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Enhancing Judicial Reform in the Eastern Partnership Countries

Working Group
"Professional Judicial Systems"

PROJECT REPORT

The Profession of Lawyer

Directorate General of Human Rights and Rule of Law

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Contents

LIST OF ABBREVIATIONS

CCBE	Council of Bars and Law Societies of Europe
CCJE	Consultative Council of European Judges, Council of Europe
CEPEJ	European Commission for the Efficiency of Justice, Council of Europe
CJS	Centre for Judicial Studies (Ukraine)
CM	Committee of Ministers, Council of Europe
CM Rec	Recommendation of the Committee of Ministers of the Council of Europe
CoE	Council of Europe
EaP	Eastern Partnership
ECHR	European Convention on Human Rights
ECtHR	European Court of Human Rights
EU	European Union
HCOJ	High Council of Justice (Georgia)
HSoJ	High School of Justice (Georgia)
HQC	High Qualifications Commission (Ukraine)
JLC	Judicial-Legal Council (Azerbaijan)
JSL	Judges' Selection Committee (Azerbaijan)
JP	Joint Project
MCQs	Multiple Choice Questions
MoJ	Ministry of Justice
NIJ	National Institute of Justice (Moldova)
NSJU	National School of Judges of Ukraine
SCM	Superior Council of Magistracy (Moldova)
TNA	Training Needs Assessment

Foreword

This Report on the Profession of Lawyer in the Eastern Partnership countries has been drawn up by representatives of the Ministries of Justice, National Bar Associations and civil society from the Eastern Partnership participating countries, together with Council of Europe consultants. It has been prepared within the framework of the European Union/Council of Europe Joint Programme on "Enhancing Judicial Reform in the Eastern Partnership Countries" which aims to support and enhance the on-going process of reform of the judiciary in Armenia, Azerbaijan, Georgia, Moldova, Ukraine and Belarus, through intensive exchange of information and sharing of good practice. The programme is funded by the European Union and implemented by the Council of Europe.

Lawyers play a fundamental role in upholding the rule of law and human rights. The European Convention on Human Rights and Recommendation No. R(2000)21 of the Committee of Ministers of the Council of Europe on the freedom of exercise of the profession of lawyer, recognise the important contribution lawyers make to the protection of human rights and to a fair administration of justice. Lawyers lead cases from initial complaints to enforced judgment. The quality and efficiency of judicial proceedings and the success of conflict resolution depend to a large extent on the qualification and professional conscience of the lawyer. The rule of law cannot exist without an independent and professional judiciary, and the latter cannot function properly without a well-organised profession of lawyers, characterised by integrity and professionalism.

The Council of Europe standards in this field also indicate that lawyers should be free to exercise their profession without discrimination, interference or pressure, and should have access to a court and their clients in accordance with fair trial requirements.

Likewise, self-governing professional associations have a key role to play as regards protecting their members from undue interference, promoting their professional interests and drawing up professional standards and codes of conduct. Such associations also have the important responsibility of ensuring that, in defending the rights of their clients, lawyers act in accordance with the fundamental principles of diligence and fairness. They should intervene and take suitable measures in case lawyers do not act in line with their professional standards.

Training is a central element for the successful fulfilment of lawyers' duties. Countries should take all measures they consider necessary to secure high standards of initial and continuous legal training for lawyers, which is key for the provision of effective legal assistance.

The present Report addresses these essential issues. It dwells upon key aspects of the profession of lawyer, which include the mandate, organisation and functioning of Bar Associations, the criteria for entering the profession, the importance of initial and continuous training, ethical rules and disciplinary liability. It relies in particular on key instruments of the Council of Europe.

This multilateral work has made it possible to identify good practices and regional trends, which complement the bilateral analysis of the legislation and practice of each country.

The national authorities of Belarus did not participate in Project meetings, therefore the analysis carried out in respect of this country was made on the basis of officially published laws on advocates and advocates' activity of 1993 and 2011, as well as on submissions by representatives of civil society.

