



Observatoire ARGA

ARGA Atlas

RESPONSIBILITY OF LAWYERS IN INTERNATIONAL CASES AND THE LIMITS OF THE MANDATE

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Purpose of the document:

To explain systematically what lawyers' responsibility consists of in international cases, where the limits of their mandate lie, why in cross-border proceedings a lawyer cannot be reduced either to a technical executor of the client's wishes or to an autonomous political actor, and how international and European standards combine the lawyer's independence, loyalty to the client, confidentiality, competence, disciplinary accountability, and the limits of permissible professional conduct. The basic framework is built above all around the UN Basic Principles on the Role of Lawyers, Council of Europe standards on the freedom of exercise of the profession of lawyer, the ECtHR's case-law on legal professional privilege and the rights of lawyers, and the ICC Code of Professional Conduct for Counsel. ([OHCHR](#))

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1. EXECUTIVE SUMMARY

In international matters, a lawyer's responsibility is substantially broader than in the ordinary local model of "the client gives instructions and counsel drafts a filing." A cross-border dispute almost always develops simultaneously in several layers: national proceedings, extradition, migration status, international complaints, INTERPOL, sanctions and compliance exposure, the public sphere, and family or property consequences. Against that background, a professional error by counsel may lead not merely to procedural defeat, but to loss of liberty, status, assets, or control over the reputational environment of the case. At the same time, lawyers themselves continue to face threats, intimidation, arbitrary interference, and attacks on professional independence, which is precisely why the UN maintains a Special Rapporteur on the independence of judges and lawyers. ([OHCHR](#))

International standards proceed from the premise that the lawyer is neither a simple extension of the client nor a free-standing political commentator who may do whatever he wishes under cover of defense work. The UN Basic Principles state that lawyers must advise clients as to their rights and

obligations, assist them in every appropriate way, and act freely and diligently in accordance with the law and recognized professional standards and ethics. Council of Europe materials likewise stress that the lawyer serves not only the client's interests but also the interests of justice, and that the role of the lawyer is not exhausted by mechanically carrying out whatever instructions are given. ([OHCHR](#))

This is where the central issue of the limits of mandate arises. In an international case, the lawyer's mandate is defined not by a power of attorney alone and not by the client's wishes alone, but by several simultaneous layers: law, the terms of representation, the rules of the specific national or international forum, professional ethics, confidentiality, conflict-of-interest rules, and the limits of acceptable procedural conduct. In the ICC context, for example, the Code of Professional Conduct for Counsel is expressly structured around independence, integrity, professional secrecy, conflicts of interest, the representation agreement, and disciplinary responsibility. ([asp.icc-cpi.int](#))

The main practical conclusion is that the standard for a lawyer in an international matter is not a promise of result, but structured, competent, and ethically lawful conduct in the client's interests and within the limits of law. The international materials directly require diligence, loyalty, independence, and confidentiality. They also imply the corresponding limit: counsel is not entitled to turn the mandate into an instrument for misleading a court, abusing international mechanisms, concealing conflicts of interest, or participating in conduct incompatible with law and professional ethics. ([OHCHR](#))

2. WHY INTERNATIONAL CASES INCREASE THE DEMANDS PLACED ON LAWYERS

An international case almost always demands more from a lawyer than knowledge of a single procedural code. Counsel must understand how the same factual body will appear before a court, an international body, an extradition authority, an asylum authority, INTERPOL, a bank or compliance department, and the public sphere. A coordination failure between these layers can destroy the strategy as a whole: an argument useful in one forum may damage the position in another, publicity may undermine procedural routes, and mischaracterization of the conflict may make an international submission unusable. This increased complexity is exactly why international cases sharpen the question of lawyers' responsibility and the limits of mandate. ([OHCHR](#))

The ECtHR's recent case-law overview on the rights of lawyers states that lawyers enjoy a special status under the Convention because they play a fundamental role in a democratic society, defend litigants, and help maintain public confidence in the administration of justice. The same materials also underline heightened protection for lawyer-client confidentiality while emphasizing that lawyers are subject to specific duties concerning their conduct and professional ethics. International law therefore strengthens the status of lawyers, but does not relieve them of discipline. ([ECHR-KS](#))

