

## CODE OF ETHICS FOR ADVOCATES

### CHAPTER I GENERAL PROVISIONS

#### **Article 1. Purpose of the Code**

1. The Code of Ethics for Advocates (hereinafter referred to as the Code) establishes the main rules and principles of professional ethics of advocates the Republic of Lithuania and regulates advocate's conduct in carrying out professional activities of an advocate and conduct related to professional activities and the repute of the advocate's profession.

2. This Code is aimed at defining principles of professional activities and conduct, to which an advocate must adhere in his professional activities and daily life in order that proper performance of advocate's functions would be ensured and the repute of the advocate's profession would be kept and cherished.

#### **Article 2. Application of the Code**

1. The Code shall apply to:
  - 1) persons recognised as advocates under the procedure set by laws of the Republic of Lithuania;
  - 2) foreign lawyers carrying out advocate's professional activities in the Republic of Lithuania temporarily or permanently.
2. The Code shall *mutatis mutandis* apply to advocate's assistants.
3. The Code shall *mutatis mutandis* apply to legal entities established for performance of advocate's activities.

#### **Article 3. Application of the Code of Conduct for Lawyers in the European Union**

The Code of Conduct for European Lawyers shall directly apply to international activities of advocates of the Republic of Lithuania in the European Union or in the European Economic Area.

#### **Article 4. Use of traditions and customs**

When actions or acts of an advocate are not regulated by this Code, the Law on the Bar and other legal acts or when an advocate is not sure about requirements of professional ethics, the advocate must observe traditions and customs established in advocates' practice, the content of which corresponds to the principles of professional ethics and morality.

### CHAPTER II MAIN PRINCIPLES OF ADVOCATES' ACTIVITIES AND CONDUCT

#### **Article 5. Freedom and independence of activities**

1. Lithuanian advocates are an independent part of the Lithuanian legal system, therefore freedom and independence of advocate's activities are a necessary (underlying) condition (*conditio sine qua non*) for the role of the advocate provided for in the Constitution of the Republic of Lithuania, his participation in implementation of justice and proper implementation of advocate's functions.

2. In performance of his professional duties, an advocate must be independent.
3. An advocate must avoid any unlawful external influence, which may have an effect on performance of his professional functions, must not tolerate unlawful interference with his professional activities and take measures to discontinue and eliminate such actions.
4. An advocate is prohibited from undertaking any activities, which will hinder proper performance of advocate's professional duties or will restrict the freedom and independence of professional activities otherwise than established by the Lithuanian Bar Association or by legal acts or which will harm the repute of the advocate's profession.

#### **Article 6. Honesty and irreproachable behaviour**

1. Advocate's professional honour and honesty are traditional values, observance of which is a professional duty of an advocate and a necessary condition for belonging to a body of advocates.
2. Advocate must always:
  - 1) keep professional honour and dignity, abstain from discrediting the name of advocate, given oath and the idea of justice;
  - 2) be of irreproachable reputation and keep it;
  - 3) behave honestly, politely and fairly;
  - 4) wear a gown at the court hearings (this condition does not apply to advocate's assistants);
  - 5) stay away from alcohol and psychotropic substances during performance of advocate's professional duties, also not abuse alcohol and psychotropic substances, not use narcotic and toxic substances for other than medical purposes.
3. An advocate must not abuse his professional title.
4. An advocate's sign and gown must be used exclusively in professional activities of an advocate.
5. An advocate is prohibited from engaging in any actions or conduct, which are incompatible with honesty, other generally accepted norms of ethics and morality and/or which undermine the society's confidence in advocates, harm the reputation of the Lithuanian Bar Association or degrade the advocate's professional title.

#### **Article 7. Lawfulness of activities**

1. Lawfulness of advocate's professional activities is one of the most important principles that determine the advocate's role in the legal system of the state and guarantees of professional activities, therefore an advocate must aspire to ideals of justice and lawfulness and defend his client's rights and lawful interests only in lawful ways and by lawful means, not violating prohibitions imposed by legal acts, without exceeding powers granted to him and respecting other persons' rights.
2. An advocate must always respect law and act so as not to violate principles of justice.
3. An advocate is prohibited from defending such interests of the client, which make the advocate use unlawful ways and means of defence, satisfy unlawful requests, demands of the client or assist the client in activities contrary to law and lawfulness.
4. An advocate is prohibited from unlawfully interfering with or unlawfully hindering exercise of rights or performance of duties by another person.
5. An advocate must ensure that his place of work and conditions for professional activities would meet requirements of the Law on the Bar and the Lithuanian Bar Association.
6. A practicing advocate, carrying out other activities alongside with advocate's professional activities, must always observe the restrictions set in the Law of the Republic of Lithuania on the Bar.

