

# EUROPEAN LAWYERS DAY

25 October 2022



## EUROPEAN LAWYERS' DAY THEME 2022:

### Making the law prevail in times of war: the role of lawyers

Following the recent invasion of Ukraine by Russia and its considerable impact on the populations concerned, but also more widely in Europe and in the world, it appeared relevant to highlight the important role lawyers and Bars and Law Societies can play in such a context of war.

It is an opportunity to shed light on the various initiatives taken by Bars and Law Societies, as well as lawyers and law firms, in reaction to humanitarian crises resulting from conflicts. Several aspects can be highlighted, such as the following:

It is important to recognise how lawyers safeguard individual human rights and how they represent victims of war in war crimes and crimes against humanity.

Lawyers play an important role in the context of war by assisting people fleeing conflict and in search of safe haven. By being present at the borders or opening up contact points providing legal assistance to refugees, lawyers contribute

to defending the right to asylum guaranteed by instruments such as the EU Charter of Fundamental Rights (Article 18) or the Geneva Convention 1951. In addition, lawyers scrutinise the measures taken by authorities in relation to such events (like the implementation of the Temporary Protection Directive) to check their compliance with fundamental rights.

Family law is of great relevance during war situations, as families are torn apart, and vulnerable adults and minors are at a heightened risk of harm, abuse and trafficking. While there is a higher level of obligation regarding the legal protection of these vulnerable groups in various international and European instruments, in practice, these risks are still very prominent and real. In particular, there are major risks in relation to children, who oftentimes are forced to flee unaccompanied or, for one reason or another, find themselves left without any parents. In this regard, lawyers play a pivotal role in ensuring that these children are protected, and

as soon as possible are in a trustworthy, safe environment, their rights are upheld, and that they receive the necessary care required.

Furthermore, in the context of war, when sanctions are adopted against entities, individuals or states, lawyers quickly adapt their practice and need to be particularly careful to conform to the sanctions. Lawyers have to examine the potential applicability of the sanctions on the legal services they provide. Moreover, a proactive approach could be adopted by Bars and Law Societies by, for example, issuing guidance to lawyers in their countries on how to ensure compliance with sanctions/restrictions which have been imposed.

Lawyers also play an indispensable role in advising their clients/companies in regard to

how to comply with measures and sanctions imposed by governments in the context of war. Many of these clients/companies struggle with understanding the effects in practice of these often quite broad sanctions and constant new restrictions, and lawyers are essential for rapidly helping to clarify the meanings, the multi-faceted complex impacts on the work of the client/company, and how exactly to ensure compliance.

Another aspect that can be stressed is the necessity to protect lawyers' freedom of expression in accordance with Article 23 of the UN Basic Principles on the Role of Lawyers. In such a context, lawyers can, indeed, be the object of reprisal, as was the case for several Belarusian lawyers who were recently disbarred after having condemned the invasion of Ukraine.

