

CODE OF CONDUCT REGULATIONS

Cyprus Bar Association

THE ADVOCATES' LAW (CAP.2)
(As amended to the present day)
CODE OF CONDUCT REGULATIONS
[Regulations under Article 24(1)(b) and (l)]

In the exercise of the powers conferred upon it by paragraphs (b) and (l) of clause (1) of Article 24 of the Advocates' Law, the Council of the Cyprus Bar Association hereby makes the following new Regulations, approved by majority vote at the Advocates' General Meeting:

Cap.2
42 of 1961
20 of 1963
46 of 1970
40 of 1975
55 of 1978
71 of 1981
92 of 1983
98 of 1984
17 of 1985
52 of 1985
9 of 1989
175 of 1991
212 of 1991
9(l) of 1993
56(l) of 1993
76(l) of 1995
3(l) of 1996
79(l) of 2000
31(l) of 2001

1. These Regulations shall be cited as the Advocates' Code of Conduct Regulations of 2002. *Short Title*
2. In these Regulations, unless the context otherwise requires, all terms shall bear the meaning attributed thereto by the Advocates' Law. *Interpretation*

GENERAL PROVISIONS

3. These Regulations shall apply to all advocates and trainee lawyers to the degree and extent that they are applicable. *Scope of Application*
4. Advocates must always have in mind that they serve justice and cooperate toward its administration. This *Required Behaviour*

professional duty is founded on the defence of their client's rights as competently as possible, without fear and in strict compliance with the Advocates' Law in force and the moral law.

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| 5. Advocates must always uphold the honour and dignity of the legal profession, having in mind that this is a function conceived with the aim of satisfying the need to protect the rights and freedoms of citizens. | <i>Upholding the honour of the profession</i> |
| 6. Advocates have an obligation of devotion to the fundamental principles of the legal profession, which include the furtherance of truth and justice in a spirit of independence, freedom and dignity. | <i>Devotion to the fundamental principles of the profession</i> |
| 7. Advocates are obliged to fulfill their role and mission, which entails for them duties and multiple obligations toward:
<ul style="list-style-type: none">(i) the Courts;(ii) the client;(iii) the authorities before whom the advocate pleads his client's cause or acts on his behalf;(iv) the legal profession in general and each fellow member of it in particular;(v) the public for whom the existence of a free and independent profession, coupled with the respect of the rules laid by the profession itself, is essential in safeguarding human rights vis-à-vis the State and other authorities;(vi) the local bar association in the district of which they are registered and the Cyprus Bar Association. | <i>Duty toward the Courts, the client, etc.</i> |
| 8. All advocates are obliged to strictly abide by the code of conduct, which is destined to guarantee and ensure the proper exercise of the function, recognised as necessary and essential for the smooth functioning of all civilised societies. | <i>Obligation to strictly abide by the code of conduct</i> |
| 9. Advocates are obliged to abide by the legislation in force at the time. | <i>Obligation to abide by the legislation in force</i> |

GENERAL PRINCIPLES

10. In the exercise of any duties assigned to them, advocates must always act in absolute independence, free of all forms of dependence or pressure, and in particular as may arise from their own interests or external influence. Independence in the exercise of the legal profession is a necessary prerequisite for ensuring a relation of trust with their client and before justice. Advocates must act according to the code of conduct and professional ethics and should not give advice with the aim of pleasing their client or as a result of external pressure. *Independence*
11. Advocates are obliged to act having always in mind that relations of trust can only exist if an advocate's personal honour, honesty, directness or sincerity are beyond doubt. Advocates must always act based on the said traditional virtues, which constitute professional obligations and duties for them. *Trust and moral integrity*
12. Advocates must always comply with the decisions of the Bar Council of the Cyprus Bar Association and of the Committees of the Local Bar Association. *Compliance with decisions of the Cyprus Bar Association Council and Local Bar Associations*
13. (1) Professional secrecy is recognised as the fundamental and primary right and obligation of advocates and must be protected by the Court and any State or public authority. *Professional secrecy*

(2) Advocates are guardians of the confidential information and evidence entrusted to them by their client. The safeguarding of secrecy is a necessary prerequisite in inspiring the client's trust in the advocate.

