



## **Latvian Sworn Advocates Code of Ethics<sup>1</sup>**

### **Introduction**

The main function of the code of ethics for Latvian sworn advocates (hereinafter – Code of Ethics) is to protect and strengthen the importance of the advocate's profession in the ensuring of lawfulness and righteousness and to promote fair and qualified implementation of the rights and duties of an advocate.

The Code of Ethics is based on the International Bar Association (IBA) International Code of Ethics approved in 1956 and supplemented later and the Charter of Core Principles of the European Legal Profession, and the Model Code of Conduct for European Lawyers, which apply to all advocates and lawyers practicing in one legal system, as well as to the cooperation with advocates and lawyers in another legal system or their activity in another legal system.

The Code of Ethics shall determine the core ethical principles which all advocates must follow in their professional activity; however, this is not a comprehensive account of all values, ethical principles, and norms of conduct.

### **1. General Provisions**

1.1. The Code of Ethics shall apply to all advocates practicing in Latvia (hereinafter – advocates). The provisions of the Code of Ethics shall also be binding on the persons whose activity in the Latvian Collegium of Sworn Advocates has been suspended, who have been suspended from performing their duties or have been prohibited from practicing.

1.2. Advocates must observe the norms of professional ethics, the laws, and the legal system requirements, as well as the laws and legal system requirements of the countries where they are performing the duties of an advocate. Every advocate must be aware that the actions of each individual advocate form the general public image of Latvian advocacy.

1.3. The requirements for advocates are determined in the Advocacy Law of the Republic of Latvia, other external laws and regulations, this Code of Ethics, and the Model Code of Conduct for European Lawyers. If these laws and regulations do not contain specific requirements governing the actions of an advocate, the general legal principles, the core ethical principles of an advocate, existing legal system and advocacy customs, and conventional moral principles shall apply.

1.4. Latvian advocates shall follow the Model Code of Conduct for European Lawyers.

1.5. For any violation of the norms of professional ethics the advocate shall be subject to disciplinary action. Other liability shall only apply in the circumstances specified in the law.

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<sup>1</sup> Adopted at the general meeting of Latvian sworn advocates on 21 May 1993; amended by decision of the general meeting on 30.04.2010; restated and approved by decision of the general meeting on 12 April 2019

1.6. When providing legal aid, advocates shall use all the statutory rights, advantages and privileges granted to them in order to protect the rights and legal interests of their clients. Departing from this provision is only allowed with the consent of the client.

1.7. An advocate shall not allow discriminating attitude, including discriminating comments or actions towards their clients, colleagues, other persons, the court, representatives of other institutions and legal professions, regardless of their gender, race, skin colour, language, religion, political or other views, national or social background, relation to any national minority, financial situation, rank, or another status. Refusal by an advocate to provide legal aid in itself is not considered discrimination. Discussion and evaluation of a different attitude is not considered a different attitude.

1.8. An advocate shall not be identified with their client or the client's case in relation to the fulfilment of professional duties. An advocate shall refrain from such actions which promote their identification with a client or the client's matters.

## **2. Core Ethical Principles of an Advocate**

### **2.1 Independence**

An advocate must be completely independent and free in the performance of their professional duties, i.e., when organising their practice and performing professional duties, an advocate shall be politically, economically, and mentally free from third parties, including their client.

When accepting a client's assignment, an advocate must be free from any influence, especially the kind which may arise in relation to their personal interests or result from any duress.

An advocate must avoid such influence on themselves which may harm a client's interests.

An advocate shall separate their practice from any other activity which may affect the advocate's reputation, independence, and immunity.

An advocate is free to choose another activity in addition to their profession (economic, creative, political, or any other). An advocate shall independently evaluate the compatibility of any activity with the main duties of the advocate's profession, rules of ethics, and their duties to clients. An advocate shall not undertake a secondary activity which decreases or may decrease public trust for advocates, the Latvian advocacy in general, harms or may harm the reputation of advocacy.

### **2.2. Trustworthiness and personal integrity**

An advocate's personal respect, honesty, and fairness is a traditional condition of the advocate's profession which is an obligatory prerequisite for a relationship based on trust.

Both in professional activity and in private life, an advocate shall refrain from such behaviour or action which may disgrace their profession, raise doubt regarding their respect, integrity, fairness, and trustworthiness.

An advocate shall not use their affiliation with advocacy for the implementation of their private interests or those of the persons related to them.

