

# **Law no. 51 from June 7, 1995 for the organisation 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 organisation and functioning, under the terms of the law and the by-law of the profession.

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

(3) The establishment and functioning of bars outside U.N.B.R. are forbidden. The documents for their establishment and registration shall be null and void.

### **Article 2**

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

(2) The lawyer shall promote and defend human rights, freedoms, and legitimate interests of the individual.

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

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

(5) In the exercise of one's right to defence, the lawyer shall have the right and obligation to insist in achieving the free access to justice, for a fair trial and within a reasonable time delay.

### **Article 3**

(1) A lawyer's activity shall be achieved through:

a) legal advice and petitions of legal nature;

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

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

d) assistance and representation of interested natural or legal persons before other public authorities, with the possibility to certify the parties' identity, the content and the dates of the documents being drafted;

e) defence and representation, by use of specific means, of the legitimate rights and interests of natural and legal persons in their relationships with the public authorities, institutions, and any Romanian or foreign person;

f) mediation activities;

**g) fiduciary activities carried out according to the Civil Code;**

*(on 01 October 2011, article 3, paragraph (1) letter G from Chapter I modified by article 85, point I from the Chapter V, section 3 of the Law no. 71/2011)*

h) temporary establishment of companies' headquarters at the lawyer's professional office and 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 contract for legal assistance;

**i<sup>1</sup>) special curatorship activities under the law and the by-law of the lawyer's profession;**

*(on 31 March 2017 article 3 paragraph (1) letter I form the Chapter I supplemented by article I, point 1 from the Law no.25/2017)*

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

(2) The activities stipulated under paragraph (1) shall only be practiced by a lawyer, unless the law stipulates otherwise."

**(3) The lawyer is obligated to keep evidence of the papers drafted according to paragraph (1) letter c) and d), except for the papers drafted for assistance and representation, and must keep them in his/her professional archive, arranged depending on the time of their drafting. Within 3 days after drafting the papers stipulated in paragraph (1), the lawyer is obligated to register the operation with the electronic registry of papers drafted by the lawyers, according to paragraph (1) letter c) and d), in compliance with the procedure stipulated in the Rules for the organization and the functioning of the registry, approved by the Council of UNBR, under the penalty of not being binding against third parties.**

*(on 31 March 2017 article 3 paragraph (2) from the Chapter I supplemented by article I, point 2 from the Law no.25/2017)*

#### **Article 4**

In the practice of his/her profession and in connection with it, the lawyer shall be protected by the law.

#### **Article 5**

(1) The forms of practicing the lawyer's profession are: individual law offices, associated law offices, professional companies, or professional companies with limited liability.

(2) A qualified lawyer may practice his/her profession within the individual law office, alone or together with other collaborating lawyers.

(3) The individual law offices may associate for the purpose of jointly practicing the profession; the rights and obligations of lawyers, owners of associated law offices shall remain personal and may not be transferred. Accordingly, individual law offices may also associate with private partnerships.

(4) The individual law offices may group in order to create technical-economical facilities for the practice of the lawyer's profession and shall preserve their individuality in their relationships with the clients.

(5) A professional company shall be established by two or more qualified lawyers. Collaborating or remunerated lawyers may also practice their profession in a professional company. The professional company and the lawyers practicing within it may not provide legal assistance to persons having conflicting interests.

(6) The grouped law offices, the associated law offices, the professional companies and the professional companies with limited liability may also have a joint property.

(7) The lawyer may change the form of practicing the profession at any time, provided he/she notifies the bar to which he/she is registered.

(8) The lawyer may not practice his/her profession in several forms of practicing, at the same time.  
(9) The forms of practicing the profession may only be alienated by means of inter vivos agreements, only between qualified lawyers and currently in the practice of their profession, or may be liquidated on termination of the capacity, with the observance of the regime of the investments regulated by the present law.

**(10) When establishing the forms of practicing the profession, the lawyers have the right to establish the assets dedicated to the practice of the profession, under the law, in compliance with the regulated procedure for the establishment of the electronic Registry for the record of the dedicated assets of the lawyers, according to the conditions set forth by the Council of UNBR through the Rules for the organization and functioning. The registration with the registry is legally binding against third parties, under the law.**

*(on 31 March 2017 article 5 paragraph (9) from the Chapter I supplemented by article I, point 3 from the Law no.25/2017*

## **Article 6**

**(1) The professional company with limited liability is the company holding legal personality, established under this law and the by-law of the lawyer's profession, by means of the association of at least 2 qualified lawyers, currently practicing their profession, regardless of them belonging to another form of practicing the profession.**

*(on 01 October 2011 article 6 paragraph (1) from the Chapter I modified by article 85, point 2 of Chapter V, section 3 of the Law no.71/2011)*

(2) The legal personality is acquired by the professional company with limited liability on the date of registration with the bar of the decision issued by the Council of the bar in which territorial area its main office is located.

**(3) The professional company with limited liability holds its own assets.**

*(on 01 October 2011 article 6 paragraph (3) from the Chapter I modified by article 85, point 2 of Chapter V, section 3 of the Law no.71/2011)*

**(4) The duties and the responsibilities of the professional company with limited liability are guaranteed with its own assets. The associates are personally liable only within the limit of each of their capital contribution.**

*(on 01 October 2011 article 6 paragraph (4) from the Chapter I modified by article 85, point 2 of Chapter V, section 3 of the Law no.71/2011)*

(5) Where a professional company with limited liability is established by lawyers who are part of other forms of practicing the profession, the latter may not be subject to liquidation, if the associates so agree.

(6) The form of practicing the profession from which the associate comes, if any, ceases its professional activity carried on in own name, during the period in which the qualified lawyer owning it or, as appropriate, the lawyers owning it have the status of associate in the professional company with limited liability. During the period in which the form of practicing the profession ceases to exist for this reason, the situation regarding the cessation of activity shall be duly mentioned with the Table of Lawyers, under the conditions stipulated in the by-laws of the lawyer's profession.

(7) In the case of professional services consisting of legal assistance and representation in front of the courts, prosecutors' offices, criminal investigation bodies or other authorities, the professional company with limited liability has the obligation to mention in the contract concluded with the

client the name of the lawyers(s) chosen or accepted by the client to provide the professional service as well as if right of substitution is granted or, as the case may be, not granted.

(8) The professional company with limited liability carries out simple bookkeeping and is subject to the tax transparency regime. The payment of income tax is made by each associate for his own income.

### **Article 7**

Any lawyer, irrespective of the form of practicing the profession, may conclude collaboration conventions with experts or other specialists, under the terms of the law. The professional companies and the professional company with limited liability may conclude such conventions only with the consent of all partners.

### **Article 8**

(1) The forms of practicing the lawyer's profession and the grouped law offices shall be individualised by denomination, as follows:

a) for the individual law office – the name of the lawyer owning the law office, followed by the phrase law office;

b) for the associated law offices – the names of all owners, followed by the phrase associated law offices;

c) for the professional companies and the professional company with limited liability – the name of at least one partner, followed by the phrase professional company or, as applicable, professional company with limited liability;

d) for the grouped law office – the name of each law office owner, followed by the phrase grouped law offices.

(2) The denomination of the form of practicing the profession, 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 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) For all forms of practicing the profession by foreign lawyers, one may use the denomination and the name of the form of practicing the profession used in Romania or abroad, under the terms of the current article.

### **Article 9**

(1) The conventions for grouping or association of law office, the deeds of incorporation of the professional companies and the professional companies with limited liability, as well as the conventions stipulated under article 7, shall be concluded in writing, with the compliance of the substantive requirements stipulated by the law and the by-law of the profession.

(2) The Council of the bar having been notified shall check the compliance with the law and, when this is the case, shall order the registration of the convention within one month since the application was submitted.

(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 decision of the Council of the bar with the professional jurisdiction bodies, under the terms of the present law and the by-law of the profession.

(4) The bars shall keep separate records of lawyers for each form of practicing the profession.

### **Article 10**

(1) The bars and U.N.B.R. shall ensure the qualified exercise of the right to defence, the professional competence and discipline, the protection of the dignity and honour of the member lawyers.

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

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

### **Article 11**

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

## **CHAPTER II: Acquiring the capacity of lawyer**

### **SECTION 1: Conditions for admission to the profession**

### **Article 12**

(1) The person who fulfils the following conditions may be a member of a Romanian Bar:

- a) he/she holds the civil and political rights;
- b) he/she is a graduate of a faculty of law with the duration stipulated by the law;
- c) he / she is not in any of the cases of indignity provided by the present law;
- d) he/she is medically fit for the profession.

(2) The fulfilment of the condition stipulated in letter d) paragraph (1) must be proved by a medical certificate issued on the basis of the findings made by a medical committee established under the conditions laid down in the by-laws of the profession.

### **Article 13**

(1) A member of a foreign bar may practice the profession of lawyer in Romania, provided that the conditions laid down in this law are fulfilled.

(2) In order to provide legal counselling on Romanian law, the foreign lawyer has the obligation to undergo a Romanian law and Romanian language examination, organized by UNBR.

(3) The foreign lawyer may practice the profession of lawyer in Romania, at his/her choice, in one of the forms of practicing the profession provided in article 5.

(4) The foreign lawyer cannot submit oral or written conclusions before the courts and other jurisdictional and judicial bodies, except those of international arbitration.

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

(6) The foreign lawyer practicing in Romania is obliged to register with the special table of lawyers held by each bar and is subject to the provisions of this law, the by-laws of the profession and the code of ethics.

### **Article 14**

It is unworthy of being a lawyer:

*a) the person finally convicted by a court order to imprisonment for committing an intentional offense, such as to prejudice the prestige of the profession;*

b) the person who committed abuses which violated the human rights and fundamental freedoms, established by court decision, or has committed serious disciplinary offenses punishable by the exclusion from the profession as a disciplinary sanction;

c) the person who was punished by the prohibition to practice the profession, during the period established by a court or by disciplinary decision;

**d) the person in charge of whom was found, on the basis of a final court decision or acts of the lawyers' profession, the act of having practiced or supported, in any form whatsoever, the unlawful practice by a person of the profession of lawyer.**

*(on 31 March 2017 article 14, letter C of Chapter II, section 1 supplemented by article 1, point 4 of the Law no. 25/2017)*

*(on 01 February 2017, article 14, letter D of Chapter II, section 1 repealed by article 51, point 1 of Title II of the Law no. 187/2012)*

### **Article 15**

The practice of the profession of lawyer is incompatible with:

a) the remunerated activity within professions other than the lawyer's profession;

b) occupations damaging the dignity and independence of the lawyer's profession or the good morals;

c) the direct exercise of material acts of trade.

