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Support to the implementation of the judicial reform in Armenia

**THE SCOPE AND CONTENT OF RULES OF ETHICS: INDEPENDENCE, CONFIDENTIALITY AND CONFLICT OF INTEREST: THE PRACTICE OF COUNCIL OF EUROPE MEMBER STATES**

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 EUROPEAN LAWYERS  
CCBE  
EUROPEAN BARRISTERS  
AVOCATS EUROPEENS




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**I. SCOPE  
II. INDEPENDENCE  
III. CONFIDENTIALITY  
IV. CONFLICT OF INTEREST**



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# I. SCOPE



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# 1. PERSONAL SCOPE OF APPLICATION



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## CODE OF ADVOCATE'S ETHICS OF THE REPUBLIC OF ARMENIA

### Article 2. Fields of Impact of the Code

1. This Conduct extends:

- ▶ to the advocate's professional and other activities stipulated by this Code;
- ▶ to the all members of the Chamber.



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shall apply to lawyers  
and  
shall apply to trainee lawyers



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## 2. SCOPE IN TIME



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### **CODE OF ADVOCATE'S ETHICS OF THE REPUBLIC OF ARMENIA**

#### **Article 2. Fields of Impact of the Code**

- ▶ 2. Norms of this Code are effective only on relations raised only after its approval.



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**Lawyers and trainee lawyers shall not be held disciplinarily liable for an act committed before being entered onto the list of attorneys at law or the list of legal trainees**



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**3. APPLICATION IN PROFESSIONAL ACTIVITY**



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## CODE OF ETHICS OF ATTORNEY AT LAW IN POLAND

### Article 11 § 1

Attorneys at law shall take care of  
the dignity of their profession not  
only in professional practice, but  
also during their public activity and  
**private life.**



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## II. INDEPENDENCE



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## CODE OF ADVOCATE'S ETHICS OF THE REPUBLIC OF ARMENIA

### Article 6. The Principle of Independence

- ▶ 1. An important precondition for advocates to perform their rights and obligations in a proper manner is their professional independence.
- ▶ 2. An advocate shall not be involved in activities incompatible with the RA Law and this Code.
- ▶ 3. Advocates can represent clients' interests in any case, however, this will not mean that they accept the client's political, economic, social, moral, religious looks or activities.



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## MODEL CCBE ARTICLE ON INDEPENDENCE

1. An independent legal profession is a prerequisite for the rule of law.



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### MODEL CCBE ARTICLE ON INDEPENDENCE





2. In the exercise of his or her profession, the lawyer shall be independent, free from influence, including influence which may arise from his or her personal interests or as a result of external pressure. A lawyer must therefore avoid any impairment of his or her independence and should not compromise his or her professional standards in his or her dealings with the client, the court, third parties and public authorities. Otherwise, he or she shall not accept a mandate or, if already instructed, shall terminate his or her existing mandate.



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# III. CONFIDENTIALITY









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## MODEL CCBE ARTICLE ON CONFIDENTIALITY

**1. Confidentiality serves the rule of law. It forms the basis of the relationship of trust between a lawyer and his or her client.**



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## MODEL CCBE ARTICLE ON CONFIDENTIALITY

**2. The lawyer is bound by confidentiality. It is a duty of the lawyer, and may also be a right of the lawyer.**



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## CODE OF ADVOCATE'S ETHICS OF THE REPUBLIC OF ARMENIA

### Article 14. The Principle of Confidentiality in the Phase of Accepting an Assignment

1. An advocate shall not accept an assignment fulfillment of which may cause a violation of confidentiality of a client of a given or other case, except for cases when the person interested in such confidentiality gives a written consent.



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## CODE OF ADVOCATE'S ETHICS OF THE REPUBLIC OF ARMENIA

2. An advocate cannot be interrogated as a witness about circumstances with which he or she became aware as a result of legal assistance.



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## MODEL CCBE ARTICLE ON CONFIDENTIALITY

**3. Confidentiality is unlimited in time; it survives the termination of the retainer with the client.**



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## CODE OF ADVOCATE'S ETHICS OF THE REPUBLIC OF ARMENIA

**4. An Advocate's confidentiality's maintaining requirement has no time limits.**



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## MODEL CCBE ARTICLE ON CONFIDENTIALITY

**4. Confidentiality applies to any and all information about a client or a client matter which is given to the lawyer by his or her client or which is received by the lawyer in the course of the lawyer's exercise of his or her profession, irrespective of the source of such information.**



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## MODEL CCBE ARTICLE ON CONFIDENTIALITY

**5. Confidentiality also applies to any and all documents prepared by the lawyer, to all those delivered by the lawyer to his or her client and to all communications between them.**



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## **CODE OF ADVOCATE'S ETHICS OF THE REPUBLIC OF ARMENIA**

### **Article 9. Confidentiality**

1. An advocate's confidential information is information which the client provided an advocate on confidentiality condition, as well as such information and evidence that an advocate obtained through his or her own activities and which is not known to the public.