### **Article 8. Non-disclosure of the client's secret**

1. Safety of the client's secret entrusted to an advocate is a necessary condition for the relationship of mutual trust and proper performance of advocate's functions, therefore, confidentiality is the main and most important advocate's right and duty, the obligation of confidentiality is not limited in time.

2. An advocate must ensure that all information given by the client and obtained by the advocate in fulfilment of the client's assignment will be kept as advocate's professional secret.

3. An advocate must take measures that information constituting advocate's professional secret would not be used against the client, would not be made public or disclosed otherwise without the client's consent, save for cases provided for in legal acts and in paragraph 4 of this article or when that is necessary for proper fulfilment of the client's assignment.

4. An advocate is prohibited from unlawfully using information constituting advocate's professional secret in his own interests or interests of another person. An advocate shall have the right to disclose information constituting advocate's professional secret without the client's consent when that is unavoidable for:

- 1) preserving a human life;
- 2) protecting rights and lawful interests of the client, his successor or assignee;
- 3) defending the advocate's rights in a dispute with the client, but only to the extent necessary for correct resolution of the dispute.

5. Presentation of information constituting advocate's professional secret to the Lithuanian Bar Association or its bodies shall not be deemed disclosure of the client's secret and breach of confidentiality.

6. An advocate must demand that his colleague, associate advocate, another person involved for provision of legal services comply with relevant confidentiality undertakings in order that information constituting advocate's professional secret would not be disclosed.

### **Article 9. Competence and dutifulness**

1. Advocate's necessary professional knowledge and careful performance of professional duties are necessary pre-conditions for proper performance of advocate's functions, therefore an advocate must always improve his professional qualification and seek to ensure appropriate quality of services provided to the client.

2. An advocate must always act professionally, dutifully and constructively, must perform his professional duties impeccably, in time, in a qualified, diligent and reasonable manner.

3. The requirements set in the Law of the Republic of Lithuania on the Bar and the Lithuanian Bar Association for becoming an advocate and/or practicing as an advocate are a necessary condition for each advocate, therefore an advocate must always fulfil all such requirements and duties in time, honestly and carefully as long as he is in the list of advocates entitled to pursue the activities of an advocate.

4. An advocate must also fulfil other requirements and duties binding on him as an advocate in time, honestly and carefully.

### **Article 10. Loyalty to the client**

1. Advocate's loyalty to the client is a necessary pre-condition to the advocate's and the client's professional cooperation and proper performance of advocate's functions, also resulting in the advocate's duty to provide services to the client so that they would be best in line with the client's interests.

2. The principle of loyalty to the client obligates the advocate to ensure that the advocate's and the client's mutual relationship would be fair, lawful and ethical. The advocate's and the client's relationship must be based on mutual respect, tolerance and trust.

3. A person's right to choose an advocate under the procedure set by legal acts does not limit the advocate's right to refuse to accept the assignment, indicating important reasons for this. An advocate must

refuse to accept a client's assignment, when that is necessary in order to fulfil requirements of legal acts or this Code, also when acceptance of the assignment is contrary to the advocate's contractual obligations to another advocate or legal entity established for performance of advocates' activities. An advocate must immediately inform the relevant person about his refusal to accept the assignment.

4. An advocate must not accept an assignment, when he knows that he cannot fulfil it in due time and/or properly due to lack of professional competences, due to workload or other reasons. If reasons hindering fulfilment of an assignment became apparent after accepting an assignment, an advocate must immediately inform the client about it.

5. An advocate shall agree with the client on the scope of the assignment, remuneration and other essential conditions of the advocate's services and shall enter into the agreement under the procedure set by the Law on the Bar. An advocate can agree with the client on the remuneration, expressed in monetary terms, which depends on the achieved result (*pactum de quota litis*), in compliance with the requirements set in the Law on the Bar.

6. Before the signature of the agreement with the client, an advocate must disclose all the terms and conditions of the agreement to the client and inform the client about the size of the remuneration for provided legal services, the procedure of its calculation and payment, other possible expenses in connection with legal services provided by the advocate that will have to be compensated.

