

# Law for the organization and practice of the lawyer's profession\*

## CHAPTER I General provisions

**Article 1.** - (1) The lawyer's profession shall be free and independent, based on an autonomous organization and functioning, under the terms of the law and the by-law of the profession.

(2) The lawyer's profession shall only be practised by lawyers appearing in the table of the bar they belong to, a bar which is a member of the National Association of the Romanian Bars, hereafter called *U.N.B.R.*

(3) The establishment and functioning of bars outside the *U.N.B.R.* shall be prohibited. The documents for their constitution and registration shall be null and void.

**Article 2.** - (1) In the exercise of his/her profession, a lawyer shall be independent and only subject to the law, the by-law of the profession, and the code of conduct.

(2) A lawyer shall promote and defend human rights, freedoms, and legitimate interests.

(3) A lawyer shall be entitled to assist and represent natural and legal entities before the courts of judicial authority and other jurisdictional bodies, criminal inquiry bodies, public authorities and institutions, as well as before other natural or legal entities, who/which shall have the obligation to facilitate the lawyer's unhindered activity, under the terms of the law.

(4) Anyone shall be entitled to choose his/her/its lawyer freely.

(5) In the exercise of one's right to defence, a lawyer shall have the right and obligation to persist in getting free access to justice, a fair law suit, and within a reasonable time delay.

**Article 3.** - (1) A lawyer's activity shall be represented by:

a) legal consultancy and petitions;

b) legal assistance and representation before courts of law, criminal inquiry bodies, jurisdictional authorities, notaries public and judicial executors, public administration bodies and institutions, as well as other legal entities, under the terms of the law;

c) drawing up legal documents, and certifying the parties' identities and the contents and dates of documents submitted for authentication;

d) assistance and representation of interested natural or legal entities before other public authorities, with provisions for certifying the parties' identities the and contents and dates of concluded documents;

e) defence and representation, using specific means, of the legitimate rights and interests of natural and legal entities in their relationships with public authorities, institutions, and any Romanian or foreign entity;

f) mediation activities;

g) fiduciary activities consisting of receiving, in deposit, on behalf and at the expense of the client, financial funds and goods resulting from the sale or execution of executory titles after the end of a succession procedure or liquidation, as well as the placement and good use of

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\* Law no. 51/1995 was published in the Official Gazette of Romania, Part I, no. 116 of 9 June 1995 and was re-published in the Official Gazette of Romania, Part I, no. 113 of 6 March 2001, based on article V of Law no. 231/2000, published in the Official Gazette of Romania, Part I, no. 635 of 7 December 2000, an adequate numbering being given to paragraphs and articles. Subsequent to it being republished, the law was amended by Law no. 489/2002, published in the Official Gazette of Romania, Part I, no. 578 of 5 August 2002, Law no. 201/2004, published in the Official Gazette of Romania, Part I, no. 483 of 28 May 2004, Law no. 255/2004, published in the Official Gazette of Romania, Part I, no. 559 of 23 June 2004, and Government Ordinance no. 94/2004, published in the Official Gazette of Romania, Part I, no. 803 of 31 August 2004 (approved by Law no. 507/2004, published in the Official Gazette of Romania, Part I, no. 1 080 of 19 November 2004). Amendments and additions shall be found in the contents of the document.

these, on behalf and at the expense of the client, administration of funds or valuables in which the latter have been placed;

h) temporary establishment of trading companies' head offices at the lawyer's professional office, the registration of such companies, on behalf and at the expense of the client, of interest shares, shares, or stock of companies thus registered;

i) the activities stipulated under g) and h) may take place based on a new legal assistance contract;

j) any means and ways typical of the right to defence, under the terms of the law.

(2) The activities stipulated under paragraph (1) shall only be practised by a lawyer, unless the law stipulates otherwise.”\*

**Article 4.** - A lawyer shall be protected by the law in exercising his/her profession and in connection with it.

“**Article 5.** - (1) The forms of practising the lawyer's profession shall be, optionally: individual law offices, associated law offices, professional civil companies, or limited-liability professional civil companies.

(2) An individual law office may be used by a permanent lawyer, alone or together with other collaborating lawyers, with a view to exercising his/her profession.

(3) Individual law offices may become associated for the purpose of jointly exercising the profession; the rights and obligations of lawyers who hold associated law offices shall remain personal and may not be transferred. Accordingly, individual law offices may also become associated with professional civil companies.

(4) Individual law offices may form groups in order to create technical-economic facilities in view of exercising the lawyer's profession and shall preserve their individuality in their relationships with the clients.

(5) A professional civil company shall be established by two or more permanent lawyers. Collaborating lawyers or paid lawyers may also practise their profession in a professional civil company. A professional civil company and the lawyers who practise within it may not provide legal assistance to persons having conflicting interests.

(6) Law office groups, associated law offices, professional civil companies, and limited-liability professional civil companies may also have a joint property.

(7) A lawyer may change the form of practising the profession at any time, provided the bar he/she belongs to has been notified.

(8) A lawyer may not practise his/her profession in several forms of exercising it, at the same time.

(9) The forms of profession practising may only be alienated using documents concluded between living persons, between permanent lawyers and currently in the exercise of their profession, or may be liquidated on termination of their capacities, observing the regimen of investments regulated by the present law.

**Article 5<sub>1</sub>.** - (1) A limited-liability professional civil company shall be constituted by partnership between at least 2 permanent lawyers and currently practising their profession; it shall be a legal entity, and shall have its own assets. The partners' contributions to the registered capital may be in industry, in cash or in kind, or represented by their professional activity, including the clientele they bring with them. The registered capital of the company shall be represented by transmissible and negotiable shares, and shall be at least the equivalent of EUR 10 000.

Share transfer may only be made to lawyers in the exercise of their profession. The professional activity shall be carried out by partner lawyers, collaborator lawyers, and paid lawyers. Lawyers who practise their profession within a limited-liability professional civil company shall only assume professional liability within the limits of the registered capital subscribed and deposited.

(2) A limited-liability professional civil company shall become a legal entity on the date of registration with the bar of the decision issued by the Council of the bar within the jurisdictional district of which its main head office is located.

(3) Limited-liability professional civil companies shall be subject to profit tax.

**Article 6.** - Any lawyer, irrespective of the form of profession exercise, may conclude collaboration conventions with experts or other specialists, under the terms of the law. Professional civil companies and limited-liability professional civil companies may only conclude such conventions with the consent of all partners.

**Article 7.** - (1) The forms of exercising the lawyer's profession and law office groups shall be individualised by name, as follows:

a) for individual law offices - name of the holder lawyer, followed by the phrase *law office*;

b) for associated law offices - names of all holders, followed by the phrase *associated law offices*;

c) for professional civil companies and limited-liability professional civil companies - name of at least one partner, followed by the phrase *civil law firm* or, as applicable, *limited-liability civil law firm*;

d) for law office groups - name of each law office holder, followed by the phrase *group law offices*.

(2) The denomination of the profession exercise form, individualised according to paragraph (1), may also be kept after the death or departure of one of the associates/partners, with the latter's consent or, as applicable, with the consent of the heir of the deceased, expressed in an authentic form.

(3) The denominations stipulated under paragraph (1) shall appear on the signs of such law offices or companies, under the terms stipulated by the by-law of the profession.

(4) As far as all forms of profession exercise by foreign lawyers are concerned, one may use the denomination and the name of the profession exercise form in force in Romania or abroad, under the terms of the present article.

**Article 8.** - (1) The conventions of law office group establishment or association, the constituting deeds of professional civil law companies and limited-liability professional civil law companies, as well as the conventions stipulated under article 6, shall be concluded in writing, observing the basic requirements stipulated by the law and the by-law of the profession.

(2) The Council of the bar having been notified shall check that the terms of the law are being met and, when this is the case, shall order convention registration within one month from application being filed.

(3) Any person who believes he/she is harmed as far as a legitimate right or interest of his/hers is concerned may file a complaint against the Council of the bar's decision with the professional jurisdiction bodies, under the terms of the present law and the by-law of the profession.

(4) Bars shall keep separate records of lawyers per each profession exercise form.

**Article 9.** - (1) Bars and the U.N.B.R. shall make sure the qualified exercise of the right to defence, the professional competence and discipline, and the protection of member lawyer's dignity and honour are being enforced.

(2) Only one bar, member of the U.N.B.R., shall exist in each county, having its head office in the capital of that county.

(3) Each bar shall organise and ensure the functioning of a judicial assistance service attached to each civil court. The Council of the bar shall be responsible for the organisation and functioning of that service,"\*

**Article 10.** - A lawyer shall have the obligation to keep professional secrecy regarding any aspect of the cause entrusted to him/her, unless the law expressly stipulates otherwise.