(3) Advocates must, without any time limitation, respect the secrecy of all confidential information or evidence which has come to their knowledge in the course of their professional activity.

(4) Advocates see that the members of their staff and all persons cooperating with them in the course of their professional activity observe the obligation of secrecy. Provided that when advocates exercise the legal

profession in the form of a law firm (group/union/partnership), secrecy rules apply to the entire group and to all its members.

(5) If an advocate is a witness to a case, he must no longer appear also as an advocate; As a witness, he must appear before the Court with a fully independent opinion and may refuse to answer any question which may tend to lead him to a disclosure or violation of secrecy.

(6) The duty of maintaining secrecy includes the protection of confidential information provided by third persons in the context of the advocate's professional capacity, as well as confidential information arising from conversations necessary in view of reaching an agreement, which later did not materialise. Secrecy also includes the confidential information entrusted by a fellow colleague. Advocates cannot accept another case without their client's consent if such case touches upon a matter with regard to which the client has disclosed information to them during the provision of professional services. Provided that advocates are not excluded from accepting a case, unless they honestly and justifiably believe that, in the exercise of their duties, they would find themselves in an embarrassing situation as a result of the trust demonstrated by another client to whom they had previously given advice regarding the matter in question.

(7) If a client makes an accusation against his advocate, or if the advocate faces criminal or disciplinary prosecution, then the latter is entitled to disclose any confidential information with regard to the accusation or the case, even if information confided to him by his client would, in this manner, be disclosed.

14. In the cases where advocates are allowed to exercise the legal profession abroad, they must respect the code of conduct of the State in which they exercise their professional activity.

*Obligation of
Advocates
exercising a
professional
activity in another
State to respect
the code of
conduct of that
State*

15. In the cases where an advocate from abroad is allowed or

Obligation of

granted licence to exercise a professional activity in Cyprus, he must abide by the present code of conduct regulations and, in case of violation, is subject to disciplinary prosecution.

advocates from abroad exercising a professional activity in Cyprus to respect these Regulations.

16. Subject to the rules of law and the code of conduct, advocates are obliged to always defend their client's interests in the best manner possible, even with regard to their own personal interests, those of their colleagues or the profession in general. *Client's interest*
17. (1) Advocates are permitted to lawfully develop their professional work in Cyprus and promote their professional activities in Cyprus and abroad, in such a manner and to the extent that this is in compliance with these Regulations, the high standards of behaviour of the legal profession as well as the Laws and the code of conduct regulations of advocates in the country where they intend to develop the said activities. *Client hunting*

(2) Advocates must not proceed to or allow, directly or indirectly, any client hunting.

(3) Advocates must not use or allow any person to use, directly or indirectly, any agents or brokers for the purpose of influencing and assigning any cases to their law firm, or reward, in any manner in general, any persons in order to influence another person to seek their professional services.
18. (1) In order for advocates to be in a position to exercise their function with the necessary independence and in a manner conformable to their obligation to participate in the administration of justice, the exercise of professions or activities which are incompatible with the legal profession is prohibited. *Incompatibility*

(2) Subject to the generality of paragraph (1), advocates must, in particular, abstain from actively participating in the conduct of any business of commercial or other economic nature or from being an active member of such business.

Provided that the management of their property or assets or of those of their family is not considered to be an active

participation in any business of commercial or other economic nature.

Further provided that advocates may be members of the board of directors or secretary (but not employees) of a firm or company, but not managing directors.

