

ADOPTED on  
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Chairman of the Council  
of the Lithuanian Bar Association

## CODE OF PROFESSIONAL CONDUCT FOR ADVOCATES OF LITHUANIA

### **1. General Provisions**

1.1. The advocates of Lithuania shall participate in the process of implementation of justice, represent and defend legitimate interests of his client in court, state and municipal institutions or other organizations.

1.2. The professional activities of advocates shall uphold them to observe legal and moral obligations towards:

1.2.1. a client;

1.2.2. courts and other institutions, wherein he has to defend his client's interests and represent them and act on his behalf;

1.2.3. the advocate's profession;

1.2.4. the society.

1.3. An advocate is obliged to respect professional dignity and honour, and abstain from discrediting the name of an advocate, given oath and the idea of justice.

1.4. The purpose of the Code of Professional Conduct for Advocates shall be to ensure the due implementation of the basic functions of advocates by complying with them on his free will. Disciplinary actions may be imposed upon an advocate failing to comply with the rules.

1.5. While defending the interests of his client that are protected by the laws or representing them and acting in favour of justice an advocate is obliged to abstain from violation of human rights and fundamental freedoms, established by the international and national law.

## **2. Rights and Duties of an Advocate**

2.1. In his professional activities an advocate shall have the rights established in the Constitution of the Republic of Lithuania, the Law on the Bar, other legal acts, international documents and this Code.

2.2. In his professional activities an advocate shall have the duties established in the Constitution of the Republic of Lithuania, the Law on the Bar, other legal acts, international documents and this Code.

2.3. An advocate shall have no right to:

2.3.1. take actions forbidden by the Law on the Bar;

2.3.2. proceed with the case ignoring the will of his or her client except for in cases when he is certain of the latter acts wrongly in admitting his guilt;

2.3.3. defend a client's interests that make him take illegal measures and methods of defense;

2.3.4. admit the client is guilty though he denies it or otherwise act against the client's interests while defending him or representing him in court, state or municipal institutions or other organizations.

## **3. Conflict of Interests**

3.1. An advocate may not counsel, represent, defend or act on behalf of two or more clients in the same matter or the same case if there is a conflict between the interests of those clients.

3.2. Provided the conflict of interests or risk of breaching the confidentiality or independence of an advocate arises while representing a client's interests an advocate is obliged to cease acting on behalf of a client.

## **4. Independence**

4.1. While practicing his professional duties an advocate shall be obliged to be absolutely independent from any influence especially the one which may arise due to personal interests or external influence.

4.2. An advocate shall not be liable to disciplinary procedure for his opinion benevolently expressed when carrying out his professional duties.

4.3. An advocate shall not be subjected to any punitive, administrative, civil, economic or other sanctions for actions taken to implement the obligations of a client according to the requirements of the laws and professional conduct.

4.4. An advocate shall be entitled to unrestrictedly participate, on a contract basis, in his client's case or to represent the same in relations with third persons, except for in cases when an advocate is fully or temporary excluded from the List of Practicing Advocates of Lithuania.

## **5. Confidentiality**

5.1. Confidentiality is the fundamental and most important right and duty of an advocate. An advocate shall take reasonable steps to assure client that the information provided shall be secured as a professional secret of an advocate.

5.2. A professional secret of an advocate shall be comprised of the fact of consulting an advocate, terms of the agreement with a client, information and data provided by a client, character of consultation and data collected by an advocate upon a client's assignment. A client may allow an advocate to disclose particular information. The obligation of confidentiality is not limited in time.

5.3. An advocate shall require his colleagues, advocate's assistants, his staff members or staff members of professional partnerships of advocates, other persons who assist him when providing legal services to comply with the same obligation of confidentiality and shall be liable for that.

## **6. Relations with Clients**

6.1. An advocate may accept an assignment to defend or represent a client's interests upon the application of a client or his lawful representative. An advocate may accept assignments from other persons when they apply on a client's assignment or upon his consent or when a competent institution assigns him to participate in a case.

