

Professional Guidelines

Professional Guidelines of the Liechtenstein Chamber of Lawyers

of 05. May 1994
as amended

CONTENTS

- I. Preamble
- II. Scope of application
- III. General duties
- IV. Obligations towards clients
- V. Obligations towards colleagues
- VI. Behaviour towards the public
- VII. Liability insurance
- VIII. Apprentice lawyers
- IX. Law firm
- X. Punishment of violations

The Plenary Assembly of the Liechtenstein Chamber of Lawyers hereby issues the following Professional Guidelines on the basis of Art. 41 (1)(g) of the Act dated 09 December 1992 on Lawyers, LGBl. 1993 no. 41 (hereinafter referred to as "Act on Lawyers"), and on the basis of § 6 (g) of the Rules of Procedure of the Liechtenstein Chamber of Lawyers dated 21 April 1993, LGBl. no. 72:

I. Preamble

Due to their training in theory and practice, their independence, their compliance with their conscience, their trustworthiness, and their obligation to secrecy, lawyers are called to provide their clients with competent advice and representation in all public and private matters including criminal proceedings. It is their task to safeguard, pursue and enforce the interests they have been entrusted with as well as possible within the framework of the law and using lawful means.

Therefore, the personal properties and the professional duties of a lawyer determine the behaviour of a lawyer towards his clients and towards the organs of the community, but also towards his profession in general and every single colleague in particular, as well as towards third parties; and all this applies not only in following his profession but also during any other business activities. Accordingly, lawyers are obliged to preserve the honour and the reputation of their profession by acting honestly and honourably on penalty of disciplinary liability.

II. Scope of Application

§ 1

1. These Professional Guidelines shall apply

- a) to the persons entered in the List of Lawyers (Art. 6 of the Act on Lawyers) in the practice of law;
- b) subject to Art. 2, to foreign lawyers licensed to practise law across borders in the Principality of Liechtenstein;

c) to the apprentice lawyers entered in the List of Lawyers or in the List of Apprentice Lawyers (Art. 28 of the Act on Lawyers), as far as such provisions can be applied to them.

2. In the case of cross-border activities within the meaning of Clause no. 1.5 of the Rules of Conduct of the Council of the Bars and Law Societies of the European Union (CCBE) in the wording of 6 December 2002 the mentioned Rules of Conduct shall apply unless European Community law or provisions of Liechtenstein law, the Liechtenstein Constitution, Liechtenstein executive ordinances, or these Professional Guidelines prevail.

§ 2

1. Whenever a lawyer attends to activities of a third party, this shall be done in following his profession, provided that the lawyer is acting on the basis of an authorisation by legal transaction or on the basis of official authorisation, and not as a representative by law or as a governing body.

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2. In the case of doubt, it shall be assumed that a lawyer is attending to a third party's affairs in the framework of his professional activities.

§ 3

1. These Professional Guidelines shall not apply to activities of lawyers that do not fall under the practising of law. However, lawyers shall also preserve the honour and the reputation of their profession in their other business activities and refrain from doing anything that might impair their trustworthiness.

2. In carrying out such activities, lawyers are subject to the provisions of professional and disciplinary law laid down in the respective laws and executive ordinances.

III. General Duties

§ 4

Lawyers shall practise their profession independently, in their own names, and on their own responsibility.

§ 5

1. As an employee, a lawyer may only enter into an employment relationship that also includes activities belonging to the licensed activities of lawyers (Art. 7 of the Act on Lawyers) only with another lawyer or with a partnership of lawyers, and only if it is ensured that the principles of the professional law and the rules of conduct for lawyers are fulfilled as far as he is concerned.

2. Lawyers may enter into employment with a trustee or a trust company for the purpose of carrying out activities in accordance with the Act on Trustees.

§ 6

1. The practice of law is incompatible with occupations that are contrary to the honour and the reputation of the profession.

