

BEFORE THE FIFTH SECTION,
EUROPEAN COURT OF HUMAN RIGHTS

Application No. 17088/23

Between

T.F.

Applicant

v.

Switzerland

Respondent

WRITTEN SUBMISSIONS ON BEHALF OF THE INTERVENORS

ECRE (the European Council on Refugees and Exiles),
The AIRE Centre (Advice on Individual Rights in Europe),
and
the Dutch Council for Refugees (DCR),

pursuant to the Registrar's notification dated September 25, 2025, on the Court's
permission to intervene under Rule 44 § 3 of the Rules of the European Court of Human
Rights

16 October 2025

Summary

- I. Article 13 ECHR, read in conjunction with Article 8, requires that States must ensure that effective remedies are available which are capable of addressing arguable claims concerning interferences with private and family life. Such remedies must be effective in practice as well as in law, providing timely, independent, and accessible procedures with adequate safeguards, including access to legal advice and representation. In the context of asylum, where applicants are often in situations of vulnerability, States must take particular care to ensure that procedural obstacles do not render remedies illusory.
- II. Access to independent legal representation without fear of sanctions is central to the effectiveness of remedies under the Convention. The Court has recognised that lawyers play a central role in safeguarding Convention rights and that interference with their professional independence constitutes a serious threat to the system of remedies. Disciplinary or other sanctions that obstruct access to legal representation for those seeking protection of their Article 8 rights undermine the accessibility of effective remedies as a precondition for the meaningful protection of Convention rights.
- III. Regional and international standards affirm the essential role of lawyers in ensuring effective remedies. Council of Europe instruments, including the 2025 Convention on the Protection of the Profession of Lawyer, as well as the UN Basic Principles on the Role of Lawyers, the UN Declaration on Human Rights Defenders, and OSCE guidelines, recognise the right to seek and provide legal assistance freely and without interference. These standards reflect a broad consensus that States have a positive obligation to protect the independence and safety of lawyers. Disciplinary measures or other sanctions may obstruct access to legal representation and remedies for applicants seeking protection of their rights under Article 8.

I. The scope of the right to an effective remedy under Article 13 ECHR in conjunction with Article 8 ECHR;

1. Article 8 ECHR essentially aims to protect individuals against arbitrary interferences with Convention protected rights by public authorities.¹ However, it does not only require that States abstain from interference with this right: it may also impose on Contracting Parties positive obligations to ensure effective respect for the right to respect for private and family life.²

¹ *Maire v. Portugal*, no. 48206/99, § 69, 26 June 2006; *Harroudj v. France*, no. 43631/09, § 40, 4 October 2012; *Popov v. France*, nos. 39472/07 and 39474/07, § 133, 19 January 2012.

² *Söderman v. Sweden* [GC], no. 5786/08, § 78, 12 November 2013.

2. Any interference with rights under Article 8 § 1 must be made in accordance with the law.³ To be in accordance with the law, an interference must have basis in a domestic law which is formulated with sufficient precision to enable those to whom it applies to foresee its consequences.⁴ The interference must pursue a legitimate aim within the scope of Article 8 § 2, namely, in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder, or for the protection of health or morals, or the protection of the rights and freedoms of others. An interference must also be necessary in a democratic society, respond to a pressing social need and be proportionate to the aim pursued. When striking this balance, Contracting Parties are afforded a certain margin of appreciation. However, this margin is narrower in cases concerning vulnerable persons, such as asylum seekers or stateless persons.⁵
3. Where an applicant raises an arguable claim that a measure threatens to interfere with their right to respect for private and family life under Article 8, States must provide the individual with an effective possibility of challenging that measure.⁶ This includes ensuring that the relevant issues are examined with sufficient procedural safeguards and thoroughness by a domestic forum offering adequate guarantees of independence and impartiality.⁷ The Court has clarified that while the procedural guarantees under Article 8 may vary depending on the context, they nonetheless must secure a meaningful opportunity for the protection of Convention rights.⁸ The Court has also emphasised that the Convention must be read as a whole and interpreted so as to promote consistency and harmony between its provisions.⁹
4. Under Article 8, remedies must allow the competent authority to consider both interferences with private and family life and failures to fulfil positive obligations. The interveners note that the definition of private life is not exhaustive and may encompass, *inter alia*, ‘*the physical and psychological integrity of a person*’.¹⁰ In *Bensaid*, this Court observed that, where measures taken by domestic authorities would have sufficiently adverse effects on an individual’s physical and moral integrity, and where those measures do not reach the Article 3 severity threshold, the Court may find the said measures to be in breach of Article 8 nonetheless.¹¹ A

