

CODE OF PROFESSIONAL CONDUCT OF THE BAR ASSOCIATION OF SLOVENIA

Being aware of their duty that the lawyers in our democratic society shall practice their profession in the way to contribute to the implementation of the principles and provisions of the Constitution and the laws, in compliance with the principles of democratic development of our society and in agreement with the principles of humanity, cultured manners, respect of human dignity as well as respect of truth and justice, and

that they shall strengthen the confidence of the society and of the represented parties as well as of social and state bodies into the role and practice of the Bar,

and considering the fact that they shall themselves provide for implementation of these principles and for maintenance of the discipline in their profession,

the lawyers adopted as the obligations of their professional conduct and behaviour

the CODE OF PROFESSIONAL CONDUCT,
passed at the Lawyers' Assembly of the Bar Association of Slovenia
on 7 December 2001

1

The Code of Professional Conduct is a record of principles and rules followed by lawyers at practicing their legal profession.

The rules of deontology reflect the specific tasks of the legal profession in compliance with the ethics of a democratic society.

This Code of Professional Conduct is a professional agreement of lawyers following the principle of self-management in the Bar Association.

2

The Code of Professional Conduct is a living collection of principles and rules of professional conduct, subject to permanent perfecting.

In their legal practice the lawyers shall actively pursue the ethic issues derived from the daily practice. They shall keep introducing new and more accomplished ethic elements into their practice.

The lawyers shall report on such endeavourings to the bodies of the Bar Association and shall take initiatives and make proposals for discussion about the principles and rules as well as about the adoption and recording of new principles and rules of professional conduct.

3

The Code of Professional Conduct further includes such rules whereof the offence shall be subject to the proceedings of the disciplinary bodies of the Bar Association.

4

The lawyer shall be independent to assess and to decide in his best conscience how to act in each individual case, thereby taking into account all circumstances.

The lawyer's decision shall never be contrary to the spirit of the principles and rules of this Code of Professional Conduct. With reference to more difficult cases he shall consult his colleagues or the bodies of the Bar Association in order to avoid a wrong decision based on his personal estimate.

VALIDITY OF THE CODE OF PROFESSIONAL CONDUCT

5

If the lawyer's practice extends to the international territory, either in case of his practice abroad or his representation of foreigners in his native country, he shall be careful not to act contrary to the principles and rules binding upon lawyers in the foreign country. He shall observe the principles and rules of international codes of professional conduct.

A foreign lawyer, under the law entitled to engage in the lawyer's practice in Slovenia, shall observe the principles and rules of this Code of Professional Conduct.

6

If the lawyer acts contrary to the principles and rules of this Code of Professional Conduct without thereby violating the legal discipline, the case shall be dealt with by the respective Regional Lawyers' Assembly.

The Regional Lawyers' Assembly shall convey its opinion to the lawyer and may also instruct or warn him how to act.

The lawyer who does not agree with the opinions, the instructions or the warnings of his Regional Lawyers' Assembly may propose in this respect some broader proceedings in front of the arbitration of honour consisting of three members of the Bar Association, for each individual case appointed by the Board of Lawyers of the Bar Association.

The Bar Association shall keep records of the discussed cases that are important for the deontology and shall keep its members informed thereof through the Regional Lawyers' Assemblies.

7

The obligatory explanation of the principles and rules of deontology shall be provided by the Board of Lawyers.

PERSONALITY

8

The lawyer shall be careful in his practice to preserve his personal dignity as well as the dignity of the legal profession. Even in his life and activity beyond the practice of legal profession he shall be careful not to harm the good reputation of the Bar.

The lawyer shall always observe the rules of good manners. He shall be distinguished for his humane approach and respect of human dignity. He should endeavour for higher level of cultured relations between people as well as for assertion of educational influences.
He should observe this rule even after he has left the legal profession.

9

The lawyer shall be distinguished for his being a man of principle and a firm defendant of constitutional freedoms as well as legal rights and benefits of his clients.

At implementation of his tasks the lawyer shall enjoy the confidence of his clients as well as the confidence of the judicial and other social bodies where he represents his clients and asserts their rights and benefits. Therefore he shall endeavour to gain this confidence, to intensify it and not to shake it with any action.

10

Before taking any action, in particular before filing a legal action in order to defend his honour, he shall consult the bodies of the respective Regional Lawyers' Assembly.

INDEPENDENCE

11

The lawyer shall respect the truth and the legality. He shall remain unconditionally and fully independent from any external influence when deciding how to represent his client most correctly, responsibly and efficiently. All his activity shall prove sincerity and civil courage.

INCOMPATIBLE OCCUPATIONS

12

In his professional practice and outside it the lawyer shall not engage in operations and activities that are incompatible with the honour and independence of the Bar.

