cell phone based on an order issued by an examining magistrate. The eventual examination of the contents of the cell phone was outside the scope of seizure. The Court found that the applicant was unable to benefit from the safeguards of professional secrecy afforded to lawyers; violation.
- *Namazli v. Azerbaijan*, 2024. A lawyer's documents were inspected by prison staff before and after he met his client in prison. The Court found that the governing domestic statutes did not make a distinction between general visitors and prison inmate's lawyers. It also considered that the deficiencies in domestic laws and their application rendered the lawyer-client relationship devoid of substance; violation.
- *Reznik v. Ukraine*, 2025. A search of a lawyer's home in the context of criminal proceedings against his client, during which his data-storage devices had been seized and eventually examined by experts. The Court found that the broad scope of the search warrant had not been offset, in practice, by implementation of sufficient procedural safeguards, the very fact that a lawyer's electronic devices which could potentially contain sensitive material could be seized, removed and accessed by officials without any external supervision or other safeguards amounting to a disproportionate interference with the applicant lawyer's Article 8 rights; violation.
- *Denysyuk and Others v. Ukraine*, 2025. Covert surveillance measures in respect of three applicants in the context of police operations carried out in the course of criminal proceedings against them, during which their communications with the fourth applicant, a lawyer, could have been intercepted, in breach of lawyer-client privilege. Since (i) the applicants had been denied access to the judicial decisions authorising covert surveillance measures on the sole ground that those had been "classified", without any balancing exercise between the competing interests at stake; (ii) there had been no detailed domestic rules and guideline setting out the procedure for identifying and handling accidentally

intercepted privileged communications between lawyers and clients, and of an independent supervisory authority overseeing the interception of private communications; and (iii) there had been no sufficient procedural safeguards to verify, *post factum*, the lawfulness and necessity of the interference and to offer redress for any alleged breaches of Article 8 rights, the Court found that the impugned interference had not been "in accordance with the law"; violation.

- *Kavečanský v. Slovakia*, 2025, where the Court considered that the arguments supporting the protection to be granted lawyer-client professional privilege could also apply in respect of other legal professionals who process client information covered by professional secrecy, such as notaries.
- *Černý and Others v. the Czech Republic*, 2025. Seizure of privileged communications between the applicants – criminal defence lawyers – and their client, from the latter's electronic device, and inclusion in the criminal case file. The Court found that the applicants did not waive their Article 8 rights simply because there was a hypothetical possibility that the data they sent to their client's device could be obtained by the authorities. The interference with their rights was found to be lacking a sufficient basis in domestic law.

Other examples

- *Camenzind v. Switzerland*, 1997;
- *Tamosius v. the United Kingdom* (dec.), ECHR 2002-VIII;
- *Elci and Others v. Turkey*, 2003;
- *Van Rossem v. Belgium*, 2004;
- *Sallinen and Others v. Finland*, 2005;
- *Kolesnichenko v. Russia*, 2009;
- *Heino v. Finland*, 2011;
- *Robathin v. Austria*, 2012;
- *Saber v. Norway*, 2020;
- *Kadura and Smaliy v. Ukraine*, 2021;
- *Romanchenko and Kharazishvili v. Georgia*, 2025.

Disbarment and other measures having impact on "private life" within meaning of Article 8:

In some quite rare cases the Court had to rule on the applicability of and compliance with Article 8 in situations where the applicants (lawyers and trainee lawyers) had been disbarred as a result of disciplinary sanctions. See in this connection the judgments in *Jankauskas v. Lithuania (no. 2)*, 2017, and *Lekavičienė v. Lithuania*, 2017, where the Court considered Article 8 applicable, but did not find a violation.

However, in the case of *Kogan and Others v. Russia*, 2023, the Court did find a violation of Article 8 as regards the withdrawal of the residence permit of an eminent human rights lawyer seeking mainly to punish her, and her spouse, for their activities in this area and to prevent them from continuing.

In the case of *Bayramov v. Azerbaijan*, 2025, the Court considered that the publication of video footage suggesting that the applicant lawyer had been drink-driving affected his private life to such a degree as to engage Article 8 (§ 40), and found a violation of that Article since the domestic courts had failed to properly assess the applicant's claim that it was the police who had distributed the video to the media (§§ 50-54).