³ *Kurić and Others v. Slovenia* [GC] no. 26828/06, § 355, 2 March 2014; *Nunez v. Norway*, no. 55597/09, § 68, 28 June 2011; See also *Ramadan v. Malta*, no. 76136/12, 21 June 2016; *Konstatinov v. The Netherlands*, no. 16351/03, 26 April 2007.

⁴ *Vavrička and Others v. the Czech Republic* [GC], nos. 47621/13 and 5 others, § 286, 8 April 2021.

⁵ *B. F. and others v. Switzerland*, nos. 13258/18, 15500/18, 57303/18, 9078/20, § 104-105, 4 July 2023.

⁶ *Trapitsyna and Isaeva v. Hungary*, no. 5488/22, § 54, 19 September 2025.

⁷ *Gaspar v. Russia*, no. 23038/15, § 42, 12 June 2018.

⁸ *Saeed v. Denmark* (dec.), no. 53/12, § 35, 24 June 2014.

⁹ *Marguš v. Croatia* [GC], no. 4455/10, § 128, 27 May 2014; *A and B v. Norway* [GC], nos. 24130/11 and 29758/11, § 133, 15 November 2016.

¹⁰ *Beizaras and Levickas v. Lithuania*, no. 41288/15, § 109, 14 January 2020; *Goodwin v the United Kingdom*, *op. cit.*, § 90.

¹¹ *Bensaid v the United Kingdom*, *op. cit.*, § 47.

person's mental health is a crucial element of private life and moral integrity that requires consideration in respect of Article 8.¹²

5. The Court has repeatedly confirmed that complaints concerning the right to respect for private and family life under Article 8 are capable of being arguable within the meaning of Article 13. In *De Souza Ribeiro v. France*, the Grand Chamber underlined that in immigration cases, the Court's "*sole concern, in keeping with the principle of subsidiarity, is to examine the effectiveness of the domestic procedures and ensure that they respect human rights*".¹³
6. Article 13 guarantees the existence of a domestic remedy to address the substance of an "*arguable complaint*"¹⁴ under the Convention and to provide appropriate relief. The Court has emphasised that Article 13 requires the availability, at the national level, of a remedy capable of enforcing the substance of Convention rights and freedoms, regardless of how they are secured in domestic law. In *Nada*, the Court held that the remedy must in any event be "effective" in practice as well as in law and not be theoretical, in particular in the sense that its exercise must not be unjustifiably hindered by the acts or omissions of the authorities of the State.¹⁵
7. The effectiveness of a remedy is determined by three factors. Firstly, whether it can directly rectify the impugned situation.¹⁶ Secondly, its speediness,¹⁷ for a remedy which cannot succeed in due time is neither adequate nor effective.¹⁸ Thirdly, an individual's ability to access the remedy must not be unjustifiably obstructed by the acts or omissions of the authorities.¹⁹
8. By analogy with the Court's jurisprudence under Article 3, certain obstacles may render a remedy ineffective. While the Court has not developed an equally detailed list of such obstacles in the context of Article 8, the principles established under Article 3 remain instructive *mutatis mutandis*. Such obstacles may include, *inter alia*, excessively short time limits in law for submitting the claim or an appeal;²⁰ insufficient information on how to gain effective access to the relevant procedures and remedies;²¹ obstacles in physical access to and/or communication

¹² *Ibid.* § 47-48.

¹³ *De Souza Ribeiro v. France* [GC], no. 22689/07, § 84, 13 December 2012.

¹⁴ *G.B. and Others v. Turkey*, no. 4633/15, § 125, 17 October 2010; see also *Stanev v. Bulgaria* [GC], no. 36760/06, § 217, 17 January 2012.

¹⁵ *Nada v. Switzerland*, no. 10593/08, § 207, 12 September 2012. See also: *Büyükdag v. Turkey*, no. 28340/95, § 64, 21 December 2000. *Aksoy v. Turkey*, no. 21987/93, § 95, 18 December 1996.

