

Bar Association of the Federation of Bosnia and Herzegovina  
Pursuant to article 12 paragraph 4 of the Law on Attorneys' Profession of the Federation of Bosnia and Herzegovina (Official Gazette of the FBiH no 25 of 15. 06. 2002) and article 41 of the Charter of the Bar Association of the Federation of Bosnia and Herzegovina, the General Meeting of the Bar Association of the Federation of Bosnia and Herzegovina held in Sarajevo on 14 December 2002 adopted

## **THE CODE OF PROFESSIONAL ETHICS FOR ATTORNEYS IN THE FEDERATION OF BOSNIA AND HERZEGOVINA**

### **GENERAL PRINCIPLES**

Starting from fundamental values of the society the Code of Attorneys Ethics (hereinafter referred to as: the Code) is to regulate overall principles and rules of conducts aimed at preservation of dignity and reputation of attorneys' profession and as such are compulsory for attorneys and attorney trainees in the course of their performing legal practice, and represent constituent part of their awareness and views.

The Code is an integral document containing principles and rules on moral behavior of attorneys in performing their professional activities, and governing both fundamental attorney's duties as well as specific duties within the profession.

The attorneys' duty is that they should, in compliance with constitutional principles, social morality, and the provisions of the Bar Association bylaws and this Code, consistently struggle for the rule of law, which is to be done through exercise and protection of rights and obligations and legal interests as well as of freedom of clients who they defend or represent.

This fundamental moral principle of the Code must never be put by any attorney under dependence of any other interest or their own interest.

If an attorney acts for a client on the territory of the other entity he must act in compliance with the Code of that entity unless its principles and provisions are contrary to the content of this Code.

If an attorney performs activities abroad he shall also adhere to the Code of the International Union of Attorneys, as well as the Code of the bar society of the country where he acts, unless their principles and provisions are contrary to the content of this Code.

An attorney is responsible for promotion and improvement of legal practice as an independent profession.

Any conduct opposing to the principles of this Code shall represent transgression of attorney's duties and violation of legal practice in the Federation of Bosnia and Herzegovina.

### **SPECIAL STANDARDS AND PRINCIPLES**

#### **I MORAL FIGURE OF ATTORNEY**

1. In performing his duties as well by his behavior in private life an attorney shall adhere to all and any principles of this Code, protecting the reputation of legal

practice as an independent profession and struggling for its promotion and affirmation.

2. While performing his duties an attorney shall act with humanism and consideration, showing appreciation and respect towards the persons he contacts within his business, and in this manner shall set an example of humanity, respect of human dignity and progressive attempts in recognition and accomplishment of fundamental rights and freedoms.
3. An attorney shall protect the reputation and moral figure of attorney, his independence, conscientiousness and competence, so that his behavior shall entice the others.
4. When acting for a client an attorney shall remain independent. The independence must be absolute, free from any influences and external pressure, in particular of those that might arise from his personal interest. Therefore the attorney must avoid the circumstances which could endanger his independence, and must take care not to compromise professional standards for making good either to his client, or the court or third parties.  
An attorney must strongly refuse any attempts of influence on his independence, and must notify competent bodies of his bar association about any such attempt.
5. In order to perform his duties with full independence and in the manner compatible with his participation in administering justice, an attorney must not be involved in certain occupations, especially commercial or others that are not related to attorney's profession.
6. Only the attorney that knows the law well can protect his client's interest inside the provisions of law, and in order to be able to meet that duty he must keep revising, expanding and improving both his legal and general knowledge by consulting technical literature, taking part in professional conferences, discussions and congresses, publishing professional papers, and cooperation in the journal of the Bar Association.
7. An attorney must act in the best interest of his client and must place these interests before the interests of his own or any one else's should they be in collision with the client's interests.
8. An attorney shall assist other lawyers with his knowledge, and a special duty of any attorney is to provide assistance in professional training of trainees.
9. Any person shall be unworthy to be an attorney if he acts against the interests of law practice as an independent profession, or fails to observe fundamental principles of this Code. Any behavior contrary to the basics and principles of this Code shall represent a serious violation of legal practice reputation in the Federation of Bosnia and Herzegovina.