The Project consultants and authors of the Report are:

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Ms Marina Naumovska-Milevska, Training Consultant, former Long-Term Consultant under the Council of Europe/European Union Joint Programme on the Support for Access to Justice of Armenia.

I would like to thank everyone involved for their dedication and hard work in preparing this document[1]. The Council of Europe will continue to support the reform processes in the participating countries and to assist the national authorities in the implementation of the Report's recommendations.

Philippe Boillat
Director General Human Rights and Rule of Law

[1] The report is available in English and Russian at the following link: http://www.coe.int/capacitybuilding/. The link also includes general information about the Project activities and expected results.

1. Role of the Bar

Introduction

The purpose of the present Chapter is to examine the role of bar associations in the Eastern Partnership countries, to highlight aspects in which they may fall short of international law or practice, and to propose recommendations aimed at improving the compatibility of national legislation with European standards.

Relevant European Standards

The documents in which European standards regulating the role and activity of bar associations found are the European Convention for the Protection of Human Rights and Fundamental Freedoms (Council of Europe), Recommendation Rec(2000)21 of the Committee of Ministers to Member States on the Freedom of exercise of the profession of lawyer (Council of Europe), the Basic Principles on the Role of Lawyers (United Nations Congress on the Prevention of Crime and the Treatment of Offenders) and the Code of Conduct for European Lawyers (CCBE).

Universal standards on the role of bar associations, such as the *UN Basic Principles on the Role of Lawyers*, also form part of the standards to be considered in this field. In particular, they state that lawyers should be entitled to form and join self-governing professional associations to represent their interests, to promote their continuing education and training and to protect their professional integrity. The executive bodies of such professional associations should be elected by their members and free to exercise their functions without external interference.

However, the key document on the relevant European standards and the focal point of the present Report is *Recommendation Rec(2000)21 of the Committee of Ministers to Member States on the Freedom of exercise of the profession of lawyer.* According to the Recommendation, lawyers should be allowed and encouraged to form and join professional local, national and international associations which – either alone or in collaboration with other bodies – are tasked with strengthening professional standards and safeguarding the independence and interests of lawyers. The existence in a country of a bar association - that is a **professional association of lawyers** - is of crucial importance. The term "Professional association" denotes that only lawyers are members and that the bar association protects and represents only the professional interests of its members.

An organisation is defined by its **functions**. The functions of bar associations ought therefore to be examined In terms of the main tasks of bar associations at set out in the Recommendation. The present Report assesses day-to-day management, financing and budget, because these elements allow us to examine the practical capacity of each bar association to carry out its functions efficiently.

The Recommendation indicates that bar associations, or other professional lawyers' associations, should be self-governing bodies independent of the state authorities and the public. It emphasises two aspects in particular: self-governance and independence.

Self-governance can be measured first by examining a bar association's structure. The governing bodies of any bar association should be formed in a democratic manner and there should be no arbitrary procedural obstacles inhibiting their formation. Even where membership is not obligatory, the decisions of the bar association should be binding upon all lawyers. Bar associations should have the power to adopt the profession's code of conduct and to conduct disciplinary proceedings. To the extent that they do not, they should at least be entitled to play an important role in these processes.

Independence in the context of bar associations means complete autonomy from the national authorities as well as from the public. The authorities should not be able to interfere either in the decision-making processes of a bar association, nor in the formation of the bodies within the association. The same applies to the public: a bar association should be protected from all external influence. Of course, bar associations have both a right and a duty to cooperate with state institutions. However, cooperation should never shade into interference in decision-making or in the formation of bodies within a bar association.