- (3) For the purposes of this Regulation, a firm, group, union, partnership or legal entity (controlled by advocates) providing counselling or other services which are ancillary, related, successive or supplementary to those which an advocate provides or may provide in person or as a trustee, are not businesses of commercial or other economic nature.
19. (1) A lawyer is entitled to inform the public about his or her services provided that the information is accurate and not misleading, and respectful of the obligation of confidentiality and other core values of the profession.
- (2) Personal publicity by a lawyer in any form of media such as by press, radio, television, by electronic commercial communications or otherwise is permitted to the extent it complies with the requirements of 19.1
- RELATIONS WITH CLIENTS**
20. (1) Advocates act only upon being so instructed by their client, unless mandated by another advocate representing the client or by a competent authority. *Commencement and termination of relation with client*
- (2) Advocates advise and defend their client within a reasonable time period, conscientiously and diligently. They personally assume responsibility for the mandate entrusted to them and inform their client on the progress of the case they have undertaken.
- (3) Advocates do not accept to undertake a case if they know or ought to have known that they do not have the necessary competence to handle it, unless they cooperate with another duly competent advocate. The latter is possible only upon the client's written consent.
- (4) Advocates cannot accept a case if they are unable to handle it within a reasonable time period considering its circumstances and their other obligations.
- (5) Advocates who exercise their right not to proceed with

the handling of a case must give their client reasonable time to obtain timely assistance by another colleague in view of avoiding any damage or prejudice to him.

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| 21. (1) Advocates must not act as counsellors or representatives or advocates of more than one client in the same case, if there is a conflict of interests among the said clients or significant risk of such a conflict arising.

(2) If there arises a conflict of interest, advocates must abstain from handling the cases of all concerned clients, since there is the risk of violation of secrecy or of prejudice to their independence.

(3) Advocates may not undertake the case of a new client if there exists the risk of violating the secrecy of information entrusted to them by an old client. | <i>Conflict of interests</i> |
| 22. When advocates exercise the legal profession in the form of a law firm or partnership, these Regulations apply to it as a whole as well as to all its members. | <i>Obligation of law firms to apply these Regulations</i> |
| 23. (1) Advocates must never assure their client that their case will be successful but only give their opinion as to whether the case is well founded or not.

(2) Advocates must advise their client to compromise the case if, in their opinion, such compromise is fair and reasonable. | <i>Obligation of advocates to provide their client with correct advice in relation to his case</i> |
| 24. It is the advocates' duty, at the stage of assignment of the case, to disclose to their client any interest they may have in the dispute or any relation to the parties, and declare if they are subject to any influence which is against their client's interests and, provided the client wishes to obtain their services, this may be done following full disclosure of all material facts. | <i>Obligation to disclose to the client compliance or relation of the advocate to the case</i> |
| 25. When an advocate undertakes a case, he may not withdraw from it, unless a reasonable cause has arisen, affecting his good reputation, dignity or conscience or in case of violation by the client of any moral or material obligation to him or disagreement as to the handling of the | <i>Possibility of withdrawal from a case</i> |

- case or for any other reasonable cause.
26. (1) In the absence of an agreement or provision on the setting of the advocate's fees, advocates must be guided by the following criteria:
- (a) the time spent on the assignment, the result achieved and its significance;
 - (b) the significance of their services and the urgency of the matter;
 - (c) the amount of the dispute;
 - (d) the originality or difficulty of the legal issues which have arisen;
 - (e) their competence, experience and specialisation;
 - (f) the client's financial situation;
 - (g) their potential exclusion from appearing in other cases or accepting other clients;
 - (h) whether the use of their professional services is on an ad hoc basis or established or permanent;
 - (i) the extent of their involvement in the study, presentation and development of the case.
- (2) In the absence of an explicit agreement, advocates must inform their client of the approximate requested fees, the amount of which must be fair, justified and reasonable under the circumstances.
- (3) Subject to an agreement to the contrary, lawfully signed between the advocate and his client, the method of calculating the fees must always be in compliance with the Regulations of the Cyprus Bar Association in force at the time.
27. (1) When an advocate asks for a deposit against the expenses and/or his fees, such deposit must not exceed the reasonable evaluation of the expenses and his fees as may be probably required for the case.
- (2) In case the deposit so requested is not paid, the advocate may resign from the case or withdraw subject to the provisions of paragraph (5) of Regulation 20 of these Regulations.
28. Advocates are prohibited from paying part of their fees to persons who are not advocates.