7. An advocate can accept an assignment for provision of legal services to the client at the request of the client himself, authorised representative or legal representative of the client, the client's spouse or close relative, upon instruction or order of another advocate or legal entity established for performance of advocates' activities, or other persons indicated in legal acts. The advocate must check the client's identity and/or the representative's powers in all cases when the advocate has doubts regarding them. The following persons are admitted to be close relatives: relatives in the straight line up to the second degree inclusively (parents and children, grandparents and grandchildren) and relatives in the side line of the second degree (brothers and sisters) and a person related by marriage (in-laws) (marriage (in-law) relationship is deemed to be relationship between a spouse and relatives of the other spouse (stepson, stepdaughter, stepfather, stepmother, mother-in-law, father-in-law, son-in-law, daughter-in-law) and between relatives of both the spouses (husband's brother or sister and wife's brother or sister, husband's father or mother and wife's father or mother)).

8. An advocate can assess the assignment fulfilment success probability, but should not guarantee to the client or assure him about the result of a specific assignment.

9. An advocate shall be prohibited from encouraging unreasonable litigation. An advocate must encourage a client to seek amicable settlement of a dispute, indicate alternative dispute resolution methods.

10. At the client's request, an advocate must inform the client about the assignment fulfilment progress, coordinate his actions with the client and take into account the client's reasoning and arguments, inform the client immediately about essential events in fulfilment of the assignment in order that the client could take a relevant decision in time.

11. When the client's claims or rebuttals are obviously groundless, an advocate must inform the client about it and advise that he should not make such claims or objections. When the advocate has doubts about reasonability of the client's claims or objections, the advocate must warn the client about a possible unfavourable result of fulfilment of the assignment. If the client does not agree with the advocate's position and arguments, the advocate must explain to the client that he has the right to refuse the advocate's services. In case of situations discussed in this paragraph, an advocate may refuse to provide legal services, having warned the client reasonably in advance.

12. When the client admits to be guilty and the advocate, having assessed all evidence, consents to this, the advocate must, in performance of his professional duties, analyse all circumstances that can mitigate the client's liability.

13. When the client admits to be guilty but the advocate, having assessed all evidence, thinks that the client's guilt is not proven or is doubtful, the advocate must hold a position independent from that of the client.

14. When the client admits to be guilty but the advocate, having assessed all evidence, reasonably thinks that the client's actions contain elements of a less grave crime, the advocate must explain that to the defended. If the client does not agree with the advocate's position and arguments, the advocate must explain to the client that he has the right to refuse the advocate's services.

15. When the client denies his guilt but the advocate, having assessed all evidence in the case file, thinks that there is enough evidence to prove the client's guilt, the advocate must explain that to the client but he cannot try to convince the client that he should admit to be guilty. If the client does not agree with the position held by the advocate, the advocate must explain to the client that he has the right to refuse the advocate's services.

16. An advocate must manage, control and dispose of all funds temporarily kept by him but owned by other persons only under the procedure set by legal acts and the Lithuanian Bar Association and under terms and conditions agreed with such persons. An advocate shall be prohibited from taking funds owned by the client or another person without any legal grounds for this. Having received such funds without knowledge or in breach of established requirements, the advocate must immediately repay them to the payer at the latter's expense.

17. An advocate, in performance of his professional activities, has the right to accept assets owned by other persons for temporary keeping only when keeping of the assets is related to legal services and is necessary for fulfilment of an accepted assignment.

18. An advocate can refuse a client, assignment or unilaterally terminate the advocate's and the client's relationship otherwise only on the grounds provided for in legal acts and in the agreement for legal services, as well as in cases provided for in this Code.

19. An advocate must refuse a client, assignment or unilaterally terminate the advocate's and the client's relationship otherwise when fulfilment of the assignment results in a conflict of interest (taking into account provisions of Article 11 of this Code), breach of the principles of confidentiality or the advocate's independence or is otherwise clearly contrary to the advocate's professional ethics or law, as well as in other cases provided for in this Code.

20. Exercising his right or fulfilling his duty to refuse a client, accepted assignment or to unilaterally terminate the advocate's and the client's relationship otherwise, the advocate must act so that the client would be able to find another advocate in time and the legal proceedings would not be interrupted.