6.2. Provided the circumstances in a client's assignment raise doubts to an advocate regarding a client's identity or authority, an advocate shall be obliged to ascertain the identity and authority thereof.

6.3. Should the advocate be sure that a client's claims or rebuttals are clearly unjust (there is no legal position) he may advise a client to abstain from the proceedings, or should the advocate believe that a client's claims involve legal risk he is obliged to notify of it and possible outcome of implementation of the consultation.

6.4. Questioning the validity of a lawsuit or rebuttal an advocate may accept an assignment however he must put the client *au fait* of unfavourable outcome of the latter's claim.

6.5. An advocate may not assure in advance a client of the outcome of his case but he shall have the right to assess the successful expectations of the case.

6.6. An advocate shall be obliged to honestly, carefully and reasonably counsel, defend a client or represent him.

6.7. An advocate shall not accept assignments provided he knows and understands he will not be able to carry out them properly or in due time.

6.8. An advocate may refuse to represent a client only due to important reasons. When implementing his right to refuse a case or other assignment he shall be obliged to act in the manner to allow a client to find another advocate in due time.

6.9. Although an independent participant of the proceedings in criminal cases an advocate may not select any position of defense without a client's awareness. An advocate shall consult a client and take due regard of his reasoning and arguments.

6.10. Provided a client pleads guilty' an advocate shall, after having evaluated all evidence in a case and having made the same conclusion, analyze all factors mitigating a client's liability in his statement of defence.

6.11. When a client pleads guilty, an advocate shall, after having evaluated all evidence in a case and having made the conclusion a client's guilt is not proven or is in question, maintain an independent position, irrespective of a client.

6.12. When a client pleads not guilty, an advocate shall not, upon getting conversant with a case and reasonably considering there to be sufficient evidences to justify the guilt of a client, persuade him to plead guilty as guilt or innocence lies within the competence of the court only. An advocate shall be obliged to explain to a client, who disagrees with a position chosen by an advocate, the possibility to refuse an advocate's services.

6.13. Provided a client pleads guilty, an advocate shall, after having evaluated all evidence and reasonably considering that there are other, minor attributes of a criminal act in a client's actions should explain the situation to him. An advocate shall be obliged to explain to a client, who disagrees with an opinion, arguments and manner of defense of an advocate the possibility to refuse an advocate's services.

6.14. An advocate shall always advise his client to reach a peaceful agreement or indicate alternative ways for solving a dispute.

## **7. Remuneration for Legal Services Provided by an Advocate and Expenses Related to His Activities**

7.1. The procedure of establishment, payment and accounting of the fee charged for legal services provided by an advocate, is established in the Law on the Bar and other legal acts.

7.2. An advocate may insist on payment in advance for the services or expenses related to his activities. Provided a client fails to pay in advance an advocate has

the right to reject an assignment or refuse to lead a case. Provided a client fails to pay for the services provided in due time an advocate may terminate an agreement on provision of legal services.

## **8. Client Funds**

8.1. When practicing their professional activities, advocates who come into temporary possession of funds on behalf of their clients or third persons (hereinafter referred to as Client Funds) an advocate shall be obliged to comply with the following provisions:

8.1.1. all funds received from a client should be secured and accounted for by an advocate in accordance with the procedure established in the Law on the Bar and other legal acts;

8.1.2. each account and accounts wherein Client Funds are kept on behalf of an advocate should always contain an amount not less than the total amount kept by an advocate;

8.1.3. upon a client's request all his funds shall be disbursed without delay or according to the conditions established by a client himself;

8.1.4. any payment from Client Funds to another client as well as a fee to an advocate is forbidden except for in cases established by law and upon a client's instructions;

8.1.5. an advocate shall be obliged to accurately administer an account of Client Funds and to disclose all operations with Client Funds upon a client's request and ensure separate storage thereof from other funds kept by an advocate.

## **9. Professional Liability and Insurance Thereof**

9.1. An advocate shall be covered by compulsory insurance against professional civil liability in accordance with the requirements of the laws.