### **Art. 16**

The practice of the profession of lawyer is compatible only with:

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

b) teaching activities and functions in higher education;

c) literary and publishing activity;

d) the quality of arbitrator, mediator, conciliator or negotiator, tax adviser, intellectual property counsellor, industrial property counsellor, authorized translator, administrator or liquidator in the reorganization and liquidation procedures under the law.

e) other activities provided by law.

### **Article 17**

(1) The admission to the profession is realized only on the basis of an examination organized by UNBR, at least annually and at national level, according to this law and the by-laws of the lawyer's profession.

(2) The examination for the admission to the profession of lawyer is carried out by the National Institute for the Training and the Improvement of Lawyers and it takes place in a unitary manner, in its territorial centres, based on a methodology elaborated and approved by the Council of UNBR.

(3) The curriculum of the examination is unique at UNBR level, and the selection of the subjects is made by the National Examination Board.

(4) The National Examination Board is formed mainly of lawyers - university professors, who have at least 10 years of seniority in the profession of lawyer. The appointment of the National Examination Board is made by the Standing Committee of UNBR, upon the local bars' proposal.

(5) The provisions of article 102 paragraph (2) of the Law no. 303/2004 on the statute of judges and prosecutors, republished, as subsequently amended and supplemented, shall apply accordingly, as well as for the judges of the international courts.

### **Article 18**

- (1) At the beginning of the practicing the profession, the lawyer must perform a 2-years training, during which he has the status of trainee lawyer.
- (2) The conditions in which the training is performed, the rights and obligations of the trainee lawyer, the trainer-lawyer, as well as the bar towards them, shall be regulated by the by-laws of the profession.
- (3) During the training period, with the consent of the trainer-lawyer, the trainee lawyers may attend master's courses, which are taken into account in the appraisal of the initial professional training under the conditions laid down in the by-laws of the lawyer's profession.
- (4) The training shall be suspended in case of motivated absence from the profession or in case of termination of professional guidance without the fault of the trainee lawyer. The previous training period is counted for the traineeship.
- (5) After the training, the trainee lawyer will undergo the final examination.
- (6) The trainee lawyer rejected three times at the final examination will be excluded from the profession.

### **Article 19**

The activity of a trainee lawyer can only be guided by qualified lawyers having at least six years seniority in that capacity and enjoying an intact professional reputation.

### **Article 20**

- (1) The capacity of qualified lawyer is obtained based on an examination organized by UNBR, annually and at national level, according to the present law and the by-law of the lawyer profession or after passing the examination at the graduation of the National Institute for Training and the Improvement of Lawyers, under the conditions stipulated by Status of the profession of lawyer.
- (2) The examination to acquire the capacity of qualified lawyer is taken within the National Institute for Training and the Improvement of Lawyers and is conducted in a unitary manner, on territorial centres, based on a methodology elaborated and approved by the UNBR Council.
- (3) The curriculum for the examination to acquire the capacity of qualified lawyer is unique at UNBR level, and the selection of the subjects is performed by the National Examination Board.
- (4) The National Examination Board is formed, mostly, from lawyers - university teachers who have at least 10 years of professional seniority. Their appointment is made by the Standing Committee of UNBR, upon the bars' proposals.
- (5) The person who passed the examination to be admitted in the lawyer profession and who until the date of the examination to be admitted in the lawyer profession has served as a judge, prosecutor, notary public, legal advisor or in-house lawyer for 5 years acquires the capacity of qualified lawyer, without having to pass the examination to obtain the capacity of qualified lawyer, as provided in paragraph (1), subject to the passing the final examination within the profession from where he / she comes from.
- (6) The provisions of paragraph (5) shall also apply to persons who have passed the admission examination in the profession of lawyer and who have performed legal positions in the apparatus of the Parliament, the Presidential Administration, the Government, the Constitutional Court, the Ombudsman, the Court of Accounts and the Legislative Council for 5 years uninterrupted.

(7) The trainee lawyer who has exercised at least one mandate of member for the Parliament, mayor, deputy mayor, chairman of the county council or deputy chairman of the county council, acquires upon request the capacity of qualified lawyer.

(8) The lawyers - former judges cannot make submissions in front the courts where they functioned, and former prosecutors and police officers cannot provide legal assistance to the criminal investigation unit where they have been carrying out their activity, for 5 years after the end of the concerned office.

### **Article 21 – Repealed**

*(on 27-Jan-2012, Article 21, paragraph (1) of Chapter II, Section 1 was attacked (exception admitted) Decision 1519/2011)*

*(on 12-March-2012 Article 21, paragraph (1) of Chapter II, Section 1 was repealed by the Decision 1519/2011)*

*(on 31-March-2017, Article 21 of Chapter II, Section 1, was repealed by Article I, paragraph 7 of the Law 25/2017)*

### **Article 22**

(1) When joining the bar, the lawyer takes the following oath, solemnly, in front of the bar council: *"I swear to observe and uphold the Constitution and the laws of the country, the human rights and freedoms and to practice the lawyer's profession in honesty and dignity. So help me God!"*

(2) The oath can be taken without the religious formula, in which case the oath will begin with the formula: "I swear by honour and conscience!"

### **Article 23**

(1) A trainee lawyer may make submissions only with district courts and may assist or represent parties before the bodies and institutions stipulated under article 3.

(2) The trainee lawyers, after registering with the bar, are obligated to attend the courses of the National Institute for the Training and the Improvement of Lawyers, during the training period.

(3) The qualified lawyer has the right to make submissions with all courts, except for the High Court of Cassation and Justice and the Constitutional Court, where he will be able to make submissions if he will have an uninterrupted professional experience of at least 5 years after having acquired the capacity of qualified lawyer.

(4) The qualified lawyer is obligated to attend the forms of continuous professional training organized by the bar, the National Institute for the Training and the Improvement of Lawyers or by the forms of practicing the profession, under the conditions stipulated in the by-laws of the lawyer's profession.

### **Article 24**

(1) The Bar has the obligation to draw up, annually, the table of definitive and trainee lawyers, in alphabetical order, mentioning the name, surname, scientific title, date of registration with the bar, the professional headquarters, the form of practicing the profession and the courts with which they have the right to make submissions.

(2) The second part of the table of lawyers shall include the associated law offices, the professional companies and the professional companies with limited liability, with indication of the professional headquarters and the courts in front of which submissions can be made.



**(3) Through the bar's diligence, the annual table of lawyers and the changes occurred within shall be communicated, at the beginning of each year, to the courts, to the criminal investigating bodies and to the administrative authorities of the county or the municipality of Bucharest, as well as to UNBR. Separately, the table of the incompatible lawyers shall be communicated to UNBR.**

*(at 31 March 2017, Article 24, paragraph (3) of Chapter II, Section 1 amended by Article I, point 8 of the Law 25/2017)*

#### **Article 25**

**(1) The Bar Council shall issue decisions for lawyers to be included in the table of the incompatible lawyers, upon request or ex officio, and the new registration with the table of lawyers with right to practice the profession shall be made only upon request, after the incompatibility status has ceased.**

*(on 14th-2014, Article 25 (2) of Chapter II, Section 1 was attacked by (exception admitted) Decision 297/2014)*

**(2) In cases where there is incompatibility, the decision to be admitted within the profession shall be effective only from the date when the incompatibility status has been terminated.**

*(on 31 March 2017 Article 25 (2) of Chapter II, Section 1 as amended by Article I, paragraph 9 of Law 25/2017)*

**(3) Until the termination of the incompatibility status, the person admitted within the profession shall be registered with the table of incompatible lawyer in a separate section.**

*(on 31-Mar-2017, Article 25, paragraph (2) of Chapter II, Section 1, supplemented by Article I, point 10 of Law 25/2017)*

#### **Art. 26**

**(1) Courts are required to verify and rule on the capacity as representative of a person appearing as lawyer, exercising acts specific to that profession and using the marks of the profession of lawyer.**

**(2) Practicing lawlessly any activity specific to the profession of lawyer is an offense and is punishable according to the criminal law.**

**(3) The act of a person exercising activities specific to the profession of lawyer within entities that are not part of the forms of professional organization as recognized by the present law constitutes an offense and is punished according to the criminal law.**

**(4) The acts specific to the profession of lawyer, accomplished publicly by a person who has not acquired the capacity of a lawyer under the present law, are null and void.**

*(as of 31 March 2017, Article 26 of Chapter II, Section 1 as amended by Article I, paragraph 11 of Law 25/2017)*

### **SECTION 2: Termination and suspension of the capacity of lawyer**

#### **Article 27**

The capacity of lawyer ceases:

- a) by written waiver of the practice of the profession;
- b) by death;
- c) if the measure of exclusion from the profession was taken against the lawyer, as a disciplinary sanction;

d) if the lawyer was convicted through a final court order for an act provided by the criminal law which renders him unworthy of being a lawyer, according to the law.

### **Article 28**

The capacity of lawyer is suspended:

- a) in case of incompatibility, during the existence of this condition;
- b) during the period of interdiction to practice, ordered by a court ruling or a disciplinary decision;
- c) in the event of total or partial non-payment of taxes and professional contributions to the Bar, to UNBR and to the own social security system for a period of 3 months from their maturity, until full payment of the debts;
- d) upon the written request of the lawyer.

## **CHAPTER III: The rights and duties of the lawyer**

### **SECTION 1: The rights of the lawyers**

#### **Article 29**

(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 certified date after being recorded in the official register of evidence.

(2) A lawyer as well as his/her client shall be entitled to renounce 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 for the payment of the due fee for the law services provided, as well as for covering the expenses incurred by the lawyer in the interest of the client's procedural interest.

#### **Article 30**

**(1) The lawyer has the right to elect and to be elected in the governing bodies of the profession, under the conditions provided by the present law and the by-law.**

**2) The lawyers with outstanding debts and fees established for setting up the budget of UNBR and the Bar, as well as the funds of the Romanian Lawyers' Insurance House and its subsidiaries, may not be part of the professional bodies of the profession.**

*(on 31 March 2017, Article 30 of Chapter III, Section 1, supplemented by Article I, point 12 of the Law 25/2017)*

#### **Art. 31**

(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 procedural interest being covered.

**(1<sup>1</sup>) The activity carried out by a lawyer under the law and the by-law of the lawyer's profession, regardless of the form and manner of practicing the profession, generating professional income, cannot be reconsidered as a dependent activity according to the provisions of the Fiscal Code.**

**(1<sup>2</sup>) The lawyers may agree with their clients for higher retainers than those set out in the table of minimal retainers adopted by the UNBR Council.**

*(on 31 May-2017 Article 31 (1) of Chapter III, Section 1, supplemented by Article I, point 13 of Law 25/2017)*

(2) For this purpose, a lawyer may open a bank account to cash in the fees and another one for depositing the amounts received from the client for procedural expenses in the latter's interest. The way of managing the amounts that have been handed over to the lawyer by the client, for procedural 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 legally concluded legal assistance contract is enforceable. The civil court having jurisdiction over the lawyer's professional head office shall have competence for vesting the legal assistance contract with an executory formula. The overdue fees and other expenses incurred by the lawyer in the procedural interest of his/her client shall be recovered according to the provisions of the by-law of the profession.