21. An advocate, who is or was a representative of or defence for one party to a case, cannot be a representative of or defence for the other party to the case. In legal relationship, which is not related to legal proceedings, in which the advocate is or was a representative of or defence for one party to a case, the advocate can advise, represent or act against his former client, to whom the advocate provided legal services, when both of the following conditions are met:

1) all such clients, being appropriately informed, expressly consent to such provision of legal services (including consent received in advance);

2) confidentiality of information of any of such clients is not violated.

22. An advocate shall be prohibited from advising, representing, defending or acting against his former client on any issue other than that discussed in paragraph 21 of this article in another case or in other legal relationship for one year after the end of the advocate's and the client's professional mutual relationship or fulfilment of the client's last assignment, whichever is earlier. This prohibition shall not apply:

1) to the advocate in defence of his rights in a dispute with a former client;

2) in respect of a client that is a legal entity when confidentiality of information of any of such clients is not violated;

3) in respect of a client that is a natural person, when all such clients, being appropriately informed, expressly consent to such provision of legal services (including consent received in advance) and confidentiality of information of any of such clients is not violated.

#### **Article 11. Avoidance of a conflict of interest**

1. Proper implementation of the principle of avoidance of a conflict of interest results in a particularly important duty of an advocate in relationship with a client and other persons to act so as to avoid the opposition of the advocate's clients' interests or interests of a client and the advocate.

2. An advocate shall be unconditionally prohibited from advising, representing, defending or acting on behalf of or in the interests of another person, when relevant legal acts provide for such a restriction on legal services due to a conflict of interest.

3. An advocate shall be prohibited from advising, representing, defending or acting on behalf of or in the interests of a client on an issue or in a case, on which or in which the advocate, the advocate's parents (adoptive parents), spouse (partner), children (adopted children), brothers (stepbrothers) and sisters (stepsisters) have financial, commercial or personal interest which is opposite to that of the client.

4. An advocate shall be prohibited, as long as the advocate's and the client's mutual professional relationship continues, either directly or through family members or close relatives, from conducting transactions with the client, his family members or close relatives (including transactions regarding assets, rights or claims, in the case initiated regarding which the advocate provides his legal services to the client), which give rise to a conflict of interest between the advocate, his family members or close relatives and the client or it is obvious that a conflict of interest will arise in the future.

5. An advocate shall be prohibited from advising, representing, defending or acting on behalf of and/or in the interests of two or more clients on the same issue or in a legal relationship if those clients' interests are contrary or there is a real probability that a conflict of interest will arise in the future. This prohibition shall not apply, except for representation or defence in the same case, when all of the following conditions are met:

1) it is practically possible to reconcile all contrary interests and properly provide legal services to each such client;

2) all such clients, being properly informed, expressly consent to such provision of legal services (including consent obtained in advance);

3) confidentiality of information of any of such clients is not violated.

6. An advocate shall be prohibited from advising, representing, defending or acting on behalf of and/or in the interests of two or more clients on any issue other than those discussed in paragraph 5 of this article in a case or legal relationship, if those clients' interests are contrary or there is a real probability that a conflict of interest will arise in the future, or from acting against a present client on behalf of and/or in the interests of himself or another person. This prohibition shall not apply:

1) when an advocate defends his rights in a dispute with a client;

2) in respect of a client that is a legal entity when confidentiality of information of any of such clients is not violated;

3) in respect of a client that is a natural person, when it is practically possible to reconcile all contrary interests and properly provide legal services to each such client and when confidentiality of information of any of such clients is not violated.

7. Advocates of a private legal entity, established for performance of advocates' activities, or advocates acting in a partnership can advise, represent, defend or act on behalf of and/or in the interests of different clients on the same issue or in the same case or legal relationship, when those clients' interests are contrary or there is a real probability that a conflict of interest will arise in the future if such provision of legal services does not violate confidentiality of information of such clients and both of the following conditions are met:

- 1) all such clients, being properly informed, expressly consent to such provision of legal services (including consent obtained in advance);
- 2) the procedures for protection of clients' interests established by the Council of the Lithuanian Bar Association are followed.

**Article 12. Democracy, collegueship and fair competition in mutual relationship of advocates**

1. Mutual relationship of advocates, as members of a united and respectable professional corporation, must be based on the principles of democracy, collegueship and fair competition.

2. A necessary pre-condition for implementation of democracy in mutual relationship of advocates is advocates' active participation in the activities of the Lithuanian Bar Association and its bodies and mandatory participation in general meetings of advocates when solving the most important issues of existence, activities and governance of the Lithuanian Bar Association.