9.2. In the agreement with a client an advocate may provide for the limitation of his liability unless they are not in conflict with the laws and other legal acts.

## **10. Relations with Courts and Other Institutions**

10.1. When defending a client's interests or representing them before a court or acting on a client's behalf in state or other institutions an advocate shall be obliged to comply with the rules of conduct established in courts or other institutions.

10.2. When participating in a pre-trial investigation or court proceedings an advocate shall behave in the manner that his speech, requests, statements and questions would not degrade the authority of court or prosecutor's office, pre-trial investigation institution and officials, would not discredit colleagues and would not abuse the dignity of the parties of the proceedings, their advocates and proxies as well as witnesses and experts.

10.3. When representing a client before a court or other institution or defending a defendant an advocate may not refer to the circumstances that are not proved by the data in the file. While evaluating any actual data in the case an advocate may be wrong however he is not allowed to deliberately interpret the data in the manner which would misrepresent the objective truth.

## **11. Mutual Relations of Advocates**

11.1. Respecting common values and interests of their profession and for the sake of their clients, advocates should cherish mutual trust and collaboration, and behave honestly, friendly, discreetly and with courtesy. Advocates shall be obliged to avoid unnecessary mutual litigation and other actions that may harm the reputation of the profession.

11.2. An advocate should consider all the advocates to be his colleagues and, provided it will not make harm to a client's interests, assist them in their professional activities.

11.3. About his decision to accept an assignment to represent a client an advocate is obliged to inform another advocate who has and is dealing with the identical assignment.

11.4. An advocate shall be required to have the assignment on representation of the client's interests in the case against other advocate communicated to the Council of the Bar Association, his colleague and offer (provided it makes no harm to a client's interests) to end up a dispute by an agreement of peace. Provided an agreement of peace fails to be concluded the advocates should not damage their mutual relations.

11.5. Provided an advocate cannot attend a court proceeding or has intentions to ask court for replacement or determination of a different time for a court proceeding, an advocate shall be obliged to notify his colleague and agree upon the mutually suitable date and time of case proceeding.

11.6. An advocate cannot effect payments to anybody in return for recommendation of the client.

11.7. Provided an advocate assumes his colleague has violated the Code of Professional Conduct of Advocates of Lithuania, he should bring him into notice.

11.8. Advocates shall be obliged at first to make efforts to settle any mutual dispute through mutual agreement.

11.9. An advocate shall not be allowed to institute any proceedings or other formal procedures against his colleague without notifying the Lithuanian Bar Association in advance thereby seeking to provide a possibility to assist the advocates to reach an agreement.

## **12. Relationships of an Advocate with the Bodies of the Bar Association**

12.1. The relationships of an advocate with the Bodies of the Bar Association are based on mutual respect and benevolent assistance.

12.2. An advocate, elected to any of the bodies of the Bar Association, shall be obliged to participate in its work, sessions, conferences, meetings or other events. An advocate shall be obliged to notify in due time the body of the Bar Association about him not being able to attend due to important circumstances.

12.3. An advocate shall be obliged to perform all decisions or resolutions of the bodies of the Bar Association, to appear without delay when requested and to collaborate. An advocate shall be obliged to inform without delay about him not being able to carry out the decisions or resolutions of the bodies of the Bar Association or show up and explain the reasons for his non-performance or no appearance.

12.4. Provided the body of the Bar Association (or its head) refers to an advocate on whatever matter and requests explanation of circumstances related to professional activities of an advocate, an advocate shall be obliged to provide an explanation within the time period indicated in the letter.

## **13. Final Provisions**

13.1. The Code of Professional Conduct of Advocates of Lithuania shall also apply to advocate's assistants.

13.2. When actions or demeanour of an advocate fail to comply with the requirements of the Law on the Bar, Articles of Association of the Bar Association, this Code and other legal acts, regulating the professional activities of advocates, and they are not described in this Code an advocate shall be obliged to comply with traditions and customs the scope whereof complies with common principles of ethics and morality.