### **Art. 32**

Contests and complaints against the lawyer's retainer shall be solved by the dean of the bar. The dean's decision may be appealed with the Council of the bar, whose decision is final.

### **Article 33**

(1) Lawyers shall have their own social security system.

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

(3) The time served as a lawyer shall be considered seniority.

(4) The lawyer has the right to recover his/her work capacity, under the conditions stipulated in the by-law of the lawyer's profession.

### **Article 34**

The period in which the lawyer performed the functions of judge, prosecutor, notary, he has been appointed as legal expert within the Parliament, the Presidential Administration, the Government, the Constitutional Court, the Ombudsman, the Court of Accounts and the Legislative Council, as well as the period during which he was suspended from the profession in order to exercise a public dignity function or a function assimilated to the public dignity function shall be considered seniority within the lawyer's profession.

### **Art. 35**

(1) In order to ensure the professional secrecy, the professional documents and paperwork that are in the lawyer's custody or in his/her law office shall be inviolable. The search of a lawyer, of his/her residence or law office, or the seizure of records and goods may only be made by a public prosecutor, based on a warrant issued under the terms of the law.

**(1<sup>1</sup>) The following are exempted from the measure of evidence seizing and the measure of confiscation:**

**a) documents containing communications between a lawyer and his client;**

**b) documents containing records made by a lawyer on matters relating to the defence a client.**

*(on 31 of March 2017 Article 35 paragraph (1) of Chapter III, Section 1, supplemented by Article I, point 14 of Law 25/2017)*

(2) The lawyer's phone calls shall not be heard and recorded by any technical means, nor shall his professional correspondence be intercepted and recorded, except under the conditions and by the procedure provided by the law.

**3. The relationship between a lawyer and the person he/she assists or represents may not be subject to technical supervision unless there is evidence that the lawyer himself is or is preparing to commit one of the offenses referred to in article 139 paragraph (2) of the Code of Criminal Procedure. If during or after the execution of the measure it results that the technical supervision activities also covered the relationship between the lawyer and the suspect or defendant he defends, the evidence obtained cannot be used in any criminal proceedings and will be immediately destroyed by to the prosecutor. The judge who ordered the measure is immediately informed by the prosecutor. The judge shall order the lawyer to be informed.**

*(31 May-2017 Article 35 (2) of Chapter III, Section 1, supplemented by Article I, point 15 of Law 25/2017)*

### **Article 36**

(1) The contact between a lawyer and his client cannot be hindered or controlled, directly or indirectly, by any state body.

(2) Where the client is in arrest or detention, the administration of the place of arrest or detention shall take the necessary measures to respect the rights provided in paragraph (1).

### **Article 37**

The lawyer practicing in the individual law offices, the associated law offices, the professional companies and the professional companies with limited liability have the right to own a professional headquarter in the constituency of the bar where they are registered and to secondary offices in another bar in the country or abroad where they are registered.

### **Article 38**

The Ministry of Justice is obligated to provide the necessary premises within the courts' headquarters for the activity of lawyers.

*(on 14 February 2011 Art. 39, paragraph (8) of Chapter III, Section 1, abrogated by Art. 1 of the Emergency Ordinance 10/2011)*

### **Article 39**

**(1) While practicing their profession, the lawyers are indispensable partners of justice, protected by law, without being assimilated to civil servants, unless they attest to the identity of the parties, the content or the date of an act.**

**(2) The lawyer is obligated to respect the solemnity of the court hearing, not to use words or expressions likely to prejudice the dignity of the judge, prosecutor, other lawyers, parties or their representatives in the trial.**

**(3) The lawyer shall not be criminally liable for the oral or written claims, in the appropriate form and in compliance with the provisions of paragraph (2) before the courts, the criminal investigations bodies or other administrative bodies of jurisdiction, neither if those claims are in connection to consultations provided to litigants or to *defences* formulated in the respective case or for the assertions made during verbal consultations or written**

consultations given to the clients, if they are performed one in compliance with the professional deontology rules.

(4) The non-observance by the lawyer of the provisions of paragraph (2) and (3) constitutes serious disciplinary offense. The disciplinary liability does not exclude the criminal or civil liability.

(5) The legal opinions of the lawyer, the exercise of rights, the *fulfilment* of the obligations provided by law and the use of legal means for the effective preparation and realization of the *defence* of the freedoms, rights and legitimate interests of his/her clients do not represent a disciplinary infringement nor do they entail other legal liability forms attributable to the lawyer.

*(on 31-Mar-2017, Article 39 of Chapter III, Section 1 as amended by Article I, paragraph 16 of Law 25/2017)*

## **SECTION 2: Attorney's duties**

### **Article 40**

(1) The lawyer shall be obligated to thoroughly study the causes entrusted to him, hired or ex officio, to appear for all hearings in the courts of law or at the criminal investigation bodies or other institutions, according to the mandate being entrusted, to manifest conscientiousness and professional probity, to plead with dignity in front of the judges and the parties in the trial, to submit written conclusions or minutes of the hearing whenever the nature or the difficulty of the case so requires or when the court orders to do so. Failure to observe these professional duties is a disciplinary offense.

(2) The lawyer is obligated to take all due diligence to protect the rights, freedoms and legitimate interests of clients and to use the means provided by the law, which he considers to be favourable to them.

(3) The lawyer is obligated to refrain from assisting and counselling a client when he is accomplishing acts or deeds that could constitute crimes.

(4) The lawyer is entitled to withdraw immediately and to give up assistance and representation to the client if the latter' actions and goals, apparently lawful at the beginning of the assistance and / or representation, prove to be criminal during the assistance / representation.

*(on 31 March 2017, Article 40 of Chapter III, Section 2, supplemented by Article I, paragraph 17 of Law 25/2017)*

### **Article 41**

The lawyer is obligated to provide legal assistance in the cases in which he was appointed ex officio or free of charge by the bar.

### **Article 42**

The lawyer is obliged to ensure professional liability under the conditions established by the profession statute.

### **Article 43**

The lawyer is obligated to attend all the meetings convened by the Bar Council, the professional activities and the meetings of the governing bodies to which he belongs. Repeated and unjustified absence constitutes disciplinary offense.

#### **Article 44**

(1) The lawyer shall be obliged to keep the records required by the law and the by-law regarding the cases which he has taken and to pay regularly and in due time the fees and contributions established for the formation of budget of the bar and of the funds of the Romanian Lawyers' Insurance House and of subsidiaries. The UNBR budget is formed of the contributions of the bars, established according to the law and the by-law of the profession.

(2) The acts drafted by the lawyer to keep the professional records required by the law, as well as for the legitimation as representative towards third parties, have the full proving force until statement of forgery.

#### **Article 45**

The lawyer is obligated to return the documents that were entrusted to the person from whom he received it.

#### **Article 46**

(1) A lawyer cannot assist or represent parties with opposite interests in the same case or in connected cases and cannot plead against the party who has previously consulted him on the concrete litigious aspects of the case.

**(1<sup>1</sup>) Any contact between a lawyer and a person with contrary interests in the case in which the lawyer is hired, their representative or a third party who proves to be interested in the solution to be taken may only be reached with the express agreement, in advance, of the client, in the presence of the client or of the person designated by him.**

*(on 31 March 2017, Article 46, paragraph (1) of Chapter III, Section 2, supplemented by Article I, point 18 of Law 25/2017)*

(2) A lawyer may not be heard as 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 that interested in the case.

(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 case.

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

**(4<sup>1</sup>) Unlawful disclosure by the lawyer of confidential information from the private sphere of his client or targeting an operational or commercial secret entrusted under the same quality or of which the lawyer could become acquainted during the activities specific to the profession constitutes a crime and is punished by imprisonment from one to five years.**

**(4<sup>2</sup>) The members of the governing bodies of the lawyer's profession are obligated as well to observe the professional secrecy with regard to the issues they have come to know as a result of the exercise of the prerogatives invested in them.**

**(4<sup>3</sup>) The lawyer's act of non-complaining of certain offenses of which he becomes aware during the practice of the profession does not constitute an offence, except for the following**

**offenses:**

- 1. murder, third degree murder or other crime that resulted in the death of a person;**
- 2. genocide, crimes against humanity or war crimes against persons;**
- 3. the crimes provided for in article 32-38 of the Law no. 535/2004 on the prevention and fight against terrorism, as subsequently amended and supplemented.**

**In all cases, the lawyer who prevented the offense being committed or its consequences in any other way than by denouncing the perpetrator is exonerated.**

*(on 31 March 2017, Article 46, paragraph (4) of Chapter III, Section 2, supplemented by Article I, point 19 of Law 25/2017)*

(5) A lawyer may not perform the function of expert or translator in the case in which he is hired as a defence counsel.

#### **Article 47**

(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 premises 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 UNBR on an occasion that requires that attire.

#### **Article 48**

**(1) Any public communication or any publicity made by a lawyer or a form of practicing the profession is permitted, subject to compliance with the professional regulations and those regarding the independence, dignity, integrity of the profession, professional secrecy, to being objective and to correspond to the truth.**

**(2) The status of the profession of lawyer regulates in detail the rules applicable to the publicity made by lawyers or by the forms of practicing the lawyer's profession in order to attract clients.**

*(on 31-Mar-2017, Article 48 of Chapter III, Section 2 as amended by Article I, paragraph 20 of Law 25/2017)*

### **CHAPTER IV: The organization of the profession of lawyer**

#### **SECTION 1: The Bar**

#### **Article 49**

(1) The lawyer's profession shall be organized 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 50**

(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 have legal personality, own assets and own budget.

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

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

### **Article 51**

(1) The bar's managing bodies shall be as follows:

- a) the general assembly;
- b) council;
- c) the dean.

(2) The Audit Committee and the Disciplinary Committee shall carry out the activity within the Bar. Their organization, operation as well as their attributions are governed by the by-law of the lawyer's profession.

**(3) Within each bar, the Court of Professional Arbitration of Lawyers is organized and functioning, as permanent arbitration institution, non-governmental institution, without legal personality, independent in the exercise of its duties. The organization, functioning as well as the attributions of the Court of Professional Arbitration of Lawyers are governed by the by-law of the Lawyer's profession.**

*(on 31 March 2017, Article 51, paragraph 2 of Chapter IV, Section 1, supplemented by Article I, point 21 of Law 25/2017)*

### **Art. 52**

(1) The general assembly is made up of all lawyers registered with the bar with the right to practice the profession.

