

NOTICE

of the Presidium of the Supreme Bar Council of 13th December 2005
on publication of the consolidated text of the Compendium of Rules on Advocates' Ethics and
and the Dignity of the Profession (Advocates' Code of Ethics)

Pursuant to part IV of resolution no. 32/2005 of the Supreme Bar Council of 19th November
2005

the consolidated text of the Compendium of Rules on Advocates' Ethics and the Dignity of
the Profession

(Advocates' Code of Ethics) is published, as adopted by
the Supreme Bar Council on 10th October 1998 (resolution no. 2/XVIII/98)
as amended by a resolution of the Supreme Bar Council
no. 32/2005 of 19th November 2005

Compendium of Rules on Advocates' Ethics and the Dignity of the Profession (Advocates' Code of Ethics)

With reference to the long history of the Revived Polish Bar and especially its experience in the practice of a free, independent and autonomous profession gained over eighty years based on the standards of the first Compendium of Rules on Advocates' Ethics and the Dignity of the Profession adopted by the Supreme Bar Council on 6th and 7th May 1961 and having discerned a need to improve and adjust the rules for practising the profession and of corporate life to changing realities, the Supreme Bar Council decided on 10th October 1998 to adopt the Compendium of Rules on Advocates' Ethics and the Dignity of the Profession (Advocates' Code of Ethics) (resolution no. 2/XV111/98)

CHAPTER I General provisions

§ 1

1. The rules on advocates' ethics arise from ethical norms adjusted to the advocate profession.

2. Any conduct on the part of an advocate that could bring the profession into public disrepute or undermine trust in the profession also constitutes a breach of the dignity of the profession.

3. It is an obligation of each advocate to observe the ethical norms and uphold the dignity of the advocate profession.

4. It is the obligation of each advocate practising his profession abroad to observe the norms of this code, in addition to the norms of the ethical code applying in the host country.

§ 2

In cases not covered by the "Compendium", an advocate should follow the rules laid down in resolutions of the self-governing bar authorities, in disciplinary case law and customs adopted by the bar community.

§ 3

The rules of the "Compendium" apply accordingly to trainee advocates.

§ 4

An advocate shall be subject to disciplinary action for any transgression of advocates' ethics or infringement of the dignity of the profession in his professional and public conduct as well as in his private life.

§ 5

Each advocate is bound to cooperate in ensuring that members of bar observe the rules on advocates' ethics and uphold the dignity of the profession. An advocate is entitled to admonish a colleague who is in breach of the above rules.

§ 6

The objective of advocates' professional activity is to defend the interests of the client.

§ 7

During performance of his professional activity, an advocate shall enjoy full freedom and independence.

§ 8

An advocate shall perform his professional activity to the best of his knowledge and will, with due honesty, conscientiousness and zeal. An advocate is bound to improve his professional qualifications on a constant basis and endeavour to maintain a high-level of professional competence.

§ 9

1. Activities may not be combined with the profession of advocate which would:
 - a) constitute an affront to the dignity of the profession;
 - b) restrict the independence of the advocate.
2. The following in particular are deemed to conflict with the performance of the profession of advocate:
 - a) holding the post of administrator in another's enterprise;
 - b) performing the functions of management board member or commercial proxy (prokurent) in commercial law companies (this does not concern partnerships providing legal services);
 - c) performing agency activities in commercial transactions on a professional basis;
 - d) conducting advocates chambers in the same premises as a person conducting other activity, where such situation would be contrary to the advocates' ethical rules.
3. When an advocate enters into trust agreements he is required to exercise the utmost care to assess whether such agreement infringes the rules of advocates' ethics and the dignity of the profession.

CHAPTER II
Practice of the profession

§ 10

An advocate cannot justify a breach of the rules of ethics and dignity of the profession by relying on suggestions made by a client.

§ 11

An advocate may not deliberately provide false information to the court.

§ 12

An advocate may not provide professional assistance that would facilitate commission of an offence or would suggest an opportunity of evading criminal liability for an act to be committed in the future.

§ 13

When performing professional activities, an advocate is bound to observe the principles of conciseness.

§ 14

An advocate is liable for the form and content of any statements of case he edits, even if he does not sign them.

§ 15

Although an advocate is not liable for the truth of facts related to him by his client, he should exercise restraint when presenting drastic or unlikely circumstances.