Regulatory framework in the participating countries

Armenia

The main **document regulating the Bar Association** in Armenia is the Law on Advocacy adopted on 14 December 2004 (as amended). The Law establishes a professional association of advocates, known as the Chamber of Advocates of the Republic of Armenia. The Bar Association is independent: according to the Law, it is systemically separate from state or local self-government bodies. The Chamber of Advocates is a self-governing legal entity. Membership of the Bar Association is obligatory for all advocates. The Chamber of Advocates is the only Bar Association in Armenia. It was set up following the merger of several bar associations in 2006. Measured against the relevant European standards and best practices, this ought to be seen as a positive development[2].

According to the Law, the Chamber of Advocates is vested with the **following functions**:
(1) to create conditions for the exercise of professional practice by its members;
(2) to protect the rights and legitimate interests of its members in their relations with state and local self-government bodies and organisations, as well as before the courts;
(3) to arrange vocational education and training of its members;

[2] There can be several reasons for having more than one bar association in the country, for example, divisions along linguistic/territorial lines (for example,in Belgium, where there are two federal bars: the French-and German-speaking Federal Bar and the Flemish Bar Association), professional lines (for example,in Poland, where advocates and legal advisors have their own independent bar associations, namely the Polish Bar Council and the National Chamber of Legal Advisors), or functional lines (for example, in Germany where the *Bundesrechtsanwaltskammer* exercises the regulatory function and the *Deutscher Anwaltverein* is primarily concerned with the business interests of lawyers).

Where two or more bar associations exist within a country and they compete with one another, this could result in serious problems. First, it could mean different rules of ethics being applied within the same profession. Secondly, lawyers may switch bar associations in order to avoid disciplinary sanctions. Thirdly, bar associations may lower the ethical standards they require in order to attract more members. All of this has an adverse effect upon the protection of clients. No country in the EU has two or more competing bar associations acting in the same territory, with the same language or profession ,and carrying out the same functions.

(4) to regulate compliance with the Code of Conduct for Advocates and the Charter of the Chamber of Advocates;
(5) to take measures to strengthen the standing of the profession;
(6) to ensure the provision on an equal and efficient basis of accessible legal aid for all.

It should be noted that according to Recommendation Rec(2000)21 on the Freedom of Exercise of the Profession of Lawyer, bar associations should be encouraged to promote and uphold the cause of justice. There is no enumeration or exhaustive list of activities through which they can do so, but such activities might include raising awareness among specialists and the public of human rights and the rule of law (for example, by organising conferences and seminars, writing articles, participating in public debates, etc.), active participation in the legislative process (for example, by drafting laws and submitting legal opinions), acting as a watchdog or whistle-blower within society (depending on current societal trends, this could range from expressing in their speeches public regret over failures by politicians to respect the presumption of innocence, to staging demonstrations against human rights infringements), or developing the country's legal tradition and culture (for example, by promoting legal education programmes in schools or participating in academic discussions).

In this context, adding "strengthening the rule of law" to the list of functions of the Armenian Chamber of Advocates would be advisable. Whilst the principal goals and objectives of the Chamber as set out in the Charter of the Chamber of Advocates include helping to raise public awareness and promoting the country's legal culture, this provision does not have a sufficiently strong impact as it is set in the Charter rather than in the Law itself.

As for the **structure** of the Chamber of Advocates, it is comprised of the following bodies:
(1) the General Meeting of the Chamber of Advocates;
(2) the Board of the Chamber of Advocates;
(3) the Qualification Commission of the Chamber of Advocates.

The General Meeting of Advocates is the supreme body. It is quorate when more than a third of the members of the Chamber are present. At first glance, this requirement appears democratic, but in reality it might pose problems. First, there is the question of whether the organisational and financial burden upon the Chamber is excessive (there are more than 1,000 lawyers in Armenia, and so every other year the Chamber must gather more than 330 of them). However, the more important question is what happens in the absence of a quorum. Neither the Law on Advocacy nor the Charter of the Chamber of Advocates makes provision for such a situation. If the General Meeting is not quorate when the current term of all officials of the Chamber has expired and elections are to take place, the (proper) exercise of the Chamber's activities might be at risk, or it may even become undemocratic. It would therefore be advisable to make specific provision for situations in which a quorum is not present. One possible solution could be adding a provision that in the absence of a quorum a second General Meeting should be called within a specified time period. That meeting would then address all issues on the agenda of the first meeting, regardless of how many advocates are in attendance.