In the case of *Imanov v. Azerbaijan*, 2025, the Court found disproportionate the applicant's disbarment on account of the statements he had made to the press about the alleged ill-treatment of

his client in prison. It considered that the reasons given by the domestic courts in support of the applicant's disbarment were not relevant and sufficient, and underlined that the alleged need for a sanction of disbarment of a lawyer in similar circumstances would need to be supported by particularly weighty reasons.

Professional reputation:

In *Kajganić v. Serbia*, 2024, the Court observed that although the applicant, a defence lawyer in a high-profile criminal cases, had not been a public figure, she had become known to the public in connection with that case and therefore it could not be said that she had been an ordinary private individual, with the result that she could have expected that there would be articles relating to her in her professional capacity. At the same time, the Court underlined the importance of defence lawyers. On the balance, the Court was satisfied that the domestic courts properly weighted the interests in protecting the applicant's reputation and the other party's right to freedom of expression, and found no violation of Article 8.

In *Arvanitis and Phileleftheros Public Company Limited v. Cyprus*, 2025 the Court found that a lawyer had opened himself up to criticism by participating in a public debate concerning restitution of looted art; the impugned article was found not to comment on the lawyer's private life but on an issue first raised by himself (§ 37).

In *Ramishvili v. Georgia**, 2024, the applicant, a publicly known defence counsel in high-profile criminal cases, was accused by a prominent clergyman during a TV interview, within the context of a debate on a matter of public interest, of being an informer and provocateur who fed information to the State Security Services. The Court found that such statements were capable of damaging the applicant's professional reputation and fomenting prejudice against the applicant in both his professional and social environments. Article 8 was thus applicable. On the merits, it found that the burden of proof imposed on the applicant to rebut those accusations in the civil defamation proceedings he brought against the clergyman, had been unattainable (§ 38), and that the domestic courts had failed to strike a fair balance between the competing interests involved (§ 41).

Principles from current case-law on Article 10

Nature and scope of freedom of expression of lawyers:

The freedom of expression of lawyers is related to the independence of the profession. It encompasses the substance of any ideas and information expressed, and the right to comment publicly on the functioning of the justice system, even though their criticism cannot exceed certain limits (*Morice v. France* [GC], 2015, § 134 with the references cited therein).

There is a fundamental difference between lawyers and journalists because of the position of lawyers in the administration of justice; they are officers of the court and do not fall within the category of "watchdogs of democracy" (*Studio Monitori and Others v. Georgia*, 2020, § 42; *Morice v. France* [GC], 2015, §§ 148 and 168; *Străisteanu v. the Republic of Moldova*, 2025, § 71). Nor can a lawyer be regarded as an external witness responsible for informing the public, because he or she is directly involved in the justice system.

Remarks made by lawyers may be regarded either as harming the reputation of others (judges or institutions), or as revealing confidential information in breach of the secrecy of an investigation.

Court's assessment of proportionality of interference:

In virtually all the cases concerning such matters, the debate has focussed on the proportionality of the interference, as the legality of the measure and the legitimate aim had not raised any particular questions for the Court or the parties.

The specific criteria that the Court takes into account in assessing proportionality include the consideration of the status as lawyer, the dignity of the legal profession[6], the general context of the remarks (especially if they can be regarded as misleading or as a gratuitous attack), whether the expressions used are sufficiently linked to the facts of the case (*Mor v. France*, 2011, § 53) and the nature and severity of the sanction (criminal or not). Generally speaking, criminal sanctions, especially those that might entail deprivation of liberty, may be harder to justify (*Rodriguez Ravelo v. Spain*, 2016, §§ 41 and 50). The freedom of expression of lawyers is not unlimited but interference with that freedom will only exceptionally be seen as "necessary in a democratic society", even in the case of a moderate criminal sanction (*Mor v. France*, 2011, § 44, and the references cited, and *Radobuljac v. Croatia*, 2016, § 58).

The Court also considers that, while in their capacity as officers of the court they benefit from an exclusive right of audience and immunity from legal process in respect of their oral presentation of cases in court, their conduct must be discreet, honest and dignified (*Casado Coca v. Spain*, 1994, § 46).

