

Pursuant to article 15, paragraph 1, item 1 and article 24, paragraph 1 , item 2 of the Legal Profession Act and article 12 of the Statute of Bar Association of Republic of Srpska, Assembly of Bar Association of Republic of Srpska, on 12 March, 2005 passed the following

## **LAWYERS ETHICS CODE OF THE BAR ASSOCIATION OF REPUBLIC OF SRPSKA**

In the society based on reign of law a lawyer has a special role. A lawyer has to serve interests of justice, as well as those whose rights and freedoms need to be protected and defended, so his obligation is to advise a client in best possible direction.

Lawyer's function represents legal and moral obligations, and on behalf of:

- a client
- legal profession
- public

As a free and independent profession, based on rules of professional ethics, the advocacy in the Republika Srpska has the main goal to preserve human rights and other interests of society.

These rules of professional conduct, in accordance with ethics code of the International Association of Lawyers and ethics code of lawyers of European Union are binding for the lawyers, members of the Bar Association of the Republika Srpska.

### **I GENERAL PRINCIPLES**

#### **Article 1**

This Code is consisted of norms of professional conduct in execution of legal profession in all occasions, in the way dignity and respect of legal profession demand.

Duty of a lawyer is, within limits of Law, and in accordance with principles of enactments of the Bar Association of Republic of Srpska and rules of this Code, to duly struggle for constitutionality and legality in order to protect rights and legal interests of clients he defends or represents.

When executing his duty abroad, a lawyer is obliged to act in accordance with the International Lawyers Union Ethics Code or other international organization, whose member the Bar Association is, as well as Ethics Code of Lawyers Organization of the country where he executes lawyers activity, unless principles of those codes are in contradiction to the bases of this Code.

In every concrete case of execution of activity, a lawyer himself evaluates if his conduct is in accordance with this Code, and in situation when he himself cannot evaluate his conduct, before he undertakes a certain action, he will ask for help from the organs of the Bar.

The obligation of all lawyers as well as organs of the Bar Association is to help interpretation of this Code in its application in practise.

Every conduct of a lawyer that is in contradiction to the obligations determined by the Legal Profession Act and Enactments of the Bar Association represents violation of legal profession respect as well as discipline of lawyers.

## **II MORAL CHARACTER OF LAWYERS**

### **Article 2**

When executing lawyers activity as well as taking care about conduct in his private life, a lawyer is obliged to protect respect and to struggle for promotion and affirmation of legal profession as an independent profession.

When executing lawyers activity, a lawyer is obliged to act in human way, respecting dignity of all he contacts with. Then, he is obliged to preserve his honour, moral character, independence and expertness in order to stimulate others with his conduct.

When executing lawyers activity, a lawyer is obliged to respect truth and legality, independence of legal profession in accordance with the Constitution and laws.

A lawyer is obliged to energetically reject all tries of influence on his independence in execution of activity. He is obliged to inform organs of the Bar Association about these tries.

Execution of any commercial operations, association of lawyers offices with activities of such effect, i.e. activities that do not give legal aid are incompatible with execution of lawyers activity.

Obligation of a lawyer is to be constantly under professional improvement, to read professional literature, participate in all professional discussions, consultations, and congresses, in all actions of legal professions by which improvement and affirmation of this service are achieved, and to improve his general education.

A lawyer has to help with his professional knowledge other lawyers, and he is especially obliged to help professional training of law clerks in legal profession.

A lawyer is obliged to give legal aid to a client for which he knows that is not in position to pay for service, or a client that is assigned to him according to the schedule determined by authorized organ of the Bar Association, i.e. other organization according to the Decision of the Bar Association, and the Bar Association bears the costs.

It is not appropriate that a lawyer is a person that acts against interests of legal profession and who does not respect rules of this Code.

Execution of activities, that according to rules and work licence can be performed only by lawyers, a lawyer must not transfer to persons who are not authorized or trained for that.