Any commercial activity, association of the law office with an activity outside the Bar and any other action that might compromise the lawyer's personal reputation or the reputation of the Bar in general shall be incompatible with the Bar.

13

As long as the lawyer performs his duties as a member of executive authorities, he shall not at the same time act as a member of the Bar. If a lawyer is elected into a representative body, he shall not abuse this function in his legal practice.

PROFICIENCY

14

The lawyer shall permanently engage in his expert advance studies and shall mind his general education and broad knowledge. Through his professional practice he shall assert and intensify the importance of legal aid as well as the good reputation of the social function of the Bar.

The lawyer shall help other lawyers with his expert knowledge and shall contribute to the expert and general education of prospective entrants and pupils.

15

The lawyer's judicial and general culture shall be manifested in all his professional practice, in his appearances, functions and speeches as well as in his contacts with clients and colleagues, judicial and other bodies.

16

The lawyer shall run his law office and shall provide for management and custody of records, record-keeping of terms and hearings, financial operation and all other logistics, thereby securing order and fluency of operation.

Law offices shall look decent.

WITNESSING

17

As a rule the lawyer shall not propose himself for witness in the matters in which he defended parties in dispute and shall not take up representation in matters in which he might be summoned as witness.

RESPECT

18

In his legal practice the lawyer shall safeguard the good reputation of courts and authorities. It is his duty to strengthen the public confidence into their activity.

Therefore he shall not make any insulting or disdainful statements about the activity and the decisions of these bodies. He shall also inspire his clients to build respectful relations.

19

In view of his good reputation and in view of good reputation of the whole Bar, the lawyer shall not permit disrespectful or otherwise incorrect conduct of judicial and other bodies either towards himself, towards the prospective entrant or his pupil or towards his client.

REPRESENTATION

20

The lawyer shall help the courts and other bodies with his action and his proposals at assertion and safeguard of his clients' legal rights and benefits.

Therefore the lawyer's applications shall be conscientiously explained as well as actually and legally justified. In his performance the lawyer shall be realistic, tolerant and to the point; at the same time he shall be exhaustive, thorough, conscientious and persuasive, his interpretations shall be clear and acceptable.

The lawyer shall not pervert actual and legal assessments and shall not behave demagogically. He shall also introduce educational elements into his practice and his interpretations.

21

The lawyer shall not use his personal acquaintance with judges or other employees of public authorities either for his own benefit or for the benefit of his client, nor to the prejudice of the opposing party.

PROHIBITION OF ADVERTISING

22

Lawyers shall compete between themselves merely in the quality of their performance.

23

The lawyer may only convey those data on himself and his activity that are real, true and refer to his profession.

Advertising of the lawyer's practice is prohibited, in particular:

- Praising the quality of own performance,
- Indication of successful pleadings, won suits and other cases, of his participation in an important case, of the number of his clients and their importance, of the difficulty of the settled cases and the like,
- Disdain of other lawyers' performance and success,
- Reference to one's former activity, functions or position,
- Reference to the professional qualification in individual legal domain or specialization unless it is recognized thereto in accordance with the law,
- Reference to influential connections and acquaintances,
- Giving false and misleading information on his activity,
- Reference to the cooperation with important foreign lawyers and law companies,
- Giving advertising presents,
- Engagement of third parties to do advertising on the lawyer's behalf,
- Application of other advertising proceedings (sending folders on his law office, mounting advertising panels and putting up advertisements),
- Application of illuminated advertisements and the like.

No advertising is involved if the lawyer publishes in mass media a note about the starting date and place of his practice or about his changing location, yet at maximum within 30 (thirty) days upon the opening of his office or its changing location.

Furthermore, no advertising is involved if the lawyer publishes the data on his office (operating hours, address, field of activity, recognized specialty etc.) on the web site, provided that such data are true and refer to his activity.

PROHIBITION OF DISLOYALTY

24

Disloyalty - involving any acquisition of clients through bids or agents, promising success, offering cheaper representation, promising commissions or awards for acquisition of clients and cooperation with pettifoggers – is inadmissible.

ATTITUDE TO MASS MEDIA

25

The lawyer shall avoid unnecessary appearances in mass media. If he is, however, obliged to appear in mass media, he shall avoid stressing his capacities and his merits, advertising and disloyalty towards other lawyers. He shall inform the journalist what prohibited advertising according to this Code of Professional Code is.

He shall avoid making statements about his private life, fortune, hobbies and other details not related to his profession and work

COMPETITION

26

Lawyers shall strengthen the loyalty and professional solidarity in their mutual relations, although loyal relations shall not have any detrimental effect on the conscientiousness and determination at representation and pleading of clients.

27

The lawyer shall not ridicule, disdain or underrate the colleague who represents the opposing party and his performance, either orally or in any other way.