The Board of the Chamber of Advocates is its executive body. It is also its disciplinary body. The term of office of members of the Board is four years. All members are elected by secret ballot at the General Meeting of Advocates. The number of members on the Board is set out in the Charter of the Chamber of Advocates, but it cannot be fewer than thirteen.

The role of the Qualification Commission is to organise and publish the results of qualification examinations. The Qualification Commission is formed for the term specified in the Charter of the Chamber of Advocates and comprises eight members – five advocates and three lay persons (namely one representative of Ministry of Justice, one academic and one judge).

Day-to-day management

According to the submissions of the national delegation, the Chamber of Advocates organises seminars for advocates, participates in important discussions (for example, on the introduction of fiscal cash registers for advocates and anti-money laundering legislation) and carries out various other activities. There are twelve people working in the Chamber secretariat. The post of head of staff is akin to that of secretary-general or chief executive seen in many European bar associations. The head of secretariat staff is responsible for the Chamber's day-to-day activities, thus allowing the Chairman of the Chamber of Advocates to focus on policy issues.

Financing and budget

The main source of income of the Chamber is membership fees. Part of the Chamber's income is generated by the CARPA system[3]. There are other sources of income such as seminars and other activities. The annual budget of the Chamber of Advocates amounts to over 400 000 EUR. However, this includes more than 300 000 EUR set aside for the Public Defender Office. Given the many official functions of the Chamber of Advocates, and bearing in mind the requirement to hold the General Meeting of Advocates (with at least 330 advocates) every other year, such a budget might not be considered sufficient to finance the other activities of the Chamber, especially those involving the representation of advocates and the promotion of their interests (for example, organising conferences, arranging surveys, sending representatives to international events or hiring professional and better-paid secretariat staff members).

Summary and Recommendations

The Chamber of Advocates of the Republic of Armenia is a professional, independent, self-governing organisation of advocates. Generally, its profile as set out in the Law on Advocacy complies with European standards.

However, some improvements could be made. In particular, the experts recommend that the Law include "strengthening the rule of law" as a discrete additional function of the Chamber. Further, the provisions on the General Meeting of Advocates should be developed in order to make provision for situations in which a quorum cannot be secured. Finally, it should be noted that whilst the Chamber of Advocates has a strong administrative capacity in terms of the number of people working in the secretariat, its *budget* might not be sufficient to finance all of its activities, especially those relating to promoting the profession of advocate.

[3] The CARPA system (French) is used for managing clients' funds. Instead of having client funds in the deposit account of a lawyer, they are kept in the deposit account of the bar association. When many lawyers use the system, this means that considerable funds rest in the bar association's account, resulting in considerable interest which constitutes an additional income for the bar association. If lawyers manage clients' funds via their own separate deposit accounts, by contrast, such funds usually generate much less (if any) interest.

Azerbaijan

The most important **document regulating the Bar Association** in Azerbaijan is the Law on Advocates and Advocate's Activities adopted on 28 December 1999 (as amended). The Law establishes a non-governmental, independent and self-governing Collegium of Advocates. Membership is obligatory for all advocates. The Collegium of Advocates has recently undergone various positive developments as Azerbaijan was the last country among the Eastern Partnership beneficiaries to grant its bar association full independence from the Ministry of Justice[4]. However, not all of the requisite regulatory documents have been adopted since the Collegium of Advocates became an independent organisation. In particular the Statute on the Advocates' Conduct Rules, whilst drafted, has yet to be adopted.