If, before the entry into the Lawyers Registry, a lawyer executed some other public function, a lawyer must not point out that fact for the purpose of client canvassing by presenting the same as an advantage in relation to other lawyers for easier and more successful execution of lawyers activity.

A lawyer must not, in contradiction to principles and rules of this Code, intrude himself upon clients as a representative or defence lawyer, or in any other way to engage and stimulate persons to recommend him to parties.

### **III RELATION TOWARD CLIENTS**

#### **Article 3**

Relations between lawyers and clients must be based on trust.

A lawyer, in performing his professional duties, shall only represent client in accordance with proxy.

A lawyer is obliged to give legal aid to every person, except when it is in accordance with Legal Profession Act, Statute of the Bar Association of RS and other enactments that deny that. A lawyer can deny giving of legal aid if he believes that he cannot successfully represent such a legal aid in certain proceedings, if the chances for success are minimal or do not exist, if the requests of the client are unreal, if it without good reason refuses to meet its material commitments to previous lawyer, if a lawyer is ill, if he is preoccupied with business or if there are some other justified reasons.

The defence of the accused, as a rule, should not be refused, except in cases determined by the Legal Profession Act, Statute of the Bar Association of RS, and other enactments.

The obligation of a lawyer is to state reasons for refusal of giving legal aid.

When he accepts to give legal aid, a lawyer is obliged, with his responsible and professional work, to justify trust that is put in him by the persons who elected him for their legal representative. A lawyer always has to act in the best interest of his client, has to place that interest even above his personal interest and interest of his colleagues.

If the person that he represents is of impudent behaviour, a lawyer is obliged to warn him that it can have bad consequences for the proceedings, and if the impudent one still continues with his behaviour, a lawyer can only for that reason cancel power of attorney.

If he concludes that a client he defends or represents gives untrue data or claims, untrue facts regarding the subject, a lawyer can refuse giving of legal aid. Such cancellation of power of attorney a lawyer can make for all those reasons for which he can refuse giving legal aid, where he is obliged, at least 30 days after cancellation of power of attorney, to undertake all actions for the purpose of preventing bad consequences for the person who he cancelled power of attorney to.

A lawyer is obliged to behave o client with respect and kindness.

A lawyer is obliged to give legal aid by devoting of his responsibility, honesty and loyalty to a person that he represents in accordance with the rules of this Code.

Persons with contradictory interests, a lawyer will not represent. If that contradiction appears during proceedings, a lawyer is obliged to cancel power of attorney. Then, a lawyer cannot advise, represent or act in interests of two or more clients regarding the issue of the same subject matter if, according to him, there is interests conflict.

If he acts in two-client or more-client legal operations as a proxy of all persons, a lawyer is obliged to equally protect interests of all, regardless who work compensation pays.

While taking over the subject matter, a lawyer is obliged to take detailed information and to inform a person about evaluation of proceedings duration, proceedings expenses and work compensation. Then, a lawyer takes over the representation of such number of cases that he is able to professionally, responsibly and effectively represent, and persons he cannot accept he refers to another lawyer. If a lawyer gives legal aid to a great number of clients in the same subject matter, he is obliged to equally protect interests of all, regardless who legal aid asked from him and who his compensation pays.

If more lawyers give legal aid in the same office, every proceedings opponent is considered as opposing party of the office to any client of the office. During the time of representation, a lawyer cannot take over representation of third parties as an opponents of the represented in other legal matter until the end of representation.

Personal acquaintance of lawyers with opposing party is justified reason for refusal of representation, and if he accepts such a representation, before that he must notify his client and inform it about that fact.

## **IV RELATION TOWARD PROCEEDINGS OPPONENTS**

### **Article 4**

Proceedings opponents, persons who a lawyer gives legal aid to, has to be treated correctly and politely, but also energetically for the purpose of complete giving of legal aid of the represented. He is obliged to prevent argues and insults of proceedings opponents.

A lawyer will avoid every contact with proceedings opponent without knowledge of his client or a lawyer of proceedings opponent.