### **2.3. Confidentiality**

An advocate has the right and obligation to observe confidentiality, i.e., not to disclose any information they have obtained through the performance of their professional duties, including:

- a) information about the very fact that a person has come to an advocate, as well as this person's identity;
- b) information provided by the client and other information about the client which the advocate has obtained through the performance of professional duties;
- c) the content of the legal aid provided to the client;
- d) any information or data included in the advocate's records and notes or obtained during the performance of professional duties which the advocate has fixed on any data storage devices;
- e) conditions of agreements, including the amount of remuneration;
- f) any other information related to the provision of legal aid.

An advocate shall warn about the confidential nature of the information any other advocates with whom they have any kind of joint practice, their staff, and other persons to whom they transfer confidential information in relation to their professional activity.

The confidentiality commitment has no time limit.

Confidentiality shall be maintained even when an advocate is no longer performing professional duties in relation to the client.

Any written or spoken exchange of information between advocates, as well as between an advocate and their clients, if the information is related to the provision of legal aid, shall be confidential.

If any of the information above has become public knowledge as a result of the client's actions or the nature of legal aid, this is not considered a breach of confidentiality by the advocate.

Exceptions from advocate confidentiality are allowed:

- a) in accordance with the law;
- b) in the circumstances when information is requested from the advocate by the Latvian Council of Sworn Advocates or another authorised institution of the Latvian Collegium of Sworn Advocates for the performance of its functions and within its competence;
- c) in the circumstances when disclosure of information is required for the protection of the advocate's own interests, especially in the case of an argument with the client;
- d) in the circumstances when disclosure of information is required for ensuring the advocate's immunity;
- e) with the client's consent or at the instruction of the client.

### **3. Relationship with the Client**

3.1 An advocate's relationship with a client is governed by the agreement on the provision of legal aid, by the laws and regulations, and the provisions of the Code of Ethics.

3.2. When providing legal aid, an advocate shall not, through their action or inaction, harm the client's rights or legal interests. An advocate shall always act in accordance with the client's legal interests and place these above their own or their colleagues' interests as long as these are not in conflict with the provisions of the Code of Ethics.

3.3. An advocate shall share their opinion on the case with the client professionally and openly and provide appropriate legal aid.

3.4. An advocate is not obliged to provide legal aid and undertake a case, with the exception of legal aid ensured by the State.

3.5. An advocate shall not refuse a case they have undertaken, or cease handling a case at a time when the client is unable to find another advocate or when other circumstances leave the client without legal aid.

3.6. An advocate may refuse a case they have undertaken only at the client's discretion and upon agreement with the client; however, with a consent of the Latvian Council of Sworn Advocates, also in other exceptional circumstances if there are valid reasons, including if the client is not performing the duties undertaken with the agreement, is ignoring the advocate's recommendations, or has been unreachable for a long time.

3.7. An advocate, if this is in the client's interests, shall try to reach an out-of-court resolution in a case before initiating a trial. An advocate shall not cause a trial to gain material benefit from it.

3.8. An advocate shall not use a client's case in their own financial interests, or directly or indirectly obtain property which is on trial with their involvement.

#### **4. Accepting an Assignment and Providing Legal Aid**

4.1. An advocate must refuse to provide legal aid if they are incompetent in the matter the client has come to them with or are unable to perform their professional duty properly.

4.2. An advocate shall not provide legal aid if there is no agreement with the client, with the exception when an advocate is appointed to the case by a competent authority or official, or if the case is taken over from another advocate, as well as if the law allows acting otherwise.

4.3. An advocate's records related to providing legal aid shall be prepared with care and without undue delay.

4.4. An advocate shall not allow the use of their name or practice to persons who have no official permission to work in the legal field.

An advocate shall not delegate any actions which, in accordance with the law, can only be performed by an advocate to a person with no legal qualification.

#### **5. Conflict of Interests**

5.1. An advocate shall not provide legal aid to two or more clients if these clients have a mutual conflict of interests or a potential conflict of interests. An advocate shall not provide legal aid in a case if there is a conflict between the client's and the advocate's personal interests or if the advocate has been involved in this or a related case in the past as an official, judge, arbitrator, mediator, or a dispute settler within an alternative dispute resolution procedure.

5.2. An advocate shall not provide legal aid to a client if such aid may come in contradiction with the duty of an advocate which follows from the legal aid provided by the advocate against another existing or former client.

5.3. An advocate is obliged to prevent conflicts of interests and mitigate the risk of a conflict of interests in due time.