## **II RELATIONS WITH THE PERSONS TO WHOM LEGAL AID IS DELIVERED**

1. Loyalty towards a client represents basic duty of an attorney. This loyalty is more important than any attorney's interest or consideration for his fellow attorneys. An attorney must devote to his client all his skills and conscientiousness by providing legal aid with no delay or halt.

### **Undertaking and termination of engagement**

2. An attorney is free to decide whether to accept or refuse a client's request for legal advice, representation or defense. In principle, he shall not refuse to provide legal aid.
3. An attorney shall refuse to provide representation:
  - 3.1. If he has provided legal aid to opposing party either regarding the same case or any other issue related to that case;
  - 3.2. If an attorney working in the same office or law firm has provided legal aid regarding the same case to opposing party;
  - 3.3. If either he or any member or employee of his office or law firm used to work as the trainee with the attorney who is providing legal aid to opposing party;
  - 3.4. If the attorney, or any member or employee in the attorney's office or law firm has acted as judge, prosecutor, authorized official representative of the Ministry of Interior or any other administrative body;
  - 3.5. If the attorney, or any member or employee in the attorney's office or law firm has in any other way officially dealt with the relevant case;
  - 3.6. If the attorney, or any member or employee in the attorney's office or law firm has personal interests which is or which could be in conflict with the interests of represented party.
  - 3.7. In any other cases as provided by law or bylaws of the Bar Association.
4. An attorney may refuse to provide legal aid for the reason of personal believing that he cannot represent the case successfully.
5. An attorney may refuse to act for a client if the relevant matter does not belong to his recognized specialization, if any, or otherwise if it is not the matter he usually deals with.
6. If an attorney has refused to act for a client, irrespective of the grounds, he must point out the reasons for his refusing to provide legal aid.

7. An attorney shall conduct the case only upon the client's instruction. However he may work on the case on request of another attorney who is working for the client or on request of the court or other competent body.
8. When accepting a case the attorney shall take thorough information from the client, and shall inform the client about approximate duration of the procedure, the costs and attorney's fees for the work to be performed.
9. An attorney shall advise and represent the client promptly, conscientiously and diligently, with special care so as not to cause any unnecessary costs regarding the procedure, which shall together with his professional knowledge justify the trust the client has conferred on him. The attorney shall undertake personal responsibility for satisfaction of the instructions entrusted to him. The attorney shall keep his client informed about the course of the case entrusted to him.
10. During the whole procedure an attorney shall make efforts to resolve the case by settlement if that is in the interest of his client.
11. An attorney shall not accept a brief if he is aware or should be aware that he is not fully competent for such matter, unless in cooperation with another attorney who is competent for such matter.
12. As a rule, an attorney shall undertake representation for as many cases as he is able to conduct in a conscientious and timely manner, shall not accept a case which he cannot conduct efficiently and he shall refer such clients to another attorney.
13. If he considers that a client goes to court wantonly, the attorney is obliged to warn him for such behavior and point to the harm of such litigation, but if the client remains determined to do so, the attorney may cancel the authorization and refuse further provision of legal aid.
14. If an attorney has established that the client has given false instructions and the facts about the case, he may cancel further provision of legal aid.
15. One of the reasons for which an attorney may refuse to continue with provision of legal aid is the client's inability to pay for costs and fees for the work done up to then.
16. An attorney may cancel authorization for the same reasons for which he may refuse to provide legal aid.
17. An attorney is not allowed to withdraw from the case in the manner and the circumstances under which the client could not ensure legal aid timely, this is so in order to avoid occurrence of harmful consequences on the client; thus the attorney shall continue with representation notwithstanding the grounds for cancellation until the client finds a new attorney but not longer than 30 days as from the date of notice of cancellation.