§ 16

Where it is necessary to present drastic circumstances or expressions, an advocate should present them in such a form so as not to infringe the dignity of the court or authorities or the dignity of the advocate profession. The appropriate form shall be observed in professional correspondence. It is prohibited to use insulting terms or expressions or to threaten criminal prosecution or disciplinary action.

§ 17

Notwithstanding the guaranteed right of free speech when performing his professional activities, an advocate should exercise moderation and diplomacy in his comments.

§ 18

1. An advocate should avoid the public display of his personal relations with a client, the client's relations or other parties participating in proceedings.
2. It is prohibited for an advocate to display intimacy with persons employed in court, in state offices or prosecution bodies.

§ 19

1. An advocate is required to maintain the confidentiality of information he obtains in connection with the performance of his professional duties and secure it against disclosure or undesired use.

2. Materials contained in advocates' files are subject to advocate's confidentiality.
3. Moreover, all messages, notes and documents concerning the case, whether obtained from the client or any other person, are subject to confidentiality regardless of their location.
4. An advocate shall require his co-workers and personnel and any other persons he employs when performing professional activity to observe the obligation to maintain professional confidentiality.
5. An advocate using a computer or other means of electronically recording data in his professional work, shall use software and other means to secure data against unauthorised disclosure.
6. The transfer of information subject to professional confidentiality by electronic or other similar means of transfer requires that particular due care be taken and that the client be warned of the risk to confidentiality posed by use of such means.
7. The obligation to observe professional confidentiality is unlimited in time.
8. An advocate may not adduce evidence from the testimony of a witness who is an advocate or legal adviser in order for the latter to disclose information obtained in connection with the practice of his profession.

§ 20

In the event that the premises in which an advocate practises his profession or the private accommodation of an advocate are searched, he shall demand that a representative of the self-governing bar authority participate in such activities.

§ 21

An advocate may not undertake a case whose outcome may affect him or his property, unless the claim concerns a member of his family or relates to both him and the party.

§ 22

1. An advocate may not undertake a case or provide legal assistance if:
 - a) he has previously provided legal assistance to the other party in the same case or a related case;
 - b) took part in the case when exercising a public function;
 - c) the person against whom he is to conduct the case is his client, albeit in a different case;
 - d) the advocate, as a relative of the client, conducts the case or has previously provided legal assistance to the other party in the same case or a related case;
2. An advocate who has submitted testimony in the given case cannot appear in that case as council.

§ 23

An advocate is prohibited from advertising and soliciting clients in a manner contrary to the dignity of the profession.

§ 23a

1. An advocate is entitled to provide information regarding his professional activity, provided that the form and content of such information is:
 - a) consistent with the rules of this "Compendium";
 - b) consistent with applicable provisions, especially those concerning consumer protection and counteracting unfair competition;
 - c) is accurate and not misleading;
 - d) provided in observance of professional confidentiality;

- e) is not intended to obtain specific instructions for the advocate, subject to the provisions of point 2 b) of this paragraph.
2. An advocate may provide information about the legal assistance he provides in a manner consistent with the rules of this "Compendium" by:
- a) including information in the letterhead;
 - b) issuing offers in procurement or competition proceedings and offers submitted at the express request of a potential client. Such offers may provide information about the professional activity of the advocate which may be important when assessing such offer;
 - c) inclusion of information, directly connected with legal assistance, in the press according to the rules developed by the Supreme Bar Council, containing the data mentioned in s. 3 (a) – (i) of this paragraph;
 - d) entries in address and telephone books;
 - e) sending information by electronic means at the express request of a potential client.
 - f) placing information on a website and including data about this website in catalogues and browsers;
 - g) appropriate signage at the registered office of the law partnership;
 - h) the publication of brochures or bulletins.
3. The information may contain:
- a) a trademark or graphic mark of the chambers or partnership;
 - b) The name and address of the chambers and name and address of the advocate, telephone numbers, e-mail address and the website address;
 - c) a list of the partners of the partnership, in which the advocate is a partner, indicating which of the partners is an advocate and whether any persons have been appointed as managers in the partnership – their surnames and the functions they perform;
 - d) a list of persons cooperating on a permanent basis with the chambers or partnership;
 - e) the academic title or level of the advocate;
 - f) data regarding the type and scope of legal assistance provided by the advocate, indicating his preferred fields of law and cooperation with foreign law partnerships;
 - g) data regarding the possibility of providing legal assistance in foreign languages;
 - h) the year the chambers or partnership was established and the date it commenced activity;
 - i) membership of a specific bar chamber;
 - j) list of the advocate's publications;
 - k) information regarding qualifications held, other than legal qualifications;
 - l) the advocate's likeness;
 - m) exclusively upon the client's request or in an offer sent to a potential client: a statement regarding fees and the means of calculating them;
 - n) exclusively upon the client's request or in an offer sent to a potential client: the level of civil liability insurance;
4. Any information concerning fees or the means of calculating them must be worded unambiguously. It should clearly specify whether the fee includes expenses, taxes and other fees.