5.4. If an advocate has concluded that a conflict of interests or a potential conflict of interests exists, the advocate may provide legal aid to several clients only if:

a) several clients have common interests; and

- b) the clients have been fully informed about the existence of a conflict of interests and have given their consent; and
- c) commitment to the confidentiality of information provided by the client is not threatened; and
- d) the conflict of interests or the potential conflict of interests does not prevent the advocate from ensuring an equal attitude to all clients.

5.5. If a conflict of interests is found during the provision of legal aid or all the preconditions provided for in Paragraph 5.4 of the Code of Ethics no longer exist, an advocate shall cease the provision of legal aid to all clients in the case and immediately notify all the clients involved in the case.

5.6. If an advocate has any form of a joint practice, the conflict-of-interests restriction shall apply to all advocates practicing together, including advocates having a joint integrated cross-border practice, even if this directly concerns only one of them. Upon termination of the joint practice, the advocate shall fully comply with the conflict-of-interests restriction regarding the legal aid provided within this joint practice. The restriction shall also apply to the law firm staff and specialists involved in the law firm's practice.

## **6. Self-advertising**

6.1. Self-advertising involves both the advertising of law firms, as well as individually practicing advocates. Interviews and publications where an advocate refers to their status of an advocate and which are not considered scientific publications are also considered self-advertising.

6.2. Within self-advertising, an advocate may inform the public about their professional activity while ensuring the truthfulness and precision of the information provided, as well as its correspondence to their abilities and the level of professional knowledge, so that the information provided does not harm the interests and core principles of the State, society, and the advocate's profession.

6.3. An advocate's advertising must follow the laws and regulations related to the protection of consumers' rights, as well as the prevention of unfair competition and unfair commercial practices.

6.4. The content of an advocate's advertisement shall not:

- a) be false, deceiving, importunate, or express superiority over other colleagues;
- b) breach the rules of confidentiality, including that an advocate shall not, without the client's consent, use the client's name or references to the client's cases handled by the advocate;
- c) create an impression of credibility regarding the expected result of the advocate's work;
- d) refer to relations with State officials;
- e) refer to advantages which follow from a previous position or occupation.

6.5. An advocate shall not send their advertising materials or legal aid offers to persons who have not expressed a wish to receive such information.

## **7. Advocate's Remuneration**

7.1. An advocate may receive fair remuneration for legal aid provided; at the same time, the client's interests and a fair court trial are also important.

An advocate must ensure that the rules concerning the advocate's job remuneration and other costs related to the provision of legal aid (amounts, procedures) are clear and understandable to the client.

7.2. An advocate must be especially precise and careful with financial matters. The client's finances shall be separate from the advocate's finances. The advocate must be able to refund the client's finances entrusted to them.

An advocate shall use the entrusted finances in accordance with the client's interests and liabilities undertaken.

7.3. An advocate has the right to receive an advance payment to cover their remuneration and other costs; however, this payment must be commensurate and appropriate to the scope, difficulty, and importance of the work.

7.4. An advocate may agree on additional reasonable remuneration which depends on the result of the legal aid provided, i.e., the success fee. This must be agreed specifically for a specific result of legal aid.

## **8. Principles of Conduct in Advocate's Relations with Other Persons**

8.1. An advocate shall always conduct themselves in accordance with the law and with proper respect towards the court, officials, judges, arbitrators, mediators, or dispute settlers within an alternative dispute resolution procedure, as well as investigation and other authorities they address when performing their professional duties, and towards the parties to the case (trial), considering that an advocate must protect their clients' interests with bravery, honesty, and perseverance.

8.2. To ensure mutual trust between State authorities and the advocate's profession, an advocate shall not knowingly provide false information to the court, preliminary investigation, and other institutions, following the core principles of an advocate's work.

8.3. In communication with the court, other authorities and officials, other parties to the trial, including the opposing party and its representatives, as well as with any member of the public, an advocate shall remember that the advocate represents a profession affiliated with the legal system and that their actions form a general opinion about advocacy.

8.4. In communication with other persons, an advocate's conduct must meet professional ethical standards even when they are not providing legal aid.

An advocate shall be calm, polite, and shall refrain from offensive, *ad hominem* arguments, rude or disrespectful attributes, thoughts, and expressions, and refrain from gestures, expressions, content or forms of communication which may humiliate or insult a person's honour and dignity.

8.5. In communication with mass media, when expressing an opinion in public, including on social media, remembering that the conduct and actions of each individual advocate in communication with other persons affects the reputation of the profession and forms the general public image of the Latvian Collegium of Sworn Advocates, an advocate shall follow the professional advocacy regulations and the general guidelines for judiciary professions.