Setting of fees

Provisions in relation to fees and expenses

Allocation of fees to persons who are not advocates

29. (1) Advocates must always make reasonable effort to reach a settlement of their client's dispute, proportional to the cost of the case and must, at the appropriate time, give advice on the possibility of reaching an agreement or resorting to out-of-court settlements in order to terminate the dispute.
- (2) When the client is entitled to legal aid, the advocate is obliged to inform him accordingly.
30. If, at any time, advocates hold monies on behalf of a client or third parties (hereinafter called 'client funds'), they are obliged to observe the following rules:
- (1) The client funds shall always be kept in an account opened with a bank or cooperative institution or other legally operating institution. All client funds received by advocates must be deposited in one account with the exception of the case where the client gives explicit or tacit authorisation for a different use of such funds.
- (2) All accounts opened in the name of an advocate and containing client funds must state in their heading that the monies deposited are held on behalf of the advocate's clients.
- (3) The advocate's accounts in which the client funds are deposited shall always have a balance equal to at least the total amount of the client funds held by the advocate.
- (4) The client funds must always be available on demand by the client or under conditions accepted by the latter. In any case, advocates have an obligation to transfer within a reasonable time period all funds which the client is entitled to.
- (5) Subject to any contrary rules or a court decision or an explicit or tacit agreement of the client for whom the payment is made, all payments made with client funds on behalf of the client to a third person are prohibited. These include:
- (a) payments made to a client or for a client with monies belonging to another client;
- (b) the withdrawal of monies to pay for the advocate's fees,

*Settlement
proportional to
the cost and legal
aid*

Client funds

except in the case of a certified list of court or out-of-court fees or a court decision in respect of his expenses.

(6) Advocates must keep full and correct bank copies of all transactions made with client funds, distinguishing between client funds and other amounts held by them and hand them over to the client when so requested.

(7) The Advocates' Disciplinary Council is granted authority to verify and examine, whilst always observing professional secrecy, the documents relating to client funds in order to make sure that the rules set above are faithfully complied with and to impose sanctions in the case of violation of these rules.

(8) Advocates who hold client funds in the framework of their professional activity in another State must observe the deposit and accounting rules pertaining to client funds applied by the bar association of the said State.

31. (1) All monies or other property of a client which come under the possession of an advocate to the benefit or on behalf of the client must be handed over to the latter the soonest possible.

*Monies or
property held by
an advocate for a
client*

(2) In relation to the above obligation, advocates must keep full records enabling them to speedily inform their client of any amount in his credit.

32. Advocates may be constantly and within reasonable limits, covered by professional liability insurance, considering the nature and extent of the risks undertaken in the exercise of their activity.

*Professional
liability insurance*

RELATIONS WITH JUDGES

33. (1) Advocates who appear before any Court must comply with the code of conduct which applies before the said Court.

*Duty toward the
Court*

(2) The advocates' conduct must always be governed by honesty, directness and a spirit of justice.

(3) Advocates must show courtesy and respect toward the Court and insist that their client demonstrates similar conduct. Advocates have a right to a similar attitude by the

Court.

(4) Advocates must never seek to influence personally, directly or indirectly, any Court in favour of themselves or their client.

(5) Advocates must always respect the disputes which arise in discussing the cases. They are not allowed to contact the Judge in relation to the subject matter of a case without previously informing the adverse party's advocate. They may not hand over to the Judge documents, notes or other evidence without the prior approval of the adverse party's advocate.

(6) Whilst always honouring and respecting the Court, advocates must defend their client conscientiously, without fear or regard to their own interests or the consequences on themselves or any other third person.

(7)(a) Advocates must not knowingly present any imprecise or misleading legal authority in any court procedure or knowingly mislead the Court on any matter.

(b) Advocates must in no case knowingly submit to the Judge false or possibly misleading information.

(8) (a) The Judges of all Courts are entitled to the advocates' support in the case of unjust criticism or complaints.

(b) However, in the case of any just complaint against a judicial officer, it is the right and duty of advocates to lodge such complaint with the competent authority through the Council of the Cyprus Bar Association or of the Local Bar Association.