(2) The general assembly shall have the following powers:

- a) to establish the measures for the practice of the profession in the respective bar, within the limits of the law and the by-law;
- b) to elect and revoke the dean, the members of the council, the members of the audit committee and the members of the disciplinary committee. The Dean is elected for a four-year term and may be re-elected once. The Dean is elected from lawyers with at least 10 years of professional experience;
- c) to elect the Bar's Delegates at the Congress of lawyers;

**c<sup>1</sup>) to propose the candidates for the Central Discipline Committee;**

*(on 31 March 2017 Article 52, paragraph 2, letter C of Chapter IV, section 1, supplemented by Article I, point 22 of Law 25/2017)*

d) to approve the draft budget of the bar and to release the Council of administration on its activity and management.

### **Article 53**

(1) The ordinary general assembly shall reunite on an annual basis, during the first quarter, when convened by the Council of the bar.

(2) The convening shall be made by posting the announcement at the bar head office, at the head offices of assistance offices in that county, and by publishing it in a local newspaper, at least 15 days before the date set.

(3) An extraordinary general meeting may be convened by the Council of the bar or by the Audit Committee.

(4) Following the request by over one third of the bar members, the council shall have the obligation to convene an extraordinary general assembly no later than 15 days from the receipt of



the request. In this instance, the convening procedure shall be accomplished at least 7 days before the date set.

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

#### **Article 54**

(1) The general assembly shall be lawfully constituted in the presence of the majority of its members.

(2) If the lawful number is not met and the agenda of the assembly does not include the election of the governing bodies of the bar, the presidium of the general assembly, in the presence of the people there, shall establish a new general meeting no later than 15 days from the date of the first convocation. The Council of the bar shall have the obligation to complete the convening procedure at least 7 days before the date set.

(3) The general assembly convened in accordance with para. (2) is legally constituted with the participation of at least one third of the total number of its members.

(4) The decisions of the general assembly shall be taken by a majority vote of the members present, except where the law provides for another quorum of session and voting.

#### **Article 55**

(1) The general assemblies for the election of the governing bodies of the bar are legally constituted only with the participation of the majority of the members of the general assembly of the bar.

(2) By way of exception from the provisions of paragraph (1) in the case of bars which have more than 500 lawyers with right to practice the profession, if at the first convocation the legal number of participants is not met, the provisions of Art. 54 par. (2) and (3) are accordingly applicable.

(3) Participation in the general assembly for the election of the governing bodies of the bar is done personally. A lawyer member of the bar cannot delegate to another lawyer the exercise of his right to vote.

#### **Article 56**

(1) The Bar Council shall consist of 5 to 15 members, elected for a period of four years and shall have a continuous professional experience of at least 8 years. The dean and the deputy dean are included in this number.

(2) The Bar Council has the following duties:

a) it adopts decisions on the application and observance of the provisions of this law and the by-law of the profession;

**b) it enforces the resolutions and decisions of the Congress of Lawyers, the UNBR Council, the Standing Committee of the UNBR and of the General Assembly of the Bar;**

*(on 31 March 2017, Article 56, paragraph 2, letter B. of Chapter IV, Section 1, modified by Article I, point 23 of Law 25/2017)*

c) it draws up, modifies and publishes the annual table of lawyers, members of the bar, and communicates it to those entitled to receive it;

- d) it adopts measures for the organization of the professional, disciplinary and deontological control, for the settlement of claims and complaints, under the conditions stipulated by the law and the by-law of the profession;
- e) it verifies and observes the fulfilment of the legal conditions of the applications for the admission in the profession and approves the admission in the profession with an examination or with an exemption from taking the examination;
- f) it decides on the state of incompatibility and its termination;
- g) it resolves the transfer requests in accordance with the law and the by-law of the profession;
- h) it verifies and ascertains whether the papers concerning the creation, modification and change of the forms of practicing the profession, as well as the grouping or co-working conventions meet the conditions stipulated by the law and the by-law of the lawyer's profession; it authorizes the operation of these forms; it organizes and keeps track of them;**  
*(on 31 March 2017, Article 56, paragraph (2), point H of Chapter IV, Section 1 as amended by Article I, point 23 of Law 25/2017)*
- h<sup>1</sup>) it identifies and notifies the competent judicial bodies about the cases in which the lawyer's specific activity is practiced in any form by persons who do not have the capacity of lawyer registered with the bar, or should they be registered, they do not have the right to practice the profession;**  
*(on 31 March 2017, Article 56, paragraph (2), letter H of Chapter IV, Section 1, supplemented by Article I, point 24 of Law 25/2017)*
- i) it coordinates the activity of the subsidiary or branch of the Lawyers' Insurance House (C.A.A.) within the jurisdiction and it exercises the control of its activity upon notification of the C.A.A. Board of Directors or of the UNBR Council, independent from the own controlling power of the C.A.A. Board of Directors or the UNBR Council;**  
*(on 31 March 2017, Article 56, paragraph (2), point I of Chapter IV, Section 1 as amended by Article I, paragraph 25 of Law 25/2017)*
- j) it organises term lectures and study circles, and edits the bar's publications;
- k) it organises and guides the activity of legal assistance services in that county, according to the law and the by-law of the profession;
- l) it notifies the Disciplinary Committee to judge the disciplinary offences committed by lawyers;
- m) it suspends from the practice 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 complied with the obligation;
- n) it solves the complaints against the decision of the dean of the bar regarding the lawyer's fees;
- o) it sets a contribution share for the lawyers towards the bar budget;
- p) it accepts donations and legates made to the bar;
- q) it approves the lineage chart and the organizational chart and hires the bar's personnel;**  
*(on 31 March 2017, Article 56, paragraph (2), letter Q of Chapter IV, Section 1 as amended by Article I, paragraph 25 of Law 25/2017)*
- r) it draws up the annual draft budget to be submitted to the general assembly, and manages the bar assets;
- s) it presents annually, to the general assembly, the activity report of the council and of the dean, on current administration and on the bar assets administration, for approval;
- t) it elects the deputy dean of the bar;
- u) it solves complaints and appeals against the decisions taken by the dean of the bar;

v) **it carries out any other powers stipulated by the law or by other legislative act.**  
*(on 31 March 2017, Article 56, paragraph (2), point V of Chapter IV, Section 1 as amended by Article I, paragraph 25 of Law 25/2017)*

#### **Article 57**

**(1) The sessions of the Bar Council shall be convened by the Dean or his substitute. The Council may also be convened by a third of its members.**

**(2) The Bar Council shall work legally in the presence of two-thirds of its members and shall take its decisions by a majority of the members present.**

*(on 31-Mar-2017 Article 57 of Chapter IV, Section 1 as amended by Article I, paragraph 26 of Law 25/2017)*

#### **Article 58**

(1) The Dean of the Bar has the following competencies:

a) to represent the bar in its relations with the natural and legal persons from the country and from abroad;

**b) to chair the meetings of the bar council;**

*(on 31 March 2017, Article 58, paragraph 1, letter B. of Chapter IV, Section 1 as amended by Article I, paragraph 27 of Law 25/2017)*

c) to approve requests for free legal aid;

d) to exercise appeals against the decisions of the Disciplinary Committee and against the decisions of the Bar Council for which appeals are provided;

e) to authorize the Bar's expenses;

f) to take actions on the management of the bar which are not within the competence of the general assembly or of bar council;

g) to perform any other duties provided for by the law or decided by the governing bodies of UNBR and given to his/her competence.

(2) The deputy dean replaces the Dean at his request or in his absence.

(3) If the dean and the deputy dean are temporarily unable to perform their functions, the bar council may delegate a counsellor to perform, in whole or in part, the duties of the dean.

(4) For the Bucharest Bar, the bar council elects two deputy deans. The Dean is replaced, upon request or in his absence, by the deputy dean whom he / she appoints in writing.

#### **Article 59**

**The lawyer dissatisfied with the decision of the dean may appeal it to the bar council within 15 days of communication.**

*(as of 31-Mar-2017 Article 59 of Chapter IV, Section 1 as amended by Article I, paragraph 28 of Law 25/2017)*

### **SECTION 2: National Association of the Romanian Bars - UNBR**

#### **Article 60**

(1) The National Association of the Romanian Bars - UNBR is made up of all Romanian bars and is headquartered in the capital of the country, Bucharest.

- (2) UNBR is a legal person of public interest, has its own patrimony and budget.
- (3) The UNBR budget shall be formed from the contribution of the bars in quotes established by the Congress of Lawyers. UNBR's patrimony can also be used in revenue-generating activities under the law.
- (4) The Bar Association is established and operates only within the UNBR, according to the present law and the by-law of the profession.
- (5) UNBR is the legal successor of the Romanian Bar Association.
- (6) The unlawful use of the names "Bar", "National Association of the Romanian Bars", "UNBR" or "Romanian Bar Association" or of the names specific to the forms of practicing the lawyer's profession, as well as the use of the marks of the profession of lawyer or the wearing of the lawyer's robe under conditions other than those provided by this law constitutes an offense and shall be punished by imprisonment from 6 months to 3 years or by a fine.**
- (on 01-Feb-2014 Article 60, paragraph (6) of Chapter IV, Section 2 as amended by Article 51, point 3 of Title II of the Law no. 187/2012)*

#### **Article 61**

- (1) The governing bodies of UNBR are:
- a) The Congress of Lawyers;
  - b) The UNBR Council;
  - c) The Standing Committee of UNBR;
  - d) The President of UNBR
- (2) Within UNBR the following entities shall be established and shall operate:
- a) the Central audit committee;
  - b) the Central discipline committee;
  - c) The technical-administrative personnel.

#### **Article 62**

- (1) The Congress of lawyers is made up of delegates of each Bar, according to the norm of representation established by the by-law of the profession, and of the members of the UNBR Council.
- (2) The Congress of lawyers meets annually in ordinary session, at the convocation of the UNBR Council.
- (3) At the request of at least one third of the number of bars, the UNBR Council shall convene the Congress of lawyers in extraordinary session.

#### **Article 63**

- (1) The convocation of the congress shall be made at least one month before the date set, by written notice to the bars and by publication in a central newspaper. The bar councils are obligated to display the date of the convocation and the agenda at the bar's headquarters and at the courts within their jurisdiction.
- (2) The Bars are required to elect their delegates at least 10 days before the congress.
- (3) The Congress shall be legally constituted in the presence of two-thirds of its members and shall take decisions by the majority of the members present.