2. The following occupations are always compatible with the practice of law:

- a) activities pursuant to Art. 65 of the Act of 09 December 1992 on Lawyers, LGBl. 1993 No. 41;
 - b) following the profession of as trustee in accordance with a permit pursuant to the Act of 09 December 1992 on Trustees, LGBl. 1993 No. 42;
 - c) following the profession of a patent attorney in accordance with a permit pursuant to the Act of 09 December 1992 on patent attorneys, LGBl. 1993 No. 43;
 - d) following the profession of an auditor in accordance with a permit pursuant to the Act of 09 December 1992 on Chartered Accountants and Auditing Companies, LGBl. 1993 Nr. 44;
 - e) acting in a governing body or as a managing director of legal entities under private law or public law, or in companies without a legal personality;
 - f) exercising a mandate as a member of the government as a secondary occupation;
 - g) exercising a mandate as a member of the Diet or as a member of a municipal council;
 - h) participation in commissions or advisory committees of the State or of a municipality
 - i) exercising the function of judge as a secondary occupation.
3. The activities listed in the above paragraph shall not count as the practicing of law.

§ 7

If a lawyer is a member of a partnership of lawyers, he is obliged to strictly observe the relevant provisions of the law; he is always personally liable for compliance with his professional duties and his rules of conduct.

§ 8

1. A lawyer must not accept a mandate exercising which would impair the honour and reputation of his profession. He shall only act in matters which are compatible with the law and with his conscience.
2. In following his profession, a lawyer shall only use the means admissible under the law. He must neither follow claims with inadequate severity nor announce or apply pressure that is not justified by the circumstances.

§ 9

Lawyer shall strive for settling disputes in an amicable way if this is in the best interests of his client.

§ 10

Lawyers shall only contact persons who are eligible as witnesses in exceptional cases and if it is indispensable for preparing a lawsuit. They shall refrain from influencing them. In particular, it is inadmissible to directly or indirectly give directions to witnesses or instruct them as to their actions. However, it is permitted to instruct witnesses as to their legal rights and duties.

IV. Obligations towards clients

§ 11

The firstmost professional duty of a lawyer is to his client. Own interests and considerations concerning colleagues shall step back if there is a conflict.

§ 12

1. Normally, a lawyer may accept a mandate and a power of attorney only from the person whose being entrusted with.
2. A lawyer may only accept a mandate to pursue or defend against claims that do not concern direct rights or duties of the client if the party whose interests he is about to represent is not unduly limited in choosing a lawyer.

§ 13

1. If a lawyer has taken it upon himself to carry out negotiations for a contract or to prepare a contract, he may represent that party in a lawsuit resulting from that contract. It shall in particular be assumed that he was hired by only one party if the other party, too, received advice from another professional counsel or if the lawyer stated immediately, expressly and at the beginning of negotiations that he was representing only his party. If another party takes a share in the costs for the preparation of a contract, that fact alone shall not constitute a hiring of the lawyer.
2. If a lawyer has represented a company exclusively on instructions of one partner or exclusively on the basis of information given by such partner, the lawyer may represent and advise that partner in matters concerning his business relations only if the lawyer does not at the same time represent or advise the company.

§ 14

If a lawyer has accepted an irrevocable commission in the interests of one of several principals or of a third party, he may exercise his power of attorney in terms of the rules of conduct even if that commission has been cancelled without the consent of the beneficiary.

§ 15

1. If a lawyer has received money or other assets for a specific purpose, he must not retain those or use them other than for the intended purpose. He shall diligently manage assets he has been entrusted with and be ready at any time to return them. Money or other assets received for clients shall be forwarded without delay, always subject, however, to the right of deduction pursuant to Art. 23 of the Act on Lawyers.
2. If a lawyer has received a retainer or an advance on costs from his client, he need not keep that amount separate from his own funds nor make sure that it bears interest. However, he must always be able to return unused advances on cost to his client once the mandate has been completed.

