

Approved on 12 November 2005

## ATTORNEY ETHICS CODE

### PREAMBLE

Aware of the role and duty of the lawyer in a democratic society, based in the principles of rule of law, humanism and human dignity, in respect of the truth and justice, is drafted the Attorney Ethics Code.

### THE NATURE OF RULES AND OF PROFESSIONAL CONDUCT

The Norms of the Ethics Code are based on:

1. The Constitution of the Republic of Albania
2. The Ratified International Agreements
3. Law
4. The Custom and Tradition of the legal profession in Albania

The lawyer's role lays on him a variety of legal and moral obligations towards:

- 1) the client
- 2) the Court and other authorities before whom the lawyer defends the client's case or acts in his/her behalf.
- 3) the Chamber of Advocates in general and each fellow member of it in particular.
- 4) the Public, for whom the existence of a free, independent and self-governing profession is an essential means of safeguarding human rights in face of the power of the state and other interests in society.

### THE AIM OF THE ETHICS CODE

The Code aims to set up, respect and implement the rules of the lawyer's professional conduct and ethics in the defense of the rights and legitimate interests of the client and in serve of the interests of justice.

## CHAPTER I

### GENERAL PRINCIPLES

#### LAWYER'S INDEPENDENCE

##### Article 1

In the practice of his profession the lawyer shall be independent.

In order to ensure such independence the lawyer should be free from all other influence that may arise from his personal interests or external pressure.

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## Article 2

The lawyer in practicing his profession shall act in accordance with the law, the Statute, the Ethics Code and the legitimate interests of the client or otherwise render him professional services based upon his own best judgment.

## Article 3

The lawyer's independence is as necessary to trust in the process of justice as the impartiality of the judge.

The lawyer must avoid any impairment of his independence and shall not compromise his professional standards for satisfying the client, the court or the third parties.

## DIGNITY OF THE PROFESSION

### Article 4

The lawyer shall at all times maintain the dignity of the profession.

The lawyer is obliged to display in his office:

- the certificate of Lawyer's Title
- the Albanian flag and the Chamber of Advocates flag placed on his desk
- the list of the minimum payment fees for the service provided by the lawyer.

The lawyer must not make offensive or contemptuous declarations with regard to the court's activity or decisions or of other authorities.

The lawyer must induce the client to show respect towards the court or other authorities.

In order to maintain the good reputation of himself and of the Chamber of Advocates, the lawyer must not permit incorrect behaviors which lack respect toward the judges and everybody else towards himself, his assistant, student or client.

The lawyer's general and legal culture shall be manifested in every moment throughout the practicing of the profession, in his presence, in the speeches held and in the relations he builds with everybody.

The lawyer shows up in the trial having the annual identification card and the lawyer uniform.

The lawyer must not be implicated in actions related to deception, dishonesty or mal-representation.

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The lawyer shall, in practice as well as in his private life, abstain from any behavior, which may discredit the good name of the profession.

#### DILIGENCE AND COMPETENCE

##### Article 5

The lawyer shall at all times act diligently and promptly when representing the client.

##### Article 6

The lawyer has the duty to serve his client in the most efficient manner possible.

##### Article 7

The lawyer shall provide qualitative representation to the client. The competence implies the legal knowledge and professional skills which are necessary in any concrete case.

##### Article 8

The lawyer shall not handle a matter for which he does not have the necessary competence unless he is co-operating with a lawyer who is competent to handle it.

##### Article 9

The lawyer shall have the duty to maintain his competence through continuing education.

#### IINCOMPATIBLE OCCUPATIONS

##### Article 10

In order to perform his functions with due independence and in a manner which is consistent with his duty to participate in the administration of justice, the lawyer shall be excluded from some occupations. The kind and number of these occupations is set up in the Law no.9109 date 17.7.2003 "On the legal profession of the Republic of Albania"..

A lawyer practicing in his own account or in partnership shall not engage in any other occupation if by doing so may cease to be independent.

##### Article 11

A lawyer shall not engage in partnership with a non-lawyer in cases when the partnership activity consists on law practicing.

##### Article 12

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A lawyer shall not assist a non-lawyer to exercise a non-authorized profession.

#### Article 13

A lawyer or the law firm shall not share legal fees with a non-lawyer.

A lawyer shall not demand, accept or pay to another lawyer or to any other person a fee or any other remuneration for referring or recommending a client.

### CONFIDENTIALITY

#### Article 14

The confidentiality, which derives from law and norms of professional ethics, is a right, obligation and safeguard for the lawyer. A lawyer shall not, because of the particular information received by the client in *bona fide* circumstances, be permitted to violate the requirements of the Article 9 of the Law 'On practicing of the Legal Profession in the Republic of Albania'.

The lawyer shall keep the confidentiality of all information given to him by his client, or received by him about his client or others in the course of rendering services to his client.