¹⁶ *Kudla v. Poland* [GC], no. 30210/96, § 158, 26 October 2000; *Pine Valley Developments Ltd and Others v. Ireland (Article 50)*, 9 February 1993, Series A no. 246-B;

¹⁷ *M.S.S. v. Belgium and Greece* [GC], no. 30696/09, § 292, 26 January 2011.

¹⁸ *Payet v. France*, no. 19606/08, § 133, 20 January 2011.

¹⁹ *De Souza Ribeiro v. France* [GC], *op. cit.*, § 80.

²⁰ *I.M. v. France*, no. 9152/09, § 144, 14 December 2010; *M.S.S. v. Belgium and Greece*, *op. cit.*, § 306.

²¹ *Hirsi Jamaa and Others v. Italy*, no. 27765/09, § 204, 23 February 2012.

- with the responsible authority;²² lack of (free) legal assistance and access to a lawyer;²³ lack of interpretation;²⁴ and limited access to transit zones.²⁵
9. The Court has previously made clear that an effective remedy under Article 13 should be examined in the light of the applicant’s personal circumstances, while the general legal and political context that existing domestic remedies operate in will also determine their actual effectiveness.²⁶ The Court has already confirmed the particular vulnerability of asylum-seekers following the traumatic experience of migration,²⁷ including the fact of irregular stay in a country they do not know.²⁸ In asylum cases touching upon Article 8, this Court has repeatedly attached weight to the particular situation of persons fleeing their country.²⁹
 10. Such individualisation requires that special attention is given to ensuring those who are particularly vulnerable – including minors, those with mental or physical disabilities, those who are experiencing trauma or clinical distress, the ill, injured, medically vulnerable, pregnant, elderly, or otherwise infirm – have effective access to domestic remedies.³⁰ The duties on the part of the State to ensure that the provided effective remedy is practically accessible is therefore enhanced when vulnerable populations are among those seeking asylum.
 11. Access to an effective remedy requires not only the existence of a legal avenue but also the provision of the “necessary information and informed advice”³¹ to enable the individual to use it meaningfully. Without adequate information and advice, asylum-seekers and migrants cannot realistically exercise their rights under Article 13 and a remedy that may be available in theory is, therefore, not available in practice (See: Section II).
 - 12. The interveners submit that, where a case raises an arguable claim of a violation of Article 8, Article 13 requires Contracting Parties to provide remedies that are capable of addressing the substance of the arguable complaints and granting appropriate relief. Any remedy must be effective in practice as well as in law and the respondent State should not prevent its exercise by any unjustified acts or omissions.³² In the context of Article 8, and**

²² *Gebremedhin v. France*, no. 25389/05, § 54, 26 April 2007; *I.M. v. France*, op cit., § 130; *M.S.S. v. Belgium and Greece*, op cit., §§ 301 - 313.

²³ *M.S.S. v. Belgium and Greece*, op cit., § 319; *mutatis mutandis N.D. and N.T. v. Spain*, nos. 8675/15 and 8697/15, § 118, 3 October 2017; *Y. K. v Croatia*, no. 38776/21, §131, 17 July 2025.

²⁴ *Hirsi Jamaa and Others v. Italy*, op cit., § 202.

²⁵ *Shahzad v. Hungary*, no. 12625/17, § 77, 8 July 2021.

²⁶ *Dorđević v. Croatia*, no. 41526/10, §101, 24 July 2012;

²⁷ *Supra, M.S.S. v. Belgium and Greece*, § 232.

²⁸ *Mubilanzila Mayeka and Kaniki Mitunga v. Belgium*, no. 13178/03, § 55, 12 October 2006.

²⁹ *Tanda-Muzinga v. France*, no. 2260/10, § 75, 10 July 2014; *Mubilanzila Mayeka and Kaniki Mitunga v. Belgium*, op. cit., § 85.

³⁰ *M.S.S. v Belgium and Greece*, op. cit., § 233; *Muskhadzhiyeva and Others v. Belgium*, no. 41442/07, 19 January 2010; *Mubilanzila Mayeka and Kaniki Mitunga v. Belgium*, op. cit., 12 October 2006; *Saadi v. the United Kingdom* [GC], no. 13229/03, § 66, 29 January 2008; *Mohamad v. Greece*, no. 70586/11, § 44, 11 December 2014.