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\* **Articles 1 - 3 and 5 - 9 were amended by Law no. 255/2004, article 5<sub>1</sub> was introduced by the same act, and paragraph (4) of article 7 was introduced by Law no. 489/2002.**

CHAPTER II  
**Acquiring the lawyer's capacity**

*SECTION I*  
***Terms for signing in to the lawyer's profession***

“**Article 11.** - (1) A person who complies with the following conditions may be member of a bar in Romania:

- a) he/she is a Romanian citizen and holder of civil and political rights;
- b) he/she is a law faculty graduate or a doctor of law (Ph.D.);
- c) he/she is not in one of the unworthiness cases stipulated by the present law;
- d) he/she is medically fit to practise the lawyer's profession.

(2) Compliance with the condition stipulated under letter d) of paragraph (1) shall be proven by means of a medical certificate of good health, issued on the basis of the findings by a medical board constituted under the terms stipulated by the by-law of the profession.

**Article 12.** - (1) A member of a bar from another country may practise the lawyer's profession in Romania provided he/she meets the conditions stipulated by the law, except for the one concerning Romanian citizenship.

(2) In order to provide legal consultancy on Romanian law, a foreign lawyer shall have the obligation to take an examination checking his/her knowledge of Romanian law and Romanian language, organised by the U.N.B.R.

(3) A foreign lawyer may practise the lawyer's profession in Romania, within one of the organisation forms stipulated under article 5, at his/her choice.

(4) A foreign lawyer may not submit oral or written conclusions before the courts of law and the other jurisdictional and judicial bodies, except for international arbitration ones.

(5) The fees due to a foreign lawyer shall be recorded and fully paid in Romania.

(6) A foreign lawyer who practises his/her profession in Romania shall have the obligation to sign in to the special table kept by each bar, and shall be subject to the provisions of the present law, the by-law of the profession and the code of conduct.”\*

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\***Article 11 and 12 were amended by Law no. 255/2004, and letter a) of article 11 and paragraphs (2) and (3) of article 12 were also been amended by Law no. 489/2002.**

**Article 13.** - The following persons shall be deemed unworthy of being a lawyer:

- a) a person having received a final sentence to prison by court decree, for an intentional crime, which is likely to harm professional prestige;
- b) a person having committed abuses that have violated fundamental human rights and freedoms, as established by court decree;
- c) a person who has received a sentence prohibiting him/her from exercising the lawyer's profession, for a time duration set by a court or disciplinary decree;
- d) a fraudulently bankrupt person, even rehabilitated.

**Article 14.** - Practising the lawyer's profession shall be incompatible with:

- a) a paid activity within another profession than the lawyer's one;
- b) occupations affecting the dignity and independence of the lawyer's profession or good manners;
- c) the direct practise of material trade actions.

**Article 15.** - Practising the lawyer's profession shall be compatible with:

a) the capacity of deputy or senator, councillor in local or county councils;

“b) teaching activities, and offices in higher legal education;”\*

c) literary and publishing activity;

“d) the capacity of arbitrator, mediator, conciliator or negotiator, tax advisor, advisor in intellectual property, advisor in industrial property, licensed translator, administrator or liquidator within the procedures of judicial re-organisation or liquidation, under the terms of the law.

**Article 16.** - (1) The acceptance to profession shall be obtained based on an examination organised by the bar, under the provisions of the present law and the by-law of the profession.

(2) The following persons may be accepted to the profession, on request, being exempted from an examination:

a) a holder of the doctor of law's (Ph.D.) diploma;

b) a person who, by the date of being accepted to the lawyer's profession, has acted as a judge, public prosecutor, notary public, legal advisor or jurist for at least 10 years, and if such activity has not been terminated for disciplinary reasons that make him/her unworthy of the lawyer's profession.

(3) The persons who held the office of judge with the High Court of Cassation and Justice shall be exempted from the provisions of paragraph (1).

**Article 16<sub>1</sub>.** - A person who meets the requirements stipulated by the law for being accepted to the lawyer's profession may apply for this at least 5 years before reaching the standard retirement age in the pension and social security system he/she belongs to.”\*

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**Article 15 b) and d) and article 16 were amended by Law no. 255/2004, and article 16<sub>1</sub> was introduced by the same act.**

**Article 17.** - (1) At the beginning of the lawyer's profession practising, a lawyer shall be obliged to complete a two-year professional training term, during which time he/she shall have the capacity of lawyer on probation.

“(2) The conditions for completing the term, the rights and obligations of the lawyer on probation, of the supervising lawyer, as well as those of the bar towards them shall be regulated by the by-law of the profession.”\*

(3) The training term shall be suspended if the lawyer should serve in the military or be concentrated, if he/she is out of the profession for good grounds, or if the professional guidance should be terminated without the lawyer on probation being at fault. The prior term period already completed shall be taken into consideration when calculating term completion.

(4) After the training term is completed, the lawyer on probation shall take the examination for permanent lawyer.

“(5) A lawyer on probation who has failed three times in the examination for permanent lawyer shall be disbarred.

**Article 18.** - The activity of a lawyer on probation may only be guided by permanent lawyers with a length of service of at least 6 years in that capacity and who enjoy good professional reputation.

**Article 19.** - (1) The capacity of permanent lawyer shall be acquired by the lawyers on probation who have passed the examination for permanent lawyer under the terms of article 17, as well as the lawyers who have passed the graduation examination at the National Institute for the Training and the Improvement of Lawyers, under the terms stipulated by the by-law of the profession.

(2) The capacity of permanent lawyer shall be acquired by a person who has been registered to the profession under the terms of article 16 (2), if he/she acquired a permanent status in the legal position he/she used to practise before being accepted to the lawyer's profession.

(3) A person registered to the profession under article 16 (2) shall acquire the permanent lawyer's capacity if he/she has passed an examination for permanent status in the legal office he/she had held before. Those who do not fill the conditions regarding the length of service in their previous office shall be bound to take the examination for permanent lawyer.

(4) Lawyers who are former judges may not submit conclusions with the court they used to function with, and former public prosecutors or police officers may not provide legal assistance to the criminal inquiry unit where they used to carry out their activity, for 2 years after the termination of that office.

**Article 20.** - (1) The lawyer's profession may not be practised in civil courts, criminal courts, specialised courts and appeal courts, as well as public prosecutor's offices attached to such courts, where the lawyer's relatives, spouse or in-laws, down to the third level inclusive, work.”\*

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\* **Article 17 (2) and (5), articles 18, 19 and 20 (1) were amended by Law no. 255/2004.**

(2) The provisions of paragraph (1) shall also apply accordingly to a lawyer whose spouse, relatives, or in-laws, down to the third level inclusive, act as judges with the Constitutional Court, or financial judges, audit advisors or financial public prosecutors with the courts of the Court of Audit.

“(3) The provisions of paragraph (1) shall also apply accordingly to the Department of the Public Prosecutor attached to the High Court of Cassation and Justice, as well as the National Anti-Corruption Department of the Public Prosecutor.

(4) The provisions of paragraphs (1) - (3) shall also apply to holder lawyers, associated lawyers, collaborating lawyers or lawyers paid within the profession, who use that professional organisation form or the professional collaboration relationships set out under the terms of the law for the purpose of eluding these interdictions, under the sanction of perpetrating a serious discipline departure.

**Article 21.** - (1) When signing in to the bar, a lawyer shall take the following oath before the Council of the bar:

*I swear to observe and uphold the Constitution and the laws of the country, human rights and freedoms, and to practise the lawyer's profession in honesty and dignity. So help me God!*

(2) The oath may also be taken without the religious formula.

If this is the case, the oath shall start with the words: *I swear on my honour and conscience!*

**Article 22.** - (1) A lawyer on probation may only submit conclusions with civil courts and may assist or represent parties before the bodies and institutions stipulated under article 3.

(2) A permanent lawyer shall be entitled to submit conclusions with all the courts of law, except for the High Court of Cassation and Justice and the Constitutional Court, where he/she may submit conclusions if he/she has an un-interrupted length of service in the profession of at least 5 years from becoming permanent.”\*

**Article 23.** - (1) Bars shall have the obligation to draw up, on an annual basis, tables of permanent lawyers and lawyers on probation, in an alphabetical order, stating their full names, scientific degrees, date of signing in to the bar, professional head office, form of practising the profession, and courts of law where they are entitled to submit conclusions.

“(2) The second part of the table shall be comprised of associated law offices, professional civil companies, and limited-liability professional civil companies, stating their head offices and the lawyers comprising them.

(3) Bars shall see that the annual Table of Lawyers and the changes occurred are being sent, at the beginning of each year, to the courts of law, criminal inquiry bodies and administrative authorities of that county or of Bucharest municipality, as well as to the U.N.B.R.”