#### **Article 64**

- (1) The Congress of lawyers shall have the following duties:

a) to analyse and approve the annual report of the UNBR Council;

**a<sup>1</sup>) to elect and revoke the members of the UNBR Council among the members of the Congress, according to article 65 paragraph (1) and the provisions of the by-law of the lawyer's profession;**

*(on 31 March 2017, Article 64, paragraph 1, point A of Chapter IV, Section 2, supplemented by Article I, paragraph 29 of Law 25/2017)*

**b) to elect and revoke the Central Audit Committee;**

*(on 31 March 2017, Article 64, paragraph 1, letter B. of Chapter IV, Section 2 as amended by Article I, paragraph 30 of Law 25/2017)*

c) to make proposals to the authorities having the right of legislative initiative with regard to the lawyer's profession;

d) to adopt and modify the by-law of the profession and the by-law of the Lawyers' Insurance House in accordance with the provisions of this law and based on the projects drawn up by the UNBR Council;

*(on Dec. 19, 2011 Art. 64, paragraph (1), letter D of Chapter IV, section 2 see application references from the 2011 by-law)*

e) to adopt resolutions regarding the relations between the bars, the improvement of the professional training and the observance of the ethical rules of the profession;

f) to elect and revoke the members of the Central Discipline Committee. Each bar has the right to propose one candidate for the Central Discipline Committee. The jurisdiction and the proceedings of the Central Discipline Committee are determined by statute;

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

h) to approve the annual budget of the UNBR and its annual budget execution and to establish the contribution of the bars to the formation of the UNBR budget. The expenses necessary for the organization of the congresses shall be borne by each bar according to the number of its representatives.

**i) to perform as well other duties provided by the law.**

*(on 31 March 2017, Article 64, paragraph 1, letter H of Chapter IV, Section 2, supplemented by Article I, point 31 of Law 25/2017)*

(2) The decisions/resolutions of the Congress are final and binding for all bodies of the profession.

## **Art. 65**

(1) The UNBR Council is formed of the deans and the representatives of the Bars, elected according to the norm of representation, as established in the by-law of the profession.

(2) The term of office of the UNBR Council is 4 years. In the case of the termination of the term of one of them, his substitute shall execute the mandate difference. The substitute is designated under the conditions provided for in paragraph (1).

(3) In the event of a change of the dean of a bar, the new dean rightfully replaces his predecessor. The other vacancies are completed at the first congress of lawyers.

(4) The UNBR Council meets on a quarterly basis at the convening of the UNBR President. The convening shall be made at least 15 days before the date of the meeting.

(5) At the request of at least one-third of the members of the UNBR Council or in exceptional circumstances, the UNBR President shall convene the UNBR Council in extraordinary session no later than 10 days after the request or the justification event.

6. The UNBR Council shall work in the presence of at least two-thirds of its members and shall take decisions validly by the majority of the members present.

## **Article 66**

The UNBR Council has the following competences:

- a) it is the representative and deliberative body of the Romanian bars and ensures the permanent activity of UNBR;
- b) it carries out the decisions of the Congress of Lawyers;
- c) it resolves any issues of interest for the profession of lawyer between the Congresses of Lawyers, except for those given in the exclusive competence of the Congress of Lawyers;
- d) it controls the activity and the decisions of the Standing Committee of UNBR;
- e) it organizes the examination on the Romanian law and Romanian language for the foreign lawyers;
- f) it organizes and conducts the activity of the National Institute for the Training and the Improvement of Lawyers, established as a private non-for-profit legal person and not being part of the national education system and not being subjected to authorization and accreditation procedures;

**f<sup>1</sup>) it approves the use of the UNBR and CAA patrimony in revenue-generating activities, according to the law;**

*(on 31-Mar-2017, Article 66, letter F of Chapter IV, Section 2, supplemented by Article I, paragraph 32 of Law 25/2017)*

- g) it adopts decisions on all matters concerning the professional training and development of the lawyers, as well as recommendations on the relations between the bars;
- h) it organizes the examination for the admission in the profession of lawyer and for the attainment of the professional title of qualified lawyer, under the conditions of article 17 and in compliance with the provisions of the by-law of the Lawyer's profession;
- i) it organizes and supervises the general statistical service of UNBR;
- j) it organizes and publishes the publications of UNBR and supports the publications of the bars;
- k) it prepares the draft budget of UNBR and submits it for approval to the Congress of Lawyers, as well as the annual budget execution of UNBR;
- l) it prepares the annual report on the activity and management of the patrimony of UNBR and submit them for approval to the Congress of Lawyers;
- m) it insists on the achievement of the UNBR budget and the execution by the bars of the decisions adopted by the Congress of Lawyers and the UNBR Council;
- n) it elects and revokes the UNBR President and Vice-Presidents and the members of the Standing Committee of UNBR, from its members, lawyers with more than 10 years of professional experience, for a four-year term;
- o) it verifies the legality and the merits of the decisions to admit to the profession and to register with the table of lawyers, issued by the bar councils at the request of the interested persons;**

*(on 31 March 2017, Article 66, letter O. of Chapter IV, Section 2 as amended by Article I, paragraph 33 of Law 25/2017)*

**p) it annuls, for unlawful reasons, the resolutions and decisions taken by the governing bodies of the bars, except those concerning complaints from third parties or lawyers against decisions taken in respect of complaints against lawyers that are violating the law and the by-law of the profession of lawyer, as a result of the appeal formulated by the members of that bar or as a result of the notification of the UNBR President;**

*(on 31-Mar-2017, Article 66, letter P. of Chapter IV, Section 2 as amended by Article I, paragraph 33 of Law 25/2017)*

q) it establishes and controls the Central House for Credit and Support of the Lawyers;

**r) it elects and revokes the members of the C.A.A. Board of Directors, it coordinates the activity of the CAA, and exercises the control over its activity upon notification of the board of a bar, of the Standing Committee or of the Audit Committee of CAA;**

*(on 31-Mar-2017, Article 66, letter R. of Chapter IV, Section 2 as amended by Article I, paragraph 33 of Law 25/2017)*

s) it performs other duties provided by the law and it adopt resolutions in the interest of the profession, in compliance with the law;

t) it grants, upon the proposal of the Standing Committee of UNBR, the title of Honorary Member or Honorary President of UNBR;

**u) it issues interpretative decisions/resolution for the correct and unitary application of the By-law of the lawyer's profession, the CAA By-law and other normative acts issued on the basis thereof;**

**v) it approves the annual budget of the National Institute for Training and the Improvement of Lawyers and its annual budget execution.**

**x) it adopts, as a recommendation, the table of minimal retainers for services rendered according to the law by the forms of practicing the profession of lawyer.**

*(on 31-Mar-2017, Article 66, letter T of Chapter IV, Section 2, supplemented by Article I, paragraph 34 of Law 25/2017)*

#### **Art. 67**

The Standing Committee of the UNBR has 15 members, of which 5 members are representatives of the Bucharest Bar and 10 members are representatives of the other bars in the country. The UNBR President and the Vice-Presidents are members of the Standing Committee of the UNBR and are included in the 15 members. The term of office of the members of the Standing Committee of the UNBR is 4 years. In the event of the termination of the term of office of a member of the Standing Committee of the UNBR, the appointment of the substitute shall be done on the same basis and the substitute shall execute the difference of the term of office. One of the members of the Standing Committee of UNBR acts as Secretary of the Committee and is designated by vote by the Standing Committee of UNBR. The President of UNBR is also the President/Chairman of the Standing Committee of UNBR. ‘

#### **Article 68**

(1) The Standing Committee of the UNBR shall have the following competences:

a) is the executive body of the UNBR Council, with permanent activity and acts as liaison with the bars members of the UNBR;

b) it enforces the decisions of the Congress of lawyers and of the UNBR Council, and oversees the execution of these decisions by the Bar, by adopting the appropriate decisions;

c) it organizes the services of the UNBR Council and its own services and employs the staff;

**c<sup>1</sup>) it approves the organizational chart and the lineage charts of UNBR, the Lawyers' Insurance House and the National Institute for Training and the Improvement of Lawyers, upon the proposal, as the case may be, of the Standing Committee of UNBR, the CAA Board of Directors and the Managing Council of INPPA;**

*(on 31 March 2017, Article 68, paragraph 1, letter C of Chapter IV, section 2, supplemented by Article I, paragraph 35 of Law 25/2017)*

d) it ensures the budget execution and aims to achieve the resources of the UNBR budget;

**d<sup>1</sup>) it performs the duties provided by the law regarding the general assemblies of the shareholders / associates of the companies incorporated for the use of the UNBR patrimony in income-generating activities;**

*(on 31 March 2017, Article 68 paragraph (1) letter D. of Chapter IV, Section 2, supplemented by Article I, point 36 of Law 25/2017)*

e) it accepts the donations and the bequests made to UNBR;

f) it issues enforceable decisions while accomplishing its duties;

g) it approves the proposals of the bars on the designation of the territorial commissions required for the examination for the admission to the profession and for the examination to attain the capacity of qualified lawyer.

**h) it has the obligation to defend the professional reputation of the lawyer, at his request, on the basis of the research and proposals submitted by the council of the bar to which the lawyer belongs.**

*(on 31 March 2017, Article 68, paragraph 1, letter G of Chapter IV, Section 2, supplemented by Article I, point 37 of Law 25/2017)*

(2) The Standing Committee of UNBR is chaired by the President of the UNBR and works in the presence of a majority of its members, its decisions being adopted in the same manner.

(3) The Standing Committee of the UNBR also carries out other duties established by the law or the hierarchical bodies of the profession.

## **Article 69**

(1) The president of UNBR shall have the following duties:

a) to represent UNBR in relations with natural and legal persons from the country and from abroad;

b) to conclude conventions, agreements and contracts on behalf of UNBR, with the authorization of the UNBR Council;

c) to convene and chair the sessions of the UNBR Council and of the Standing Committee of UNBR;

d) to authorize the budgetary and extrabudgetary expenditure of the UNBR;

e) to sign the acts of the Council and of the Standing Committee of UNBR;

f) to oversee the relations between the core structures of the profession and the bars, as well as the relations between the bars;

g) to provide support and assistance to the bars in their relations with central and local authorities;

h) to ensure the proper conditions for the activity of lawyers in the courts and at the criminal investigation bodies.

(2) The president shall be replaced, upon request or in his absence, by the Vice-President appointed by him for that purpose.

## **Art. 70**

The UNBR Council shall appoint the necessary personnel to accomplish the duties for the function of President of UNBR.

