

# CODE OF CONDUCT FOR NORWEGIAN LAWYERS

- 1 INTRODUCTION
- 2 GENERAL PRINCIPLES
- 3 RELATIONS WITH CLIENTS
- 4 RELATIONS WITH COURTS AND PUBLIC AUTHORITIES
- 5 RELATIONS BETWEEN LAWYERS
- 6 RULES FOR PRACTISING LAW IN OTHER COUNTRIES

## 1 INTRODUCTION

### 1.1 Purpose of the Rules

The rules of conduct for lawyers are intended to ensure that professional activities as a lawyer are conducted in accordance with the ethical principles that form the basis for the lawyer's work in all civilised jurisdictions. Violation of the rules is grounds for disciplinary action against the lawyer.

### 1.2 The Lawyer's Duties

It is the lawyer's duty to promote justice and prevent injustice.

The lawyer shall promote the interests of the clients to the best of his ability within the scope of the law. This shall be done with no consideration for personal advantage or risk, political belief, race, religion or extraneous considerations.

The lawyer shall not identify with the client and has the right to expect that he will not be identified with the points of view that he expresses on behalf of his client and the interests of the client.

The lawyer shall be both an advisor to and spokesperson for the client.

The lawyer must individually decide whether to undertake an assignment.

### 1.3 The Lawyer's Conduct

The lawyer must conduct himself professionally and correctly in the practice. The lawyer must refrain from any conduct that has the potential to harm the reputation of the Bar or the profession.

### 1.4 The Lawyer's Relationship to Human Rights<sup>1</sup>

A lawyer must not give advice that he realises or ought to realise will result in violation of a person's human rights or a significant risk thereof. In this context, human rights are defined in the same way as in the United Nations' Guiding Principles on Business and Human Rights.

<sup>1</sup> Section 1.4 was adopted by the Norwegian Bar Association on May 31, 2018. The provision is currently not part of the official Regulations for lawyers, as the proposal has not yet been approved by the Government.

## **2 GENERAL PRINCIPLES**

### **2.1 Independence**

#### **2.1.1**

In order to comply with the obligations assumed by a lawyer, he must be independent so that his advice and actions are not influenced by extraneous considerations. In particular, it is important that he is not influenced by personal interests or external pressure. A lawyer must avoid any impairment of his independence and must not compromise his professional standards in order to indulge the client, the court or a third party.

#### **2.1.2**

A lawyer must not accept an assignment in which personal his financial interests could conflict with the interests of the client, or where they might influence his free and independent position as a lawyer.

A lawyer must not make himself financially interested in the outcome of a case through transfer of the client's claim or parts thereof. The lawyer must not guarantee any loans to the client. A lawyer who represents his own financial interests, in part or in full, has a duty to make contractual or otherwise interested parties aware of this.

#### **2.1.3**

A lawyer must not organise the business in a manner that could prevent him from freely and independently advising and assisting his clients or in such a way that his independence is impaired in any other manner.

### **2.2 Trust**

In his practice, the lawyer is dependent on trust, which can only be attained when the lawyer's honesty and integrity are beyond reproach.

### **2.3 Duty of Confidentiality**

#### **2.3.1**

When practising as a lawyer, it is of fundamental importance that clients and others can entrust the lawyer with information that the lawyer is obliged not to disclose. The lawyer's duty to treat information confidentially is a necessary prerequisite for confidence and is therefore a basic and cardinal right and obligation for the lawyer.

The lawyer's duty to observe confidentiality with regard to information he receives serves to promote the administration of justice as well as the interests of the client and is therefore entitled to a high degree of protection by the government.

#### **2.3.2**

A lawyer must observe the legal duty of confidentiality. Information received by the lawyer in the conduct of his profession must be treated with discretion, even when the information is not

encompassed by his legal duty of confidentiality. There is no time limit on the duty of confidentiality.

### **2.3.3**

The lawyer shall require that his associates, staff or persons he engages in connection with his practice observe the same duty of confidentiality.

## **2.4 Advertising and Relations with the Media**

### **2.4.1**

Advertising for a lawyer must, in form and content, be relevant and factually correct and must not contain anything that is incorrect, misleading or deceiving.

It is allowed to emphasise one or several branches of the lawyer's practice, provided the lawyer has special knowledge and experience in this field.

