

Lawyers under Attack

- ▶ FBE Congress Palermo
- ▶ November 17-19 2022

Peter Hanenberg, President Rotterdam Bar
Association

FBE Congress ‘Lawyers under Attack’

Guidelines for member states;

Basic Principles on the Role of Lawyers as adopted by the 8th UN Congress on the Prevention of Crime and the Treatment of Offenders, 7 September 1990 in Havana.

Basic Principles on the Role of Lawyers

- ▶ “The Basic Principles on the Role of Lawyers [...] which have been formulated to assist Member States in their task of promoting and ensuring the proper role of lawyers, should be respected and taken into account by Governments within the framework of their national legislation and practice and should be brought to the attention of lawyers as well as other persons, such as judges, prosecutors, members of the executive and the legislature, and the public in general. These principles shall also apply, as appropriate, to persons who exercise the functions of lawyers without having the formal status of lawyers.”

Basic Principles on the Role of Lawyers

Main subjects;

- Access to lawyers and legal services
- Special safeguards in criminal justice matters
- Qualifications and training
- Duties and responsibilities
- Freedom of expression and association
- Professional associations of lawyers
- Disciplinary proceedings

Basic Principles on the Role of Lawyers

Paragraph 12

Lawyers shall at all times maintain the honour and dignity of their profession as essential agents of the administration of justice.

Paragraph 13

- ▶ The duties of lawyers towards their clients shall include:
 - ▶ (a) Advising clients as to their legal rights and obligations, and as to the working of the legal system in so far as it is relevant to the legal rights and obligations of the clients;
 - ▶ (b) Assisting clients in every appropriate way, and taking legal action to protect their interests;
 - ▶ (c) Assisting clients before courts, tribunals or administrative authorities, where appropriate.

Basic Principles on the Role of Lawyers

Paragraph 14

Lawyers, in protecting the rights of their clients and in promoting the cause of justice, shall seek to uphold human rights and fundamental freedoms recognized by national and international law and shall at all times act freely and diligently in accordance with the law and recognized standards and ethics of the legal profession.

Basic Principles on the Role of Lawyers

Paragraph 23

- ▶ “Lawyers like other citizens are entitled to freedom of expression, belief, association and assembly. In particular, they shall have the right to take part in public discussion of matters concerning the law, the administration of justice and the promotion and protection of human rights and to join or form local, national or international organizations and attend their meetings, without suffering professional restrictions by reason of their lawful action or their membership in a lawful organization. In exercising these rights, lawyers shall always conduct themselves in accordance with the law and the recognized standards and ethics of the legal profession.

Basic Principles on the Role of Lawyers

Paragraph 24

Lawyers shall be entitled to form and join self-governing professional associations to represent their interests, promote their continuing education and training and protect their professional integrity. The executive body of the professional associations shall be elected by its members and shall exercise its functions without external interference.

PEN Norway report of 2020 on Turkey

‘The right to a fair trial is often thought of as protection for the accused.’

‘But, it also safeguards the justice system against government abuse. Courts and their officials, in particular **judges and prosecutors**, play an **essential role in upholding the rule of law, serving as a bulwark against excessive or arbitrary executive power**. Unfortunately, governments around the world have upended this role of the courts and instead employing them to punish critics and consolidate their power.’

‘[...] the manipulation of the criminal justice system has a corrosive impact on the rule of law, **undermining the integrity of courts** and the **laws** they enforce, as **well as public confidence** in the justice system.’

Developments in Turkey

- ▶ Members of the Councils of Bar Associations charged with criminal offenses
- ▶ Freedom of Organization of the Bar Associations is under threat
- ▶ Individual lawyers are identified with their clients and heavily sentenced

FRAPPEZ TOUJOURS!