**Article 24.** - (1) The Council of the bar shall issue decisions for transferring lawyers to the table of incompatible lawyers, on request or ex-officio, whereas one’s re-placement on the Table of Lawyers entitled to practise the profession shall only be done on request, after the incompatibility condition has ceased.

“(2) When there is incompatibility, the decision of acceptance to the profession shall only be effective as of the date the incompatibility condition has ceased, which must be solved within two months from decision issuance.

**Article 25.** - Practising any legal assistance activity typical of the lawyer’s profession and stipulated under article 3 by a natural or legal entity that has not the capacity of lawyer registered with a bar and does not figure on the table of that bar shall constitute a crime and shall be punished under the criminal law.”\*

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**\*Paragraphs (3) and (4) of article 20 were introduced by Law no. 255/2004, and articles 21, 22, 23 (2) and (3), 24 (2) and 25 were amended by the same act.**

*SECTION 2*  
***Ending and suspension  
of the lawyer’s capacity***

“**Article 26.** - The lawyer’s capacity shall end:

- a) following one’s written renunciation to practise the profession;
- b) as a result of one’s death;
- c) if a measure of expulsion from the profession has been taken against that lawyer as a disciplinary sanction;
- d) if such lawyer has received a final sentence for an action incriminated by criminal law and which renders him/her unworthy of being a lawyer, according to the law.

**Article 27.** - The lawyer’s capacity shall be suspended:

- a) if there is incompatibility, for the duration of such a condition;
- b) during one’s interdiction to practise, ordered by a court or disciplinary decree;
- c) if he/she has failed to fully pay or he/she has paid only partially the fees and professional contributions to the bar, to the U.N.B.R., and to the lawyer’s own social security system, for 3 months from such payments being overdue, and until all the debts have been paid;
- d) following a written request by a lawyer.”\*

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**\* Articles 26 and 27 were amended by Law no. 255/2004.**

CHAPTER III  
**Lawyer’s rights and duties**

*SECTION 1*  
***Lawyer’s rights***

**Article 28.** - (1) A lawyer appearing on the bar’s table shall be entitled to assist and represent any natural or legal entity, based on a contract concluded in a written form, which acquires a sure date after being recorded in the official registration book.

“(2) A lawyer as well as his/her client shall be entitled to give up the legal assistance contract or to amend it based on mutual consent, under the terms stipulated by the by-law of the profession.

The client’s unilateral renunciation shall not constitute a cause for exemption from the payment of the due fee for the law services performed, as well as for covering the expenses incurred by the lawyer in the interest of the client’s law suit.

**Article 29.** - A lawyer shall be entitled to elect and be elected to the profession’s managing bodies, under the terms stipulated by the present law and the by-law.

“**Article 30.** - (1) For his/her professional activity, a lawyer shall be entitled to a fee and to all the expenses incurred in the interest of his/her client’s law suit being covered.

(2) For this purpose, a lawyer may open a bank account for cashing in the fees and another one for depositing the amounts received from the client for law suit expenses in the latter’s interest. The way of managing the amounts that have been handed over to the lawyer by the client, for law suit expenses in his/her interests, shall be set out in the convention between the lawyer and the client, under the terms stipulated by the by-law of the profession.

(3) The legal assistance contract, lawfully concluded, shall be an executory title. The civil court having jurisdiction over the lawyer’s professional head office shall have competence for vesting it with an executory formula. The overdue fees and other expenses incurred by the lawyer in the interest of his/her client’s law suit shall be recovered according to the provisions of the by-law of the profession.

**Article 31.** - Legal contests and complaints against lawyer’s fees shall be solved by the president of the bar. The president’s decision may be appealed with the Council of the bar.”\*

\***Article 31<sub>1</sub>.** - Repealed.

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**\* Articles 28 (2), 30 and 31 were amended by Law no. 255/2004, and article 31<sub>1</sub> was introduced by the same act and repealed by Government Ordinance no. 94/2004.**

**Article 32.** - (1) Lawyers shall have their own social security system.

(2) The social security system of lawyers shall be regulated by the law, and shall be based on their contributions, as well as other sources stipulated by the law or the By-law of the Lawyers’ Insurance House.

(3) The time served as a lawyer shall be deemed length of service.

**Article 33.** - (1) In order to ensure professional secrecy, the professional documents and paperwork found on the lawyer or in his/her law office shall be inviolable.

A search of a lawyer or of his/her residence or law office, or taking writs and goods in custody may only be made by a public prosecutor, based on a warrant issued under the terms of the law.”\*

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**\*Article 33 (1) was amended by Law no. 255/2004.**

(2) No one shall be allowed to listen to or to record, using any kind of technical means, a lawyer’s telephone conversations, or to intercept and record his/her professional correspondence, except for the conditions and using the procedure stipulated by the law.

**Article 34.** - The contact between a lawyer and his/her client may not be hindered or controlled, directly or indirectly, by any state body.

“(2) If a client is under arrest or placed in detention, the administration of the arrest or detention facility shall have the obligation to take all necessary steps for complying with the rights stipulated under paragraph (1).

**Article 35.** - Individual lawyers, associated law offices, professional civil companies, and limited-liability professional civil companies shall be entitled to a professional head office



within the jurisdictional district of the bar they are registered with, and to secondary offices in some other Romanian or foreign bars in whose records they appear.”\*

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**\*Paragraph (2) of article 34 was introduced by Law no. 255/2004, and article 35 was amended by the same act.**

**Article 36.** - The Ministry of Justice shall provide the necessary spaces for lawyer’s activities in the headquarters of the courts of law.

**Article 37.** - (1) In the exercise of their profession, lawyers shall be protected by the law, and may not be assimilated to civil servants or other employees.

(2) Insults, slandering, or threats against a lawyer while exercising his/her profession and in connection with it shall be punishable by prison from 3 months to 2 years, or a fine.

(3) Battering or other acts of violence against a lawyer under the terms of paragraph (2) shall be punishable by prison from 6 months to 3 years.

(4) A criminal action shall be started following the prior complaint by the injured party, and, for the actions stipulated under paragraph (3), ex-officio too. If the prior complaint is withdrawn, or the parties reach an agreement, any criminal liability shall be removed.

“(5) A lawyer shall have the obligation to observe the solemnity of the court being held, not to use words or phrases liable to harm the authority, dignity and honour of the court, the public prosecutor, the other lawyers and the parties or their representatives to the law suit.

(6) A lawyer shall not be criminally liable for statements made orally or in writing, in an adequate form and in compliance with the provisions of paragraph (5), before courts of law, criminal inquiry bodies or other jurisdictional administrative bodies, only if such statements are in connection with that cause’s defence and necessary for establishing the truth.

(7) The lawyer’s failure to comply with the provisions of paragraphs (5) and (6) shall constitute a serious discipline departure. Disciplinary liability shall not preclude criminal or civil legal liability, as applicable.

**Article 37<sub>1</sub>.** - The criminal inquiry against and prosecution of a lawyer for criminal actions perpetrated in the exercise of his/her profession or in relation to it may only take place based on the approval by the general public prosecutor of the public prosecutor’s office attached to the appeal court in whose jurisdictional district the actions have been perpetrated.”\*

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**\* Article 37 (5) and (6) was amended by Law no. 255/2004, and paragraph (7) of article 37 and article 37<sub>1</sub> were introduced by the same act.**

## SECTION 2 Duties of lawyers

**Article 38.** - A lawyer shall be bound to thoroughly study the cases entrusted to him/her, taken by him/her or received ex-officio, to appear before the court on each deadline set by the court, the criminal inquiry bodies or other institutions, based on the mandate entrusted to him/her, to show consciousness and professional integrity, to plead with dignity before the judges and the parties in the law suit, to submit written conclusions or notes whenever the nature or difficulty of the cause requires it or the court of law so orders. The lawyer’s failure to meet such professional duties that may be imputable to him/her shall constitute a discipline departure.”\*

**Article 39.** - A lawyer shall have the obligation to provide legal assistance for which he/she has been assigned ex-officio or free of charge by the bar.

**Article 40.** - A lawyer shall have the obligation to make an insurance for professional liability, under the terms stipulated by the by-law of the profession.

**Article 41.** - A lawyer shall have the obligation to participate in all the meetings summoned by the Council of the bar, in the professional activities and meetings of the managing bodies he/she belongs to. Repeated absences and without good grounds shall constitute a discipline departure.