3. WHAT DEFINES A LAWYER'S MANDATE

The first source of the mandate is law. The UN Basic Principles state that lawyers' functions include advising clients regarding rights and obligations, assisting them in every appropriate way, and appearing before courts, tribunals, and administrative authorities where appropriate. That already shows that the mandate has a legal structure: it is not free improvisation, but a professional function carried out within recognized standards. ([OHCHR](#))

The second source of the mandate is the representation agreement itself. The ICC Code specifically regulates the establishment of the representation agreement, impediments to representation, good-faith performance of the agreement, termination of representation, and consequences of withdrawal or termination. This is especially important in international cases because it allows one to distinguish what the lawyer is actually retained to do from what the client would prefer to dump onto counsel under the general human theory that one signature should solve all chaos. It does not. (asp.icc-cpi.int)

The third source of the mandate is the rulebook of the specific forum. The ICC subjects counsel appearing before it to its own professional code. Council of Europe materials define the lawyer as a person qualified and authorized according to national law to plead, act, advise, and represent clients in legal matters. The practical implication is that the boundaries of mandate shift depending on whether the lawyer is appearing before a national court, an international criminal forum, a human-rights mechanism, or another body. A lawyer cannot simply drag rules and assumptions from one forum into another without risking damage to the case. (rm.coe.int)

The fourth source of the mandate is the client's instructions, but only insofar as those instructions are compatible with law and professional ethics. Council of Europe materials emphasize that the lawyer's duties do not begin and end with the faithful performance of whatever the client demands so far as the law permits; the lawyer serves the interests of justice as well as those of the client and acts not only as representative but also as adviser. In international cases, this matters enormously: the client determines the objective of the defense, but cannot turn counsel into an instrument for unlawful, false, or strategically self-destructive conduct. (rm.coe.int)

4. CORE DUTIES OF THE LAWYER IN AN INTERNATIONAL CASE

The first core duty is independence. The UN Basic Principles require States to ensure that lawyers can perform their professional functions without intimidation, hindrance, harassment, or improper interference. The ICC Code likewise requires counsel to act honourably, independently, and freely, without allowing outside pressure to compromise professional judgment. In an international case, this is vital because pressure may come not only from the state, but from the client, relatives, business partners, media actors, or political intermediaries who imagine the lawyer's task is simply to "produce a result." Independence in such an environment is not decorative. It is a condition of professional usefulness. (OHCHR)

The second core duty is competence and diligence. The UN Basic Principles require lawyers to act freely and diligently in accordance with the law and recognized standards and ethics. The ICC Code further makes clear that counsel must maintain a high level of competence in the applicable law and keep that competence up to date. The practical conclusion is straightforward: an international case cannot be run on generic legal instinct. If counsel accepts a transnational matter, counsel assumes a real obligation to understand the applicable mechanisms rather than covering ignorance with confidence. Humanity is strangely devoted to that latter method. It remains a poor one. (OHCHR)

The third duty is loyalty to the client's interests. The UN Basic Principles state that lawyers must loyally respect the interests of their clients. But loyalty is not blind obedience. It means that the defense must be structured in the client's interests rather than in the interests of third parties, the lawyer's own publicity, political self-positioning, or institutional convenience. In international matters this is particularly important because conflicts of interest and shifting centers of gravity arise constantly across jurisdictions, family members, companies, and public narratives. (OHCHR)

The fourth duty is proper communication and advice. The UN Basic Principles expressly include advising clients as to their rights and obligations and informing them of the workings of the legal system relevant to their case. The ICC Code complements this through rules on the counsel-client relationship and, in particular contexts, duties triggered when the client's decision-making ability is impaired. The practical limit follows immediately: the lawyer must explain, warn, and guide, not merely carry out destructive instructions in silence. Otherwise defense work turns into professionally packaged participation in the client's own collapse. ([OHCHR](#))