The obligation of confidentiality is not limited in time.

The lawyer shall require his associates and staff and anyone engaged by him in the course of providing professional services to observe the same obligation of confidentiality.

The duty of confidentiality shall not prejudice:

- a) The right of the lawyer to inform a person, to whom he is delegating individual legal service tasks on the state of affairs of the case at hand, provided such person is bound by the duty of confidentiality.
- b) The right to disclose facts or secret information having the consent of the client or of the clients at hand, but only after having completely exposed to them this information.
- c) The right to reveal the intention of a client to commit a crime and to disclose the necessary information for preventing that crime;
- d) The right to disclose facts and secret information, to define or obtain the lawyer fee or to protect the lawyer or his employees or partners against any accusation related to misbehavior.

## CHAPTER II RELATIONS WITH CLIENTS

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## Article 15

### The Client's interests

The lawyer must always act in the best interests of his client. The trust relation with the client is a professional obligation. The trust is achieved when lawyer's features are honesty and integrity.

## Article 16

### DUTY TO INFORM THE CLIENT

A lawyer shall explain to the client the law and the course of action he intends to undertake pointing out potential favorable and unfavorable legal consequences. A lawyer shall respond to reasonable requests for information that are made by the client.

A lawyer shall keep the client informed about the significant matters relating to the representation in time for the client to reasonably protect himself or take advantage of any opportunity granted by law, including also any possible solution offered by the other party.

## Article 17

### Restitution of documents

On request of his client, a lawyer shall return any original documents received from the client in connection with the representation.

## Article 18

### PROPERTY AND FUNDS OF CLIENTS

Upon the approval of the client, the lawyer may possess any property or funds appertaining to the client that he (the client) might have placed in a bank.

A lawyer keeps a full documentation of every operation that concerns these funds and property of the client. Documents are kept for a period of 7 years, starting from the time when the representation is concluded. For criminal cases this time period starts when the suffering of punishment ends.

Funds are placed in special accounts at the same location where the office of the lawyer is situated or in another location upon approval of the client.

## Article 19

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The lawyer is obliged to notify the client when funds or any other property of clients are in use.

The lawyer shall separate his funds from his client funds.

Upon a request of the client, a lawyer immediately returns to him all the funds or the property, and by his own initiative or upon a request of the client, he completes the book keeping process of the property.

Article 20

## CONFLICT OF INTERESTS

A lawyer shall not provide legal assistance, counsel, represent or defend two or more clients in the same matter in case of a conflict of interest between those clients.

Article 21

A lawyer shall not represent and he withdraws from representing or defending more than two persons, when a conflict of interests arises between the clients, and when the lawyer is convinced that representing one client would affect the relationships with the other.

Article 22

A lawyer who has previously represented a client in a case, shall not represent another client in the same case, when the interests of this person harm those of the previous client.

The representation is allowed exceptionally, only in case the previous client gives his consent.

Article 23

A lawyer should also withdraw from representing or defending when there is a risk that the trust of the former client is infringed or when the knowledge the lawyer has on his former client case would constitute an unfair prevalence for the new client.

The aforementioned rule is equivalent also when lawyer's profession is performed in partnership, or by the same office.

Article 24

A lawyer shall not be involved in business transactions with a client if he and his client have different interests, as well as if the client expects from the lawyer that he will perform his professional judgment to defend him, with the exception of :

1) cases when transactions and conditions in which the lawyer has gained interests are fair, they are reasonable for the client and are stated in a fully manner, as well as transmitted by written in such a way to be understood as reasonable by the client;

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- 2) cases when a lawyer advises the client to ask for counseling from an independent lawyer with respect to the transaction; and
- 3) cases when the client gives his written approval, after a complete statement of transaction conditions and of the inherent conflict of interest in this transaction.

#### Article 25

A lawyer must refrain from acting for a new client if there is a risk of a breach of confidences entrusted to the lawyer by a former client or if the knowledge are acquired as a result of a previous employment as a state employ, judge, prosecutor, officer of judicial police or as a notary.

#### Article 26

##### DISCONTINUANCE OF REPRESENTATION AND DEFENSE

A lawyer shall be entitled to exercise his right of discontinuance of a case representation or defense.

A lawyer shall discontinue the representation or defense when the client does not fulfill the judicial, moral and financial obligations towards the lawyer related to his services although he has been previously warned by the lawyer that the latter will discontinue in case such obligations are not fulfilled.

#### Article 27

Upon discontinuance of representation or defense, the lawyer with the consent of the client, shall take the measures he reasonably assesses for the defense of the client informing him at a convenient time, not less than 15 days before, for him to be able to find another legal assistance in time.