“**Article 42.** - A lawyer shall have the obligation to keep the records required by the law and the by-law as regards the causes he/she is engaged in, and to pay on a regular basis and in due time the fees and contributions set for the establishment of the bar budget and the funds of the Lawyers’ Insurance House of Romania and its branches. The U.N.B.R. budget shall be comprised of the contributions by the bars, set out under the law and the by-law of the profession.”\*

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**\*Articles 38 and 42 were amended by Law no. 255/2004.**

**Article 43.** - A lawyer shall be bound to return the documents entrusted to him/her to the person from whom he/she received them.

**Article 44.** - (1) A lawyer may not assist or represent parties with conflicting interests in the same cause or in related causes, and may not plead against a party having previously consulted him/her about the actual disputed aspects of the cause.

(2) A lawyer may not be heard as a witness and may not provide information to any authority or person regarding a cause entrusted to him/her, unless he/she has the prior express and written consent of all his/her clients interested in the cause.

(3) The witness’ capacity shall take precedence to that of lawyer as regards the actions and circumstances he/she became acquainted with before having become the defender or representative of any party involved in the cause.

(4) If heard as a witness, a lawyer may no longer carry out any professional activity in that cause.

(5) A lawyer may not act as an expert or translator in a cause in which he/she is hired as a defender.

“**Article 45.** - (1) A lawyer shall have the obligation to wear a robe before the courts of law.

(2) The characteristics of the robe shall be those set out in the by-law of the profession.

(3) Wearing the robe outside the precincts of the courts of law shall be prohibited, except when a lawyer is delegated by the bodies of the profession to represent the bar of the U.N.B.R. on an occasion that requires that attire.”\*

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**\*Article 45 was amended by Law no. 255/2004.**

**Article 46.** - (1) A lawyer shall be prohibited from using, either directly or by means of intermediaries, procedures that are incompatible with professional dignity, for the purpose of attracting clients.

(2) A lawyer shall also be prohibited from using advertising or publicity means for the same purpose.

The by-law shall set out the instances when and the extent to which a lawyer may inform the public in connection with the practice of his/her profession.

## CHAPTER IV Organisation of the lawyer’s profession

### SECTION I Bar

**Article 47.** - (1) The lawyer's profession shall be organised and shall operate based on the principle of autonomy, within the limits of the competence stipulated in the present law.

(2) The managing bodies of the lawyer's profession shall only be elected by means of secret ballot.

(3) Collegiate managing bodies shall only make decisions by means of a show of hands. Deliberations and voting shall constitute a professional secret.

**Article 48.** - (1) A bar shall be comprised of all the lawyers in a county or in Bucharest municipality. The head office of the bar shall be located in the county capital, or Bucharest municipality, respectively.

(2) A bar shall act as a legal entity, having its own assets and its own budget.

(3) The contribution by the lawyers in making up the budget shall be set out by the Council of the bar.

(4) The bar assets may be used in activities that generate revenues, under the terms of the law.

**Article 49.** - The bar's managing bodies shall be as follows:

a) general meeting;

b) council;

c) president.

**Article 50.** - (1) The general meeting shall be comprised of all the lawyers appearing in the bar's Table as being entitled to practise the profession.

(2) The powers of the general meeting shall be as follows:

a) to set out steps for practising the profession in that bar, within the limits of the law and the by-law;

b) to elect and dismiss the president of the bar, the council members, the members of the board of auditors, and those of the Disciplinary Committee.

The president of the bar shall be elected for a 4-year term of office and may only be re-elected once.

The president of the bar shall be elected from amongst the lawyers with a minimum length of service of 8 years in the profession;

c) to elect the bar's delegates to the Lawyers' Congress;

d) to approve the bar's draft budget and discharge the council as regards its activity and administration.

**Article 51.** - (1) An ordinary general meeting shall reunite on an annual basis, during the first quarter, following summoning by the Council of the bar.

“(2) The summoning shall be posted at the bar head office, at the head offices of assistance offices in that county, and published in a local newspaper, at least 15 days before the date set.”

(3) An extraordinary general meeting may be summoned by the Council of the bar or the board of auditors.

(4) Following the request by over one third of all the bar members, the council shall have the obligation to summon an extraordinary general meeting no later than 15 days from the receipt of the request. In this instance, the summoning procedure shall apply at least 7 days before the date set.

(5) The general meeting session shall be chaired by the president of the bar together with 5 members elected by means of a show of hands by the people present, one of whom shall be designated as a secretary. In the event the president of the bar or council members are being elected or dismissed, none of them shall be included in the presidium, and the session shall be chaired by the oldest member present.

**Article 52.** - (1) The general meeting shall be lawfully constituted in the presence of the majority of its members.

(2) If the lawful number is not met, the general meeting presidium, in the presence of the people there, shall set out a new general meeting no later than 15 days.

The Council of the bar shall have the obligation to complete the summoning procedure at least 7 days before the date set.

(3) The general meeting summoned under these circumstances shall be lawfully constituted with the participation of at least one third of all its members.

“(3<sub>1</sub>) General meetings for electing the bar managing bodies shall be lawfully constituted in the presence of the majority of the bar members. As far as Bucharest Bar is concerned, the election of the bar managing bodies shall be done after the electing representatives are designated, according to the procedure set out by the by-law of the profession.

(4) General meeting decisions shall be made based on the vote of the majority of the members present, except when the law stipulates another session and voting quorum.”\*

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**\*Article 51 (2) and article 52 (4) were amended by Law no. 255/2004, and paragraph (3<sub>1</sub>) of article 52 was introduced by the same act.**

**Article 53.** - (1) A Council of the bar shall be comprised of 5 to 15 members, elected for a 4-year term of office. The president and the vice-president of the bar shall be included in that number.

“(2) The powers of the Council of the bar shall be as follows:

a) to adopt decisions for the implementation of, and the compliance with the provisions of the present law and the by-law of the profession;

b) to implement the decisions made by the Council of U.N.B.R. and the general meeting of that bar;

c) to prepare, amend and publish the annual Table of Lawyers, members of the bar, and to notify it to the competent authorities;

d) to take steps for the organisation of professional, discipline and deontological checks, for the solution of written notes and complaints, under the terms stipulated by the law and the by-law of the profession;

e) to check and find that the lawful conditions have been met as regards the applications for acceptance to the profession, and to approve one’s acceptance to the profession based on an examination or with exemption from examination;

f) to make a decision on an incompatibility condition and its termination;

g) to solve transfer applications in compliance with the provisions of the law and the by-law of the profession;

h) to check and find that the papers for the constitution of, amendment to, and change in the forms of practising the profession, as well as the grouping or professional collaboration conventions, meet the requirements stipulated by the law and the by-law of the profession; to organise and keep records of such documents;

i) to co-ordinate the activity of the branches or subsidiaries of the Lawyers’ Insurance House within its jurisdictional district;

j) to organise term lectures and study circles, and to have the bar’s publications printed;

k) to organise and guide the activity of legal assistance services in that county, according to the law and the by-law of the profession;

l) to notify the Disciplinary Committee for judging disciplinary departures by lawyers;

m) to suspend from the exercise of the profession, for as long as the failure to pay the fees subsides, a lawyer who fails to pay the fees and contributions stipulated by the law and the by-law of the profession within 3 months after they become overdue, if warned about the non-payment and still not meeting the obligation;

n) to solve legal contests against the president of the bar’s decision as regards lawyer’s fees;

- o) to set a contribution share for the lawyers towards the bar budget;
- p) to accept donations and legates made to the bar;
- q) to approve the list of positions and to hire bar personnel;
- r) to draw up the annual draft budget to be submitted to the general meeting, and to manage the bar assets;
- s) to present the annual report of the council's and president's activity, of current administration and of bar assets administration, for approval;
- t) to elect the vice-president of the bar;
- u) to solve complaints and legal contests against decisions by the president of the bar;
- v) to carry out any other powers stipulated by the law or decided upon by the Council of U.N.B.R. or the U.N.B.R. executive bureau.”\*

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**\*Article 53 (2) was amended by Law no. 255/2004.**

**Article 54.** - A Council of the bar shall work lawfully in the presence of two thirds of the number of its members, and make valid decisions based on the vote by the majority of the members present.

**Article 55.** - (1) The president of the bar shall have the following powers:

- a) to represent the bar in its relationships with natural and legal entities, either Romanian or foreign;
- b) to summon and to chair the meetings of the Council of the bar;
- c) to approve applications for free legal assistance;
- d) to exercise the ways of appeal against decisions by the Disciplinary Committee and decisions by the Council of the bar for which ways of appeal are being stipulated;
- e) to order bar expenditures;
- f) to take steps regarding bar management for which the general meeting or the bar have no competence;
- “g) to carry out any other powers stipulated by the law or decided upon by the U.N.B.R. managing bodies and for which he/she has competence.

(2) The vice-president of the bar shall replace the president on the latter's request or in his/her absence.