5. WHERE THE LIMITS OF THE MANDATE LIE

The first limit of the mandate lies where legality and professional ethics end. The UN Basic Principles expressly tie the lawyer's conduct to law and recognized standards and ethics. The ICC Code likewise subordinates counsel's conduct to the Statute, the Rules, the Regulations, and the applicable directions of the Court. A mandate therefore never authorizes fabrication of facts, concealment of conflicts of interest, manipulation of evidence, abuse of confidentiality, or use of an international forum for conduct incompatible with its own rules. A mandate is not an indulgence. It is a framework of responsibility. ([OHCHR](#))

The second limit arises where the lawyer ceases to function as counsel in the legal sense and is treated instead as manager of the client's entire life. International cases frequently produce exactly this distortion: the client expects the lawyer simultaneously to secure release, migration status, banking rehabilitation, family stabilization, removal of sanctions risk, media victory, and emotional reassurance. But the lawyer's mandate is limited to what is actually covered by the representation agreement, the lawyer's authority, and the professional role. Even where the strategy is architecturally broad, the lawyer's responsibility remains legally and professionally defined, not universal. That is one of the most unpleasant but useful limits in this field: the lawyer is responsible for legal and strategic integrity, not for governing reality as such. ([asp.icc-cpi.int](#))

The third limit concerns conflicts of interest. The ICC Code treats conflict of interest as a distinct question of professional discipline and admissibility of representation. In international matters this is especially sensitive: one lawyer may be involved in representing several connected persons, companies, family members, or beneficial owners whose interests later diverge. Once the interests are no longer compatible, the mandate ceases to be neutral and becomes a danger to all concerned. The limit of the mandate is therefore also the limit of permissible accumulation of roles. ([asp.icc-cpi.int](#))

6. LAWYER INDEPENDENCE AND THE PROHIBITION ON IDENTIFYING THE LAWYER WITH THE CLIENT

One of the most important international principles is that the lawyer must not be identified with the client or the client's cause. The UN Basic Principles expressly state that lawyers shall not be identified with their clients or their clients' causes as a result of discharging their functions. This is crucial in international matters, where the very act of defense may become politically or reputationally toxic. If the lawyer is treated as an extension of the client, the possibility of independent legal assistance itself comes under attack. ([OHCHR](#))

The same Basic Principles also state that lawyers must not suffer, or be threatened with, prosecution or administrative, economic, or other sanctions for action taken in accordance with recognized professional duties, standards, and ethics, and that where their security is threatened they shall be

adequately safeguarded by the authorities. The UN Special Rapporteur's work continues to document threats, intimidation, interference, arbitrary targeting, and wider pressure on lawyers and judicial actors. International standards therefore regard protection of the lawyer not as a guild privilege, but as a condition of the administration of justice itself. ([OHCHR](#))

At the same time, this strengthened status is paired with heightened expectations. The ECtHR materials on the rights of lawyers make clear that the special status of lawyers under the Convention entails not only enhanced protection but also specific duties, particularly with regard to conduct and ethical requirements. A lawyer cannot simultaneously invoke special protection and ignore professional discipline. International protection against pressure does not cancel international expectations of professional behavior. Humans do enjoy wanting the privilege without the duty. The law is less sentimental. ([ECHR-KS](#))

7. CONFIDENTIALITY, LEGAL PROFESSIONAL PRIVILEGE, AND THE LIMITS OF DISCLOSURE

Confidentiality between lawyer and client is one of the central pillars of the international model of defense. The UN Basic Principles require governments to recognize and respect that all communications and consultations between lawyers and their clients within their professional relationship are confidential. They also require detained or imprisoned persons to be able to communicate and consult with a lawyer without delay and in full confidentiality. Confidentiality is therefore not merely a professional convenience. It is a procedural guarantee. ([OHCHR](#))