Relation toward proceedings opponent must be correct. If proceedings opponent insults, threatens or similar, and after the warning of a lawyer or organ before such a behaviour had been manifested apology was made, the lawyer should not institute criminal or any other persecution of that person.

In any case, a lawyer must not treat with disdain or underestimate the proceedings opponent, and is obliged to respect his human dignity in every respect.

## **V RELATION BETWEEN A LAWYER AND A LAWYER AND LAW TRAINEES**

### **Article 5**

A professional cooperation based on trust is necessary in relation between a lawyer and a law trainee.

Mutual relations between a lawyer and law clerks, in executing their activity as well as in private life, should be correct, friendly, cooperative and must not have influence on independence and determination in representation.

Unloyal client canvassing, advertising that is in contradiction to conditions stipulated by the Statute of the Bar Association, making negative statements about other lawyers or law clerks, and communication with pseudo-clerks is unacceptable.

A lawyer must not contact with the person for whom he knows that is represented by other lawyer, without assent of that lawyer.

A lawyer can take over a client from other lawyer when he is assured that it previously cancelled the power of attorney to that lawyer and defrayed all the expenses.

Mutual relations of lawyers mean the obligation of passing judgments and giving advice to other lawyer and upon his request. A lawyer is obliged to give the information about reasons of cancellation of power of attorney to the client if that is requested by the lawyer engaged by the client for giving legal aid after cancellation of power of attorney. A lawyer is obliged to accept the replacement of the lawyer who turns to him, unless he is prevented by his own duties. The lawyer that made a request is obliged to deliver documents regarding the subject matter to the requested lawyer and to give him instructions regarding the case in time. In case that he is prevented to act like that, the requested lawyer must immediately inform the lawyer who made a request, and if due to a short period of time there is a danger to miss the proceedings activity or for arising of detrimental consequences, he is obliged to provide a lawyer that will act as replacement,

and undertake all necessary actions to prevent detrimental consequences of refusal of replacement. In such cases, the lawyer is obliged to receive the parcel from the lawyer who made a request, and such parcel cannot be returned unopened. In case of request procedure on behalf of foreign colleague lawyer, the requested lawyer must be aware of the fact of increased responsibility during subject matter processing, representation or giving legal advice. These reasons order that a lawyer can take over such cases only if he can treat them professionally and without dragging out. The lawyer who made a request guarantees for the expenses of the replacing lawyer.

It is impermissible that a lawyer, if not requested by the interests of a client, charges the co-defendant or other participant in the proceedings.

The lawyers are obliged to solve mutual misunderstandings themselves or before the organs of the Bar Association. It is not in accordance with moral principles of this Code to solve such misunderstandings in court proceedings or before other organs out of the Bar Association.

The duty of all lawyers is to accept law clerks for practice, according to their possibilities, to provide them professional assistances. Then, they are obliged to provide a law clerk all necessary practice, using of professional literature and to give him all assistance in preparation for taking judicial examination. The lawyers are obliged to give such assistance also when opening a lawyer's office. It is desirable that each lawyer refers at least one client to a newly open lawyer's office.

Special duty of lawyers is to care about training of law clerks for the work in legal profession and to create moral character of a law clerk, which is also the obligation of a law clerk himself.

A lawyer is obliged to pay remuneration and compensation for work of a law clerk.

Law clerk is obliged to obey the instructions of the lawyer where he is in practice as well as bases of this Code. Also he is obliged to work in the organs of the Bar Association with the aim of legal profession promotion.

All the principles of this Code regarding lawyers, in every case and in each place are applicable to law clerks as well.

## **VI LAWYER'S SECRET**

### **Article 6**

Keeping the lawyer's secret is the basic principle of legal profession. The lawyer must keep such a secret until the person who confided a secret to him exempts him from keeping it. The lawyer's secret is everything that a lawyer finds out in execution of legal

aid and that is entrusted to him as a lawyer of the client. All deposits entrusted to a lawyer's office have the same treatment.