He shall not build his pleading or exculpation of his client in criminal proceedings on charging of other defendants, unless necessary for successful pleading.

28

The lawyer may address himself directly to the client whom he knows to be represented by another lawyer, yet only with the latter's consent.

If it is the opposing client that addresses himself to the lawyer, the latter shall inform the client's lawyer thereof as well as of his answer to the client.

29

The lawyer shall not take over the representation of the client who is represented by another lawyer in the same matter, unless the latter explicitly agrees with it or if the respective power of attorney has expired. It shall be rejected if a lawyer seizes a client from another lawyer.

If the lawyer is entitled to take over the representation of the client that was before represented by another lawyer, he shall beforehand make sure whether the client has fulfilled all material obligations towards his former representative, in compliance with the lawyer's fee or upon agreement.

The lawyer shall not oppose the client's wish to be, in addition to himself, represented and advised by another lawyer.

30

The lawyer shall not refuse assistance in the form of expert consulting or opinion to his colleague.

SUBSTITUTION

31

Unless there are justified reasons, the lawyer shall not refuse his colleague, another lawyer, to provide the asked for substitution.

The lawyer shall ask another lawyer for substitution in due time and shall timely provide him the required information and instructions. He shall be held morally and materially responsible for appropriate remuneration of the substitute lawyer.

Except in case of different agreement, appropriate remuneration would include one half of the lawyer's fee, the hour rate and the actual expenditures.

The lawyer shall immediately notify the refusal of substitution and shall, in case of emergency, himself provide for another substitute.

SETTLEMENT OF DISPUTES

32

In personal disputes with the lawyer, the prospective entrant or the pupil the lawyer shall endeavour to settle the dispute through direct discussions or through mediation of the respective Regional Lawyers' Assembly.

If the lawyer is in dispute with the prospective entrant or the pupil practicing or in pupillage with some other lawyer, he shall first refer to the latter for mediation.

PUPILS

33

This Code of Professional Conduct shall also apply to prospective entrants and pupils.

The lawyer shall pay special attention to accustoming the prospective entrant and the pupil to deontology and decent behaviour at practicing of the legal profession and in his life outside his career.

34

Education and training of prospective entrants for the legal profession shall rank among the basic tasks of the Bar.

35

The lawyer shall provide to the pupil under pupillage in his law office versatile and thorough preparation for independent practice. The pupillage shall not be apparent.

At allocation of tasks he shall allow him appropriate time for preparation to the Common Professional Examination.

36

The lawyer shall enable the pupil under pupillage in his law office appropriate working conditions and shall give him adequate remuneration.

The relationship between the lawyer and the prospective entrant in his pupillage shall be free of any form of exploitation.

ATTITUDE TO CLIENTS

37

The lawyer shall be aware that he is bound by his social function to secure legal aid to his clients.

The client's incapacity to duly pay the lawyer's work shall not be the reason for refusal of legal aid in case of emergency.

38

The lawyer shall inform the client of the possibility to profit from the free-of-charge legal aid.

39

The lawyer shall not refuse further representation of the client he is representing in inappropriate time or in such circumstances that it would be detrimental for the client.

He shall try to agree with the client about the cancellation of further representation; in doubt he shall ask for the opinion of the respective Regional Lawyers' Assembly.

40

The lawyer shall not refuse to plead a client for the mere fact that the pleading is difficult, for instance due to the acceptance of guilt, the pieces of evidence, the nature or weight of the criminal act, the response in public or for similar reasons.

If the lawyer nevertheless refuses the pleading, he shall try to secure the pleading for the client by another lawyer, in particular if it is the client's wish.

In principle the lawyer shall not refuse an already accepted pleading, in particular not:

- if this would worsen the client's position of defendant,
- if at a certain point of the proceedings it is impossible to get another lawyer immediately or
- if as the client's lawyer he failed in his process and pleading proposals.

41

The lawyer shall represent and plead for the client conscientiously and unselfishly and shall plead for the client by using respectively all possible and permissible legal remedies.

42

Representation and pleading for socially weak clients shall be usual and honourable task of lawyers at practicing the legal profession. The lawyer shall perform this task with special understanding.

TRUST AND FAITHFULNESS

43

The lawyer shall be aware of the fact that the client's trust is the basic guidance he shall take into account and shall not shake. The client and his case shall be the center of his attention in his practice.

However, the lawyer shall not subordinate his personal and professional integrity to the faithfulness to his client. In his practice he shall never lose his independence and objectivity. he shall always remain decent, kind and realistic in relation to the opposing party and its lawyer as well as to judicial and other state authorities.

44

If possible, the lawyer shall inform his client in advance of the course of the procedure to be followed in his case.