18. An attorney shall not cancel authorization if his evidence or other material in the procedure have been declined due to personal intolerance with the person that is conducting the procedure, that is he must not identify his personal interests with the interest of the client or vice versa.
19. An attorney is obliged to devote full conscientiousness and dedication to his client, but he must not be misguided by false conduct of the person he represents, by which he would damage both his personal reputation and the reputation of legal practice as an independent profession.

### **Conflict of interests**

20. An attorney shall not advise, represent or act for two or more parties in the same matter if there is a conflict or a substantial risk of conflict of the parties' interests.
21. When representing in two-party legal cases, being engaged either by one or both parties, the attorney shall protect the interests of all participants in an equal and fair manner, disregarding who is paying for his work.
22. An attorney must not accept to act for a client in respect of the matter about which he has obtained certain information from the party with adverse interests, disregarding whether he has accepted to represent that party, if such information about the relevant matter would endanger either the party's interest or the obligation of confidentiality regarding previously obtained information.
23. As to attorneys working in a joint office or law firm, the above mentioned provisions shall apply to each member.

### **Pactum de quota litis**

- 24 . An attorney is not allowed to enter into *pactum quota litis*
24. As *pactum de quota litis* is considered an agreement between an attorney and his client made prior to closure of the case, under which the party would undertake to give the attorney part of compensation whether in money or in some other benefit which the party may get the case is over.
25. *Pactum de quota litis* does not exclude the possibility that an attorney may seek compensation in proportional value of the case, provided that it is in compliance with approved tariffs. The attorney shall submit such written agreement to the competent body of the Bar Association.

### **III REPRESENTATION, (DEFENSE) IN CRIMINAL CASES**

1. Irrespective of the personality of defendant and the seriousness of criminal act, irrefutable evidence, or public opinion, an attorney is obliged to accept defense if asked for that.
2. An attorney may refuse defense if his professional consciousness would not allow such defense, or if he has specialization in some other areas of law.

3. An attorney shall make release for media in the course of criminal proceedings only under the provision of Chapter X of this Code.

#### **IV RELATIONSHIP WITH OPPOSING PARTIES**

1. An attorney shall behave towards the opposing party in considerate and objective way, thereby trying to create prerequisites for resolving the case in mutual interest. However, should the opposing party be unscrupulous, irreconcilable, inconsiderate or biased, the attorney must act resolutely, and in particular in case that his failing to do so could endanger justified interests of his client.  
An attorney must prevent any quarrels and offenses between litigation parties.
2. In compliance with the principle of prompt and efficient manner of providing legal aid and avoidance of unnecessary costs, before initiating an action the attorney shall warn the opposing party and give him a reasonable deadline to voluntary settlement of disputed claim, unless the matter is urgent and the opposing party is obviously wanton and uncompromising.
3. An attorney must not make use of illiteracy, delusion or timidity of opposing party in order to achieve unjustified success for his party, especially if the opposing party has no counsel.
4. If the opposing party has a legal representative the communication shall be exclusively between the attorneys, and the attorney is obliged to refer such party to his own representative and inform his client about it.
5. An attorney shall discourage his client from bringing criminal charges against opposing party for imprudent statements caused by tension during proceedings, unless such prosecution is needed in order to ensure the client's interests.
6. An attorney must behave correctly towards the opposing party. In case that the opposing party insults or threatens the attorney, he should have understanding for the state of nervousness causing inappropriate and impolite behavior, and provided that the party apologizes upon the warning by the attorney or the organ before which the threat, insult or the like occurred, the attorney shall not bring criminal charges against that person.
7. In case of a close and intensive acquaintance of the attorney with the future opposing party or his close relative, which leads or may lead to harmful consequences on the client due to lack of full engagement of the attorney or professional and conscientious provision of legal aid, it may be the reason to refuse the engagement.
8. An attorney shall not despise the opposing party, nor shall he in any other way behave incorrectly towards the opposing party.