§ 16

1. A lawyer shall advise and represent his clients diligently and carefully. He is personally liable for carrying out the mandate he has been given and shall inform his client of the progress made in the matters he has been entrusted with.
2. A lawyer may only accept a mandate if he is able to handle the matter within a useful period of time considering his other obligations.

§ 17

A lawyer may only resign from his mandate in a way enabling his client to retain the services of a colleague without suffering damage. The provisions of § 36 (2) ZPO remain reserved.

§ 18

1. A lawyer must not advise, represent or defend more than one client in the same matter if there is a conflict of interests or the imminent danger of a conflict between the interests of these clients.
2. A lawyer must resign from the mandates of all clients concerned if there is a conflict of interests, if there is a danger that the obligation of secrecy will be violated, or if the independence of the lawyer threatens to be impaired.

§ 19

1. A lawyer must not accept a new mandate if there is the danger of violating the obligation of secrecy with regard to information provided by a former client, or if the knowledge of the matter of a former client would provide the new client with an unjustified advantage at the disadvantage of the former client.
2. If lawyers follow their profession in a partnership, the provisions of para. 1 shall be applied to the partnership and all of its members.
3. The provisions of para. 1 shall also apply if the lawyer is obliged to secrecy by law or agreement for another reason (such as the obligation of secrecy as a member of a court or an administrative authority).
4. A lawyer must not accept a mandate for the representation before a court or administrative authority if he is a member or deputy member of that court or administrative authority.

§ 20

1. A lawyer must not enter into a quota litis agreement with regard to his fee.
2. A quota litis agreement in the sense of this provision is an agreement concluded between the lawyer and the client before the case is complete and in which the client undertakes to pay to the lawyer a part of what is the proceeds from the matter, regardless of whether it is an amount of money or another advantage the lawyer gains by bringing the matter to an end.
3. However, there is no quota litis agreement if the agreement provides for the calculation of the fee on the basis of the amount in dispute, if that fee is in accordance with an officially approved tariff, or if the lawyer is promised a specific additional fee for the case of a certain success in his efforts.

§ 21

Without exceptions, lawyers must not agree upon or accept a brokerage or commission in exercising their powers (Art. 7 of the Act on Lawyers).

§ 22

A lawyer may only agree on a fee, including a lump-sum fee, to an extent which - measured in comparison with the due fee for average performance - is not obviously out of proportion to the value of the item, to the probable performance, or to the outcome striven for. He shall lay open his claim for fees to his client and - except if a lump-sum fee has been agreed upon - also explain on request of the client how the claimed fee has been calculated.

§ 23

A lawyer may agree in power of attorney forms upon the joint and several liability for his fee and upon the location of his law firm as the legal venue. In addition, a lawyer may only agree upon the amount of his remuneration in power of attorney forms if it is

about the application of the fee guidelines of the Liechtenstein Chamber of Lawyers or the valuation of an interest, and if it is clear to see for the client that it is an agreement on remuneration.

§ 24

If the lawyer demands an advance payment for his out-of-pocket expenses and/or his remuneration, that advance payment must not exceed an amount that is adequate in view of the probable amount of the fee and the expenditures. If the advance is not paid, the lawyer may resign from or refuse to accept the mandate, notwithstanding the provision of § 17.

§ 25

1. Subject to the exception stated in para. 2, a lawyer must not share his remuneration with a person who is not a lawyer.
2. The rule of para. 1 shall not apply to payments of performance of a lawyer to the heirs of a deceased colleague or to a former lawyer as a remuneration for taking over a law firm or for a participation in profits or losses between associated companies.

§ 26

1. A lawyer is obliged to secrecy about the matters he has been entrusted with and about other matters that become known to him in his professional capacity and whose secrecy is in the best interests of his client. That obligation of secrecy also extends to all employees of the lawyer's law firm.
2. The obligation of secrecy of para. 1 shall continue also after the mandate has ended. If the lawyer considers it necessary in the best interests of his client, he may rely on his obligation of secrecy even if his client has expressly released him from it.
3. A lawyer shall provide by suitable measures that the interests of his client as well as professional secrecy will be maintained even in the event of his death.