Confidential information given to a lawyer in representation of a legal entity must not be used to the detriment of the legal entity, or to the detriment of interested member from the structure of the legal entity.

Revealing of the lawyer's secret is allowed only when a client allows it doubtlessly, if that is necessary for defense of a client or if it is necessary for justification of lawyer's decision on refusal of defense.

## **VII RELATION TOWARDS COURTS AND OTHER ORGANS**

### **Article 7**

The lawyer must show due respect to the Court or other organ during the proceedings by honourably defending the interests of a client, in the way that is the best for the client, and in accordance with the Law. Then, he is obliged to preserve independence of the profession.

The rules that regulate the relation of a lawyer towards the Court determine also the relation of a lawyer towards judges and other persons that work in judicature.

A lawyer will never identify himself with the person to whom he gives legal aid. He is obliged also to refer his client to respect judicial and other organs before which the proceedings is instituted, in accordance with rules of this Code.

While representing the client, possible private relation of the lawyer with the judge or other person in the Court or public, i.e. other organ or organization, must not be revealed for reaching certain benefit in the proceedings.

## **VIII RELATION TOWARDS ORGANS OF THE BAR ASSOCIATION**

### **Article 8**

The lawyers are obliged to keep the reputation and independence of the Bar Association and its organs in every place and at any time. Right and obligation of lawyers is to participate in the work of the organs of the Bar Association, and to help their work.

A special honour is to be elected and to elect the organs of the Bar Association.

Lawyers are obliged to carry out their obligations towards the Bar Association in good time.

## **IX ORGANIZATION OF BUSINESS OPERATIONS**

### **Article 9**

The premise where a lawyer executes his activity must guarantee preservation of legal profession reputation. For that purpose lawyers should organize prompt keeping the files of cases, regular filing of documents, exact records of deadlines, with the aim to accurately inform a client at any time about situation regarding the case and, if necessary, to inform the certain organ of the Bar Association in a short period of time about the case.

As a rule, reception of clients is carried out in the office which should have waiting room. It is undesirable to receive clients in court halls, restaurants and similar places.

A lawyer is obliged to have a specific head office for his lawyer's office and must not have branch office of the office.

Firm of the lawyer's office (name and surname of a lawyer, specialty etc.) should be placed on a building where the lawyer's office is situated. The name of the lawyer's office must not have promotional mark. The name of the lawyer's office will be written in Cyrillic and Latin writing.

The lawyer's office has its own seal, that must not have promotional character. Every petition made by a lawyer will bear a seal. In addition to the seal, the lawyer puts his signature (signum).

Any advertising of the lawyer's office in any way that is in contradiction to conditions stipulated by the Statute of the Bar Association is inappropriate.

## **X REMUNERATION AND REPRESENTATION COSTS**

### **Article 10**

A lawyer will collect remuneration and representation costs according to the Tariff on Remuneration and Costs Compensation for lawyer's work, i.e. according to the Contract, and upon client's request he will provide it insight into the Tariff and present it the specification of the cost accounting.

If a client itself offers remuneration to a lawyer to the amount that is higher than the remuneration stipulated by the Tariff, and the lawyer did not demand such an offer, he can accept such offer as well.



The lawyer can in advance collect anticipated final costs, especially those that are necessary. If a client does not pay such costs in advance, the lawyer will not violate the rules of profession if he refuses giving legal aid or in the course of the proceedings denies his representation.

A lawyer is obliged to inform the client about the estimation of the representation costs and to warn it on the possibility that the costs determined by the Court charged to the opponent can be less than his list of expenses.

If a client fails to pay remuneration or compensation, the lawyer will remind him in writing and warn him that otherwise he will ask the payment through the Court.

## **XI FINAL CLAUSES**

### **Article 11**

By coming into effect of this Code, the Lawyers Ethics Code dated 27 November 2003 is no longer valid.

This Code comes into effect on the date of its adoption.

President:  
Jovan S. Čizmović

No.: Sk. AKRS-02/05  
In Banja Luka, 27<sup>th</sup> September, 2003