§ 23b

1. An advocate may not propose services to potential clients in the form of an offer aimed at persons who have not given express prior consent in this respect.
2. The information may not, in particular:
- a) give rise to a possibility of unjustified expectations as regards the outcome of the advocate's work;
 - b) refer to personal acquaintance with judges, public prosecutors or civil servants;

- c) contain direct comparisons in terms of quality with other identifiable advocates or members of other law partnerships or criticism thereof;
 - d) be in an inappropriate or aggressive form;
 - e) contain any subjective elements.
3. It is prohibited to make payment to inspire press articles or interviews which, under the pretext of objective information, serve to promote an advocate, his chambers or partnership.
4. It is prohibited for an advocate to approach potential clients in order to provide information about his activity, including during unsolicited visits, telephone conversations or correspondence to persons who have not approached the advocate for legal assistance.
5. It is prohibited to engage a third party to disseminate information about an advocate.
6. An advocate may not pay any remuneration for publishing information, save for reasonable publication costs.

§ 23c

1. An advocate's letter in respect of the provision of legal assistance should include:
- a) the forename and surname of the advocate and his address in the event that he provides legal assistance via individual chambers;
 - b) the name and address of the partnership via which the advocate provides legal assistance, in the event that he provides it via a civil partnership (*spółka cywilna*) registered partnership (*spółka jawna*), professional partnership (*spółka partnerska*) or limited partnership (*spółka komandytowa*);
 - c) the address of the subsidiary and branch of the chambers or partnership (if any), together with the address of the chambers' or partnership's registered office.
2. If activity is conducted in the form of a civil, registered, professional or limited partnership in which the advocate is a partner, depending on circumstances, a full list of the partners of such partnership should be provided (in the case of a limited partnership – the general partner) indicating which of the partners is an advocate and whether any persons have been appointed as managers in the partnership – their surnames and the functions they perform. This does not apply to situations where the name of the partnership leaves no doubt as to the partners who are advocates.
3. If activity is conducted in the form of a civil, registered, professional or limited partnership, in which a foreign lawyer is a partner (in the meaning of the Act of 5th July 2002 on the provision of legal assistance by foreign lawyers in the Republic of Poland), entered into the list of foreign lawyers kept by the district bar council, the following should be provided:
- a) the professional title expressed in the official language of the home state;
 - b) an indication of the professional organisation in the home state to which he belongs, or the court before which he is entitled to appear in accordance with the law of that state;
 - c) information that the foreign lawyer performs constant practice to the extent corresponding to the profession of advocate.

§ 23d

An advocate may not accept any benefit from another advocate or a third party as remuneration for referring a client to another advocate or provide a benefit to anybody as remuneration for referring a client to him. It is not a breach of this prohibition to transfer part of a fee or reimburse amounts in any other form to the heirs of a deceased advocate or to a retired advocate on account of taking over of his practice.

§ 24

Advocates should provide mutual advice and assistance to each other in their professional work, provided that this does not conflict with the interests of the client.

§ 25

An advocate entrusted with the obligations of pupilmaster should use his best endeavours to prepare the trainee to perform the profession of advocate – as regards his professional abilities and observance of ethical rules for advocates.

§ 26

It is an obligation of an advocate to hold professional civil liability insurance according to the rules and the manner determined by the Supreme Bar Council.

CHAPTER III

**Relations with the court and other bodies
before which the advocate appears**

§ 27

1. An advocate is required to show moderation and tact towards the court, state agencies and institutions before which he appears.

2. Even in the event of improper conduct of those participating in court proceedings, an advocate should demonstrate composure and tact.

§ 28

An advocate should ensure that his submissions, responses and questions do not infringe the dignity of those taking part in the case.