Main functions

The Collegium of Advocates:
(1) regulates admission to the Bar;
(2) exercises jurisdiction over disciplinary matters;
(3) issues opinions on matters connected to advocates' activities upon the request of law enforcement agencies and courts;
(4) exercises supervisory control over advocates in respect of dealing with money and other assets obtained by illegal means or through the financing of terrorism and other money laundering matters;
(5) resolves various other issues.

As mentioned above, Recommendation Rec(2000)21 on the Freedom of exercise of the profession of lawyer provides that bar associations should be charged with strengthening professional standards and safeguarding the independence and interests of lawyers. Bar associations should be encouraged to ensure the independence of lawyers, promote and uphold the cause of justice, defend the role of lawyers in society and, in particular, maintain their honour, dignity and integrity. In this context, the experts recommend that the Law on Advocates and Advocate's Activities specify that a function of the Collegium of Advocates shall be the representation and defence of advocates' interests. The addition of "strengthening the rule of law" to the list of its functions is also advisable[5].

Structure

The bodies that make up the Collegium of Advocates are:
(1) the General meeting (conference) of members of the Collegium of Advocates;
(2) the Presidium of the Collegium of Advocates;
(3) the Disciplinary Commission of Advocates;
(4) the Advocates Qualification Commission.

The General meeting and the Presidium of the Collegium of Advocates are the supreme bodies of the Collegium of Advocates. The General Meeting is organised by the Presidium of the Collegium at least once every three years. Pursuant to the Law, if the number of members of the Collegium of Advocates exceeds 500, the powers of the General Meeting are delegated to the Conference. Now that there are more than 700 advocates in Azerbaijan, the General

[4] Except Belarus.
[5] See page 6.

Meeting has already effectively been replaced in its role by the Conference. The procedure for organising and conducting the Conference is determined by the Charter of the Collegium of Advocates, that is, by the advocates themselves.

Members of the Presidium of the Collegium of Advocates are elected for five-year terms, renewable once only. Persons who have practiced as advocates for at least three years, who have gained respect among Collegium members and who have not been subjected to disciplinary sanctions before the election date may be nominated as President, Deputy President or to another post within the Presidium of the Collegium of Advocates. This body is tasked with imposing disciplinary measures.

Gaining respect among the Collegium members seems to be a fairly vague criterion. It could be interpreted as requiring a verification procedure to determine whether such respect has been gained (for example, requiring a certain number of signatures from advocates). Accordingly, it could be used as a method of calling into question the right of certain candidates to be elected. Besides, the respect of colleagues is adequately reflected in the election results themselves. Thus, Azerbaijan is advised to abandon this criterion, or to amend it by adopting clear and unambiguous wording in order to ensure the transparency of the election rules and procedure.

As for the need for an absence of disciplinary sanctions, the purpose of this criterion seems vague. It could also be used as a tool to limit access to the governing bodies of the Bar. If candidates were to disclose that they had been subject to disciplinary sanctions, this would be sufficient as advocates could then decide for themselves whether the individual in question ought to be elected to the Presidium of the Collegium. In order to ensure democratic and transparent elections, such subjective limitations upon access should be avoided. Azerbaijan is therefore advised to abandon this criterion also.
The Disciplinary Commission of Advocates is composed of advocates. It is convened for the purpose of examining and determining complaints about infringements allegedly committed by advocates in the course of their professional duties. The Disciplinary Commission of Advocates operates pursuant to the Law and the Regulation adopted by the General Meeting of the Collegium of Advocates, that is, in accordance with the rules adopted by the advocates themselves.

The Qualification Commission determines, against the requirements set out in the Law and upon an assessment of professional competence, the eligibility of candidates seeking to become advocates. The Qualification Commission comprises eleven members: five advocates and six non-advocates (that is, academics and judges).

Day-to-day management

The delegation submitted that the Collegium of Advocates participates in important national discussions (for example, on anti-money laundering legislation) as well as carrying out various other activities. There are more than twenty people working in its secretariat. The President of the Collegium of Advocates is the head of the secretariat. As mentioned above, many European bar associations have a secretary-general and this allows the President of the Bar to focus on policy issues, leaving day-to-day activities to the secretary-general, who is usually the head of the secretariat. This is not the case in Azerbaijan.