## **CHAPTER V: Judicial Assistance**



## **SECTION 1: Cases and conditions for granting the judicial assistance**

### **Article 71**

(1) In the cases provided by the law, the bars shall provide judicial assistance in the following forms:

- a) in criminal cases, where the defence is mandatory according to the provisions of the Criminal Procedure Code;
- b) in any other than criminal case, as a means of granting public judicial assistance, under the law;
- c) judicial assistance through a lawyer, granted at the request of the local public administration bodies.

(2) In exceptional cases, if the rights of a person lacking material means are prejudiced by delay, the dean of the bar may approve the free legal aid.

### **Article 72**

(1) If, according to articles 11-19 of Government Emergency Ordinance no. 51/2008 on public judicial assistance in civil matters, approved with amendments and completions by the Law no. 193/2008, the request for public judicial assistance was approved in the form of legal assistance, the request together with the judgment of a court shall be sent immediately to the dean of the bar in the district of that court.

(2) The Dean of the Bar or the lawyer to whom the Dean delegated this assignment shall appoint, within 3 days, a lawyer registered with the Register of Judicial Assistance, to whom he shall transmit, upon notification of the appointment, the court judgement provided in paragraph (1). The Dean of the Bar has the obligation to communicate to the beneficiary of public judicial assistance the name of the appointed lawyer. The beneficiary of public judicial assistance may request the appointment of a particular lawyer, with his consent, under the law.

### **Article 73**

(1) The lawyer appointed according to article 72 paragraph (2) to provide public judicial assistance cannot refuse this professional task except in case of conflict of interest or for other justified reasons.

(2) The unjustified refusal to take over the case or to continue its performance represents a disciplinary offense, under the law.

(3) The unjustified refusal of the beneficiary or his/her unilateral and unjustified renunciation of the assistance provided by the designated lawyer shall result in the cessation of the public judicial assistance in the form of legal aid.

### **Article 74**

(1) The extrajudicial assistance provided in article 35 of the Government Emergency Ordinance no. 51/2008, approved with amendments and completions by the Law no. 193/2008 shall be granted by the Legal Assistance Service set up with each bar on the basis of a request the model of which shall be approved by the Department for the Coordination of the Judicial Assistance, which shall contain mentions on the subject matter and nature of the request for assistance, the identity, the personal identification number, the domicile and the financial situation of the applicant and his / her family, with supporting evidence of his / her income and the family's income, as well as evidence of maintenance or payment obligations. The application will also be accompanied by a statutory declaration of the applicant, to indicate whether he has benefited from

public judicial assistance in the last 12 months, in what form, for which case and the amount of such aid.

(2) The proof of the applicant's financial situation is mainly made with the following documents:

- a) a certificate issued by the competent authorities or by the employer, as the case may be, showing the professional income of the applicant and other family members subjected, according to the law, to income tax, during the period provided for by the legislation on public judicial assistance, or the sums received as a retirement pension, unemployment or social security benefit, and the other similar amounts, earned over the same period;
- b) the family book and, where appropriate, birth certificates of the children;
- c) the certificate of disabled person of the applicant or of the child, as the case may be;
- d) a statutory statement, showing that the applicant and other family members do not benefit from any additional income;
- e) a statutory statement regarding the patrimonial situation of the applicant and his / her family;
- f) a statutory statement showing that the applicant and / or the other natural or adoptive parent or another person to whom the child has been entrusted for adoption or who has the child in placement or in emergency placement or has been appointed guardian for child, raises and cares the child who is not entrusted or given in placement to any authorized private body or authorized public service or legal person;
- g) evidence issued by the competent authorities on the status of the taxable property of the applicant or, as appropriate, of the other family members;
- h) other documents necessary for establishing the right to legal aid, according to the law.

(3) The application for extrajudicial assistance shall be submitted with the judicial assistance service and shall be settled within 15 working days from the date of registration, by decision of admission or dismissal.

(4) In the case the request for extrajudicial assistance is admitted, the decision on the provision of the legal assistance shall include the following:

- a) the title of the act;
- b) the name of the issuing body;
- c) the legal and factual basis for issuing the decision;
- d) the person to whom the extrajudicial assistance is provided;
- e) the type or form of extrajudicial assistance provided;
- f) the date of issue, the function and the signature of the person who issued the act.

(5) Under the decision to grant extrajudicial assistance, the Dean of the relevant Bar designates a lawyer from the Register of Judicial Assistance of the Bar.

(6) Where possible, the Dean of the Bar may approve the extrajudicial assistance provided by a lawyer chosen by the person to whom the legal assistance is given.

(7) The decision provided in paragraph (3) shall be communicated to the applicant within 5 working days of the date of issue of the decision.

(8) The decision to dismiss the request for extrajudicial assistance may be appealed to the Bar Council within 5 days after its communication.

(9) The appeals against the dismissal decision shall be resolved by the Bar Council, in urgency, in the first session of the bar council.

## **Article 75**

A lawyer who provides legal assistance under this chapter is not entitled to receive any remuneration or other means of reward, from the client or the person being defended, not even to cover the expenses.

## **SECTION 2: Organization of the judicial assistance activity**

### **Article 76**

(1) Within the UNBR, the Department for the Coordination of the Judicial Assistance is organized, as permanent body, coordinated by a UNBR Vice-president. The organizational structure of this department is established by a decision of the Standing Committee of UNBR.

(2) The Department for the Coordination of the Judicial Assistance issues decisions and methodological norms within the limits of the attributions conferred by this law, under the conditions and with the procedure provided by the by-law of the Lawyer's profession.

### **Article 77**

The Department for the Coordination of the Judicial Assistance mainly carries out the following attributions:

- a) carries out the methodological management of the judicial assistance activity;
- b) elaborates the draft Framework Regulation for the organization of judicial assistance services;
- c) proposes or, where appropriate, approves draft Protocols to be concluded with the competent public authorities in order to obtain the necessary financial means for the organization of the judicial assistance services;
- d) organizes the National Register of Judicial Assistance/Legal Aid on the basis of the registers drawn up by the bars;
- e) organizes and coordinates the payment methodology of the fees for the legal assistance granted;
- f) controls the legal assistance granted;
- g) elaborates draft normative acts in the field of judicial assistance, which it proposes to the Ministry of Justice for promotion;
- h) establishes, together with the Ministry of Justice, the statistics, keeps the statistical records of the judicial assistance system and analyses the information necessary for the proper planning and coordination of the judicial assistance system;
- i) collaborates with the Ministry of Justice for the proper functioning and planning of the judicial assistance system, including from a budgetary point of view;
- j) popularizes the system of judicial assistance;
- k) establishes the forms used by the bars for the organization of the activity of judicial and extrajudicial assistance, according to the law;
- l) represents the UNBR in the field of judicial assistance, in the framework of the international collaboration in the field, according to the law or the by-law of the lawyer's profession.

### **Article 78**

In order to organize the judicial assistance activity, the bars fulfil the following tasks:

- a) to organize the judicial assistance services at the level of each bar and at the headquarters of each court;
- b) to organize and update the Register of Judicial Assistance /Legal Aid of each Bar on the basis of the lawyers' applications, approved by the bar council;

- c) to designate lawyers registered with the Register of Judicial Assistance /Legal Aid for the provision of legal assistance, taking into account the professional experience and qualification of the lawyer, as well as the nature and complexity of the case, other designations of the lawyer under this law and the degree of his/her workload;
- d) to perform the control over the provision of the judicial assistance by lawyers within the bar;
- e) to organize and execute programs for popularizing the judicial assistance system;
- f) to perform any other duties provided by law or by the Framework Regulation for the organization of judicial assistance services.

#### **Article 79**

- (1) The Bar shall organize the judicial assistance services at the premises of all courts in the county, in premises dedicated exclusively for the performance of this activity, which shall be provided free of charge by the Ministry of Justice or by the local public administration authorities.
- (2) The assistance services provided in paragraph (1) are managed by a qualified lawyer, appointed by the bar council, and are coordinated by a member of the council. The organization, the operation and the attributions of the judicial assistance services are accomplished according to the regulations approved by the Bar Council, based on the Framework Regulation for the organization of the judicial assistance services, approved by the UNBR Council.

#### **Article 80**

- (1) Each bar shall organize the Register of Judicial Assistance/Legal Aid to which are registered the lawyers that may be appointed to grant judicial assistance and extrajudicial assistance.
- (2) The register shall be public, kept in paper and electronic format and published on the website of each bar.
- (3) Updating the Register of Judicial Assistance/Legal Aid for the next calendar year shall be carried out by the end of September of the previous calendar year.
- (4) In exceptional cases, the Register of Judicial Assistance/Legal Aid may also be amended during the year, according to the procedure for registration.
- (5) UNBR organizes the National Register of Judicial Assistance/Legal Aid, consisting of the registers of judicial assistance of all the bars.
- (6) The national Register of Judicial Assistance/Legal Aid shall be published on the UNBR website and shall be updated automatically when the register of each bar shall be updated.

#### **Article 81**

- (1) To register with the Register of Judicial Assistance/Legal Aid, the lawyer shall submit a request to the Bar to which he belongs.
- (2) The request referred to in paragraph (1) shall be completed according to the form approved by the Department for the Coordination of the Judicial Assistance of UNBR.
- (3) The registration of the lawyer in the Register of Judicial Assistance/Legal Aid shall be made based on the decision of the Bar Council.
- (4) The Bar Council may reasonably refuse to register or to remove a lawyer from the register in the following situations:
  - a) if the applicant lawyer has been subject to a disciplinary sanction;
  - b) if the lawyer is accused of committing a general law crime;
  - c) if there has been ascertainment on repeated violation of the provisions of this law or on the poor quality of the legal aid performed.

(5) The deregistration from the register may be ordered for a one-year period and if a consecutive occurrence of three or more deviations from the obligations stipulated by the present law is observed, the deregistration can be ordered for a period of up to 3 years.

(6) The refusal of the bar to register the applicant lawyer in the register, as well as the measure of deregistration of a lawyer from the register may be appealed in accordance with the procedure set out in chapter VI of this law.

(7) The decision to deregister from the register shall be made public by posting it on the Bar's website as well as on the UNBR website.

## **Article 82**

(1) For the legal assistance granted, the appointed lawyer has the right to a fee established by the judicial body, according to the nature and workload of the activity being performed, within the limits of the amounts established by the protocol concluded between UNBR and the Ministry of Justice.

(2) By the act approving the judicial assistance, the judicial body also determines the provisional value of the lawyer's retainer.

(3) After performing the legal aid activity, the lawyer draws up a written report on the actual legal performance, according to the form approved by the Department for the Coordination of the Judicial Assistance of UNBR. The report is subject to confirmation by the judicial body, which, depending on the workload and the complexity of the activity carried out as well as in relation to the duration, type and particularities of the case, may order the initial fee to be maintained or increased.