## **V RELATIONS WITH COURTS, ADMINISTRATIVE AND OTHER STATE BODIES**

1. An attorney shall conduct representation before courts and other bodies correctly, respecting their authority and reputation in compliance with procedural rules, and at the same time shall protect both the independence and integrity of legal practice as an independent profession and his own professional reputation.
2. An attorney shall, with due respect for the court, protect the interests of his client honorably and bravely, disregarding his own interests or any consequences that might affect him or his client.
3. An attorney shall also strongly fight against violation of law, damage of human dignity and fundamental human rights or his client's interests, but only by way of permitted means and within the bounds of fairness.
4. An attorney shall advise his client about necessary respect towards the court, and shall make efforts that he and his client conscientiously exercise the rights they are entitled in the proceedings, trying to avoid any delay and misuse of the litigation rights before the court.
5. An attorney may use the principle according to which he may communicate with witnesses out of court, prior to and during the proceedings, but he must not misuse that communication for the purpose of affecting the witness. Such conversation must be conducted in the manner by which any doubt about possible influence on witness shall be excluded.

## **VI MUTUAL RELASHIONSHIP BETWEEN ATTORNEYS AND TRAINEES**

1. A collective spirit of the profession requires relation of trust and collaboration between attorneys to the benefit of their clients, with intention of avoiding any unnecessary proceedings and other events that are harmful to the profession.
2. Mutual relationship between attorneys and trainees both in professional dealings and in private lives should be correct and characterized by mutual appreciation and respect, but they must not affect the independence and resoluteness in representation and protection of one's own client.
3. The following is forbidden: unfair acquisition of clients, advertising of any kind, making negative statements about other attorneys or trainees, as well as any contacts with illegal practitioners of law, and the like.
4. If an attorney knows that the opposing party has a counsel he must exclusively communicate with that colleague, and if the opposing party addresses him directly he must advise him to address his own attorney, and shall notify the fellow attorney about it.
5. An attorney must not undertake to represent a client if he knows that the client is already represented by another attorney, unless the client has revoked the

authorization, or declares that beside the engaged attorney a new one is to enter the proceeding.

The attorney being engaged in place of another attorney in certain case must notify the latter about it, and shall not proceed to work before he establishes that the former attorney has been fully paid for the work done.

Subject to selection, several attorneys may provide legal aid to one person.

6. An attorney shall not request, nor receive from another attorney or other person a remuneration, commission, or other compensation for referral or recommendation of the client.

An attorney shall not pay any remuneration, commission, or other compensation to any person who has referred a client to him.

7. Friendly spirit of the profession and professional solidarity requires that an attorney provide advice and give opinion, especially to a less experienced colleague if asked for that.

8. An attorney shall replace a fellow attorney if requested, and if he is not able to do so for justified reasons, he shall try to find another attorney instead.

The costs of replacement are always an obligation of the attorney requesting the replacement but not of the client, even if the client fails to pay to his attorney. Unless otherwise agreed, replacement costs amount to  $\frac{1}{2}$  of the amount determined by the Tariffs.

The invoice for replacement is to be submitted together with the report on replacement. During replacement the attorney shall act as if provided legal aid on his own (in a case of his).

9. Solidarity of attorneys is also expressed in providing legal aid, i.e. replacement of foreign attorneys. An attorney must in particular be responsible in providing legal aid to foreign attorneys and shall undertake such cases only if he is able to conduct them professionally and with no delay.

10. An attorney is not allowed, unless the interests of the represented person require so, to charge co-defendant or accomplice in the proceedings.

11. Attorneys must settle their mutual disputes by themselves or before the bodies of the Bar Association, since according to the provision of this Code attorneys may not address the courts or any other organ in respect of disputes among them.

12. For the purpose of educating of competent junior attorneys, which is one of the main tasks of each attorney, attorneys are advised to accept to practical work young, capable and diligent law graduates and provide them assistance in order that they acquire professional skills necessary for their registration into the Attorneys Register.

13. An attorney is obliged to take care about formation of moral figure of a trainee who is daily meeting through his practical work with principles and rules of the Code accepting them as the rules of conduct at work and in life, and each young trainee shall also make efforts to this end.



An attorney shall advise his trainee about the obligation of keeping the secret of the office, and especially about the rules of attorney's ethics.