Financing and budget

The main source of income of the Collegium of Advocates is membership fees. Other sources of income, such as fees for seminars and so on, are sporadic and insignificant. The annual budget of the Collegium of Advocates amounts to over 200 000 EUR, which ought to be sufficient to enable it to carry out its functions.

Summary and Recommendations

In general, the arrangements relating to the Collegium of Advocates, as set out in the Law on Advocates and Advocates' Activities, complies with European standards. It is a non-governmental, independent, self-governing organisation of advocates.

However, various recommendations can be made. The functions of "representation and defence of the interests of advocates" and "strengthening the rule of law" could be stated in the Law on as other specific functions of the Collegium of Advocates. The inclusion of a candidate's disciplinary record among the criteria for election to the Presidium of the Collegium of Advocates ought to be reconsidered. Finally, the legal framework is important in terms of the role of the bar association, but its practice is also significant. Therefore, the adoption of the Statute on the Advocates' Conduct Rules and other necessary documents (such as the rules for the qualification exam) is key.

Georgia

The most important **document regulating the Bar Association** in Georgia is the Law on Advocates adopted on 20 June 2001 (as amended). The Georgian Bar Association is a legal entity as a matter of public law and membership is obligatory for all advocates. The process of setting up the bar association did not begin until 2004. The delegation informed experts that the process had not been smooth and had involved legal challenges and problems in securing a quorum at the General Meeting. However, these problems now appear to have been overcome.

Main functions

The Law does not specify the functions of the Bar Association. It provides that the Charter of the Georgian Bar association is the document that ought to define the basic principles, activities and functions of the Bar's governing bodies. In this connexion, it should be noted that in some European countries, the legislation does not list the functions of the national bar association. However, a general description of the bar association is usually at least set out in the relevant legislation[6].

According to its Charter, the objectives of the Georgian Bar Association are to:
(1) promote justice and the rule of law;
(2) promote the advocates' profession;
(3) promote advocates' rights, professional integrity and independence;
(4) protect advocates from interference with their professional duties;

[6] For example, Article 42 of the Law on the Bar of Slovenia states: "*The Bar Association shall engage in and discuss problems relating to legal professional practice, help ensure the coherent development of the Bar, adopt the Code of Conduct and perform other tasks as required by law*."

(5) support legal education and the development of the profession;
(6) support the legal aid system;
(7) supervise advocates' adherence to ethical standards; and
(8) provide for the social welfare of advocates.

Structure

The bodies that make up the Georgian Bar Association are:
(1) the General Assembly of the Georgian Bar Association;
(2) the Executive Council;
(3) the Ethics Commission;
(4) the Audit Commission.
The General Assembly of the Georgian Bar Association is the supreme body of the Georgian Bar Association. It takes place at least once a year. A minimum of 800 advocates must be present in order for a quorum to be constituted. In the absence of a quorum, a further General Assembly must be called. This further General Assembly is considered quorate regardless of the number of members in attendance. There are more than 3,500 advocates in Georgia.

The Executive Council is the administrative body of the Bar Association. It is elected by the General Assembly of the Bar and composed of eleven members.
The Chairman of the Bar is elected for a four-year term and is an *ex officio* member of the Executive Council.

The Ethics Commission consists of fifteen members (at least twelve of whom are advocates), each elected for a four-year term.

The Audit Commission regulates compliance with the Law and the Charter of the Association by the Chairman of the Association, the Executive Council, the Executive Secretary and any persons appointed (or approved) by them, as well as over the use of financial resources and other property. The Audit Commission consists of five members, each elected for a four-year term.