(3) If the president and the vice-president of the bar should be temporarily unable to carry out their positions, the Council of the bar may delegate an advisor to carry out part of or all the president's powers.

(4) At Bucharest Bar, the Council of the bar shall elect two vice-presidents. The president of the bar shall be replaced, on request or in his/her absence, by the vice-president he/she designates in writing.

**Article 56.** - A lawyer who is dissatisfied with the president of the bar's decision may appeal it before the Council of the bar.”\*

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**\* Letter g) of paragraph (1) and paragraph (4) of article 55 were introduced by Law no. 255/2004, and article 55 (2) and (3) and article 56 were amended by the same act.**

## *“SECTION 2*

### *National Association of the Romanian Bars - U.N.B.R.*

**Article 57.** - (1) The National Association of the Romanian Bars - U.N.B.R., shall be comprised of all the bars in Romania, and its head office shall be in the country's capital, Bucharest Municipality.

(2) The U.N.B.R. shall be a public-interest legal entity, having its own assets and its own budget.

(3) The U.N.B.R. budget shall be made up of the contributions by bars, in the shares set out by the Lawyers' Congress.

The U.N.B.R. assets may also be used in activities that generate revenues, under the terms of the law.

(4) A bar of lawyers shall only be constituted and function within the U.N.B.R., under the present law and the by-law of the profession.

(5) The U.N.B.R. shall be the rightful successor to the Romanian Bar Association.

**Article 58.** - (1) The U.N.B.R. managing bodies shall be as follows:

- a) the Lawyers' Congress;
- b) the Council of U.N.B.R.;
- c) the U.N.B.R. Standing Committee;
- d) the President of U.N.B.R..

(2) The following bodies shall be set up and shall function within the U.N.B.R.:

- a) the Central board of auditors;
- b) the Central Disciplinary Committee;
- c) the technical-administrative personnel.

**Article 59.** - (1) The Lawyers' Congress shall be constituted from delegates of each bar, according to the representation standard established by the by-law of the profession, and from the members of the Council of U.N.B.R..

(2) The Lawyers' Congress shall reunite on an annual basis, in an ordinary session, following the summoning by the Council of U.N.B.R..

(3) At the request by at least one third of the number of bars, the Council of U.N.B.R. shall have the obligation to summon the Lawyers' Congress in an extraordinary session.”\*

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**\*The title of Section 2 and articles 57-59 were amended by Law no. 255/2004.**

**Article 60.** - (1) The congress shall be summoned at least one month before the date set, by written notification sent to the bars and published in a central newspaper.

The Councils of the bars shall have the obligation to post the date of summoning and the agenda at the bar's head office and at the courts of law within their jurisdictional district.

(2) Bars shall be bound to elect their delegates at least 10 days before the congress.

(3) The Congress shall be lawfully constituted in the presence of two thirds of the number of its members, and shall adopt decisions based on the votes of the majority of the members present.

**Article 61.** - (1) The Lawyers' Congress shall have the following powers:

- a) to review and to approve the annual report by the Council of U.N.B.R.;
- b) to elect the Central Board of Auditors and the Managing Board of the Lawyers' Insurance House;
- c) to forward proposals on the lawyer's profession to the authorities entitled to a legislative initiative;
- d) to adopt and to amend the by-law of the profession and the by-law of the Lawyers' Insurance House, in accordance with the provisions of the present law and based on drafts prepared by the Council of U.N.B.R.;
- e) to adopt decisions regarding the relationships between bars, the improvement of professional training, and the compliance with the profession's rules of conduct;
- f) to elect and dismiss the members of the Central Disciplinary Committee. Each bar shall be entitled to propose one candidate for the Central Disciplinary Committee. The competence and judging proceedings of the Central Disciplinary Committee shall be set out in the by-law;

g) to approve the annual budget of the Lawyers' Insurance House and the annual budget execution;

h) to approve the annual budget of the U.N.B.R. and its annual budget execution, and to set out the contribution share of bars to the establishment of the U.N.B.R. budget. The necessary expenditures for the organisation of congresses shall be covered by each bar, depending on the number of its representatives.”\*

(2) Congress decisions shall be final and mandatory to all the bodies of the profession.

“**Article 62.** - (1) The Council of U.N.B.R. shall be comprised of the presidents of the bars and the bars' representatives elected according to the representation standard set out in the by-law of the profession.

(2) The Council of U.N.B.R. members' term of office shall be 4 years. If the office of any one of them should cease, his/her substitute shall take over the office for the remaining term. The substitute shall be designated under the terms stipulated under paragraph (1).”\*

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**\* Article 61 (1) and article 62 (1) and (2) were amended by Law no. 255/2004, and paragraph (1) of article 62 was also amended by Law no. 489/2002.**

(3) If the president of a bar should be replaced, the new president shall rightfully replace his/her predecessor. The other vacancies shall be filled in at the next Lawyers' Congress.

“(4) The Council of U.N.B.R. shall reunite on a quarterly basis, following the summoning by the President of U.N.B.R.. The summoning shall be sent at least 15 days before the meeting date.

(5) At the request of at least one third of the number of members of the Council of U.N.B.R. or under exceptional circumstances, the President of U.N.B.R. shall summon the Council of U.N.B.R. in an extraordinary meeting no later than 10 days from the date of request or of the event calling for it.

(6) The Council of U.N.B.R. shall work validly in the presence of at least two thirds of the number of its members, and shall adopt valid decisions based on the votes of the majority of members present.

**Article 63.** - The Council of U.N.B.R. shall have the following powers:

a) it shall be the representative and deliberative body of the bars in Romania and shall ensure the U.N.B.R. permanent activity;

b) it shall put into effect the decisions by the Lawyers' Congress;

c) it shall solve any issues regarding the lawyer's profession between the sessions of the Lawyers' Congress, except for those which belong to the sole competence of the Lawyers' Congress;

d) it shall exercise control over the activity and decisions by the U.N.B.R. Standing Committee;

e) it shall organise the examination that tests the foreign lawyers' knowledge of Romanian law and Romanian language;

f) it shall organise and run the activity of the National Institute for the Training and the Improvement of Lawyers, established as a non-profit, private-law legal entity and which does not belong to the national educational system and is not subject to authorisation and accreditation procedures;

g) it shall adopt decisions in all issues regarding the professional training and improvement of lawyers, as well as recommendations on the relationships between bars;

h) it shall ensure the equal character of the examination for acceptance to and becoming a permanent lawyer in the profession;

i) it shall organise and monitor the U.N.B.R. general statistics service;

- j) it shall organise and have the U.N.B.R. publications published, and support bars' publications;
- k) it shall draw up the U.N.B.R. draft budget and submit it to the Lawyers' Congress for approval, as well as the annual budget execution of the U.N.B.R. budget;
- l) it shall prepare the annual report on the U.N.B.R. activity and assets administration, and submit it to the Lawyers' Congress for approval;
- m) it shall insist towards the accomplishment of the U.N.B.R. budget, and the bars implementing the decisions adopted by the Lawyers' Congress and the Council of U.N.B.R.;
- n) it shall elect, for a 4-year term of office, and dismiss, the president and vice-presidents of U.N.B.R. and the members of the U.N.B.R. Standing Committee, from amongst its members, who are lawyers with a length of service of 10 years in the profession;
- o) it shall check that the decisions of acceptance to the profession, made by the Councils of the bars, are lawful and have good grounds, at the request of the persons concerned;
- p) it shall cancel bar's decisions on grounds of unlawfulness, and solve the complaints and legal contests filed against decisions adopted by the Councils of the bars, in the instances stipulated by the law and the by-law of the profession;
- q) it shall establish the Lawyers' Central House of Credit and Support, and control its activity;
- r) it shall co-ordinate the activity of the Lawyers' Insurance House, and adopt its regulations;
- s) it shall also carry out other powers stipulated by the law, and adopt decisions in the interest of the profession, in compliance with the law;
- t) following the proposal by the U.N.B.R. Standing Committee, it shall confer the title of U.N.B.R. honorary member, or U.N.B.R. honorary president, respectively.

**Article 64.** - The U.N.B.R. Standing Committee shall be comprised of 15 members, 5 of whom are representatives of Bucharest Bar, and 10 of whom are representatives of the other Romanian bars. The president and vice-presidents of U.N.B.R. shall be rightful members of the U.N.B.R. Standing Committee, and shall be included in the 15 members.

The term of office of the U.N.B.R. Standing Committee members shall be of 4 years. If the office of a U.N.B.R. Standing Committee member should cease, his/her substitute shall be designated using the same criteria, and such substitute shall serve for the remaining term of office. One of the members of the U.N.B.R. Standing Committee shall act as its secretary and he/she shall be designated by vote of the U.N.B.R. Standing Committee.