14. An attorney shall pay the trainee prescribed (agreed) remuneration for his work.
15. An attorney shall ensure that his trainee works on different cases, that his practice is varied, the knowledge thorough, that he uses technical literature, under conscientious supervision, so that the trainee may acquire professional knowledge required for passing the bar examination.
16. A trainee shall in his work follow the instructions of the attorney with whom he performs practice as well as the basics and principles of this Code, and his relationship towards the principal shall be correct and full of respect and appreciation.
17. During the trainee practice a trainee shall participate in the work of the trainees organization of the Federal Bar Association, and conscientiously exercise the duties on the Bar bodies to which he has been appointed.
18. Phantom practice is forbidden and accordingly a trainee must perform the practice on full time basis.  
It is also forbidden that an attorney and his trainee enter into contracts on participation in profit or partnership.
19. A trainee is forbidden to conduct legal matters on his own. A trainee is not allowed to replace another attorney if requested by him or by his trainee, without consent of his own principal, nor is he allowed to request or accept any compensation for replacing another attorney.
20. All attorneys are obliged to assist a trainee who is opening an attorney's office in acquisition of clients, and it is desirable that each shall refer to him at least one person that is seeking legal aid.
21. Any principles and standards of this Code referring to attorney's relations either with the persons to whom he is providing legal aid, or opposing parties, courts or organs, as well as any other issues, also apply to trainees.

## **VII PROFESSIONAL SECRET**

1. Respecting professional secret is one of the main principles of law practice and as such represents duty, right and obligation of the attorney.
2. As a professional secret is considered all that the attorney gets to know as confidential matter from his client or otherwise during his providing legal aid. In practice professional secret also includes all documents, sound or computer records, picture or other records, and deposits kept in attorney's office.
3. The duty of keeping of professional secret does not cease upon termination of representation or proceedings during which or regarding which the information or circumstances representing a secret were acquired. The obligation of keeping of

professional secret also exists in case of acquiring certain information and circumstances from a party whom the attorney refused to represent. The attorney may reveal the facts and circumstances representing the professional secret, only in certain type of proceedings upon the consent of the person from which he has learned them, which must be in writing, or in case that disclosing of the secret is imperative in criminal proceedings or in disciplinary proceedings against the attorney if he is to prove his innocence.

4. An attorney himself shall assess conscientiously what a client wants to be considered as secret, which occasionally includes the very fact that the client has asked him for legal aid without saying what kind of aid it is.
5. An attorney shall notify his associates at the office with the obligation of keeping of professional secret, which obligation is to be included in the employment contract concluded with his associates as the one the transgression of which results in termination of contract.
6. The obligation of professional secret applies to each attorney in a joint office, or in law firm, as well as to all other employees therein.
7. Disclosure of professional secret represents the most serious transgression of duty and legal practice reputation, whenever committed beyond the terms and conditions stipulated in clause 3 of this chapter.

## **VII RELASHIONSHIP WITH OTHER BODIES OF THE BAR ASSOCIATION**

1. Attorneys are obliged to safeguard reputation, independence and integrity of the managing bodies of regional associations and the Federal Bar Association.
2. An attorney has the right and obligation to participate in the work of the Bar Association and to assist in its work, and discharge conscientiously all and any duties at elective functions and bodies of the Bar association.
3. An attorney shall perform all his duties towards the Bar association timely and conscientiously, shall respect and appreciate its reputation, and by his active participation in meetings and general meetings, contribute to its successful work.
4. As a grave transgression of duty shall be considered if an attorney fails to implement decisions of the Bar Association bodies, or if he exercises his duties and rights within his elective functions on the bodies unconscientiously and irresponsibly, or if he submits false reports to these bodies, or if his written and oral contacts with these bodies and/or their officials is insulting, or if he either fails to meet his financial obligations towards the Bar Association, or fails to meet them regularly.
5. All attorneys bear moral responsibility for the work of the Bar Association bodies.