Day-to-day management

There are fifteen persons working in the secretariat of the Georgian Bar Association, including the secretary-general. The Georgian Bar Association organises bar examinations, manages continuous legal education, promotes the interests of the legal profession, participates in the process of drafting legislation, and carries out various other activities. The Georgian Bar Association has been actively involved in the defence of advocates where their rights are allegedly violated by the state authorities (see the Report of 30 June 2012 of the Commissioner for Human Rights of the Council of Europe where the Commissioner expressed concerns following repeated reports of harassment, abusive prosecutions and other forms of pressure on lawyers in Georgia).[7]

Financing and budget

[7] REPORT (30 June 2011) by Thomas Hammarberg, Commissioner for Human Rights of the Council of Europe, following his visit to Georgia from 18 to 20 April 2011 (CommDH(2011)22).

The main source of income for the Georgian Bar Association is membership fees, but there are other sources also, such as bar examination fees. The annual budget of the Georgian Bar Association is about 250 000 EUR, which ought to be sufficient to enable it to carry out its functions.

Summary and Recommendations

The arrangements relating to the Georgian Bar Association, as set out in the Law on Advocates, comply with European standards. It is an independent, self-governing organisation of advocates. The legal framework regulating its role and functions is generally well-structured, however the experts recommend that the Law provide a general description of the Georgian Bar Association. Furthermore, the experts consider it appropriate to mention in the present Report the concerns about violations of the rights of advocates in Georgia. State institutions and the Bar Association should ensure that the rights and legitimate interests of lawyers are respected and defended.

Moldova

The main document **regulating the Bar Association** in Moldova is the Law on Advocates adopted on 19 July 2002 (as amended), which establishes a professional, self-governance body of which membership is obligatory.

Main functions

The Law does not set out the functions of the Bar Association. It is worth highlighting that whilst in some European countries the relevant laws do not enumerate the functions of their bar associations in detail, there is usually at least a general description provided for in the law. This is required in order to set a framework for the role and functions of the bar association.

Structure

The Bar Association is comprised of governing bodies and various other bodies. The governing bodies are:
(1) the Congress;
(2) the Council of the Bar Association;
(3) the Chairman of the Bar Association;
(4) the Secretary-General of the Bar Association.
The other bodies include:
(1) the Advocates Practice Licensing Commission;
(2) the Commission for Ethics and Discipline;
(3) the Audit Commission;
(4) the Secretariat.

The Congress is the supreme body of the Bar Association. It is composed of advocates appointed from the members of each collegium of advocates and members of the Council of the Bar Association. It is convened once a year.

The Council of the Bar Association represents advocates and facilitates the day-to-day work of the Bar Association. It is composed of the Chairman of the Bar Association, deans of the

collegia of advocates and advocates appointed by the collegia of advocates. The term of office of members of the Council of the Bar Association is four years.

The Chairman of the Bar Association is elected for two-year terms, renewable once only.

The main role of the Secretary-General is his/her responsibility for the organisational, administrative, financial and economic activities of the Bar Association. The Secretary-General is employed by the Bar.

The Advocates Practice Licensing Commission is made up of eleven members: eight advocates and three academics.
The Commission for Ethics and Discipline is composed of eleven advocates: six members elected by the Congress and five appointed by the collegia of advocates.
The Audit Commission regulates the financial and economic activities of the Associations of Advocates.

Day-to-day management

According to the national delegation, the main activities of the Bar Association are to organise seminars for advocates, participate in discussions of national importance (such as on the introduction of fiscal cash registers for advocates and anti-money laundering legislation) and to carry out various other activities. Five persons including the Secretary-General[8] work in the secretariat. Such a small staff might adversely affect the efficiency of the Association's work; some staff might have an excessively broad range of responsibilities that they are unable to carry out effectively. For example, a single staff member could find him/herself responsible for monitoring draft legislation, preparing opinions on administrative matters, and international relations. Some important functions might be missed altogether, such as organising seminars. A small secretariat staff is particularly problematic where there is a need to manage emergencies, as there are very few staff to cover for any staff member(s) who is/are unavailable. This could result, for example, in the Bar Association failing to submit comments on draft legislation due to the absence of one member of staff who is sick or busy undertaking other bar association activities.