³¹ *Akkad v. Turkey*, no. 1557/19, § 80, 21 June 2022.

³² See, for example, *Kaya v. Turkey*, no. 22729/93, § 106, 19 February 1998.

particularly in asylum proceedings, effectiveness entails procedures that are prompt, independent, and practically accessible; this includes access to adequate advice and legal representation.

II. Sanctions on the applicant’s legal representative and guarantees under Article 13 in conjunction with Article 8 ECHR;

13. Where access to remedies is hindered by State action, these remedies may not be regarded as effective. The arbitrary disciplining of lawyers for representing applicants constitutes such a hindrance, as it deprives the individual of the practical ability to seek protection of their rights. These measures directly obstruct the applicant’s ability to pursue effective remedies, thereby rendering illusory the protection of their rights under Article 8, contrary to the guarantees of Article 13.³³
14. The Court has emphasised that applicants must have access to “*independent and rigorous scrutiny*”³⁴ of their claims and to prompt responses; while Article 8 remedies do not necessarily require automatic suspensive effect, they must ensure thorough examination where removal may result in a human rights violation. **These guarantees cannot be realised where legal representation is unjustifiably obstructed through fines and threats of future sanctions.**
15. Effective legal representation is an indispensable component of access to justice, ensuring that applicants can meaningfully present their claims and that domestic authorities are able to conduct the “*independent and rigorous scrutiny*”³⁵ required by the Convention. Lawyers acting in accordance with professional standards in utilising all legal procedures available to them must be able to represent their clients freely and without fear of reprisal. Without this, the right to an effective remedy under Article 13 in conjunction with Article 8 is rendered illusory.
16. This structural problem has been acknowledged in the Court’s own jurisprudence on sanctions against lawyers. In its case-law, the Court has underlined that disciplinary or punitive measures directed at lawyers for acts performed in the course of their professional duties risk creating a chilling effect that can hinder effective legal representation and undermine public confidence in the justice system.³⁶
17. Although these cases were not examined under Article 8 taken in conjunction with Article 13, the principles articulated therein are nevertheless instructive. In *Morice*

³³ The Court has consistently held that remedies must be “effective in practice as well as in law” (*El-Masri v. “the former Yugoslav Republic of Macedonia”* [GC], no. 39630/09, § 255, 13 December 2012), and must be “reasonably certain” and capable of offering “appropriate redress” (*G.B. and Others v. Turkey*, no. 4633/15, § 125, 17 October 2019).

³⁴ *A.B. and Y.W. v. Malta*, nos. 18999/20 and 23978/20, § 64, 19 March 2024; *M.S.S. v. Belgium and Greece* [GC], *op. cit.*, § 293.

³⁵ *Ibid.*

³⁶ *Bagirov v. Azerbaijan*, nos. 81024/12 and 28198/15, §§ 99–104, 25 June 2020; *Morice v France* [GC], no. 29369/10, § 127, 23 April 2015; *Kyprianou v. Cyprus*, no. 73797/01, § 175, 15 December 2005; *Steur v. Netherlands*, no. 39657/98, § 44, 28 October 2003.

v. *France* the Court noted that where the ability of lawyers to effectively defend their clients is at stake, even seemingly moderate measures can be deemed disproportionate.³⁷ This Court has found that the moderate nature of fines does not suffice to negate the risk of a chilling effect on the effective defence of clients, is “*all the more unacceptable in the case of a lawyer who is required to ensure the effective defence of his clients*”.³⁸ Similarly, in *Nikula v. Finland*, the Court observed that lawyers have a “*duty to defend their clients’ interests zealously*” and that it should be primarily for counsel to assess the relevance and usefulness of defence arguments without being influenced by the potential chilling effect of even a relatively light penalty.³⁹