Lawyers must contribute to disseminate objective information about their profession in such a way that it benefits the body of lawyers and the general public seeking legal assistance.

### **2.4.2**

A lawyer is obliged in any discussion of litigation to take due account of the interests of the parties and the dignity of the court, and in this connection must prevent the possibility of influencing judges, jurors and witnesses. The lawyer must exercise particular restraint as concerns public discussion of upcoming or ongoing court cases in which he himself has been engaged.

In any case where a lawyer makes a statement in a case in which he is or has been involved, this must be expressly mentioned.

## **3 RELATIONS WITH CLIENTS**

### **3.1 Acceptance and Execution of Assignments**

#### **3.1.1**

A lawyer must not undertake an assignment other than upon direct request from a client, from another lawyer on behalf of a client, or from a competent body.

When a lawyer undertakes an assignment in connection with a financial transaction, the lawyer shall investigate the identity of the client or the intermediary on behalf of whom the lawyer is undertaking the assignment.

#### **3.1.2**

A lawyer shall give advice to the client and take care of his interests expeditiously, conscientiously and carefully. The lawyer is personally responsible for the completion of the assignments that he undertakes. He shall keep the client informed about the progress of the case.

### **3.1.3**

A lawyer shall try to achieve amicable settlements to the extent that this is compatible with the interests of the client.

### **3.1.4**

A lawyer should not undertake an assignment when he knows or ought to know that he lacks the necessary competence. However, this does not apply if, within a reasonable period, the lawyer can acquire the knowledge required or obtain the necessary competence to ensure proper, professional performance of the assignment.

A lawyer should not undertake new assignments if his workload means that the cases will not be dealt with in a reasonably expeditious manner.

### **3.1.5**

If the costs in connection with a case must be assumed to become disproportionately high in relation to the client's financial position or the interests involved in the matter, the lawyer should in due time inform the client to this effect. The client's consent must always be obtained before the lawyer engages another lawyer, an expert or others in connection with an assignment.

### **3.1.6**

A lawyer who has undertaken an assignment is obliged to carry it out in accordance with the wishes of his client, unless it should turn out:

- that the lawyer has received erroneous or incomplete information
- that the client does not want to adhere to the lawyer's advice in the matter
- that the client does not, upon request, pay an advance or provide security for the fee and the costs
- that the client does not, upon request, pay an invoice for an amount on account for work performed and/or expenses incurred
- that the client initiates or contributes to publication in contravention of a request by the lawyer to refrain from such publication, or
- that such events occur that it cannot reasonably be required that the lawyer shall continue the assignment.

Before the lawyer resigns from an assignment, he is obliged to take whatever steps are necessary and that cannot be postponed without exposing the client to potential losses.

### **3.1.7**

A lawyer is entitled to refuse to hand over documents he has in his possession in connection with an assignment as long as the client has not paid the amounts owing to the lawyer for costs and fees from the assignment in question. This does not apply when, and to the extent that, retention will expose the client to a potential loss. If the amount outstanding is disputed, the chair of the Disciplinary Board, or someone authorised by the chair, may determine how much of the amount outstanding shall be covered, and that the balance shall be deposited or secured on conditions stipulated by the person in question.

### **3.1.8**

A lawyer shall resign from an assignment if he suspects that the assignment encompasses a transaction involving the laundering of money and the client is not willing to refrain from implementing such transaction.

## **3.2 Conflicts of Interest**

### **3.2.1 (The Main Rule)**

A lawyer must refrain from undertaking an assignment if there could be a risk that the assignment could bring about breach of the lawyer's duty of loyalty and confidentiality in relation to his clients or breach of the lawyer's duty of independence.

### **3.2.2 (Double Representation)**

A lawyer must not counsel, represent or act on behalf of two or more clients if these clients have conflicting interests in the case or if there is a clear risk of this.

### **3.2.3 (Conflict of Clients' Interests)**

A lawyer may only accept an assignment on behalf of a client against one of the lawyer's other clients if it is obvious that there is no reason for concern, due to the different nature of the assignment or the nature of the client. The lawyer shall inform both parties of the situation.

### **3.2.4 (Assignments against Former Clients)**

A lawyer must exercise caution before accepting an assignment against a former client.

The lawyer must refrain from undertaking assignments against a former client if the lawyer's knowledge of the former client's circumstances could be used in a prejudicial manner to the advantage of the new client or could result in harming the interests of the former client.

