



# VIENNA DECLARATION



# IN SUPPORT OF THE RULE OF LAW



## Vienna Declaration in Support of the Rule of Law

We, the representatives of the legal profession of the Member States of the European Union and of the Council of Europe, meeting in Vienna on 11 June 2022 on the occasion of the French Presidency of the Council of the European Union;

### I. Call for respect of the rule of law

1. **Are concerned** about the attacks on the rule of law and on the principle of primacy of European Union law in several Member States of the Union;
2. **Deplore** the return of war to the European continent because of the Russia's attack on Ukraine and the resulting humanitarian crises;
3. **Invite** European institutions and EU Member States to support actively those seeking help because of war, including support to countries which welcomed thousands of Ukrainians;
4. **Reiterate** that the European project seeks to guarantee peace on the continent through the rule of law and the respect of fundamental rights and freedoms;
5. **Reiterate** the fundamental importance of protecting the rule of law and the independence of the judiciary and its actors, including lawyers and Bar associations in all circumstances;
6. **Demand** that the rule of law should no longer be subject to the slightest exceptions, including in times of crises;
7. **Reiterate** the unwavering commitment of the legal profession and the legal community to the fundamental European values of respect for human dignity, freedom, democracy, equality, the rule of law, and respect for human rights, including the rights of persons belonging to minorities, which are values common to the Member States and European countries in a society characterized by pluralism, non-discrimination, tolerance, justice, solidarity and equality between women and men;
8. **Reiterate** their commitment to the Convention for the Protection of Human Rights and Fundamental Freedoms and to the independent mechanism for monitoring compliance with those provisions, through individual complaints to the European Court of Human Rights, which constitute an invaluable legacy and common asset, protecting the fundamental rights of the 700 million citizens of the 46 Member States;
9. **Condemn** national decision undermining effectiveness of the European Court of Human Rights and the Court of Justice of the EU judgments in the national legal orders and invite European institutions to take adequate counteracting actions;
10. **Reiterate** the essential role of the legal profession and the legal community as a whole in the preservation and realization of the rule of law, access to justice, independence of the judiciary and legal security;
11. **Reiterate** the importance of ensuring that lawyers, judges and prosecutors are able to carry out their work independently, without interference, intimidation or harassment;
12. **Proclaim** their willingness to contribute to the strengthening of the rule of law within the European Union and within their own jurisdictions, and to address the challenges facing our societies, particularly with regard to the independence of the judiciary;
13. **Welcome** the European initiatives to strengthen the effectiveness of the rule of law, and in particular the general mechanism conditioning access by Member States to funds from the EU budget on the respect for the principles of the rule of law, validated by the CJEU in its judgment of 16 February 2022, and call on the European Commission to implement it;
14. **Propose** to institutionalize a structured dialogue with the key professions of the rule of law (judges, lawyers, journalists, rights defenders) to promote the exchange of information and alerts concerning the rule of law.

15. **Support** the CCBE in their request to the Presidency of the Council of the European Union to structure a regular dialogue with the legal profession, through its representatives, concerning access to a lawyer and the rule of law".
16. **Propose** to set up an early warning system for the European institutions when persistent and/or structural threats affect these professions.

## II. Digital technology at the service of the rule of law

17. **Reiterate** that the specificities of the judicial system, as a constitutive element of the rule of law, require fundamental rights guarantees with regard to the digitalization of justice and the use of artificial intelligence, preventing judicial binding decision to be fully automated.
18. **Reiterate** the guidelines of the CEPEJ for a better integration of the user into the judicial systems;
19. **Reiterate** the content of the guide established by the CCBE and the European Lawyers' Foundation on the use of artificial intelligence for lawyers and law firms in the EU;
20. **Reiterate** their commitment to the principles set out in the European Ethical Charter on the use of artificial intelligence (AI) in **judicial systems and their environment:**
21. **Support** the work of the Council of Europe to prepare a legally binding instrument on Artificial Intelligence;
22. **Support** the European Union's initiative to regulate high-risk AI applications, ensuring effective protection of fundamental rights and call for specific safeguards with regard to the use of AI in the administration of justice;
23. **Support** the European Declaration on Digital Rights and Principles for the Digital Decade, which clarifies the rights of European citizens to access essential public services, monitors interactions with algorithms and artificial intelligence systems to prevent unlawful discriminations and infringements of fundamental rights and stress the right to the confidentiality of their communications and the information on their electronic devices;
24. **Request** that the legal profession be involved and heard in the preparation of the annual progress report on the digital decade.
25. **Reiterate** that cybersecurity is becoming a central issue in times of conflict and diplomatic crisis, especially since it has a direct impact on economic sovereignty and on the independence and protection of legal professional privilege.
26. **Call** on the European Union to develop an action plan aimed at strengthening the cybersecurity of the key professions of the rule of law and to develop appropriate European solutions.

## III. Concerning the necessary protection of the legal profession

27. **Welcome** the debate organized during the "Justice and Home Affairs" Council of March 4, 2022, where the Ministers of justice noted that the absence of a common corpus offers great flexibility to caselaw.
28. **Regrets** that, in the absence of an agreed body of law, the reference to common standards, in cases where the independence of lawyers taken as a whole or individually, is prevented.
29. **Invite** the Council of the European Union to continue its reflection, in coordination with the professional bodies, on the possible future steps that could be envisaged to better protect the legal profession and access to lawyers.

30. **Are concerned about** the breaches of the freedom to exercise the profession of lawyer and the increasingly frequent violations of legal professional privilege in several Member States;
31. **Reiterate** that the legal profession, as a guardian of freedoms, is one of the most exposed in this context of weakening of the fundamental principles of the profession, and in particular of legal professional privilege.
32. **Call** for the inclusion of a clause safeguarding legal professional privilege in European legislative instrument that may have a negative impact, even indirectly, on this secrecy.
33. **Support** the project, currently undertaken by the Council of Europe, of a binding international legal instrument to strengthen the protection and independence of the legal profession;
34. **Call on** the Member States and the European institutions to support actively this project;

#### **IV. Concerning access to law and justice for exiled persons**

35. **Are concerned** about the multiplication of humanitarian crises in and around the European Union;
36. **Welcome** European solidarity and the initiatives aimed at receiving displaced persons following the armed conflict in Ukraine and in particular the activation of Directive 2001/55 on minimum standards for giving temporary protection in the event of a mass influx of displaced persons;
37. **Reiterate** that the rule of law is an inherent element of the right of every person to have access to clear legal information in order to assert their rights is an inherent element of the rule of law;
38. **Call** the EU institutions to support the countries bordering Ukraine in receiving and guiding the millions of exiled people;
39. **Consider** that access to legal information and justice provided by independent lawyers is a component of humanitarian aid and should be guaranteed on the territory of the Member States of the European Union, in all circumstances, regardless of nationality or the causes that lead to exile;

#### **V. Concerning development of environmental law, as a vital corollary of human rights**

40. **Reiterate** that the ecological imperative can no longer be ignored and that the legal profession must apprehend and accompany, through its expertise, the structural changes underway.
41. **Undertake** to join the European and international bodies for exchanges on climate transition and to participate actively in the development of an innovative normative framework in favor of environmental law