3. An advocate, protecting values of his profession, must foster advocates' mutual trust and cooperation, must always communicate with a colleague in an honest, constructive, friendly, tactful and polite manner.

4. An advocate must help and advise a colleague when that is not harmful for the client's interests, also he must always draw a colleague's attention to a possible violation of law or professional ethics of an advocate.

5. The supervisor of an associate advocate's practice must supervise the advocate's assistant practice really and efficiency. An advocate cannot charge any fees from an advocate's assistant for supervising his practice, whereas the advocate's assistant cannot pay for it.

6. If an advocate is not able to arrive at a court hearing or is going to ask the court to change or set another time for a court hearing, the advocate must, if possible, immediately inform his colleague participating in the case about it.

7. When an advocate accepts an assignment and learns that another advocate is fulfilling an analogous assignment, he must inform the colleague about it, except when due to the colleague's actions or omissions it is impossible to do that within a reasonable time limit or when the client asks not to do that. In such a case, the advocates must cooperate as colleagues in order to properly represent the client's interests.

8. When an advocate accepts an assignment to represent a client against a colleague regarding his professional activities, the advocate must immediately inform the Lithuanian Bar Association, the colleague about that and, when that is not harmful for the client's interests, propose to the colleague to end the dispute with a settlement agreement. An advocate shall be prohibited from initiating, when acting in his own interests, any formal procedures against a colleague regarding his professional activities before notifying the Lithuanian Bar Association about it.

9. Advocates must at first seek to settle their mutual dispute by their mutual agreement. Advocates must avoid unnecessary mutual litigation or other mutual relationship and disputes that do not suit colleagues, undermine the trust of the society in advocates, harm the reputation of the Lithuanian Bar Association or discredit an advocate's repute.

10. Restrictions on the right to provide legal services set by advocates' mutual agreements must be grounded and of reasonable scope.

11. An advocate shall be prohibited from unfairly or publicly encouraging a colleague's client to change an advocate, from criticising a colleague's work, scorning another advocate or degrading his competence or activities.

12. An advocate must always abide by requirements applicable to advocates regarding advertising and information about the advocate and his activities.

### **Article 13. Good will relationship between advocates and bodies of the Lithuanian Bar Association**

1. The mutual relationship between an advocate and bodies of the Lithuanian Bar Association shall be based on mutual respect and cooperation in good will.

2. An advocate, being a member of bodies, commissions or committees of the Lithuanian Bar Association, must take part in their work, meetings, conferences, sittings and other events. An advocate can miss such events only due to important reasons.

3. An advocate must fulfil decisions and resolutions of the Lithuanian Bar Association, its bodies, when invited, he must arrive in time and cooperate. An advocate must immediately inform the Lithuanian Bar Association in case he cannot fulfil decisions or resolutions of bodies of the Lithuanian Bar Association or cannot arrive and must explain reasons for failure to fulfil or arrive.

4. If the Lithuanian Bar Association, its body, committee, commission or their member, acting within the limits of their competence, address an advocate on any issue or request to explain circumstances related to the advocate or advocate's professional activities and/or present relevant data, the advocate must present an explanation and necessary data to the Lithuanian Bar Association within the time limit indicated in the request.

### **Article 14. Respect to the state and the society**

1. In relationships with state and public institutions, authorities and persons or in performance of his professional duties in court, other institutions and authorities an advocate must act respectfully, correctly and constructively, according to established standards of conduct and requirements and respecting other persons' rights.

2. An advocate, having learnt that he will not be able to take part in a hearing at the appointed time or fulfil another professional duty in court, another institution or authority or in relationship with another person, must immediately inform the court, institution, authority or the relevant person about it, and in cases set by legal acts must also inform about reasons for failure to arrive.

3. An advocate, representing a client (defending a client) in court, must immediately inform the court about the end or change of the relationship of representation (defence).

## **CHAPTER III FINAL PROVISIONS**

### **Article 15. Advocates' disciplinary liability**

Disciplinary proceedings can be initiated against an advocate for violations of requirements of this Code and a disciplinary penalty can be imposed on him.

### **Article 16. Effective term of the Code**

7. This Code shall come into effect on 1 September 2016.

8. This Code shall apply to legal relationships that will appear after it comes into effect. In case of legal relationships that appeared before the effective date of this Code, this Code shall apply to those rights and duties and legal situations, which appear after its effective date, also to those rights and duties, which though appeared before the effective date of this Code, but are implemented after its effective date.