When lawyers exercise their freedom of expression, they must keep in mind their client's best interests, as the imposition of a prison sentence on defence counsel can in certain circumstances have implications not only for the lawyer's rights under Article 10 but also the fair trial rights of the client under Article 6 of the Convention. It follows that any "chilling effect" is an important factor to be considered in striking the appropriate balance between courts and lawyers in the context of an effective administration of justice (*Kyprianou v. Cyprus* [GC], 2005, § 175).

The Court draws a distinction depending on whether the lawyer expresses himself or herself in the courtroom or elsewhere. In the first case, especially if the remarks are not disseminated outside the courtroom, the lawyer has a greater degree of latitude. When making public statements, a lawyer is not exempted from his or her duty of prudence in relation to the secrecy of a pending judicial investigation, even though he or she cannot be held responsible for remarks published by the press that he or she has subsequently denied making (*Morice v. France* [GC], 2015, §§ 136-138).

From a methodological point of view, the Court will sometimes analyse an applicant's status as a lawyer in a separate sub-section under its proportionality assessment (for example, *Čeferin v. Slovenia*, 2018, § 54).

Noteworthy examples

Where the lawyer has made comments inside the courtroom (in cases where the remarks were judged defamatory/insulting by the domestic authorities):

- Concerning unnecessary and insulting remarks by lawyers: *Mahler v. Germany* (dec.), 1998 (inadmissible), *W.R. v. Austria* (dec.), 1997 (partly inadmissible).
- *Nikula v. Finland*, 2002. Defamation proceedings (private prosecution) initiated by a public prosecutor against the applicant – defence counsel – for a statement read at the hearing expressing criticism of the prosecution strategy; violation.

[6] See *Nikula v. Finland*, §§ 41 and 46 – where legal profession is used in a broad sense to extend to judges and prosecutors.

- *Kyprianou v. Cyprus [GC]*,2005. Lawyer found guilty of contempt of court by the same judges before whom the contempt had been committed, and sentenced to five days' immediate imprisonment; violation.
- *Kincses v. Hungary*, 2015. Disciplinary proceedings resulting in the applicant's being fined for remarks about a judge (alleging that the judge was incompetent and personally hated the defendant); no violation.
- *Bono v. France*, 2015. Penalty (reprimand accompanied by temporary disqualification from professional bodies) imposed on a lawyer for accusing investigating judges in criminal proceedings against his client of complicity in torture. The impugned pleadings had directly contributed to the applicant's task of defending his client, amounted more to value judgments and had some factual basis; violation.
- *Radobuljac v. Croatia,* 2016. Fine imposed on applicant for contempt of court after making certain critical remarks in a statement of appeal. The authorities had not assessed those remarks in the context or considered the form of expression. The Court did not see anything insulting for judges either in the content or in the applicant's intention. In addition, the judge who fined the applicant was the one who had been offended by the remarks. Even though the applicant's conduct had been discourteous and might have shown disrespect, his comments had solely concerned the way in which the judges were conducting the proceedings; violation.
- *Rodriguez Ravelo v. Spain,* 2016. Criminal conviction for insults on account of expressions used by lawyer in written application, containing value judgments against a judge and accusing him of reprehensible conduct (such as lying), in a context where he was defending his client's interests; violation.
- *Čeferin v. Slovenia*, 2018. Fine for contempt of court imposed on defence counsel who had criticised the public prosecutor and experts in his submissions, without any possibility for the lawyer to give explanations or to defend himself before being fined; violation.
- *Bagirov v. Azerbaijan*[7], 2020. Lawyer temporarily disbarred for making public accusations of police violence then struck off for making disrespectful comments in the courtroom about a judge when he was representing *Ilgar Mammadov*; no legal basis; violation.
- *Backović v. Serbia (no. 2)*, 2025. Imposition of a fine on a lawyer for contempt of court on account of statements (accusing the judges of abuse of office and belittling the court as well as the experience, expertise and professional capacities of the judge sitting in the case) made in his written objection to a first-instance court's decision. Given the nature of those statements, the reasons adduced by domestic courts found to be relevant and sufficient. Fine found not to be excessive. The Court noted that despite the imposition of the fine by the same judge who had felt personally offended by the applicant's remarks, the applicant could and did benefit from subsequent effective judicial review. No violation.