§ 29

During visits to incarcerated persons, an advocate should endeavour to maintain the solemnity and dignity of the profession.

§ 30

1. An advocate is required to notify the court or body before which he appears of his inability to take part in proceedings.

2. An advocate shall provide justification for any absence.

3. In the event that his power of attorney expires, the advocate shall immediately inform the court or body before which he appears of this fact.

CHAPTER IV

Relations with peers

§ 31

1. An advocate shall observe the rules of courtesy, loyalty and camaraderie in relations with colleagues.

2. An advocate is required to demonstrate the highest level of loyalty towards colleagues cooperating within chambers or a partnership and to refrain from any conduct that could breach such loyalty, including after such cooperation ends.

3. If an advocate commissions a case to an advocate practising in another country or requests that he provide assistance, he is personally liable to pay his foreign colleague his fee and cover any costs, even if the client is insolvent. An advocate may limit his liability to the amount due up to such time as the foreign advocate is notified of the advocate's exclusion of liability for future payables. Advocates may make alternative arrangements regarding liability towards a foreign lawyer.

§ 32

It is prohibited for an advocate to communicate with the opposing party other than via his council.

§ 33

Out-of-court conciliation negotiations conducted with the participation of advocates and legal advisers are not subject to disclosure.

§ 34

Prior to providing legal assistance, an advocate should ensure that the client is not using the legal services of another advocate, and if he is, the former may not provide legal assistance without the knowledge and consent of the latter or participate in the case together with him. The advocate conducting the case hitherto may only refuse to grant consent for important reasons.

If any delay connected with the need for advocates to communicate with each other could significantly prejudice the client's interests, the advocate joining the case should provide the client with the necessary legal assistance, notify the existing advocate thereof immediately and in the event of any obstacles, withdraw from providing any further assistance.

§ 35

An advocate taking on a case by choice should notify the appropriate judicial body thereof, and in the event that council has previously been appointed *ex officio* in the case – shall notify him forthwith of the take-over of his case.

§ 36

Any misunderstanding between advocates should be resolved exclusively by the appropriate bar authorities.

§ 37

An advocate may act for parties in a case against another advocate concerning the latter's professional conduct only upon prior notification to his district bar council.

§ 38

An advocate should endeavour to reach an amicable settlement of any case against another advocate, if the nature of the case pursued allows.

§ 39

1. In the event of any dispute between advocates, all opportunities for an amicable resolution above all should be exhausted or else the mediation of the appropriate bar authorities should be used.

2. In the event of a conflict between the rules of camaraderie and the justified interests of the client, the interests of the client prevail.

3. In the event of a dispute of a professional nature with a foreign advocate, the advocate shall endeavour to reach a resolution of the conflict. An advocate may not commence proceedings arising from such dispute before informing the professional organisations to which the advocates (the parties to the conflict) belong in order to enable these organisations to provide assistance to reach a settlement.

§ 40

The camaraderie rules require that an advocate:

- a) who cannot appear in court at the appointed time – notifies the advocates appearing in the case in advance and where possible agrees the time of his appearance with them;
- b) wishing to obtain the court's consent to consider a case with his participation out of sequence – ensure beforehand that the advocates appearing in earlier cases grant their consent in this respect;
- c) who intends to lodge statements of case at a hearing in the case he conducts – does so where possible at the start of the hearing and serves copies upon his opponent in the case at the earliest opportunity;
- d) who lodges an attachment to the court protocol – lodges it with a copy for the opposing party.

§ 41

When issuing a substitutive power of attorney to a colleague, the advocate is required to do so within such time as to allow substitute counsel to duly prepare for the hearing and provide him with all necessary documents and notes. The advocate should exercise particular care where he issues a substitutive power of attorney to a trainee advocate.

§ 42

An advocate receiving a substitutive power of attorney from another location should confirm its receipt.

CHAPTER V **Relations with clients**

§ 43

An advocate is required to defend the interests of his client in a courageous and honourable manner, demonstrating due respect and courtesy to the court and other bodies, without regard for his own personal gain or the consequences arising from such approach either for himself or any other.

§ 44

An advocate shall endeavour to resolve matters in such a way as to allow clients to save costs and shall advise that a case be settled if this is in the interests of the client.

§ 45

An advocate may not adopt a case proposed by an unauthorised person.

§ 46

An advocate may not represent clients whose interests are in conflict, even if the clients agree to such representation.