An advocate's public speeches, written and spoken statements in mass media or on the internet shall be professional and well-considered.

## **9. Principles of Conduct in Advocates' Mutual Relations and Regard to the Institutions of the Latvian Collegium of Sworn Advocates**

9.1. An advocate shall treat the colleagues in their profession with utmost respect, politeness, and honesty, forming good relationships with colleagues. An advocate shall cooperate with colleagues in the interests of clients in good faith, never abusing the colleagues' trust. Professional interests shall never be opposed to fairness. Arrogant, offensive, and discriminating attitude to colleagues is unacceptable.

9.2. Written and spoken communication between advocates is *a priori* confidential and shall stay between the advocates. This requirement must also be observed if this is not expressly stated in a document being sent or stated during a conversation. An advocate shall warn a colleague in writing, before beginning communication, of any intent to use the information obtained within the communication as evidence or to disclose it in any other way. The provisions of this paragraph do not apply to official communication on behalf of the client.

9.3. An advocate shall not disclose, including submit to the court, any proposals expressed by the advocate of the other party on the resolution of a case without an express consent from the advocate of the other party.

9.4. If an advocate is working with a colleague from another country, they must consider the differences between the legal systems and professional organisations, as well as possible differences in competence and duties.

9.5. In communication with the opposing party, an advocate should refrain from direct discussions of the particular case or matter with the person which the advocate knows to be in receipt of legal aid in this case or matter from another colleague. The colleague must be notified of any such communication.

9.6. In communication with colleagues' clients, as well as other persons, an advocate shall refrain from negative or derogatory evaluation of their colleagues' work. If an advocate handling a case which was previously handled by or where legal aid was provided by another advocate has a different opinion on the tactic and approach to protecting the client's interests, then the client must be informed of this in an appropriate manner, guarding the colleague's reputation as much as possible.

9.7. An advocate may not request or accept help, commission, or any other compensation from another advocate for referring a client or recommending the advocate to the client. An advocate may not pay remuneration, commission, or compensation to anyone, presuming that a client was referred to them.

An advocate who delegates a task to a colleague on behalf of the client or asks for a colleague's advice shall be personally liable for paying the fees, other costs and expenses to the colleague involved if the advocates have not agreed on a different payment procedure at the beginning of their relationship.

9.8. An advocate who has received credible information that a colleague has acted unethically shall first notify the colleague if possible and consecutively act in accordance with the principles of professional ethics. If an advocate has objective reasonable objections to the legality or ethics of another colleague's actions, the advocate, with the purpose of reaching a legal result, may address such action in accordance with the procedures provided for in the laws and regulations while, as much as possible, avoiding any action which is harmful to the reputation of the profession.

9.9. Advocates shall refrain from discussing mutual disagreements in public and shall solve these through constructive discussion with mutual respect, openness, understanding, and good fellowship.

An advocate shall be self-critical, shall be able to admit one's mistakes regarding colleagues, to apologise for unethical actions, and, if possible, remedy the consequences of one's actions.

9.10. An advocate is obliged to participate in general meetings of advocates. Advocates who have been appointed to the institutions of the Latvian Collegium of Sworn Advocates or work at the institutions created by the Latvian Council of Sworn Advocates must participate in the operation (meetings) of these institutions.

9.11. An advocate is also obliged to comply with the decisions, recommendations, instructions, and requirements of general meetings of advocates, the institutions of the Latvian Collegium of Sworn Advocates and the institutions created by the Latvian Council of Sworn Advocates, including in the matters where the advocate's personal opinion is in disagreement.

## **10. Relations between a Patron and Assistant**

10.1. The norms referred to in Section 9 of the Code of Ethics also apply to the relations between a patron and an assistant.

10.2. The relationship of a sworn advocate and their assistant is collegial. It cannot be equated with the relationship of an employer and an employee.

10.3. A patron is obliged to perform the duty of managing, engaging, and supervising the assistant in good faith. The assistant is obliged to fulfil the assignments given by the patron and to get involved in the patron's practice in good faith.

10.4. A sworn advocate shall not encourage a colleague's assistant to change a patron.

10.5. An assistant shall not seek a new patron without a well-grounded (justified) reason.

10.6. A patron shall not refuse an assistant with the exception of a well-grounded (justified) reason.

10.7. If a patron is changed, the assistant is obliged to finish the completion of all assignments they have undertaken as the assistant of the previous patron and shall settle all mutual financial liabilities.