Where the lawyer has made comments outside the courtroom:

- *Morice v. France* [GC], 2015. Criminal conviction of lawyer for complicity in defaming investigating judge on account of remarks reported in the press; violation.
- *Casado Coca v. Spain*, 1994. Disciplinary sanction (warning) imposed on lawyer for publishing an advertisement for his law firm in a number of issues of a local newsletter; no violation.
- *Schöpfer v. Switzerland*, 1998. Disciplinary sanction against applicant – a lawyer – following his criticism of the courts at a press conference. No violation having regard to the general nature, seriousness and tone of the complaints expressed in public, and to the moderate nature of the fine.

[7] In this case the lawyer had expressed himself both inside and outside the courtroom.

- *Amihalachioaie v. Moldova*, 2004. Fining of a lawyer for criticising, in a telephone interview with a journalist, a decision of the Constitutional Court; violation.
- *Foglia v. Switzerland*, 2007. Fine imposed on lawyer for disclosing documents from a criminal case file leading to a press campaign in parallel with judicial proceedings; violation.
- *Mor v. France*, 2011. During a press conference, the applicant – a lawyer – had answered journalists' questions concerning a criminal case in which she was involved. Where a case has attracted media coverage on account of the seriousness of the facts and individuals likely to be implicated, a lawyer cannot be penalised for breaching the secrecy of the investigation if he or she has simply made personal statements about information already known to the journalists and about to be reported by them with or without such comments; violation.
- *Karpetas v. Greece*, 2012. Lawyer fined for malicious accusations (allegation of corruption against a prosecutor and judge); no violation.
- *Rogalski v. Poland*, 2023. Disciplinary sanction (fine and temporary ban on performing certain professional activities) imposed on a lawyer for lodging a complaint against a prosecutor, on behalf of his client, alleging corruption. The Court emphasised the importance of being able to report offences relating to corruption; violation.
- *Lutgen v. Luxembourg*, 2024. Criminal fine imposed on a lawyer for insulting a judge in correspondence sent to state authorities. The Court found that the alleged insulting remarks did qualify as a value judgment but a sufficient factual basis existed to support them. The Court examined the applicant's statements in light of the need to protect his client's interests in an emergency situation; violation.

Other examples

- *Steur v. the Netherlands*, 2003;
- *Coutant v. France* (dec.), 2008;
- *Karpetas v. Greece*, 2012;
- *Pais Pires de Lima v. Portugal*, 2019;
- *Marko Tešić v. Serbia*, 2025.

Principles from current case-law on Article 1 of Protocol No. 1 to the Convention

This theme relates to two main aspects:

(i) right to respect for property constituting work facilities (usually computer hardware);

(ii) right to remuneration (fees).

In these areas the general principles of Article 1 of Protocol No. 1 apply. It is appropriate, however, to take account of the fact that the objects seized may be part of a lawyer's work facilities. In particular, if the hardware (computers, laptops, etc.) seized is not the object, instrument or proceeds of a criminal offence, as is not usually the case, its seizure and especially its retention may be difficult to justify (*Smirnov v. Russia*, 2007, §§ 58-59). Few judgments on this subject have been noted to date.

Noteworthy examples

Seizure of work facilities:

- *Smirnov v. Russia*, 2007. Lawyer's computer seized since 2000 by the authorities. While the information on the hard drive was useful for the investigation, the computer in itself was not. The Court found no justification for its retention; violation.

- *Kruglov and Others v. Russia*, 2020. Seizures of lawyers' computers; violation even in the situation where material was returned promptly (one month).

Right to remuneration:

- *Van Der Mussele v. Belgium*, 1983. The applicant – a trainee lawyer who was assigned by the court as defence counsel – was not paid and even incurred expenses on account of a legal obligation imposed by the State. Inapplicability *ratione materiae* of Article 1 of Protocol No. 1.
- *Dănoiu and Others v. Romania*, 2022. Substantial reduction in fees paid to applicants as court-assigned counsel, no clear and foreseeable legal basis; violation.