He shall keep his client currently informed of his performance and action, he shall any time let him an insight into the situation of the case, he shall instruct him on the actual situation and on the legal issues and shall notify him the required information from judicial and other records or from the already effected investigations.

45

The lawyer shall inform the client of the approximate representation cost estimate as well as of the respective risk. He shall instruct the client that the judicially fixed rate to the debit of the opposing party may be lower than the amount of his invoice.

The lawyer shall enable the client his personal insight into the lawyer's fee. On the client's request he shall make a detailed cost account.

46

In case of a socially weak client he shall make a discount or shall not charge for his service at all.

If possible, the lawyer shall agree with his client in advance how he will pay the costs of his representation.

47

The lawyer shall not accept the representation of a client as long as he is representing an other client participating in the dispute as opposing party, even if the dispute refers to a different case.

In joint law offices and partnerships involving the participation of two or several lawyers, every client in dispute with the client of any lawyer in this office shall be considered as opposing party.

48

If the lawyer has dealt with a case for two or several clients, he shall refuse the acceptance of representation of any of these clients in their mutual dispute about the respective legal affair.

He is, however, not obliged to act in this way if he has dealt with the respective legal affair only as one client's lawyer.

REPRESENTATION OF ORGANIZATIONS

49

The lawyer may be a founder or a member of a company, but cannot act as a managing body, cannot be employed with the company and cannot represent it, which, however, does not apply to a partnership in compliance with the Law of the Bar.

The lawyer cannot be a procurator.

Lawyers can act as public receivers and/or liquidators in bankruptcy and can be members of the Boards of Directors of companies that they shall not represent as lawyers, nor shall they be allowed to use the lawyer's title and seal.

LAWYER'S RECORDS

50

The lawyer shall safeguard his good reputation in relation to his client and the latter's trust through organized record-keeping and the respective money operation.

Particular attention shall be paid to conscientious custody of documents. He shall issue to his client a certificate on the custody of the will or shall hand out to him a signed copy of the will.

On termination of representation he shall not refuse to return the documents to his client, although the latter has not yet settled his obligations to the lawyer.

CONFIDENTIALITY

51

The lawyer shall keep as secret whatever he was entrusted by the client or whatever he has learned for him as confidential. In addition, he shall himself conscientiously assess what the client wishes to keep as confidential.

The confidentiality shall also apply to the contents of the lawyer's record, even upon termination of representation and upon destruction of the archives of completed cases.

52

The principle of confidentiality shall oblige the lawyer to refuse the information on whether he has provided legal aid to somebody.

53

Exceptionally the lawyer may be exempt of the duty of confidentiality,

- if the party exempts him from the duty of confidentiality,
- if the revelation of the secret is evidently a benefit to the client,
- if it is important in view of safeguard of his important personal interests.

The lawyer shall not reveal the secret even in the interest of the client, if it is explicitly forbidden by the client, except if it is required by exceptional circumstances in the personal interest of the client.

OPPOSING PARTY

54

The client's mood towards the opposing party shall not be the standard for the lawyer's relation to the opposing party.

The lawyer shall adjust his behaviour towards the opposing party in compliance with general deontological standards. He shall try to prevent the aggravation of disputes and to achieve a peaceful settlement of dispute through his impersonality and tactful approach towards the opposing party.

55

The lawyer shall not abuse the ignorance, the mistake or the shyness of the opposing party, in particular if the latter has no legal representative who would obtain his client unjust success.

56

The lawyer's personal acquaintance with the opposing party shall be the reason for his refusal to take over the representation against it. If he is nevertheless ready to take over the representation, he shall first inform his client of this acquaintance.

57

Prior to the introduction of the proceedings, the lawyer shall in agreement with his client possibly try to settle the dispute with the opposing party through warning and appropriate term for fulfillment of his client's claim.

58

The lawyer shall not cause unnecessary costs to the opposing party either.

If the opposing party is arrogant, but has no lawyer, he shall duly warn it about the costs and other consequences of the proceedings.

59

The lawyer shall not ridicule, despise, scold or threaten the opposing party, either in personal contact or in writing.

An excusable warning about the cost of the proceedings or the criminal proceedings and the like shall not be regarded as forbidden threat.

60

The lawyer shall dissuade his client from criminal proceedings of the opposing party because of inconsiderate statements aroused by the strain in the proceedings, unless it is necessary for protection of the client's interests.

Further the lawyer shall not act against the opposing party if the latter was insulting him in excitement.

BASIC AND GENERAL RULE

61

The principles and rules of this Code of Professional Conduct shall be present in each lawyer's consciousness and belief.

Lawyers shall, in the interest of the whole Bar, cooperate and see that everybody will act in compliance with these principles and rules.

BAR ASSOCIATION OF SLOVENIA