The President of U.N.B.R. shall also be the president of the U.N.B.R. Standing Committee.

**Article 65.** - (1) The powers of the U.N.B.R. Standing Committee shall be as follows:

- a) it shall be the executive body of the Council of U.N.B.R., with a permanent activity and acting as a liaison with the U.N.B.R. bars;
- b) it shall put into effect the decisions by the Lawyers' Congress and the Council of U.N.B.R., and monitor the execution of such decisions by bars, adopting adequate decisions;
- c) it shall organise the services of the Council of U.N.B.R. and its own services, and hire their personnel;
- d) it shall ensure the budget execution and monitor how the resources of the U.N.B.R. budget are attained;
- e) it shall accept donations and legates made to the U.N.B.R.;
- f) it shall issue executory decisions in meeting its powers.

(2) The U.N.B.R. Standing Committee shall be chaired by the President of U.N.B.R. and shall work and make decisions validly in the presence of the majority of its members.

(3) The U.N.B.R. Standing Committee shall also carry out other powers set out by the law or the higher bodies of the profession.

**Article 66.** - (1) The powers of the President of U.N.B.R. shall be as follows:

- a) to represent the U.N.B.R. in its relationships with natural and legal entities both in Romania and abroad;



- b) to conclude conventions, agreements and contracts on behalf of the U.N.B.R., with the Council of U.N.B.R.'s authorisation;
  - c) to summon and chair the meetings of the Council of U.N.B.R. and those of the U.N.B.R. Standing Committee;
  - d) to order the U.N.B.R. budget and extra-budget expenditures;
  - e) to sign the documents of the Council of U.N.B.R. and Standing Committee;
  - f) to monitor the relationships between the profession's central structures and bars, as well as the relationships between bars;
  - g) to provide support and help to bars in their relationships with the central and local authorities;
  - h) to see that the adequate conditions are being ensured for the activities of the lawyers with the courts of law and criminal inquiry bodies.
- (2) The president shall be substituted, at his/her request or in his/her absence, by the vice-president designated by him/her for this purpose.
- Article 67.** - The Council of U.N.B.R. shall establish the necessary personnel for the President of U.N.B.R. to carry out his/her powers.”\*

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\* Paragraphs (4) - (6) were introduced by Law no. 255/2004, and articles 63 - 67 were amended by the same act.

## CHAPTER V

### Judicial assistance

**Article 68.** - (1) The bar shall provide judicial assistance in all cases where defence is mandatory under the law, as well as at the request of the courts of law, criminal inquiry bodies, or local public administration bodies, when it is believed that the persons in question are obviously unable to pay the lawyer's fee.

(2) In exceptional cases, if the rights of the person lacking material means were to be prejudiced because of the delay, the president of the bar may approve the provision of free assistance.

(3) The bar shall organise judicial assistance services at the head offices of all courts of law in that county, providing judicial assistance, and with the local criminal inquiry bodies, each of them being run by a permanent lawyer, appointed by the Council of the bar; all such services shall be co-ordinated by a council member.

**Article 69.** - (1) In causes where judicial assistance is provided ex-officio at the request of the courts of law or criminal inquiry bodies, the lawyer's fees shall be paid from the funds of the Ministry of Justice.

(2) In causes where judicial assistance is provided ex-officio at the request of local public administration bodies, the lawyer's fees shall be paid from the funds of such bodies.

## CHAPTER VI

### Disciplinary liability

**Article 70.** - (1) A lawyer shall be liable, as regards discipline, for failure to comply with the provisions of the present law or the by-law, for failure to comply with the mandatory decisions adopted by a bar or the Association's managing bodies, as well as for any actions perpetrated in connection with the profession or outside it, which are liable to cause prejudice to the honour and prestige of the profession or the institution.

(2) The lawyer who runs the judicial assistance service attached to each court of law shall have the obligation of notifying the Council of the bar, in writing, about the actions perpetrated by any lawyer under the terms of the provisions of paragraph (1).

(3) The courts of law and the public prosecutor's offices of the Department of the Public Prosecutor shall have the obligation to forward any complaint filed against a lawyer to his/her bar and notify it about any criminal inquiry or prosecution action started against a lawyer.

**Article 71.** - (1) The competence for the investigation of the discipline departure and the undertaking of a disciplinary action shall belong to the Council of the bar.

“(2) The competence for the investigation of the discipline departure and the undertaking of a disciplinary action concerning presidents of the bars and members in the Council of U.N.B.R. shall belong to the Council of U.N.B.R.. The person under investigation or being prosecuted shall not participate in the decision making.”\*

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**\* Article 71 (2) was amended by Law no. 255/2004**

(3) The members of the Standing Committee who are under investigation may not participate in the debates aimed at making the decision for the implementation of a disciplinary action.

(4) In all cases, a disciplinary action may be taken no later than one year from the date on which the discipline departure was committed.

**Article 72.** - (1) Within each bar, a Disciplinary Committee shall be organised and shall function that will judge, as a first court comprised of 3 members, the discipline departures committed by lawyers belonging to that bar.

“(2) Within the U.N.B.R., the Central Disciplinary Committee shall be organised and shall function, judging:

a) as a first court, comprised of 3 members, the discipline departures committed by the Council of U.N.B.R. members and presidents of the bars;

b) legal contests, in a court comprised of 5 members, according to the provisions of the by-law of the profession.

(3) The appeal filed against a disciplinary decision by the Central Disciplinary Committee, as a first court, shall be judged by the Council of U.N.B.R., constituted as a disciplinary court in its plenum, except for the person involved in the cause.

(4) The interested party may file an appeal against the decisions made according to paragraphs (2) and (3), with the Division of Contentious Civil Disputes of Bucharest Appeal Court, the decision of which shall be final and irrevocable.

(5) The procedure of judging discipline departures shall be set out in the by-law of the profession and completed by the provisions of the Civil procedure code.”\*

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**\* Article 72 (2) - (4) was amended by Law no. 255/2004, and paragraph (5) was introduced by the same act.**

**Article 73.** - (1) Disciplinary sanctions shall consist of:

a) a reprimand;

b) a warning;

“c) a fine of ROL 500 000 to 5 000 000, which will become part of the bar budget. The fine shall be paid within 30 days from the date of the disciplinary decision becoming final. The failure to pay the fine within the set delay shall entail one's rightful suspension from the exercise of the profession until the amount is paid. The limits of disciplinary fines shall be updated on a regular basis by the Council of U.N.B.R., according to inflation rate.”\*

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**\* Article 73 (1) c) was amended by Law no. 255/2004.**

d) an interdiction to practise the profession for a time period of one month to one year;  
e) one's expulsion from the profession.

(2) During the interdiction period, a lawyer may not provide any legal assistance whatsoever, may not use his/her lawyer's capacity and may not participate in the activity of professional bodies.

(3) A disciplinary decision may be appealed by the interested person, the president of the bar, or the Association's president, within 15 days from notification.

**Article 74.** - (1) If an obvious and serious discipline departure has been found, the disciplinary court may take the step of suspending the lawyer in question from the practice of the profession until the final judgement of the cause.

(2) An appeal may be filed against the measure taken in that decision, within 5 days from notification.

(3) The appeal shall suspend the execution and shall be solved on an urgent basis.

## CHAPTER VII Lawyers' Insurance House

**Article 75.** - (1) The Lawyers' Insurance House shall be organised and shall function within the U.N.B.R., for the purpose of establishing and granting the pensions and social benefits due to lawyers and their successors having their own rights to pensions, under the terms stipulated by the special law.

(2) The organisation and functioning of the Lawyers' Insurance House shall be set out by the Lawyers' Congress, in the House's by-law."\*

**Article 76.** - (1) All active lawyers, retired lawyers and their successors with own rights to pensions and social benefits shall be members of the Lawyers' Insurance House.

"(2) A lawyer registered with a bar and entitled to practise the profession shall have the obligation to contribute to the establishment of the fund of the Lawyers' Insurance House. His/her contribution may not be less than the amount set by the Council of U.N.B.R., so that it may cover the current payment needs of the Lawyers' Insurance House. Lawyers may also participate in other forms of social securities."\*

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\* **Article 75 and 76 (2) were amended by Law no. 255/2004.**

**Article 77.** - (1) The time period during which a lawyer acts as a deputy or a senator shall be taken into consideration when calculating his/her length of service in the lawyer's profession. The emoluments due to members of the Parliament and the other amounts of money cashed in shall be regarded as revenues resulting from one's profession and taken into account when the Lawyers' Insurance House decides on one's pension.

(2) The financial settlements between the Lawyers' Insurance House and the public social security system shall take place according to the law.

**Article 78.** - (1) The Lawyers' Insurance House shall act as a legal entity, having its own assets and its own budget. Its head office shall be in Bucharest municipality. Its assets may be used for economic activities that generate revenues, under the terms of the law, based on the consent of the Association's Council.