Recap of general principles

- On confidentiality of lawyer-client communication: *Michaud v. France*, 2012, §§ 117-119.
- On freedom of expression of lawyers: *Morice v. France* [GC], 2015, §§ 132-139.

Related (but different) topics

- On correspondence between a client (prisoner) and his solicitor: *Campbell v. the United Kingdom*, 1992.
- On the conviction of journalists for using and reproducing information from a pending judicial investigation in a book: *Dupuis and Others v. France*, 2007.
- On the conviction of a newspaper editor for defaming investigating judges: *July and SARL Libération v. France*, 2008.
- On compatibility with Article 8 of State requirements for admission to the legal profession: *Bigaeva v. Greece*, 2009.
- On the right to receive a pension from a lawyers' contribution-based pension fund: *Klein v. Austria*, 2011.
- On the relationship between lawyers and judges: *Morice v. France* [GC], 2015, § 170 *in fine*.
- On access to a court, in a case concerning a refusal to examine a libel suit brought by the applicant (a lawyer) against a judge who had asked the bar association to bring disciplinary proceedings against him on account of his conduct during civil proceedings: *Sergey Zubarev v. Russia*, 2015.
- On ill-treatment in a police station of a lawyer representing a client: *Cazan v. Romania*, 2016.
- On the applicability of Articles 6 and 8 in a case where the applicants – lawyers – had been excluded from a trial in which they were representing their clients: *Angerjärv and Greinoman v. Estonia*, 2022.
- On the scope of the protection of the reputation of lawyers who were not the applicants against defamatory remarks: *Mesić v. Croatia*, 2022 (civil defamation award against former President for saying that a lawyer needed psychiatric treatment for implicating him in a criminal complaint, no violation), and also *Matalas v. Greece*, 2021 (judgment against applicant for defamation on account of his remarks as CEO of a company concerning its former legal adviser).
- On the rights of ordinary citizens – clients of lawyers – to a fair trial, albeit often related to the rights of lawyers but nevertheless independent therefrom: *Hamdani v. Switzerland*, 2023.

- On discrimination, within the meaning of Article 1 of Protocol No. 12, on account of a refusal to authorise the applicant – a lawyer – to use a dialect (variant of the Serbian language with official status) during a trial: *Paun Jovanović v. Serbia*, 2023.
- On the protection afforded to a lawyer and well-known LGBTQ+ rights activist, who had been compelled to remove from her Facebook page videos showing a fellow lawyer making insulting homophobic remarks towards her on the eve of the Pride march (lawyer assimilated to "public watchdog" in this context): *Străisteanu v. the Republic of Moldova*, 2025.
- On the protection afforded to a well-known lawyer who had opened himself up to criticism by participating in a public debate (lawyer compared to a politician in this context): *Arvanitis and Philelefthеros Public Company Limited v. Cyprus*, 2025.

Other references

Case-law guides:

- Guide on Article 8 - Right to respect for private and family life, the home and correspondence
- Guide on Article 10 - Freedom of expression
- Guide on Article 1 of Protocol No. 1 - Protection of property

Other key themes:

- Access to a lawyer
- Protection of the judiciary

Other:

- Recommendation R(2000)21 of the Committee of Ministers to the member States on the freedom of exercise of the profession of lawyer (adopted 25 October 2000)
- Basic Principles on the Role of Lawyers (adopted on 7 September 1990 by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Havana, Cuba)
- Recommendation 2085 (2016) and Resolution 2095 (2016) of the Council of Europe Parliamentary Assembly
- Recommendation 2121 (2018) The case for drafting a European convention on the profession of lawyer

KEY CASE-LAW REFERENCES

Leading cases:

- *Michaud v. France*, no. 12323/11, 6 December 2012 (no violation of Article 8);
- *Morice v. France* [GC], no. 29369/10, 24 April 2015 (violation of Article 10);
- *Kyprianou v. Cyprus [GC]*, no. 73797/01, 15 December 2005 (violation of Article 10).