V. Obligations towards colleagues

§ 27

The respect that is due from a lawyer to his profession obliges him to loyalty towards his colleagues. He must not circumvent the lawyer of another party and not refuse to negotiate with him; neither is he allowed to pull him into the dispute unnecessarily or attack him personally.

§ 28

Without the consent of his predecessor, a lawyer shall not accept a mandate as long as the preceding mandate relationship has not been duly cancelled. He is obliged to inform himself about this fact. If the claim for remuneration of a lawyer retained earlier has remained unpaid, the successor in the power of attorney shall advocate the settlement of the matter with his client.

§ 29

1. If a lawyer accepts representation in a civil case against another lawyer, he shall give the colleague an opportunity to settle the matter out of court before initiating the corresponding proceedings.
2. The regulation of para. 1 shall apply regardless of whether claims are asserted against a lawyer from following his profession or in another context.

§ 30

1. If a personal dispute arises between lawyers that is based on the practice of law, the lawyers shall ask the Board of the Liechtenstein Chamber of Lawyers to assist in amicable settlement before any other measures are taken (initiation of court or administrative proceedings, placement of a disciplinary or criminal information).
2. Initiating proceedings shall only be admissible before the failure such an attempt to settle if this is indispensable for the protection of the asserted claim, such as to hinder or interrupt impending limitation.

§ 31

Lawyers shall keep disciplinary matters of the lawyers secret unless disclosure is justified by factual necessity.

§ 32

1. Lawyers shall comply with the instructions and orders given to him by the Chamber of Lawyers pursuant to §§ 23, 24 (2) and 25 of the Rules of Procedure of 21 April 1993 LGBl. 1993 No. 72.
2. A lawyer is subject to disciplinary responsibility if he does not meet his obligation to pay the fee for the Chamber despite having been reminded.

§ 33

Lawyers shall fully adhere to the professional obligations of lawyers also towards foreign colleagues.

§ 34

1. In professional dealings with foreign lawyers, a lawyer who does not limit himself to designating to his client a foreign colleague or to negotiating the mandate but forwards the matter to a foreign colleague or asks for the latter's advice, shall be personally liable to pay the remuneration, the costs and the expenses of the foreign colleague, if payment cannot be obtained from the client. However, lawyers may agree otherwise at the starting of their cooperation.
2. Also, the instructed lawyer may at any time limit his personal obligation to the fee and the costs and expenses accrued until the day on which he informs his foreign colleague that he will no longer be held liable.

VI. Behaviour towards the public

§ 35

1. Lawyers shall advertise by means of the quality of their performance as lawyers.
2. Lawyers may inform about their services and personal data as long as the information given is correct, directly related to the profession, and justified by an interest of persons seeking legal counsel. In this, they may state:
 - a) academic titles and titles in connection with the practice of law,
 - b) Princely titles of honour,
 - c) language proficiency,

- d) other professions admissibly followed in addition to that of lawyer and requiring academic training, as long as such other profession is in connection with following a profession of legal counselling,
- e) technical publications,
- f) membership in professional associations in that are in connection with practice of law, excluding functions in governing bodies of the State or a municipality or in public law corporations, establishments, or foundations,
- g) professional career,
- h) fields of law in which they are mainly active or do not want to be active,
- i) i) the names and academic titles of the apprentice lawyers working with him.

§ 36

1. Lawyers shall refrain from advertising in a way that does not meet the standards of the profession. Such advertising is in particular:

- a) self-praise by advert-like emphasis on his person or his services,
- b) comparative reference to members of the profession,
- c) offering of professional services to specific categories of possible principals,
- d) giving rise to objectively incorrect expectations,
- e) offering of inadmissible advantages as to remuneration,
- f) naming of principals as references.