(4) The report confirmed according to paragraph (3) shall be submitted to the bar, so that the formalities required by the law for the payment of fees are accomplished.

(5) If the lawyer receives a disciplinary sanction, according to article 86 paragraph (1), the lawyer shall not receive the retainer for providing the legal assistance for which he has been appointed for that case.

## **Article 83**

(1) Payment of the retainer for the legal assistance granted is done monthly by bank transfer, based on the settlement documents provided in article 82 paragraph (2), endorsed by the bar council.

(2) The amounts necessary for the payment of the retainers or, as appropriate, of the remunerations (fees) for the legal assistance shall be paid, monthly, according to the law, in a separate account opened by each bar. The observance of the destination of such funds thus transferred is also subject to UNBR's control, under the conditions set out in the by-law of the lawyer's profession.

## **Article 84**

UNBR and the bar associations work together with the Ministry of Justice, the Superior Council of Magistracy, the courts of law and the prosecutor's offices attached to them in order to carry out in good conditions the judicial assistance provided for in this chapter.

## **Article 85**

**(1) The retainers for the judicial assistance granted in any of the forms provided for in this chapter shall be established by the protocol concluded between UNBR, the Ministry of Justice and the Public Ministry.**

*(on 31 March 2017 Article 85 (1) of Chapter V, Section 2 as amended by Article I, paragraph 38 of the Law 25/2017)*

**(1<sup>1</sup>) Payment of the retainers stipulated in paragraph (1) shall be made within 45 days from the date when the statements were submitted by the bars to the competent judicial body. For late payment of the retainers, interest and penalties are calculated and paid at the level provided by the Law no. 207/2015 on the Code for Fiscal Procedure, as subsequently amended and supplemented, in the case of amounts to be repaid or reimbursed from the state budget. Payment of interest / penalty is made upon the request of the bar.**

*(on 31 March 2017, Article 85 (1) of Chapter V, Section 2, supplemented by Article I, paragraph 39 of the Law 25/2017)*

**(2) The funds necessary for the payment of the retainers stipulated in paragraph (1) shall be provided from the amounts foreseen in art. 47 of the Government Emergency Ordinance no. 80/2013 regarding the judicial stamp duties, as subsequently amended and supplemented.**

*(on May 31, 2017, Article 85, paragraph (2) of Chapter V, Section 2 as amended by Article I, paragraph 40 of the Law 25/2017)*

**(3) For the expenses necessary for the operation of the judicial assistance services of the bars, out of the monthly sums paid for the remuneration of the lawyers, each bar constitutes a fund by withholding 2% of the value of these sums approved and actually paid, according to the rules established by the By-law of the profession lawyer. The withholding of the 2% percentage is made on the actual payment of the fee to the lawyer being entitled to it.**

*(on 31 March 2017, Article 85, paragraph (3) of Chapter V, Section 2 as amended by Article I, paragraph 40 of Law 25/2017)*

**(4) The retainers for the judicial assistance granted in any of the forms provided by this chapter, at the request of the local public administration bodies, shall be granted from the funds of these bodies, within the limits of the amounts established by the protocol concluded by each bar with them. In the absence of the such protocol, the limits established by the protocol provided for in article 82 par. (1) shall be applicable.**

## **CHAPTER VI: Disciplinary liability**

### **Article 86**

**(1) The lawyer shall be liable to disciplinary action for failure to comply with the provisions of this law or the by-law, for failure to comply with binding decisions adopted by the governing bodies of the Bar or the Association of Bars and for any deeds committed in connection with the profession or outside it, that would prejudice the honour and the prestige of the profession, the body of lawyers or of the institution.**

*(on 31 March 2017, Article 86, paragraph 1 of Chapter VI as amended by Article I, paragraph 41 of Law 25/2017)*

**(2) The lawyer who manages the legal assistance of each court is obliged to notify in writing to the Bar Council the deeds committed by any lawyer, according to the provisions of para. (1).**

**(3) The Courts and Public Prosecutor's Offices shall be obliged to submit to the Bar Council any complaint against a lawyer and to notify him of any criminal or trial proceedings against a lawyer.**

**(4) A serious disciplinary offense constitutes a violation of the provisions of the law and of the Statute of the profession of lawyer expressly providing for such a qualification.**

*(on 31 March 2017, Article 86, paragraph (3) of Chapter VI, supplemented by Article I, paragraph 42 of Law 25/2017)*

### **Article 87**

(1) The investigation of the offense and the exercise of the disciplinary action shall be the responsibility of the Bar Council.

(2) Investigation of the misconduct and the disciplinary action regarding the deans of the bars and the members of the UNBR Council are within the competence of the UNBR Council. The person being investigated, or disciplinary arraigned does not participate in the decision taking.

3. The members of the Standing Committee who are being investigated may not participate in the debates on the decision to initiate the disciplinary action.

**(4) In all cases, the disciplinary action may be exercised within one year from the date when the bar council is informed about the misconduct, but no later than 3 years after the date when the misconduct was committed.**

*(on 31 March 2017, Article 87, paragraph 4 of Chapter VI as amended by Article I, paragraph 43 of Law 25/2017)*

### **Article 88**

(1) Within each bar, a disciplinary commission shall be organized and functioning and shall judge, as first instance and in a three-member panel, the disciplinary misconducts of the lawyers in that bar.

(2) Within UNBR, the Central Discipline Commission is organized and functioning and judges:

a) as first instance, in a 3 members panel, the misconducts committed by the members of the UNBR Council and the deans of the bars;

b) in appeal, in 5 members panel, according to the provisions of the profession by-law.

(3) The appeal against the disciplinary decision of the Central Discipline Commission as a court of first instance shall be judged by the UNBR Council constituted as a disciplinary court in its plenary meeting, the person concerned excluded.

**(4) Against the judgments pronounced in accordance with paragraph (2) and (3), the interested party may lodge an appeal with the Bucharest Court of Appeal, the Contentious and Fiscal Administrative Division.**

*(on February 15, 2013, Article 88, paragraph (4) of Chapter VI as amended by Article 24 of Title IV of the Law 76/2012)*

(5) The procedure of judging the disciplinary misconducts shall be determined by the by-law of the profession and shall be supplemented with the provisions of the Civil Procedure Code.

### **Article 89**

(1) The disciplinary sanctions are:

a) the reprimand;

b) the warning notice;

**c) the fine from 500 lei to 5.000 lei, which will be considered as revenue to the budget of the bar. Payment of the fine will be made within 30 days after the disciplinary decision is final. Non-payment within this term entails the rightful suspension from the exercise of the profession until payment of the sum. The limits of the disciplinary fine are regularly updated by the UNBR Council, depending on the inflation rate;**

*(on 31 March 2017, Article 89, paragraph (1), point C of Chapter VI as amended by Article I, paragraph 44 of the Law 25/2017)*

- d) the injunction to practice the profession for a period of one month up to one year;
  - e) the exclusion from the profession.
- (2) During the injunction period, the lawyer cannot provide any legal assistance, cannot use his or her legal capacity and cannot participate in the activity of the bodies of the profession.
- (3) The interested person, the dean of the bar and the president of the national association may appeal against the disciplinary decision within 15 days from the communication.

#### **Article 90**

- (1) In case of obvious and serious misconduct, the disciplinary court may take the measure of suspension of the lawyer from the exercise of the profession until the final hearing of the case.
- (2) Against the minutes through which this measure has been taken, an appeal may be filed within 5 days from the communication.
- (3) The appeal has a suspensory effect in terms of enforcement and will be resolved urgently.  
*(on 03-Aug-2016 Chapter VII repealed by Article 139, letter B of Chapter IX of Law 72/2016)*

### **CHAPTER VIII: Exercise in Romania of the profession by the lawyers who have obtained their professional qualification in one of the Member States of the European Union and the European Economic Area**

#### **SECTION 1: General provisions**

#### **Article 96**

1. The provisions of this Chapter shall apply to lawyers who have obtained their professional qualifications in one of the Member States of the European Union and of the European Economic Area who practice their profession within the territory of Romania:
- a) independently or in association;
  - b) as employed lawyers in Romania;
  - c) through the provision of services.
2. The provisions of this chapter shall also apply to lawyers who have obtained their professional qualifications in the Swiss Confederation, who practice their profession within the territory of Romania in any of the ways provided for in paragraph (1).

#### **Article 97**

For the purposes of this chapter:

- (a) a lawyer means any person coming from a Member State of the European Union or of the European Economic Area who is authorized to pursue his professional activities under the appropriate professional title obtained in a Member State;
- b) the Member State of origin is the Member State of the European Union or of the European Economic Area where a lawyer has obtained the right to use one of the professional titles referred to in subparagraph a), before practicing the profession of lawyer in Romania;
- c) the professional title in the Member State of origin is the professional title used in the Member State where a lawyer has obtained the right to use this title before practicing the profession of lawyer in Romania;
- d) the group is any entity, with or without legal personality, organized under the law of a Member State, in which lawyers carry out their professional activities together under a common name;



- e) the professional title in Romania is the professional title under which a lawyer is registered with the Table of Lawyers in Romania;
- f) the competent Romanian authority is the structure within the UNBR, appointed according to the by-law.

### **Article 98**

The lawyers practicing in Romania under the professional title of the Member State of origin may carry out the same professional activities as the lawyers practicing under the professional title obtained in Romania, may provide legal assistance and may represent natural or legal persons before the Romanian courts, with regard to the law of the Member State of origin, the EC law, the international law, as well as Romanian law, in compliance with the procedural rules applicable to the Romanian courts.

### **Article 99**

- (1) The lawyers practicing in Romania under the professional title from the Member State of origin shall use the name under which they practice their profession in the Member State of origin, expressed in the official language or in one of the official languages of the Member State of origin.
- (2) In addition to the name provided for in paragraph (1), the legal name of the group in the Member State of origin shall be mentioned alongside the legal form of practicing the profession in Romania.
- (3) The competent Romanian authority may require a lawyer practicing under the professional title obtained in the home Member State to indicate the professional group to which he or she belongs in the Member State of origin or the judicial authority in which he is admitted practicing the profession, according to the law in the Member State of origin.
- (4) The lawyer who obtains the admission to the profession of lawyer in Romania under article 100 or 109 shall be entitled to use the professional title of the Member State of origin, expressed in the official language or in one of the official languages of the Member State of origin, together with the professional title corresponding to the profession of lawyer in Romania.