(2) The Lawyers' Insurance House may establish branches and subsidiaries, under the terms and using the procedure stipulated in its organisation and functioning By-law.

**Article 79.** - (1) The Lawyers' Insurance House shall be run and managed by a board comprised of 5 members, 3 of whom shall be active lawyers and 2 retired lawyers, elected by the Congress for a 4-year term of office.

“(2) The board shall elect a president and a vice-president from amongst its members. One of the members, designated by the president, shall also act as a board secretary.”\*

**\* Article 79 (2) was amended by Law no. 255/2004.**

**Article 80.** - (1) The financial audit of the Lawyers’ Insurance House shall be performed by the board of auditors, comprised of 3 members, 2 of whom shall be active lawyers and one, a retired lawyer.

(2) Bars and lawyers shall have the obligation to make available to the board of auditors and the financial inspectors of the Lawyers’ Insurance House all the data on the revenues from which the contributions for the pension and social benefit fund are being retained.

“CHAPTER VII<sub>1</sub>\*

**Practising the lawyer’s profession in Romania  
by lawyers who have obtained their professional qualification  
in one of the Member States of the European Union  
or the European Economic Space**

**\* Chapter VII<sub>1</sub> was introduced by Law no. 201/2004, which shall come into effect on the date of Romania’s accession to the European Union. “The provisions of the temporary arrangement proposed by the European Union regarding the restriction of the lawyers’ circulation freedom for a period not exceeding 7 years shall apply on a mutuality basis.”**

*SECTION 1*

***General provisions***

**Article 80<sub>1</sub>.** - The provisions of the present chapter shall apply to lawyers having obtained their professional qualification in one of the Member States of the European Union or the European Economic Space, who practise their profession on the Romanian territory:

- a) independently or in association;
- b) as paid lawyers in Romania;
- c) by providing services.

**Article 80<sub>2</sub>.** – Within the meaning of the present chapter:

- a) a *lawyer* shall be any person originating from a Member State of the European Union or the European Economic Space, who is authorised to carry out his/her professional activities under the adequate professional title obtained in a Member State;
- b) a *Member State of origin* shall be the Member State of the European Union or of the European Economic Space where a lawyer has obtained the right to use one of the professional titles stipulated under a), before practising the lawyer’s profession in Romania;
- c) a *professional title from the Member State of origin* shall be the professional title used in the Member State where a lawyer has obtained the right to use that title, before practising the lawyer’s profession in Romania;
- d) a *group* shall be any entity, either legal or not, organised under the legislation of a Member State, inside which lawyers carry out their professional activities together, under a joint name;
- e) a *professional title from Romania* shall be the professional title under which a lawyer has been entered in the Table of Lawyers in Romania;
- f) *the competent Romanian authority* shall be the structure within the National Association of the Romanian Bars designated according to the by-law.

**Article 80<sub>3</sub>** - The lawyers who practise in Romania under the professional title from the Member State of origin may carry out the same professional activities as the lawyers who practise under the professional title obtained in Romania, may provide legal assistance, and may represent natural or legal entities before Romanian courts of law, regarding the law of their Member State of origin, community law, international law, as well as Romanian law, in compliance with the rules of procedure applicable before Romanian courts of law.

**Article 80<sub>4</sub>**. - (1) The lawyers practising in Romania under the professional title from the Member State of origin shall use the denomination under which they practise their profession in their Member State of origin, expressed in the official language or in one of the official languages of the Member State of origin in question.

(2) Besides the denomination stipulated under paragraph (1), the denomination shall also state, alongside the legal form of practising the profession in Romania, the legal form of the group in the Member State of origin.

(3) The competent Romanian authority may require a lawyer practising under the professional title obtained in his/her Member State of origin to state the professional group he/she belongs to in the Member State of origin or the judicial authority inside which he/she has been admitted to practise his/her profession, according to the law of the Member State of origin.

(4) A lawyer who obtains acceptance to the lawyer's profession in Romania under the terms of articles 805 or 8 014 shall be entitled to use the professional title from his/her Member State of origin, expressed in the official language or in one of the official languages of that Member State of origin, alongside a professional title corresponding to the lawyer's profession in Romania.

**Article 80<sub>5</sub>**. - (1) Regardless of the form of practising the activity on the Romanian territory, lawyers who practise under the professional title from their Member State of origin may, at any time, request an acknowledgement of their diplomas, with a view to being admitted to the lawyer's profession and practising it under the Romanian professional title.

(2) In view of having his/her diplomas acknowledged in Romania, the applicant shall be bound, at his/her choice, to either take an examination testing his/her knowledge, or complete a 3-year term in the field of Romanian law.

(3) The National Association of the Romanian Bars shall set out the membership of the board of evaluation, as well as the contents and the progression of the examination or term, as applicable.

(4) When an application for diploma acknowledgement is submitted, with a view to determining the contents and progression of the examination or the term period, the evaluation board shall first check that the professional experience acquired by the applicant is such that it can cover, entirely or partially, the differences between the Romanian law and that of the Member State of origin where the diploma was obtained, in order to grant a partial or full exemption from compliance with the terms stipulated under paragraph (2).

(5) The provisions of the present article shall be completed by the provisions of the framework legislation on mutual acknowledgement of professional qualifications.

**Article 80<sub>6</sub>**. - (1) The Romanian competent authority and the competent authorities in the Member States of origin shall collaborate for an adequate implementation of the provisions of the present law, the information obtained inside this collaboration being confidential.

(2) The competent authority in the Member State of origin may file remarks during the disciplinary procedures that take place against a lawyer practising under that state's professional title.

## *SECTION 2*

### *Permanent practising of the profession in Romania by lawyers having obtained their professional qualification*

*in one of the Member States of the European Union  
or the European Economic Space*

**Article 80<sub>7</sub>.** - (1) Under the terms of the present section, any one of the lawyers stipulated under article 80<sub>2</sub> a) may carry out the activities stipulated under article 80<sub>3</sub> on the Romanian territory, on a permanent basis and under the professional title from the Member State of origin.

(2) Lawyers who permanently practise their activity on the Romanian territory may acquire the professional title in force in Romania either under the terms stipulated under article 80<sub>5</sub>, or according to article 80<sub>14</sub>.

**Article 80<sub>8</sub>.** - (1) A lawyer who wishes to practise in Romania under the professional title from the Member State where he/she obtained his/her professional qualification shall be entered in the special table kept by Romanian bars, under the terms of the present article, article 12 (6), and the by-law of the profession.

(2) The competent Romanian authority shall register the applying lawyer after he/she has produced a certificate stating his/her registration with the competent authority in the Member State of origin. The competent Romanian authority shall inform the competent authority in the Member State of origin about the registration.

(3) The certificate stipulated under paragraph (2) shall be issued no more than 3 months before the application is filed for placement on the Table of Lawyers in Romania.

(4) When publishing the names of the lawyers registered in Romania, the competent Romanian authority shall also publish the names of the lawyers registered under the present section.

**Article 80<sub>9</sub>.** - (1) Steps shall be taken for lawyers who practise under the professional title from their Member State of origin to be adequately represented in the lawyers' professional associations in Romania, according to the provisions of the present law and the by-law of the profession; they shall be at least entitled to participate in the election of the managing bodies of such associations.

(2) Lawyers who practise under the professional title from their Member State of origin shall have the obligation to either make an insurance for professional liability, under the terms stipulated by the by-law of the profession, or become members of the Lawyers' Insurance House, under the terms stipulated under chapter VII.

(3) Lawyers may be exempted from the obligations stipulated under paragraph (2) if they prove they are in possession of an insurance paid or some other security given under the terms of the law from the Member State of origin, as long as such insurance or security is equivalent as regards the terms and coverage. If the coverage is only partial, the lawyers shall have to conclude an additional insurance in order to cover the aspects not figuring in their original insurance or security given according to the regulations of the Member State of origin.

**Article 80<sub>10</sub>.** - Lawyers registered in Romania under their professional title from the Member State of origin may practise as paid personnel for any one of the forms of practising the profession permitted for lawyers practising under the professional title obtained in Romania.

**Article 80<sub>11</sub>.** - Lawyers who practise in Romania under the professional title from their Member State of origin shall be subject to the same rules of professional conduct stipulated in the present law and in the by-law of the profession as the lawyers who practise under the professional title obtained in Romania, for the activities carried out on the Romanian territory.

**Article 80<sub>12</sub>.** - (1) The lawyers stipulated in the present chapter shall be liable, as far as discipline is concerned, for the failure to comply with the present law or the by-law, according to the provisions of chapter VI.