2. A lawyer may neither cause nor suffer third parties to advertise for him in a way that is prohibited to him.

§ 37

A lawyer may to an adequate extent ensure that no third parties, in particular the media, advertise for him in a way that does not meet the standards of the profession.

§ 38

1. Lawyers shall administer restraint keep objective in dealing with the media. A lawyer may effect publications in the media in following his profession if:

- a) the publication is expedient for reaching a legitimate goal and adequate with regard to the intended objective, and
- b) the publication is not contrary to the best interests of the client and has not been prohibited by the latter, and
- c) a weighing of interests results in the client's interest in optimum representation as well as the general interest in information prevailing over the interest in preventing advertising that does not meet the standards of the profession.

2. In connection with technical publications in the media, in particular in scientific contributions, a lawyer may state his name or have it stated in a fact-oriented way, provide information pursuant to § 35 (2)(a) and (b) and release his picture for publication; however, there shall be no advert-like emphasis on the lawyer's person.

§ 39

1. Information admissible pursuant to § 35 may be given by not too obtrusive

- a) publications in lists of lawyers,
- b) publications providing information about the law firm, which, however, must not be distributed in public,
- c) advertisements and circular letters.

2. However, advertisements and circular letters pursuant to paragraph (1)(c) may only be used on the following occasions:

- a) opening and closing of a law firm,
- b) formation or dissolution of a partnership or changes in the composition of a partnership;
- c) changes of address, telephone, fax, or telex numbers,
- d) changes of name of persons,
- e) restart of professional activities after an interruption.

3. Law firm signs may only show the name and the professional designation as well as the information pursuant to § 35 (2)(a) and (b).

§ 40

1. A lawyer must give his name and profession on his letterhead. In addition, he may state his titles and honorary titles pursuant to § 35 (2)(a) and (b). In addition, information (names and information pursuant to § 35 (2)(a) and (b)) may be given about his employees with a law training, but not about other employees.

2. If the lawyer states information about his employees with a law training in his letterhead, that information must be given in such a way that there is not the impression of a partnership of lawyers.

3. The letterhead of a partnership of lawyers must include all partners by name and with their professions. The provisions of paragraphs 1 and 2 shall apply *mutatis mutandis*.

§ 41

In entries into general indices (address books, indices of telephone, fax or telex connections etc.), a lawyer may only have his name, information pursuant to § 35 (2)(a) and (b) and his address registered without any emphasis to all this information.

VII. Liability insurance

§ 42

A lawyer must always be insured against professional liability in a way that is adequate for the type and amount of the risks caused by working as a lawyer, but in any event, at least in accordance with the provisions of the law (Art. 25 of the Act on Lawyers).

VIII. Apprentice lawyers

§ 43

1. A lawyer shall provide the apprentice lawyers doing practical work with him and not authorised to accept substitution with careful training for the profession, and he shall monitor their work diligently. It is not permitted that a mandate be accepted on account of an apprentice lawyer.

2. An apprentice lawyer must not follow a separate occupation as a lawyer in addition to his work. *

IX. Law firm

§ 44

Lawyers may only practise law from the law firm address registered with the Government.

§ 45

Lawyers shall lead their law firms with care and diligence. They must not leave work in the law firm to unsuitable persons.

X. Punishment of violations

§ 46

Violations of these Professional Guidelines represent a violation of the professional obligations of a lawyer (Art. 31 (1) of the Act of 09 December 1992 on Lawyers, LGBl. 1993 No. 41) and shall be punished by the Princely Court of Appeal (Fürstliches Obergericht) as the disciplinary authority of the lawyer profession.

* The above amendment of the Professional Guidelines was approved by the Plenary Assembly of the Liechtenstein Chamber of Lawyers on 25 March 1998 and put into force as of 01 May 1998.

** The above amendment to the Rules of Conduct were approved by the Plenary Meeting of the Liechtenstein Chamber of Lawyers on 24 March 2004.