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## **MODEL CCBE ARTICLE ON CONFIDENTIALITY**

6. Confidentiality as defined in paragraphs 4 and 5 applies both in litigation or advice.



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## MODEL CCBE ARTICLE ON CONFIDENTIALITY

7. Paragraphs 4 and 5 above do not prevent a lawyer from disclosing confidential information to third parties and in particular to public authorities and courts, provided the lawyer has ascertained that:

- (a) such disclosure is in the best interests of the client; and
- (b) the client agrees with such disclosure; and
- (c) no applicable provisions forbid such disclosure.



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## CODE OF ADVOCATE'S ETHICS OF THE REPUBLIC OF ARMENIA

3. An advocate shall publicize confidential information if:

- 1) written consent of the client is available;
- 2) that is necessary for grounding and reasoning of the claims between him or her and the client arisen in the judicial dispute,
- 3) an information is available about a grave and a particularly grave crime as proscribed in RA Criminal Code preparing to be committed.



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## MODEL CCBE ARTICLE ON CONFIDENTIALITY

8. The lawyer is entitled to disclose confidential information in proceedings between the lawyer and his or her client or in proceedings against the lawyer provided such disclosure is necessary for such proceedings and there is a direct relation between such proceedings and the lawyer's mandate from this client. Proceedings include court, administrative, professional and alternative dispute resolution proceedings.



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## MODEL CCBE ARTICLE ON CONFIDENTIALITY

9. The lawyer shall ensure that his or her employees and any other person with whom he or she collaborates in the course of the exercise of his or her profession, comply with confidentiality as set out in this Article.



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## **CODE OF ADVOCATE'S ETHICS OF THE REPUBLIC OF ARMENIA**

2. In case of refusing from a client's case an advocate shall keep confidential any information he or she possessed in the course of negotiations with the client.



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## **IV. CONFLICT OF INTEREST**





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## CODE OF ADVOCATE'S ETHICS OF THE REPUBLIC OF ARMENIA

### ▶ Article 16. Circumstances Excluding an Assignment's Acceptance

2. An advocate shall not provide legal assistance to two or more clients on the same issue if there is a conflict of interests. An advocate may accept the assignment only in case of a written consent of the client.



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## MODEL CCBE ARTICLE ON CONFLICT OF INTEREST

1. Except as otherwise provided in paragraph 4, a lawyer may not assist or act on behalf of two or more clients if there is a conflict between the interests of those clients. A lawyer may not assist or act on behalf of a client if there is a conflict between the interests of his or her client and his or her own interests or if the lawyer had handled the matter as a public servant, or as a judge, an arbitrator or mediator, or in the capacity of resolving disputes in any other form of alternative dispute resolution, or in any other comparable capacity.



This obligation also applies whenever there is a significant risk of a conflict of interests.



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## MODEL CCBE ARTICLE ON CONFLICT OF INTEREST

**2. A lawyer may not assist or act on behalf of a client if this conflicts with a duty which he or she owes to a former client.**



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## MODEL CCBE ARTICLE ON CONFLICT OF INTEREST

**3. The lawyer has the duty to assess the risk of a conflict of interests at any time.**



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## MODEL CCBE ARTICLE ON CONFLICT OF INTEREST

**4. A lawyer may assist or act on behalf of two or more clients in situations of conflict of interests or potential conflict of interests only if:**

- (a) the different clients have a common interest in relation to that matter; and
- (b) the clients have given their informed consent; and
- (c) the duty of confidentiality is not put at risk; and
- (d) the lawyer considers that the conflict of interests or potential conflict of interests does not prevent him or her from acting in the best interests of all such clients.



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## MODEL CCBE ARTICLE ON CONFLICT OF INTEREST

**5. If a conflict of interests arises in the course of the conduct of matters for two or more clients or the conditions of paragraph 4 are no longer met, a lawyer must cease to act for all these clients in those matters.**



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## MODEL ARTICLE ON CONFLICT OF INTEREST ON CCBE

6. Lawyers practising in the same firm or lawyers and other professionals practising in the same firm are considered as one single entity for the purpose of complying with their duty not to act when there is a conflict of interests.



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## Thank you for your attention

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