## **IX DEALINGS IN ATTORNEY'S OFFICE**

1. An attorney is responsible for dealings in his office. All attorneys in a joint office are responsible for dealings. As to law firms its members are responsible for the firm dealings.
2. An attorney shall conduct a case neatly and timely, taking care of the storing of documents, accurate records on terms and hearings, so that both he and his client may examine the file at any time and establish the facts about the status of the case.
3. An attorney must be punctual and conscientious in particular with new cases. He shall not intermingle his money with the money of other persons, and he shall always be in position to pay the other persons their money. He must not keep the money he receives for the client longer than it is necessary.
4. An attorney must not keep or use the money contrary to the purpose for which it has been received, nor may he expand the right of retention for the claims that have not become due for the services he is yet to provide.

#### **X ATTORNEY'S DUTIES AND OBLIGATIONS IN MASS COMMUNICATION**

1. As a rule, an attorney shall not make public in any manner the information he has obtained from the client he represents, nor any facts or circumstances he has learned regarding the case he represents, nor those his client committed to him as legal representative.
2. If certain information was published in mass media either by the opposing party or court or prosecutor's office or any other organ before which a proceeding is conducted, and if such information is aimed at provision of inaccurate information about the concrete situation, or has affected or could affect the course and result of the proceedings, the attorney is obliged to issue a release with true information as to hinder false information or the influence of mass media on the course and outcome of the proceedings to the detriment of his client.
3. Making public the information about the very existence of litigation in which an attorney represents a client is allowed unless this shall damage client's interests or represent disclosure of professional secret.
4. Any behavior opposing the above mentioned provision represents grave transgression of attorney's duties.

#### **XI FREE LEGAL AID DELIVERED TO SOCIALLY HANDICAPPED PERSONS**

1. An attorney's duty is to give free legal aid to socially handicapped persons in accordance with law, which duty he shall perform as carefully and conscientiously as provision of legal aid to other parties.
2. An attorney is also obliged to undertake representation of socially handicapped persons if so requested by relevant body of the Bar Association.

3. Upon successful completion of such proceedings the attorney may request from such client a compensation to the extent by which the representation shall not lose its humanitarian and social characteristics, but in any case the attorney must not seek the compensation which the represented party received on account of the opposing party.

## **XII POWERS AND DUTIES OF ATTORNEYS IN INTERNATIONAL LEGAL CASES**

1. An attorney is not authorized to conduct legal cases for foreign legal entities as permanent representative of a foreign attorney's office or law firm, nor may he include in the name of his office any signs for representation of foreign offices of any type.
2. When accepting a client with the domicile in another country, the attorney is obliged to warn him about possible outcome of such representation under application of laws and other regulations on BiH territory, which warning must be given in writing, if failing to do so might cause a considerable damage to that client.
3. In the proceedings with foreign elements conducted before domestic courts and other organs, as well as before foreign organs and courts, in case of any collision of principles of the foreign Code of professional ethics and this Code, the attorney shall adhere to the principles of this Code.

## **XIII COSTS OF REPRESENTATION**

1. An attorney is entitled fees for his work according to tariffs of remuneration and compensation of costs for attorney's work.
2. An attorney may not refuse to return to client his original documents upon the termination of representation if the client failed to pay for representation costs.
3. An attorney is obliged to notify the client about approximate amount of costs and warn him about the possibility that the costs to be charged to opposing party might be less than the attorney's invoice.

## **XIV THE LOOK OF ATTORNEY'S OFFICE, NAME AND SEAL**

1. An attorney's office, if possible, should have a waiting room. As a rule, the attorney shall receive the clients in the office only. It is not advisable that clients be received in court halls, restaurants or similar places.
2. The name of an attorney's office (the attorney's name and surname, specialization, if any) ought to be displayed on the building where the office is located. The same applies to joint offices and law firms as well. The name ought to be written in Latin alphabet on metal or other plate, with no advertising features.

3. An attorney's office or law firm may have its seal that shall not contain any advertising features.
4. Any submission must contain a letterhead or seal.

#### **XV FINAL PROVISIONS**

1. This Code shall enter into force on the date of its adoption at General meeting.

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President  
Bar Association of the Federation of Bosnia and Herzegovina