### **3.2.5 (The Importance of the Client's Consent)**

If a lawyer is prevented from performing actions or business on behalf of one or more clients pursuant to this section 3.2, this shall only apply to the extent the client or clients have not given their consent that the actions or business can take place.

Even if the clients give their consent, the lawyer will still be prevented from acting if his duty of loyalty or confidentiality in relation to a client or the lawyer's duty of independence is thereby breached.

A client's consent is only valid if it is given on the basis of an application from the lawyer that provides the client with complete and correct information on the conflict of interest problem.

A lawyer who with the express approval of the clients acts as conciliator or an arbitrator between two or more clients with conflicting interests shall not be considered to have infringed the rules in this section 3.2. If conciliation does not result in a solution of the dispute, the lawyer may not represent any of the parties in the further processing of the dispute.

### **3.2.6 (Application of the Rules to Companies, Shared Facilities, etc.)**

When a lawyer practises law in a company, in a shared office or similar, the rules in 3.2.1 to 3.2.5 concerning conflicts of interest shall apply to the shared facility and to all its participants.

## **3.3 Calculation of Fees**

### **3.3.1**

The client is entitled to be informed about how the lawyer has stipulated the fee. The fee shall be reasonably related to the assignment and to the work performed by the lawyer.

### **3.3.2**

A lawyer must not enter into an agreement with clients or others to the effect that he shall receive a fee on the basis of a percentage or share in relation to the outcome or subject of the case, regardless of whether this involves a sum of money or another form of remuneration.

Exceptions from this rule can only be made in cases where legislation or public regulations authorise such a possibility.

### **3.3.3**

A lawyer must not enter into an agreement with clients or others to the effect that he shall receive his fee in the form of shares or other forms of participation in a company or partnership in which the value of the shares or the participations will be affected by the outcome of the case. Nor must any such agreement on this form of remuneration be agreed if this could influence the lawyer's free and independent position during the performance of the assignment.

### **3.3.4**

If a lawyer requires payment of fees and/or disbursements in advance, such payment must not exceed an amount that can reasonably be expected to cover the fee and the disbursements.

## **3.4 Legal Aid**

A lawyer is obliged to inform the clients about opportunities to obtain legal aid from the government or from legal aid insurance.

## **3.5 Clients' Funds**

Clients' funds shall be dealt with in accordance with Chapter 3 of these regulations concerning entrusted funds.

A lawyer who is requested to administer funds shall not receive or handle funds that do not have a named source.

## **3.6 Indemnity Insurance**

The lawyer shall at all times have indemnity insurance covering claims for compensation that may be directed against his professional practice with regard to the nature and scope of his activities.

## **4 RELATIONS WITH COURTS AND PUBLIC AUTHORITIES**

### **4.1 Conduct Before the Courts**

A lawyer shall conduct himself correctly in relation to litigation legislation. A lawyer shall show respect and act politely in court but shall at the same time defend the clients' interests honestly, fearlessly, and without regard to his own interests or the consequences for himself or others. The lawyer has both a right and an obligation to criticise the court in a proper and decent manner.

### **4.2 Proper Legal Process**

All cases shall be elucidated by open and professional presentation of evidence and arguments before the full court. The lawyer must not in any way try to influence members of the court informally.

A lawyer must not intentionally give incorrect or misleading information to the court.

### **4.3 Active Engagement**

A lawyer has a duty to familiarise himself thoroughly with the case and conduct the case with the care and promptness required by good professional litigation practice. Requests and recommendations from the court must be answered without undue delay.

### **4.4 Justifiable Volume of Assignments**

The lawyer must ensure that he does not take on so many assignments that he may not be able to comply with reasonable requirements regarding the pace of case preparation or accept the scheduling of court meetings in current cases.

### **4.5 Offers of Amicable Settlement**

Without the consent of the adversary, a lawyer must not during litigation cite settlement offers made by the adversary or his lawyer or make reference to the fact that they have stated willingness to resolve the case by amicable settlement. This is applicable, regardless of whether the adversary or his lawyer has stated such a reservation, or not.

A lawyer may at any time make reference to settlement offers he has presented himself, unless something else has been agreed. Settlement offers made by the lawyer must be presented in such a manner that possible settlement offers made by the adversary or his lawyer are not disclosed.