#### Article 28

##### FEES

1)\_A lawyer shall be entitled to a fee for his services. The fee shall be determined in a written agreement between the lawyer and his client. In the absence of a written agreement the fee shall be defined in accordance with the payment fees provided by the Joint Order of the Ministry of Justice and the National Chamber of Advocates. In both cases, fees shall not be lower than the minimum specified by fees that are in place for this kind of service.

2. The lawyer fee shall be reasonable and fair. Elements that shall be considered to define how much a fee is reasonable are:

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- a) time and work required, novelty and difficulty that the case presents, as well as skills required to provide legal services;
- b) time limits imposed by circumstances;
- c) nature and length of professional relationships with the client;
- d) experience, reputation and skills that the lawyer or lawyers have when performing their services.

3) A lawyer shall not have the right to make a *pactum de quota litis*. "Pactum de quota litis" means an agreement reached before the case is concluded, which defines fees that should be paid to the lawyer only according to the results that are achieved, where the client takes on to pay the lawyer with a partition of the result.

4) A lawyer is allowed to define "results fees", with the exception of familiar and criminal cases. By "results fees" is meant:

- a) Written agreement between the lawyer and the client, where the lawyer takes on a case according to the minimum fees specified and the client agrees to pay a reasonable fix amount depending of the positive result of the case. The quantity can be determined as a total amount or as a percentage of the money defined by the court decision.
- b) Written agreement between the lawyer and the client, where the lawyer takes on a case with the minimum fee specified and the client agrees to pay additional fees if the result is positive. This amount will be defined based on free negotiations between the client and the lawyer after the case is concluded.

5) A lawyer shall render free legal aid to:

- a) the persons who are in financial difficulties;
- b) the persons who are supported by financial assistance;

6) A lawyer may offer free of charge services for his close friends, his relatives or other lawyers.

## Article 29

### WITHDRAWING FROM REPRESENTATION

1) A lawyer shall not withdraw from an undertaken representation, with the exception of reasonable causes that are:

- a) overload or unnecessary knowledge in a special legal area;
- b) the client asks for legal assistance having dishonest motivation;
- c) when the client insists that that lawyer carries out actions in contradiction with the law or with the Ethics Code;
- d) when the client insists that the lawyer carries out actions which go in contradiction with his professional evaluation;
- e) when the client cannot pay for the assistance or he does not fulfill those contractual obligations on the payment, after the assistance was offered;



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2) A lawyer cannot exercise his right to withdraw from one case in such a way that the client might not be able to ensure in time a legal assistance.

### CHAPTER III

#### RELATIONS WITH THE COURT

##### Article 30

A lawyer must show respect, honesty and integrity to the court in relation with the representation of defending client's interests within the limits established by the law and ethics code.

##### Article 31

A lawyer shall not try to influence the judicial authorities by any means contrary to the law, and to undertake acts which try to corrupt the judgment's solemnity or the judgment *per se*.

##### Article 32

A lawyer cannot give any present, loan or valuable objects to a judge or to a court clerk.

In specific cases, the National Chamber of Advocates may approve the request of the lawyer to make an exception from this rule.

##### Article 33

Representing interests of a client in front of a judge with whom the lawyer is strictly related or has intimate relationships is prohibited.

##### Article 34

A lawyer shall never knowingly give false or misleading information during the judicial proceedings.

A lawyer shall not entice a witness into committing a perjury or making false statements.

A lawyer shall not cause an unnecessary delay in judicial proceedings.

### CHAPTER IV

#### RELATIONS BETWEEN LAWYERS

##### Article 35

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The relationship between lawyers should be based on the principles of collaboration, honesty and confidentiality in the interest of their clients..

#### Article 36

A lawyer shall recognize all the lawyers of the national chamber and those of the chamber and should demonstrate courtesy and fairness in accordance with the professional ethics norms.

#### Article 37

A lawyer may communicate with the lawyer of the other party about a specific case. The lawyer is not allowed to communicate with the opposing party on the concrete case, when knowing that the case is represented by a lawyer, without the latter's consent.

#### Article 38

#### LAWYER'S NAME

A lawyer who temporarily renounce practicing law for as long as he/she is employed in the public administration shall not permit his/her name to remain in the name of law firm or to be used in professional notices of the firm during the period in which the lawyer is not actively and regularly practicing law as a member of the firm.

#### Article 29

#### FAIR CONDUCT IN JUDICIAL PROCEEDINGS

In proceedings in which another party is represented by a lawyer, for all parties and lawyers to have equal access to the court, the lawyer shall not without notification of the other party or its lawyer, contact or give any documents or materials to the court related to the case under examination or related to a case that will be brought in trial, in circumstances that may have effect or might give the impression that priority is given unfairly to one party.

This provision shall not apply to cases where such activity is expressly permitted by law.

#### Article 40

#### SHARING OF FEES

A lawyer who undertakes to complete unfinished legal business of a deceased lawyer, may pay to the estate of the deceased lawyer that part of the total remuneration, which fairly represents the services rendered by the deceased lawyer.