(2) Before initiating disciplinary procedures against a lawyer who practises under the professional title from the Member State of origin, the competent Romanian authority shall

inform the competent authority in the Member State of origin as soon as possible, providing all useful information in the cause.

(3) The competent Romanian authority shall co-operate with the competent authority in the Member State of origin throughout the progression of disciplinary procedures.

(4) The competent authority in the Member State of origin withdrawing, on a permanent or temporary basis, one's authorisation to practise the lawyer's profession shall cause the mandatory interdiction, either temporary or permanent, of the lawyer in question to practise in Romania under the professional title from the Member State of origin.

**Article 80<sup>13</sup>.** - (1) One or several lawyers from the same group or the same Member State, who practise under the professional title from their Member State of origin, may practise in Romania by establishing a secondary office of such group, organised as any form of practising the lawyer's profession stipulated by the Romanian law.

(2) The lawyer's profession may also be practised within the associated forms stipulated by the Romanian law as follows:

a) several lawyers from various Member States, who practise under the professional titles from their Member States of origin;

b) one or several of the lawyers stipulated under a) and one or several lawyers from Romania.

(3) A lawyer who intends to practise under the professional title from the Member State of origin shall inform the competent Romanian authority about his/her being a member of a form of practising the profession in the Member State of origin, and provide all the relevant details about such group.

**Article 80<sup>14</sup>.** - (1) Lawyers who practise under the professional title from their Member State of origin and who carry out their activity, on an actual and constant basis, for a period of at least 3 years in Romania, in the field of Romanian law or community law, shall be accepted to the lawyer's profession, without them having to comply with the terms stipulated under article 80<sup>5</sup>, on condition they observe the provisions of the present law regarding the exercise of civil and political rights, and unworthiness and incompatibility cases.

(2) Before the competent Romanian authority, the applicants shall have to prove they have carried out a constant activity in Romania for at least 3 years in the field of Romanian or community law. To that effect:

a) lawyers shall have to produce all relevant information and documents concerning the number of causes in which they have provided legal assistance, as well as their nature;

b) the competent Romanian authority may check the actuality and regularity of the activity carried out and may ask the lawyer in question, if necessary, to provide clarifications, in writing or orally, as regards the information and documents stipulated under a).

(3) Lawyers who practise in Romania under the professional title from their Member State of origin may, at any time, apply for their diplomas to be acknowledged, under the provisions of article 80<sup>5</sup>, with a view to obtaining the acceptance to the lawyer's profession in Romania and practising under the professional title thus obtained.

(4) Lawyers who practise under the professional title from their Member State of origin and have had an actual and constant professional activity in Romania for a period of at least 3 years, but for a shorter period of time in the field of Romanian law, may obtain acceptance to the lawyer's profession and the right to practise under the professional title from Romania, without having to meet the terms stipulated under article 80<sup>5</sup>, on condition they comply with the provisions of the present law on the exercise of civil and political rights and unworthiness and incompatibility cases, according to the following procedure:

a) the competent Romanian authority shall take into consideration a lawyer's actual and constant activity carried out for at least 3 years, professional knowledge and experience acquired in Romania, as well as any participations in lectures and seminars about Romanian law or the deontology of the lawyer's profession;

b) the applicant shall make available to the Romanian bar any relevant information and documentation, especially about causes in which he/she has provided legal assistance.

(5) The decision by the competent Romanian authority not to grant automatic acceptance when no proof has been produced that the requirements stipulated under paragraphs (1) or (4) have been met shall be documented, notified to the applicant and the bar, and subject to the ways of appeal stipulated by the by-law of the profession.

(6) A lawyer's actual and constant activity in Romania and his/her ability to further pursue it shall be evaluated based on an interview held before the evaluation board stipulated under article 80<sub>5</sub>.

(7) The competent Romanian authority may, by means of a documented decision and subject to the ways of appeal stipulated by the by-law of the profession, deny granting the professional title of lawyer in Romania to the applying lawyer, if this is believed to harm the public order as a result of discipline departures, complaints, or incidents whatsoever.

(8) The representatives of the National Association of the Romanian Bars shall have the obligation to keep the confidentiality of the information received on the occasion of examining an application for granting a professional title in Romania.

### SECTION 3

#### *Practice of the lawyer's profession, by means of services provision, by lawyers coming from Member States of the European Union or the European Economic Space*

**Article 80<sub>15</sub>.** - (1) Under the terms of the present section, lawyers coming from Member States of the European Union or the European Economic Space may carry out in Romania professional activities that can be occasionally performed under the form of services provision.

(2) The services providing activity stipulated under paragraph (1) shall be performed in Romania by representing the legitimate rights and interests of natural and legal entities in courts of law or before the public authorities, under the terms stipulated for lawyers residing in this state, without them having to be registered with a bar.

(3) For the exercise of other activities than those mentioned under paragraph (2), the lawyer shall observe the terms and professional conduct regulations of the Member State of origin, as well as the Romanian legislation concerning the lawyer's profession, especially as regards incompatibilities, professional secrecy, relationships between lawyers, interdiction for the same lawyer to represent two parties having conflicting interests, as well as publicity. A lawyer who is not a resident of Romania shall only be bound to comply with these rules as far as their observance is objectively justified to ensure a fair practice of the lawyer's activities, professional dignity, and the compliance of the rules regarding incompatibility.

**Article 80<sub>16</sub>.** - (1) The competent Romanian authority shall require a lawyer providing services to prove his/her lawyer's capacity.

(2) If the obligations stipulated under article 80<sub>15</sub> should not be met, the competent Romanian authority shall set out the consequence of such failure according to the by-law.

(3) When checking a case of non-compliance with the obligations stipulated under article 80<sub>15</sub>, the competent Romanian authority may request any useful professional information regarding the person providing services.

(4) The competent Romanian authority shall inform the competent authority in the Member State of origin about any decision made. The notifications stipulated by the present paragraph shall be confidential.”



## **Transitional and final provisions**

“**Article 81.** - The present law shall be put into effect as follows:

- a) the current managing bodies of the Romanian Bar Association shall continue to exercise their duties, under the law and the by-law of the profession, as managing bodies of the U.N.B.R., for the entire length of the term of office for which they were elected;
- b) the Council of U.N.B.R. shall draw up the draft by-law of the profession and adopt it no later than 90 days from the date of the present law coming into effect\*. The by-law of the profession shall be published in the Official Gazette of Romania, Part I;
- c) the new forms of association for practising the lawyer’s profession shall only be organised and function after the new by-law of the profession has come into effect.

**Article 82.** - (1) On the date of the present law coming into effect\*, the natural or legal entities that were authorised based on other laws or were approved based on court decrees to carry out activities of consultancy, representation, or legal assistance, in any fields, shall rightfully terminate their activity. Pursuing such activities shall be deemed a crime punishable under the criminal law.

(2) Also, on the date of the present law coming into effect\*, the effects of any regulatory, administrative or jurisdictional acts according to which activities of consultancy, representation and legal assistance contrary to the provisions of the present law were acknowledged or approved shall be rightfully terminated.

(3) The provisions of paragraphs (1) and (2) shall not apply to the legal advisor’s profession, which shall be practised under the provisions of Law no. 514/2003 on the organisation and practise of the legal advisor’s profession.

(4) The Councils of the bars and the presidents of the bars shall have the obligation and authority to see that the provisions of paragraphs (1) and (2) are being put into effect, taking the lawful steps for that purpose.

**Article 83.** - On the date of the present law coming into effect\*, the denomination *Romanian Bar Association* shall be replaced by the denomination *National Association of the Romanian Bars*, in all the regulatory documents.

**Article 84.** - On the date of the present law coming into effect\*, any contrary provisions shall be repealed.”\*\*

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\* **The provisions of article 81 b), articles 82, 83, and 84 shall refer to Law no. 255/2004.**

\*\***Articles 81 - 83 were amended by Law no. 255/2004, and article 84 was introduced by the same act.**

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NOTE:

According to articles II and III of Law no. 231/2000 on amending and completing Law no. 51/1995 on the organisation and practice of the lawyer’s profession:

Article II. - Foreign lawyers who practise the profession in Romania in various forms, not stipulated by the law, shall have the obligation to establish professional civil companies, according to article 12, within 6 months from the present law coming into effect. The compliance opinion of the Romanian Bar Association shall be necessary for one’s acceptance to a bar and the registration of a professional civil company.

After the expiry of the 6-month delay, the criminal inquiry bodies shall start investigations, ex-officio or at the request of the Romanian Bar Association or the bar, concerning the crime stipulated under article 25 of the present law.

Article III. - The fines that supply the bar budget, as stipulated by the present law, shall be updated on a regular basis, depending on inflation rate, by the Council of the Romanian Bar Association.