### **4.6 Witnesses and Experts, etc.**

A lawyer is entitled to contact any third party that might be able to provide information of relevance to the case, regardless of whether the person concerned has already been named as a witness by the adversary. If it concerns witnesses with a special connection to the adversary, contact should not be made before the adversary's lawyer has been notified in advance.

In litigation, all contact with an appointed expert should pass through the court. Direct contact should only take place if this cannot give rise to any concern, and if contact through the court would be complicated. The court and the adversary must in this case be informed as soon as possible about the contact made, and they should also be made aware of the answer.

#### **4.7 Cases in which a Lawyer may be Called as a Witness**

A lawyer must exercise caution in accepting an assignment as counsel in a court case, if it must be considered probable in advance that he may be called as a witness in the case.

#### **4.8 Arbitration and other Conflict Resolution Bodies**

The rules concerning the lawyer's relations with the courts from 4.1 to 4.6 shall apply similarly to the extent that they are suitable in respect of arbitration tribunals and other conflict resolution bodies.

### **5 RELATIONS BETWEEN LAWYERS**

#### **5.1 Mutual Trust between Colleagues**

Trust and co-operation as colleagues are necessary between lawyers, both in the interests of clients and to avoid unnecessary disputes.

A lawyer shall always conduct himself with the consideration and openness that can be combined with the interests of the client.

#### **5.2 Referral Fee**

A lawyer must never require or receive any form of fee or remuneration for referral or recommendation of a client from other lawyers or other parties. Nor must a lawyer pay any form of fee or remuneration for having a client referred to him.

#### **5.3 Contact with Adversaries**

A lawyer must not contact an adversary directly, if the adversary is represented by a lawyer in the matter to which the contact relates, unless strong reasons support such contact, and it has not been possible to contact the adversary's lawyer, who must then be informed about the contact and the reasons for this at the first opportunity.

#### **5.4 Disputes between Lawyers**

If a lawyer believes that a colleague has acted in contravention of rules of conduct for lawyers, he shall inform his colleague accordingly. Criticism of colleagues' work must be apposite and correct. Efforts should be made to resolve disputes between lawyers amicably. Court cases on matters mentioned above against an overseas colleague should not be commenced before the respective law organisations have been informed and have had the opportunity to attempt to settle the dispute.

#### **5.5 Undue Influence**

A lawyer must not raise questions of liability on the part of a colleague with a view to influencing proper maintenance of his client's interests.

#### **5.6 Training**

In order to maintain and strengthen the professional and ethical standard of the body of lawyers,



a lawyer is obliged to ensure that his staff receive the necessary training and opportunities for professional development.

### **5.7 Trainee Lawyer**

There should be a genuine relationship of employment between a lawyer and a trainee lawyer who does not have a licence as a lawyer. The trainee lawyer shall work in the offices of the principal. A relationship based on a written contract must exist between them, according to which the trainee lawyer must among other things be secured a reasonable, fixed salary. The principal must supervise the work of the trainee lawyer and must ensure that he receives sound guidance in his work.

### **5.8 Replacement of a Lawyer**

A lawyer who is engaged to represent a client as a substitute for another lawyer in a particular case must ensure that the client has informed the other lawyer accordingly, or the lawyer should provide such information. Should the client's interests require urgent action, such information must be given as soon as possible after the necessary action has been taken.

### **5.9 Responsibility for an Overseas Lawyer's Fees**

Whenever a lawyer does not merely recommend, or introduce another lawyer to the client, but engages the services of an overseas lawyer in connection with a certain case or seeks his advice, he is under a personal obligation to pay the overseas lawyer's fees and disbursements, even if the client is insolvent. However, at the start-up of such an engagement, lawyers may make special agreements. Moreover, the lawyer who has engaged another lawyer may at any time limit his personal liability to the size of the fee and disbursements that have accrued up to the date he informs the other lawyer that he no longer undertakes responsibility.

## **6 RULES FOR PRACTISING LAW IN OTHER COUNTRIES**

### **6.1 Relationship to the CCBE Code of Conduct**

A Norwegian lawyer practising law in countries within EEA area is bound by the CCBE Code of Conduct, adopted by CCBE on the 24 November 1998 and accepted by the Norwegian Bar Association on 18 June 1999.