Other cases under Article 8:

- *Niemietz v. Germany*, no. 13710/88, 16 December 1992 (violation);
- *Camenzind v. Switzerland*, no. 21353/93, 16 December 1997 (no violation);
- *Kopp v. Switzerland*, no. 23224/94, 15 March 1998 (violation);
- *Tamosius v. the United Kingdom* (dec.), no. 62002/00, ECHR 2002-VIII (inadmissible – manifestly ill-founded);
- *Elci and Others v. Turkey*, nos. 23145/93 and 25091/94, 13 November 2003 (violation);
- *Roemen and Schmit v. Luxembourg*, no. 51772/99, 25 February 2003 (violation);
- *Van Rossem v. Belgium*, no. 41872/98, 9 December 2004 (violation);
- *Sallinen and Others v. Finland*, no. 50882/99, 27 September 2005 (violation);
- *Smirnov v. Russia*, no. 71362/01, 7 June 2007 (violation);
- *Wieser and Bicos Beteiligungen GmbH v. Austria*, no. 74336/01, 16 December 2007 (violation);
- *Iliya Stefanov v. Bulgaria*, no. 65755/01, 22 May 2008 (partly violation and partly manifestly ill-founded);
- *André and Another v. France*, no. 18603/03, 24 July 2008 (violation);
- *Kolesnichenko v. Russia*, no. 19856/04, 9 April 2009 (violation);
- *Xavier Da Silveira v. France*, no. 43757/05, 21 January 2010 (violation);
- *Heino v. Finland*, no. 56720/09, 15 February 2011 (violation);
- *Robathin v. Austria*, no. 30457/06, 3 July 2012 (violation);
- *Michaud v. France*, no. 12323/11, 16 December 2012 (no violation);
- *Vinci Construction and GTM Génie Civil et Services v. France*, nos. 63629/10 and 60567/10, 2 April 2015 (violation);
- *Sérvulo & Associados – Sociedade de Advogados, RL and Others v. Portugal*, no. 27013/10, 3 September 2015 (no violation);
- *Versini-Campinchi and Crasnianski v. France*, no. 49176/11, 16 June 2016 (no violation);
- *Sommer v. Germany*, no. 73607/13, 27 April 2017 (violation);
- *Jankauskas v. Lithuania (no. 2)*, no. 48427/09, 27 June 2017 (no violation);
- *Lekavičienė v. Lithuania*, no. 50446/09, 27 June 2017 (no violation);
- *Wolland v. Norway*, no. 39731/12, 17 May 2018 (no violation);
- *Laurent v. France*, no. 28798/13, 24 May 2018 (violation);
- *Altay v. Turkey (no. 2)*, no. 11236/09, 9 April 2019 (violation);
- *Kırdök and Others v. Turkey*, no. 14704/12, 3 December 2019 (violation);
- *Saber v. Norway*, no. 459/18, 17 December 2020 (violation);
- *Kruglov and Others v. Russia*, nos. 11264/04 and 15 others, 4 February 2020 (violation in respect of 22 applicants);

- *Klaus Müller v. Germany*, no. 24173/18, 19 November 2020 (no violation);
- *Kadura and Smaliy v. Ukraine*, nos. 42753/14 and 43860/14, 21 January 2021 (violation);
- *Särgava v. Estonia*, no. 698/19, 16 November 2021 (violation);
- *Vasil Vasilev v. Bulgaria*, no. 7610/15, 16 November 2021 (violation);
- *Mateuț v. Romania* (dec.), no. 35959/15, 1 March 2022 (inadmissible – loss of victim status);
- *Kogan and Others v. Russia*, no. 54003/20, 7 March 2023 (violation);
- *Bersheda and Rybolovlev v. Monaco*, nos. 36559/19 and 36570/19, 6 June 2024 (violation);
- *Namazli v. Azerbaijan*, no. 8826/20, 20 June 2024 (violation);
- *Kajganić v. Serbia*, no. 27958/16, 8 October 2024 (no violation);
- *Reznik v. Ukraine*, no. 31175/14, 23 January 2025 (violation);
- *Denysyuk and Others v. Ukraine*, nos. 22790/12 and 3 others, 13 February 2025 (violation);
- *Romanchenko and Kharazishvili v. Georgia*, nos. 33067/22 and 37832/22, 18 February 2025 (violation);
- *Kulák v. Slovakia*, no. 57748/21, 3 April 2025 (violation);
- *Kavečanský v. Slovakia*, no. 49617/22, 29 April 2025 (violation);
- *Bayramov v. Azerbaijan*, no. 45735/21, 6 May 2025 (violation);
- *Černý and Others v. the Czech Republic*, nos. 37514/20 and 4 others, § ..., 18 December 2025*Bersheda and Rybolovlev v. Monaco*, nos. 36559/19 and 36570/19, 6 June 2024 (violation);
- *Namazli v. Azerbaijan*, no. 8826/20, 20 June 2024 (violation);
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- *Reznik v. Ukraine*, no. 31175/14, 23 January 2025 (violation);
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- *Kulák v. Slovakia*, no. 57748/21, 3 April 2025 (violation);
- *Kavečanský v. Slovakia*, no. 49617/22, 29 April 2025 (violation);
- *Bayramov v. Azerbaijan*, no. 45735/21, 6 May 2025 (violation);
- *Imanov v. Azerbaijan*, no. 62/20, 7 October 2025 (violation);
- *Černý and Others v. the Czech Republic*, nos. 37514/20 and 4 others, 18 December 2025 (violation);
- *Ramishvili v. Georgia*, no. 4100/24, 3 February 2026 (violation).