18. In the context of regulating the legal profession, the Court reiterated in *Bagirov v Azerbaijan* that the “*proper functioning of the courts would not be possible without relations based on consideration and mutual respect between the various protagonists in the justice system, at the forefront of which are judges and lawyers*”.⁴⁰ It often found that “*persecution and harassment of members of the legal profession [...] strikes at the very heart of the Convention system [and] allegations of such persecution in whatever form [...] will be subject to especially strict scrutiny by the Court*”.⁴¹
19. This Court has held that lawyers “*play a key role in ensuring that the courts, whose mission is fundamental in a State based on the rule of law, enjoy public confidence [and] for the members of the public to have confidence in the administration of justice they must have confidence in the ability of the legal profession to provide effective representation*”.⁴² It has emphasised the legal profession’s “*central role [for the] maintenance of the rule of law*” and that “*the freedom of lawyers to practice their profession without undue hindrance is an essential component of a democratic society and a necessary prerequisite for the effective enforcement of the provisions of the Convention...*”.⁴³ This Court thus grants them a special status under the Convention.⁴⁴
20. **-The interveners invite the Court to consider that threats and sanctions against lawyers deter representation, which undermines the system of remedies required by the Convention. Unjustified disciplinary fines and threats against lawyers pursuing remedies for their clients not only deprive applicants of the possibility to secure an effective examination of their Article 8 rights but also undermine public confidence in the justice system. Remedies**

³⁷ *Morice v. France [GC]*, *op. cit.*, § 127.

³⁸ *Ibid.*

³⁹ *Nikula v. Finland*, no. 31611/96, § 54, 21 March 2002.

⁴⁰ *Bagirov v Azerbaijan*, nos. 81024/12 and 28198/15, § 78, 25 June 2020.

⁴¹ See *Elci and Others v Turkey*, *op. cit.*, § 669; see also *Aliyev v Azerbaijan*, *op. cit.*, §181; *Yuditskaya and Others v. Russia*, no. 5678/06, § 27, 12 February 2015.

⁴² *Morice v France [GC]*, *op. cit.*, §132; with further references.

⁴³ *Elci and Others v Turkey*, *op. cit.*, §669.

⁴⁴ *Rodriguez Ravelo v Spain*, no. 48074/10, §40, 12 January 2016.

provided under such conditions cannot meet the Convention standard of being “effective in practice as well as in law”.

III. Regional and international standards concerning the role of legal representatives in safeguarding the right to an effective remedy;

21. The Court has stated that in interpreting the Convention, “*account must be taken of any relevant rules and principles of international law applicable in relations between the Contracting Parties*” and that it “*cannot be interpreted in a vacuum and should so far as possible be interpreted in harmony with other rules of international law of which it forms part*”.⁴⁵ In this context, the Court highlights “*the common international or domestic-law standards of European States [that] reflect a reality that the Court cannot disregard*”.⁴⁶ Further, a “*consensus emerging from specialised international instruments and from the practice of Contracting States may constitute a relevant consideration*”.⁴⁷
22. Article 53 of the Convention prohibits, *inter alia*, a construction of Convention rights which would limit the human rights and fundamental freedoms ensured under any other agreement to which the respondent State is a party. To ensure compliance with Article 53 ECHR, when construing the rights and freedoms which are defined in the Convention, this Court must guarantee at least the level of protection of those human rights and fundamental freedoms already guaranteed by other international agreements to which the relevant Contracting State is a party.

Regional standards

23. Regional standards developed within the Council of Europe and by European professional associations underline the essential role of lawyers in safeguarding the right to an effective remedy. In particular, these instruments emphasise the independence of the legal profession, protection from undue interference, and the necessity of effective access to legal advice and representation as prerequisites for the meaningful exercise of Convention rights, as reflected in the following examples.
24. The Council of Europe Convention for the Protection of the Profession of Lawyer, recently adopted in 2025, represents a regional instrument setting binding standards for the independence and protection of lawyers. Although Switzerland has not yet signed the Convention, its adoption reflects a wide consensus among Council of Europe member States on the fundamental guarantees required for the effective functioning of the legal profession. Article 8 of the Convention requires States to “*ensure that the grounds for disciplinary action against lawyers are*

⁴⁵ *Magyar Helsinki Bizottsag v Hungary [GC]*, *op. cit.*, §123.

⁴⁶ *Magyar Helsinki Bizottsag v Hungary [GC]*, *op. cit.*, §124.