(9) Advocates must not use redundant court measures or representations or go-slow tactics which, though used under the pretext of strict compliance with legal rules, aim solely at obstructing or delaying the administration of justice.

(10) Advocates are free to undertake or refuse to undertake cases without providing any justification, with the exception of cases entrusted to them by the Court, where such refusal must be adequately justified.

Provided that advocates must never undertake a case in

which they would not have moral freedom to act.

(11) Subject to the provisions of paragraph (10) of this Regulation, advocates have a duty to undertake the defence of any person accused of a crime, irrespective of their personal opinion on whether the accused is guilty or innocent.

(12) Advocates who undertake a criminal prosecution in any case must always have in mind that their primary duty is to see that justice is administered, and not merely to achieve a conviction.

(13) Advocates must be punctual at their appearances before the Court.

RELATIONS WITH ARBITRATORS, EXPERTS AND OTHER PERSONS

34. The Regulation which applies to the relations between advocates and judges also applies to their relations with arbitrators, experts or any other persons occasionally called to assist the Judge or the arbitrator.

Application of Regulations to persons with similar functions

RELATIONS AMONG ADVOCATES

35. (1) Advocates have an obligation to demonstrate courtesy, good fellowship and mutual respect in their relations with their colleagues.

(2) Good fellowship requires a relation of trust among advocates in the interest of the client and in order to avoid redundant procedures and any other behaviour which may discredit the profession. Advocates recognise as their colleagues all advocates from other States and behave toward them in a spirit of good fellowship and honesty.

(3) Advocates must abstain from all inappropriate or prejudicial comments against any colleague and from referring to any peculiarities of personal, political or other nature.

(4) Advocates must not proceed, directly or indirectly, to negotiations with the client of a colleague, unless the latter has given his written authorisation or consent.

(5) Advocates must not interfere in cases handled by colleagues unless the latter have explicitly resigned from the said case. When the advocate's interference is not disclosed upon undertaking the case, notice must be given immediately afterwards. In any case, advocates have an obligation to make sure that their colleague's fees have been paid and undertake the case after the payment of such fees.

(6) Arrangements and agreements between advocates on any matter concerning the conduct of any procedure must be strictly complied with.

(7) Advocates must not regard a client's proposal to obtain assistance from another advocate as a sign of lack of trust.

(8) If advocates who handle a case jointly cannot agree in relation to a point of material interest for their common client, they must notify him sincerely of their disagreement in order for him to make the final decision. His decision shall be accepted unless the nature of the dispute renders, for the advocate whose opinion was rejected, any further cooperation impossible. In such case, it is the latter's duty to ask his client to be released from the case.

36. (1) Advocates who send an announcement to a colleague wishing that such announcement is treated as 'confidential' or 'without prejudice', must clearly express their will upon sending the same. *Correspondence between advocates*
- (2) In case the recipient of the announcement would not be in a position to treat it as 'confidential' or 'without prejudice', he must return it to its sender without disclosing its content.
37. Advocates may neither ask another advocate or any third person, nor accept a fee, commission or any other compensation for having recommended or sent a client to an advocate. Advocates may not pay fees, commission or other compensation to a person in exchange for recommending a client. *Recommendation fees*
38. Advocates may not personally communicate with the adverse advocate's client in relation to a specific case, knowing that he is represented by another advocate, unless the said colleague gives his consent, in which case *Communication with adverse party*

he must keep him informed.

39. Advocates cannot succeed other advocates in defending the interests of a client in a specific case unless they have notified their colleague and made sure that the expenses and fees owed to him have been settled, subject to the provisions stated in Regulation 40. But this obligation does not render the advocate responsible for the payment of the fees and expenses owed to his predecessor.
40. In case urgent measures need to be taken in the interest of the client before all requirements set forth in Regulation 39 above are met, advocates may take these measures on condition that they shall immediately inform their predecessor.
41. The Code of Conduct Regulations of Advocates of 1996 is hereby repealed.

The present Code of Conduct Regulations of Advocates was enacted under P.I. 237/2002 dated 17 May 2002 (No. 3603).