### **Article 100**

- (1) Regardless of the form of practicing the activity on the territory of Romania, the lawyers practicing under the professional title of the home Member State may at any time require to have their diplomas recognized, for the admission to the profession of lawyer and its practice under the professional title in Romania.
- (2) In order to have their diplomas recognized in Romania, the applicant, at his choice, will have to either pass an examination to verify his/her knowledges or to perform a 3-year internship in the field of Romanian law.
- (3) UNBR shall determine the composition of the evaluation committee, as well as the content and the procedure for the examination or for the traineeship, accordingly.
- (4) When submitting the application for having the diploma recognized, in order to determine the content and procedure for the examination or for the traineeship period, the evaluation committee shall verify in advance whether the professional experience acquired by the applicant is capable of covering all or part of the differences between Romanian law and the law from the Member State of origin where the diploma was obtained, with a view to the partial or total exemption from the fulfilment of the conditions provided for in paragraph (2).

(5) The provisions of this article shall be supplemented by the provisions of the framework legislation on the mutual recognition of professional qualifications.

#### **Article 101**

(1) The competent Romanian authority and the competent authorities of the Member States of origin shall cooperate with a view to the proper application of the provisions of this law, the information obtained in such collaborations being confidential. Collaboration can also be achieved through the internal market information system, in accordance with the provisions of Government Emergency Ordinance no. 49/2009 on the freedom of establishment of service providers and the freedom to provide services in Romania, approved with amendments and completions by Law no. 68/2010.

(2) The competent authority of the home Member State may formulate observations during the disciplinary proceedings against a lawyer practicing under the professional title of that State.

### **SECTION 2: Permanent practice of the profession in Romania by lawyers who have obtained the professional qualifications in one of the Member States of the European Union and the European Economic Area**

#### **Article 102**

(1) Under the terms of this section, any of the lawyers referred to in article 97 letter a) may perform on the territory of Romania the activities stipulated in article 98, with permanent character and under the professional title of the Member State of origin.

(2) The lawyers who permanently practice their activity on Romanian territory may acquire the professional title in Romania either under the conditions provided by article 100, or according to article 109.

#### **Article 103**

(1) A lawyer who wishes to practice in Romania under the professional title from the Member State in which he obtained his professional qualification shall be registered with the special table of lawyers held by the Romanian bars, according to this article, to article 13, paragraph (6) and to the by-law of the profession.

(2) The competent Romanian authority shall register the applicant lawyer upon presentation of a certificate attesting his/her registration with the competent authority of the home Member State. The competent Romanian authority shall inform the competent authority of the home Member State about the registration.

(3) The certificate referred to in paragraph (2) must be issued no later than 3 months before filing the application to be registered with the Romanian Table of Lawyers.

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

#### **Art. 104**

(1) The lawyers practicing under the professional title from the Member State of origin shall be provided with appropriate representation in the professional associations of lawyers in Romania, in accordance with the provisions of this law and the by-law of the profession; they have at least the right to participate in the election of the governing bodies of these associations.

(2) The lawyers practicing under the professional title from the Member State of origin are obliged either to insure themselves for professional liability under the conditions laid down by the by-law of the profession or to become members of the Lawyers' Insurance House under the conditions set out in chapter VII.

(3) The lawyers may be exempted from the obligations provided in paragraph (2), if they provide evidence of insurance or other collateral given under the law of the home Member State, to the extent that the insurance or collateral is equivalent in terms of conditions and coverage. If coverage is only partial, lawyers must provide additional insurance to cover matters not covered by the insurance or collateral given under the rules from the Member State of origin.

### **Article 105**

The lawyers registered in Romania under the professional title from the Member State of origin may practice as employees in any of the forms of organization of the profession, as permitted for the lawyers practicing under the professional title obtained in Romania.

### **Article 106**

The lawyers practicing in Romania under the professional title from the Member State of origin are subject to the same rules of professional conduct as set out in this law and in the by-law of the profession as the lawyers practicing under the professional title obtained in Romania for the activities carried out on the territory of the country.

### **Article 107**

(1) The lawyers referred to in this chapter shall be liable to disciplinary action for failure to comply with the present law or by-law, in accordance with the provisions of Chapter VI.

(2) Before commencing the disciplinary proceedings against a lawyer practicing under his home-country professional title, the competent Romanian authority shall inform without delay the competent authority of the Member State of origin, providing any relevant information in question.

(3) The competent Romanian authority shall cooperate with the competent authority of the home Member State throughout the conduct of the disciplinary proceedings.

(4) The permanent or temporary withdrawal by the competent authority of the Member State of origin of the licence to practice the profession shall have the mandatory effect the temporarily or permanently prohibition for the lawyer concerned to practice in Romania under the professional title from the Member State of origin.

### **Article 108**

(1) One or more lawyers from the same group or from the same Member State who practice under the home-country professional title may practice in Romania by setting up a secondary establishment of the respective group, organized in any of the forms of practicing the profession of lawyer provided by the Romanian law.

(2) The profession of lawyer can also be practiced in the associated forms provided by the Romanian law, as follows:

(a) several lawyers from different Member States who practice under their home-country professional titles;

b) one or more lawyers from among those mentioned under letter a) and one or more lawyers from Romania.

(3) The lawyer intending to practice under the professional title of the home Member State shall inform the competent Romanian authority that he is a member of a form of practicing the profession in the Member State of origin and shall provide all relevant details of that group.

### **Article 109**

(1) The lawyers practicing under the professional title of the home Member State who actually and regularly work for at least three years in Romania in the field of Romanian or EC law are admitted to the profession of lawyer in Romania, without having to fulfil the conditions provided for in article 100, in compliance with the provisions of the present law on the exercise of civil and political rights and on cases of malpractice and incompatibility.

(2) Before the competent Romanian authority, the applicants must prove their regular activity in Romania for a period of at least 3 years in the field of Romanian or EC law.

For this purpose:

a) the lawyers must provide all relevant information and documents on the number of cases in which they have provided legal assistance and their nature;

b) the competent Romanian authority can verify the effectiveness and regularity of the work carried out and may ask the lawyer, if necessary, to provide clarifications, in writing or verbally, on the information and documents referred to in letter a).

(3) The lawyers practicing in Romania under the professional title from the Member State of origin may at any time require that the diplomas be recognized, according to the provisions of article 100, in order to obtain admission to the profession of lawyer in Romania and to practice it under the professional title thus obtained.

(4) The Lawyers practicing under the professional title from the Member State of origin who have effectively and regularly pursued a 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 the admission to the profession of lawyer and the right to practice it under the professional title in Romania, without the necessity of fulfilling the conditions provided by article 100, subject to the compliance with the provisions of the present law on the exercise of civil and political rights and on the cases of malpractice and incompatibility, according to the following procedure:

a) the competent Romanian authority considers the actual and regular performance of the activity for at least 3 years, the knowledge and the professional experience acquired in Romania, as well as any participation in lectures and seminars on Romanian law or the deontology of the lawyer profession;

b) the applicant shall make available to the Romanian Bar any relevant information and documentation, especially on the cases in which he has provided legal assistance.

(5) The decision of the Romanian competent authority not to grant automatic registration if no proof has been provided that the requirements set out in paragraph (1) or (4) have been fulfilled shall be reasoned, communicated to the applicant and the bar and subject to the remedies provided by the by-law of the profession.

(6) The effective and regular conduct of the lawyer's activity in Romania and his/her ability to continue is evaluated on the basis of an interview with the evaluation commission provided for in article 100.

(7) The Romanian competent authority may, by a reasoned decision and subject to appeal provided by the by-law of the profession, refuse the applicant lawyer to be granted the professional title of lawyer in Romania, if it is considered that it would undermine public order as a result of some disciplinary misconduct, complaints and incidents of any kind.

(8) UNBR representatives are obliged to keep confidential the information received when examining the application to grant the professional title in Romania.

### **SECTION 3: The practice of the profession in Romania, through provision of services, by the lawyers coming from the Member States of the European Union and the European Economic Area**

#### **Article 110**

(1) Under the terms of this section, the lawyers from the Member States of the European Union and the European Economic Area may carry out in Romania professional activities which may be occasionally practiced in the form of the provision of services.

(2) The activity of provision of services provided in paragraph (1) shall be practiced in Romania by representing the legal rights and interests of the individuals and legal persons in court or before public authorities, under the conditions laid down for the lawyers established in that State, without the need to register.

(3) For activities other than those mentioned in paragraph (2), the lawyer respects the conditions and the rules of professional conduct of the home Member State, as well as the Romanian legislation on the profession, in particular regarding incompatibilities, professional secrecy, relations between lawyers, prohibition for the same lawyer to represent two parties having opposing interests, as well as advertising. A lawyer not established in Romania is bound to comply with these rules only to the extent that their observance is objectively justified in order to ensure the proper practice of the lawyer's activities, the dignity of the profession and compliance with the rules on incompatibility.

#### **Article 111**

(1) The competent Romanian authority requires the lawyer providing services to prove his / her legal capacity.

(2) In case of non-compliance with the obligations stipulated in article 110, the competent Romanian authority shall determine through by-law the consequences of this non-compliance.

(3) In verifying the case of non-observance of the obligations stipulated in article 110, the competent Romanian authority may request any useful professional information on the person providing the services.

(4) The competent Romanian authority shall inform the competent authority of the home Member State of any decision taken. The communications provided for in this paragraph shall be confidential.

### **CHAPTER IX: Transitional and Final Provisions**

#### **Article 112**

This law will be implemented as follows:

a) the current governing bodies of the Romanian Bar Association will continue to carry out their duties, according to the law and the by-law of the profession, as the governing bodies of UNBR, throughout the mandate for which they were elected;

b) The UNBR Council shall elaborate the draft by-law of the profession and shall adopt it within 90 days from the date of entry into force of this law. The by-law of the profession will be published in the Official Gazette of Romania, Part I;

c) The new forms of association for the practice the profession of lawyer will be organized and will only function after the entry into force of the new by-law of the profession.

### **Article 113**

(1) At the date of entry into force of this Law, the natural or legal persons who have been authorized under other legislation or have been cleared by court order to carry out consultancy, representation or legal assistance in any area shall lawfully cease their activity. The continuation of such activities constitutes an offense and is punishable under the criminal law.

(2) Also, on the date of entry into force of this law, any legal, administrative or judicial acts by which activities of consultancy, representation and legal assistance have been recognized or approved, contrary to the provisions of this law, lawfully cease.

(3) The provisions of paragraph (1) and (2) shall not apply to the profession of legal advisor, which shall be exercised in accordance with the provisions of Law no. 514/2003 on the organization and the practice of the legal adviser profession, with further additions.

(4) The bar councils and the deans have the obligation and the authorization to follow the fulfilment of the provisions of paragraph (1) and (2) and to take legal action in this respect.

### **Article 114**

At the date of entry into force of this law, the name of the Romanian Bar Association is replaced by the name of the National Association of the Romanian Bars in all normative acts.