⁴⁷ *Magyar Helsinki Bizottsag v Hungary [GC]*, *op. cit.*, §124.

based exclusively on professional standards of conduct which are prescribed by law and are themselves consistent with the rights and freedoms in the Convention for the Protection of Human Rights and Fundamental Freedoms".⁴⁸ Article 8(3) underlines the obligation to ensure that disciplinary sanctions must comply with the principles of legality, non-discrimination, and proportionality.

25. In its Resolution 78 (8) on Legal Aid and Advice,⁴⁹ the Committee of Ministers clarified that legal advice should be available to those who need it on a series of matters which may affect a person's interests, including those related to administrative procedures, rights and obligations. States should ensure that "advice-giving agencies" are provided the necessary information on the legislation of the state.
26. The Council of Bars and Law Societies of Europe (CCBE) reinforces these protections through its Charter of Core Principles of the European Legal Profession and the Code of Conduct for European Lawyers. Rule 4(3) of the Code of Conduct underscores that a lawyer, while maintaining due respect and courtesy towards the court, must defend the interests of the client "*honourably and fearlessly*" without regard to personal interests or potential consequences to themselves or others.⁵⁰ The Charter identifies independence and the freedom to pursue the client's case as core principles,⁵¹ both of which are indispensable to ensuring that legal representation is effective in practice and not undermined by external pressures or threats of sanction.

International standards

27. The United Nations Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms contains a series of principles and rights that are based on binding human rights standards enshrined in other international instruments, representing a strong international consensus.⁵²
28. The Declaration establishes that "*everyone has the right, individually and in association with others, to promote and to strive for the protection and realisation*

⁴⁸ Council of Europe Convention for the Protection of the Profession of Lawyer, Rev 24-04-2025.

⁴⁹ Council of Europe, Resolution (78)8 on Legal Aid and Advice, Res(78)8, 02/03/1978, CM-Public, available at: <https://search.coe.int/cm?i=09000016804e2bb2>.

⁵⁰ Council of Bars and Law Societies of Europe, Model Code of Conduct for European Lawyers, 2021, available at:

https://www.ccbe.eu/fileadmin/speciality_distribution/public/documents/DEONTOLOGY/DEON_CoC/EN_DEONTO_2021_Model_Code.pdf.

⁵¹ Council of Bars & Law Societies of Europe, Charter of core principles of the European legal profession, 2019,

https://www.ccbe.eu/fileadmin/speciality_distribution/public/documents/DEONTOLOGY/DEON_CoC/EN_DEON_CoC.pdf.

⁵² United Nations, 'Declaration on Human Rights Defenders', adopted by the General Assembly at the Fifty-third session, A/RES/53/144, 8 March 1999. Accessible at [Declaration on Human Rights Defenders | OHCHR](#).

of human rights and fundamental freedoms at the national and international level”.⁵³ Article 6 notes further, with particular importance for human rights lawyers, that everyone and every association has the right to “*know, seek, obtain, receive and hold information about all human rights and fundamental freedoms, including having access to information as to how those rights and freedoms are given effect in domestic legislative, judicial or administrative system*” as well as to “*be protected in the event of the violation of those rights*”. It specifically addresses the right to “*offer and provide professionally qualified legal assistance or other relevant advice and assistance in defending human rights*”.⁵⁴ Both the right to seek information and assistance in the realisation of human rights as well as the right to offer such assistance are two sides of the coin of the ‘*right to defend rights*’ – and both sides emphasise the importance of human rights defenders in upholding the rule of law.

29. Article 12(2) of the Declaration enshrines States’ positive obligation to “*ensure the protection [...] of everyone [...] against violence, threats, retaliation, de facto or de jure adverse discrimination, pressure or any other arbitrary action as a consequence of [...] the legitimate exercise of the rights referred to in the present Declaration*”.⁵⁵ The Declaration therefore establishes the individual’s ‘*right to defend rights*’ as well as the State’s positive obligation to protect the realisation of that right.
30. In September 1990, the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders adopted the Basic Principles on the Role of Lawyers. These have been formulated “*to assist Member States in their task of promoting and ensuring the proper role of lawyers [and] should be taken into account by Governments within the framework of their national legislation and practice...*”.⁵⁶ As to their personal scope, they apply, as appropriate, to persons who exercise the functions of lawyers without having that formal status.⁵⁷ They affirm that lawyers must be able to perform their professional functions freely and without fear of sanctions or interference for actions taken in accordance with recognised professional duties, standards, and ethics. Governments are accordingly required to ensure effective access to legal assistance of one’s choice⁵⁸ and to respect the independence and self-governance of lawyers’ associations.⁵⁹
31. The OSCE Office for Democratic Institutions and Human Rights issued Guidelines on the Protection of Human Rights Defenders. The Guidelines stress

⁵³ UN Declaration on Human Rights Defenders, *op. cit.*, Article 1.