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A lawyer may pay to his assistants, who are not lawyers, wages, social security and other similar expenses, even if the funds are derived from the lawyer's fees.

Article 41

#### PROHIBITED STATEMENTS

A lawyer shall not compare his services with other lawyer's services.

A lawyer shall not comment other lawyers about particular fees or way of practicing.

A lawyer undertaking representation of a client who has been represented by another lawyer shall not criticize the services performed by the previous lawyer.

Article 42

#### UNFAIR COMPETITION

A lawyer shall not make any attempts, which are not in conformity with the dignity of the profession to draw his colleague's client.

Article 43

#### Representation

Before undertaking to represent a client who has been represented by another lawyer, the lawyer shall be obliged to satisfy himself that the previous lawyer-client relationship has been properly terminated.

This provision does not apply in cases where the client has been represented by more than one lawyer at the same time and ceases the representation relation with one of them.

Article 44

#### ASSISTANT LAWYER

A lawyer shall be obliged to supervise the work of the assistant lawyer, to share his experience with him and to allow him to participate in educational programs.

A lawyer shall make efforts that assistants act in conformity with the law and with the Ethics Code.

A lawyer shall be obliged at the assistant lawyer's request to provide the latter with a certificate attesting the duration as assistant near him.

Article 45

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## RELATIONSHIP WITH OTHER PARTY'S LAWYERS

A lawyer shall not represent or advise a client in cases which another party's lawyer is spouse, parent, child or sibling of the lawyer, lives with the lawyer or has intimate personal relationship with the lawyer, unless the latter has informed the client in writing of the relationship.

This prohibition is valid as well for the other partners of the law firm.

### Article 46

In cases where the client's interests are defended by two or more lawyers who are independent from each other and if the lawyers assert different opinions regarding the opportunities for the client's defense, the final decision shall be taken by the client. The lawyer, who dissents with the decision, may desist from representing or defending the client.

### Article 47

## RELATIONS WITH OTHER COUNTRY'S LAWYERS

The lawyer shall have the duty to refuse the co-operation with another country's lawyer on a matter for which he is not competent. In such a case he should assist his colleague to contact another lawyer who shall offer the required service.

### Article 48

In cases when a lawyer co-operates with a lawyer of another country, he shall be obliged to take into account the dissimilarities that might exist between respective legal systems and ethics codes.

## Chapter V

## RELATIONS WITH THE PUBLIC

### Article 49

#### Access to services

Every person in the society should have ready access to the independent professional services of a lawyer.

### Article 50

## PUBLICITY

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A lawyer shall have the right to advertise his activity subject to the rules and limitations set forth in this Code.

The lawyer's advertising is only aimed at providing the client with the necessary information so that he is able to choose the most appropriate lawyer.

The publicity must not:

1. by means or content contradict to any general principle or obligation of the lawyer set forth in this Code,
2. contain false, inaccurate or misleading information or factual information which cannot be verified;
3. make comparisons with or criticism of other lawyers, in particular fees or way of practicing;
4. include statements about the quality of the lawyer's work, the size or success of his activity, the specific fees;
5. identify any client without prior written consent.
6. any other information that might violate the provisions of this Code.

The publicity may contain information:

1. about the areas of law in which the lawyer practices;
2. about the professional and educational background of the lawyer;
3. about foreign language proficiency;
4. related to the starting period of the activity, where his residency is located or the location has changes, but no more than 30 days from the moment that has started/moved.

Article 51

## SOLICITATION

The solicitation through a direct contact of a prospective client with the sole purpose of convincing him they need lawyer's services and with whom the lawyer has no family or prior professional relationship or through the use of 'straw man' is forbidden.

Except the usual price of the respective publicity the lawyer shall not give anything of value to a person for recommending the lawyer's services.

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Article 52

#### CERTAIN ACTIVITIES PROHIBITED FOR LAWYERS

A lawyer shall not conclude any contact personally or through a 'straw man' with his client for acquiring property or other rights, which are subject of the case.

Article 53

#### REFERRAL FEES

A lawyer shall not demand or accept from another lawyer or any other person a fee, commission or any other remuneration for referring or recommending a client.

A lawyer shall not pay anyone a fee, commission or any other remuneration as a consideration for referring a client to himself.

Article 54

#### SANCTIONS

Lawyers who do not apply the Ethics Code cause a disciplinary violation, initiating a disciplinary proceeding which leads to measures provided by the Law "On the legal profession in the Republic of Albania" and the Statute of the National Chamber of Advocates.

#### LAST PROVISION

Attorney Ethics Code, after being discussed by the General Council of the National Chamber of Advocates on date 12.11.2005 was approved with the decision no. 31 and that will be the date of the Code entering into force. abrogates the previous Ethics Code.