Other cases under Article 10:

- *Casado Coca v. Spain*, no. 15450/89, 24 February 1994 (no violation);
- *W.R. v. Austria* (dec.), no. 26602/95, 30 June 1997 (partly inadmissible – manifestly ill-founded);
- *Mahler v. Germany* (dec.), no. 29045/95, 14 January 1998 (inadmissible – manifestly ill-founded);
- *Schöpfer v. Switzerland*, no. 25405/94, 20 May 1998 (no violation);
- *Nikula v. Finland*, no. 31611/96, 21 March 2002 (violation);
- *Steur v. the Netherlands*, no. 39657/98, 28 October 2003, ECHR 2003-XI (violation);
- *Amihalachioaie v. Moldova*, no. 60115/00, 20 April 2004 (violation);

- *Foglia v. Switzerland*, no. 35865/04, 13 December 2007 (violation);
- *Coutant v. France* (dec.), no. 17155/03, 21 January 2008 (inadmissible – manifestly ill-founded);
- *Mor v. France*, no. 28198/09, 15 December 2011 (violation);
- *Karpetas v. Greece*, no. 6086/10, 30 October 2012 (no violation);
- *Kincses v. Hungary*, no. 66232/10, 27 January 2015 (no violation);
- *Bono v. France*, no. 29024/11, 15 December 2015 (violation);
- *Rodriguez Ravelo v. Spain*, no. 48074/10, 12 January 2016 (violation);
- *Radobuljac v. Croatia*, no. 51000/11, 28 June 2016 (violation);
- *Čeferin v. Slovenia*, no. 40975/08, 16 January 2018 (violation);
- *Pais Pires de Lima v. Portugal*, no. 70465/12, 12 February 2019 (violation);
- *Bagirov v. Azerbaijan*, nos. 81024/12 and 28198/15, 25 June 2020 (violation);
- *Rogalski v. Poland*, no. 5420/16, 23 March 2023 (violation);
- *Lutgen v. Luxembourg*, no. 36681/23, 16 May 2024 (violation);
- *Backović v. Serbia (no. 2)*, no. 47600/17, 8 April 2025 (no violation);
- *Arvanitis and Phileleftheros Public Company Limited v. Cyprus*, no. 49917/22, 3 July 2025 (violation);
- *Marko Tešić v. Serbia*, no. 61891/19, 4 November 2025 (violation).

Other cases under Article 1 of Protocol No. 1:

- *Van Der Mussele v. Belgium*, no. 8919/80, 23 November 1983 (inadmissible – incompatibility *ratione materiae*);
- *Smirnov v. Russia*, no. 71362/01, 7 June 2007 (violation);
- *Kruglov and Others v. Russia*, nos. 11264/04 and 15 others, 4 February 2020 (violation in respect of 11 applicants);
- *Dănoiu and Others v. Romania*, nos. 54780/15 and 2 others, 25 January 2022 (violation).