⁵⁴ UN Declaration on Human Rights Defenders, *op. cit.*, Article 9(3)c.

⁵⁵ UN Declaration on Human Rights Defenders, *op. cit.*, Article 12(2).

⁵⁶ United Nations, ‘Basic Principles on the Role of Lawyers’, adopted by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Havana, Cuba, on 7 September 1990. Accessible at [Basic Principles on the Role of Lawyers | OHCHR](#).

⁵⁷ UN Basic Principles on the Role of Lawyers, *op. cit.*, preamble.

⁵⁸ UN Basic Principles on the Role of Lawyers, *op. cit.*, para. 1.

⁵⁹ UN Basic Principles on the Role of Lawyers, *op. cit.*, §16.

the State's obligation to take proactive steps to promote the full realization of the rights of human rights defenders, including their right to defend rights. The OSCE stresses that *“any legal provisions that directly or indirectly lead to the criminalization of activities that are protected by international standards should be immediately amended or repealed.”*⁶⁰ The Guidelines' explanatory report further affirms that where people find themselves deprived of their rights, effective remedies include *“the right of the individual to seek and receive assistance from others in defending human rights and fundamental freedoms”*.⁶¹

32. The vital role of human rights defenders in upholding the rule of law is further emphasised by the UN Human Rights Committee⁶², the UN Human Rights Council⁶³, United Nations Special Rapporteur on the situation of human rights defenders⁶⁴, joint Guidelines by the Venice Commission and the OSCE Office for Democracy and Human Rights⁶⁵, as well as the European Network of Human Rights Institutions.⁶⁶
33. **The interveners submit that international standards represent a strong consensus in establishing a fundamental right to (a) seek and receive information, assistance and representation with a view to the realization of human rights, (b) to offer and provide such legal information, assistance and representation with a view to defend human rights, and (c) to communicate and cooperate freely and without hindrance with national and international human rights mechanisms. With a view to ensuring the unhindered exercise of that fundamental right, the consensus includes (d) a State's positive obligation to protect these rights by any means necessary.**

⁶⁰ OSCE Office for Democratic Institutions and Human Rights (ODIHR), 'Guidelines on the Protection of Human Rights Defenders', 2014, § 24. Accessible at [119633.pdf \(osce.org\)](#).

⁶¹ OSCE Guidelines on the Protection of Human Rights Defenders, *op. cit.*, page 23.

⁶² UN Human Rights Committee, "Concluding observations on the fourth periodic report of Azerbaijan" (CCPR/C/AZE/4) adopted by the UN Human Rights Committee on 16 November 2016.

⁶³ Human Rights Council, 'Resolution 22/6 on protecting human rights defenders' (A/HRC/RES/22/6) 21 March 2013 paras 3, 5, 9.

⁶⁴ Report of the Special Rapporteur on the situation of human rights defenders on his mission to Azerbaijan, presented to the Human Rights Council at its thirty-fourth session (27 February-24 March 2017).

⁶⁵ European Commission for Democracy through Law (Venice Commission) and OSCE Office for Democratic Institutions and Human Rights (OSCE/ODIHR), 'Joint Guidelines on Freedom of Association', adopted at the 101st Plenary Session, December 2014, para. 127. They note that *“associations should not be treated differently [...] for defending human rights”*. In para. 239, they note that *“Sanctions amounting to the effective suspension of activities [...] are of an exceptional nature. They should only be applied in cases where the breach gives rise to a serious threat [...] to fundamental democratic principles”*.

⁶⁶ The European Network of National Human Rights Institutions (ENNHRI), 'National Human Rights Institutions and Human Rights Defenders. Enabling human rights and democratic space in Europe'. Accessible at [Publication-NHRIs-and-Human-Rights-Defenders-Enabling-Human-Rights-and-Democratic-Space-in-Europe.pdf \(ennhri.org\)](#).