The ECtHR goes further and speaks of strengthened protection for lawyer-client exchanges. Its June 2024 factsheet on legal professional privilege explains that while Article 8 protects confidentiality of all correspondence, it affords strengthened protection to exchanges between lawyers and their clients because lawyers have a fundamental role in a democratic society and because that relationship of trust is essential. The more recent ECtHR-KS overview on the rights of lawyers confirms the same broader logic. ([ECHR](#))

At the same time, confidentiality is not a magical shield in every imaginable situation. Council of Europe materials indicate that if restrictions on lawyer-client confidentiality are ever admitted, they must be clearly provided for by law and subject to independent and impartial control so that equality of arms and defense rights remain protected. The ICC Code similarly imposes strong duties of professional secrecy and protection of confidential information, while regulating the few circumstances in which disclosure may be permitted. The practical point is two-sided: the lawyer must preserve secrecy, but cannot invoke secrecy as an all-purpose excuse for conduct that falls outside law and forum rules. ([rm.coe.int](#))

8. DISCIPLINARY AND PROFESSIONAL RESPONSIBILITY

International standards do not merely protect the lawyer. They also demand accountability. The UN Basic Principles require professional codes of conduct to be established by the legal profession itself or by legislation in accordance with international standards; complaints and charges against lawyers must be processed promptly and fairly; and disciplinary proceedings must be heard by an impartial disciplinary committee, independent statutory authority, or court, subject to independent judicial review. The international model therefore rejects both lawyer impunity and arbitrary retaliation against lawyers. What it insists on is fair discipline. ([OHCHR](#))

The ICC Code develops this logic institutionally. It contains detailed provisions on disciplinary proceedings, the rights of counsel in those proceedings, sanctions, and appeal. The sanctions include admonishment, public reprimand, fine, suspension, and permanent ban from practice before the Court. This is an important signal for international work: a transnational mandate enlarges influence, but it also intensifies the risks of professional liability for misconduct. The higher the forum, the more expensive bad faith becomes. (asp.icc-cpi.int)

9. A PRACTICAL MODEL FOR MANDATE MANAGEMENT

From a practical perspective, an international mandate must be managed, not mythologized. A sound model begins with precise definition of the scope of representation: which procedures are covered, which are not, where the lawyer acts as counsel of record, where as strategic coordinator, and where merely as external adviser. Next come conflict checks, forum mapping, confidentiality rules, a protocol for public communications, and explicit allocation of those decisions that remain with the client as the bearer of the ultimate life and procedural choices. This is not bureaucratic fuss. It is the only way to prevent the mandate from degenerating into a shapeless knot of expectations and resentment. (asp.icc-cpi.int)

The international materials also imply that the lawyer must manage not only documents but boundaries. Counsel must be able to say in time: this is possible, this is impossible, this is procedurally harmful, this falls outside the mandate, this requires another specialist, or these instructions conflict with law or ethics. That is what distinguishes professional defense from servile accompaniment. International law asks of the lawyer not obedience, but independent professional judgment in the interests of the client and of justice. Irritatingly for many clients, some of the best defense work begins with the word “no.” (OHCHR)

10. CONCLUSION

Responsibility of lawyers in international cases and the limits of the mandate cannot be reduced to a power of attorney, a single complaint, or the everyday formula that “the lawyer must do everything.” International and European standards construct something more demanding: the lawyer must be independent, competent, diligent, loyal to the client’s interests, bound by confidentiality, and subject to professional discipline. At the same time, the lawyer must not be identified with the client, must not be punished for proper discharge of professional functions, and must not be transformed into an instrument for every desire the client may have. (OHCHR)

The main practical conclusion is very direct: in an international case, a good mandate is not maximal vagueness but maximal clarity. The more complex the case, the more clearly one must define the lawyer’s role, the boundaries of the engagement, the routes of protection, confidentiality rules, conflict zones, and disciplinary frame. Otherwise international defense quickly turns into a mixture of panic, inflated expectations, and professional risk. At that point it is no longer defense. It is just an expensive way of organizing a second crisis on top of the first one. (asp.icc-cpi.int)