In the event that a conflict arises during the course of proceedings, the advocate shall terminate the power of attorney of the clients whose interests are in conflict.

§ 47

An advocate may not adopt a case against his own relative.

§ 48

An advocate should not adopt a case against a person with whom he has a serious personal dispute.

§ 49

An advocate is required to have regard to the progress of the case and to inform the client of developments and the outcome thereof.

§ 50

1. In financial matters, the advocate is required to exercise particular scrupulousness in relation to the client.

2. An advocate shall inform his client of the level of his fee and the manner in which it should be paid (e.g. on the basis of time of work).

3. It is prohibited for an advocate to enter into an agreement with a client which requires that a fee be paid for conducting the case contingent entirely upon the final outcome thereof. An advocate may enter into an agreement providing for an addition fee for achieving a positive outcome in the case.

§ 51

The client – advocate relationship is based on trust. An advocate is required to terminate a power of attorney if circumstances indicate that the client has lost trust in him.

§ 52

An advocate should not allow a situation to arise in which he becomes dependent upon a client, and in particular an advocate is prohibited from taking a loan from a client whose case he conducts.

§ 53

An advocate shall immediately issue to the client, upon his request, any documents, including letters, which counsel receives from the court or other bodies before which he appears in the case he conducts.

§ 54

An advocate may not make the issue of letters and documents listed in §53 to the client contingent upon the client's payment of fees and costs to the advocate.

§ 55

1. An advocate may not refrain from taking steps in a case he conducts on account of the client's failure to pay his fee, and in particular he may not on this account refuse to appear at a

hearing. A client's failure to pay fees may instead constitute grounds to terminate the power of attorney in the manner and within the period provided by law.

2. An advocate is not required to incur expenses in the case he conducts, e.g. court fees or travel costs to another location, if the client fails to pay the required amount on time, despite a due request to do so.

§ 56

An advocate is required to obtain the consent of his client (preferably in writing) to refrain from issuing an appeal.

§ 57

If an advocate deems that an appeal in a case he conducts (whether by choice or *ex officio*) would be groundless, but the client does not agree with this opinion, the advocate shall, without undue delay, terminate his power of attorney or inform the body that appointed him. This also concerns an appeal of last resort and a constitutional petition.

§ 58

An advocate may not take part in enforcement activities, unless a particular provision provides otherwise. This prohibition does not apply to judicial activities and activities connected with enforcement against real estate.

CHAPTER VI

Work in the self-governing authority. Relations with the bar authorities

§ 59

It is the right and obligation of each advocate to perform functions in the bar authorities.

§ 60

An advocate appointed to the self-governing authorities is required to perform his functions and cooperate in the implementation of fundamental tasks of the self-governing bar authority with the utmost due care.

§ 61

It is an obligation of an advocate to show respect to the self-governing bar authorities.

§ 62

In the event that a member of the bar authorities is suspended from his professional activities, he shall cease to perform his functions in such authorities.

§ 63

An advocate shall comply with applicable resolutions and other decisions of the bar authorities.

§ 64

An advocate shall attend at any request of the bar authorities and shall provide justification forthwith for any absence. An advocate shall provide the bar authorities with any explanations demanded, by the specified deadline.

§ 65

Culpable default in the payment of the corporation's contributions constitutes a serious breach of professional ethical standards.

§ 66

An advocate shall cooperate with the bar authorities in all matters concerning the profession of advocate.

§ 67

For the purposes of this "Compendium" the bar authorities constitute: the bodies of the bar, the bar chamber bodies and the dean and disciplinary prosecutor.

CHAPTER V
Final provisions

§ 68

This Compendium of Rules on Advocates' Ethics and the Dignity of the Profession (Advocates' Code of Ethics) adopted by the Supreme Bar Council on 10th October 1998 shall enter into effect on the date of its publication in the monthly journal "Palestra", i.e. as of 1st December 1998. The "Compendium of Rules on Advocates' Ethics and the Dignity of the Profession" adopted by the Supreme Bar Council on 26th September 1993 shall simultaneously be disappplied.

§ 69

Supreme Bar Council resolution no. 32/2005 of 19th November 2005 shall enter into effect upon publication of the consolidated text of the Compendium of Rules on Advocates' Ethics and the Dignity of the Profession (Advocates' Code of Ethics) in the monthly journal "Palestra", i.e. as of 31st December 2005