APPENDIX A. TERMINOLOGY

Lawyer’s

The set of powers and duties arising from law, the representation agreement, the rules of the specific forum, and professional ethics. In international matters, the mandate is never reducible to one power of attorney alone. (asp.icc-cpi.int)

mandate

Lawyer independence

The lawyer's right and duty to act freely, diligently, and without improper external pressure. International standards treat independence as a condition of the defense function itself. ([OHCHR](#))

Confidentiality / legal professional privilege

A specially protected regime governing exchanges between lawyer and client, rooted in trust and serving both the client's interests and the fairness of proceedings. In ECtHR practice, this area receives heightened protection. ([ECHR](#))

Conflict of interest

A situation in which independent and loyal representation of one client is threatened by the interests of another client, a third party, the lawyer, or the structure of the case itself. In international practice this is one of the central boundaries of permissible mandate. ([asp.icc-cpi.int](#))

Disciplinary responsibility of the lawyer

Professional accountability for breaches of ethics, representation rules, and professional standards, which must itself be fair, impartial, and reviewable. ([OHCHR](#))

APPENDIX B. MATRIX OF RESPONSIBILITY AND LIMITS OF MANDATE

Independence

Task: to ensure that the lawyer acts without intimidation, hindrance, harassment, or improper interference.

Risk if breached: the defense becomes an externally managed instrument.

Limit of mandate: the client cannot require the lawyer to abandon independent professional judgment. ([OHCHR](#))

Competence and diligence

Task: to maintain competence and to act freely and diligently under the applicable law.

Risk if breached: formally active but strategically destructive defense.

Limit of mandate: the lawyer should not undertake an international procedure he cannot conduct at the required level. ([OHCHR](#))

Loyalty to the client

Task: to loyally respect the client's interests and advise on rights and obligations.

Risk if breached: substitution of the client's interests with those of third parties, publicity, or the lawyer's own convenience.

Limit of mandate: loyalty does not mean obedience to any instruction contrary to law and ethics. ([OHCHR](#))

Confidentiality

Task: to preserve professional secrecy and protect confidential information.

Risk if breached: collapse of trust, harm to defense, and interference with fair-trial rights.

Limit of mandate: disclosure is permissible only within narrow limits established by law and the rules of the relevant forum. ([ECHR](#))

Relationship with the forum and justice

Task: to represent the client while also serving the interests of justice and respecting the rules of the institution.

Risk if breached: abuse of procedure, loss of trust by the court or international body, disciplinary

consequences.

Limit of mandate: an international forum cannot be used as a platform for conduct incompatible with its own norms. (asp.icc-cpi.int)

Disciplinary

accountability

Task: to ensure fair and impartial review of complaints against lawyers.

Risk if breached: either impunity or arbitrary retaliation.

Limit of mandate: neither international status nor professional role exempts counsel from professional responsibility. (OHCHR)

OFFICIAL SOURCES

1. **UN Basic Principles on the Role of Lawyers** - core international standards on access to lawyers, duties of lawyers, guarantees of independence, confidentiality, and disciplinary accountability. (OHCHR)
2. **OHCHR, Special Rapporteur on the Independence of Judges and Lawyers** - official mandate documenting contemporary threats to the independence of the legal profession. (OHCHR)
3. **ECtHR Factsheet on Legal Professional Privilege (June 2024)** - official overview of strengthened protection of lawyer-client confidentiality under Article 8. (ECHR)
4. **ECHR-KS, The Rights of Lawyers in the Court's Case-Law (31 August 2025)** - official overview of the special status of lawyers, heightened confidentiality protection, and corresponding duties. (ECHR-KS)
5. **Council of Europe Recommendation No. R(2000)21 on the freedom of exercise of the profession of lawyer** - core European standard on the lawyer's role, duties, and independence. (rm.coe.int)
6. **ICC Code of Professional Conduct for Counsel** - official ICC code on independence, competence, confidentiality, representation agreements, conflicts of interest, termination, and disciplinary procedure. (asp.icc-cpi.int)