Financing and budget

The main source of income for the Bar Association is from membership fees. Other sources include fees for internships and examinations. The annual budget of the Bar Association is about 200 000 EUR, which seems sufficient to enable the Bar Association to carry out its functions.

Summary and Recommendations

The Moldovan Bar Association is an independent, self-governing organisation of advocates. The arrangements relating to the Bar Association, as set out in the Law on Advocates, comply with European standards. However, a general description of the Bar Association should be provided for in the Law. The secretariat of the Bar Association is small, and this might affect the efficiency of the Association's work,

[8] At the time of preparing the present Report, the position of secretary-general was still vacant despite four competitions having been held.

although the budget seems sufficient to enable the recruitment of additional staff should the need arise.

Ukraine

The most important document **regulating the Bar Association** in Ukraine is the Law on the Bar, adopted on 19 December 1992 (as amended). According to the Law, advocates and advocates' associations be entitled to establish regional, national and international unions and associations to represent advocates' interests before the state authorities and citizens' associations, protect advocates' social and professional rights, engage in research and publications and promote the professional standards among advocates. They are also permitted to set up special funds but are required to act in conformity with statute. The advocates' associations are required to comply with the principles of free will, self-governance, collective decision-making and transparency. However, the Law does not establish a single professional association of advocates.

There are several voluntary advocates organisations in Ukraine but none has the power to govern and regulate the legal profession. There are also some bodies which carry out certain functions of a bar association (the qualification and disciplinary commissions and the Bar Higher Qualification Commission). However their functions are limited and none amounts to a fully-fledged, professional organisation of advocates. There is also a draft Law on the Bar and Practice of Law regulating the National Bar Chamber of Ukraine, which is a professional association of advocates. However, until such time as the draft Law is passed, the absence of a proper bar association in Ukraine represents a serious gap in the country's conformity with European standards.

Structure

The Law provides for a Higher Qualification Commission of the Bar at national level and for qualification and disciplinary commissions at regional level. The role of the latter is to assess the level of professional knowledge of persons intending to become advocates and to adjudicate upon disciplinary issues. The term of office of members is three years. The qualification and disciplinary commissions are composed of two types of chamber: certification chambers and disciplinary chambers. Each certification chamber is composed of eleven members, namely four advocates, four judges, two representatives of the executive, and a representative of the Union of Advocates of Ukraine. Each disciplinary chamber consists of nine members, namely six advocates, two judges and one representative of the executive.

The Higher Qualification Commission examines complaints against decisions of the qualification and disciplinary commissions. It is composed of one representative from each qualification and disciplinary commission plus three other members, namely representatives from the Supreme Court, the Ministry of Justice and the Union of Advocates of Ukraine. The Higher Qualification Commission of the Bar is affiliated to the Cabinet of Ministers of Ukraine.

Summary and Recommendations

There is no professional association of advocates in Ukraine. Whilst voluntary organisations and certain bodies which perform some functions of a bar association do exist, this does not compensate for the absence of a professional bar association. The status quo does not meet European standards. In order to secure the free exercise of the legal profession, an independent and self-governing bar association must be established.

General conclusions and recommendations

In all countries, except Ukraine, the respective bar associations are professional, independent, self-governing organisations of lawyers. In general, the arrangements as set out in the various national laws conform to European standards.

However, some legislative improvements regulating the legal profession could still be made. In particular, the experts recommend that Armenia and Azerbaijan add "strengthening the rule of law" as a specific function of their bar associations. The legislation relating to the latter includes limitations and the application of vague criteria to the process of forming governing bodies of the national Bar. The experts recommend that Azerbaijan reconsider the application of these limitations and vague criteria. The legislation of Georgia and Moldova does not contain a general definition of a bar association - the main starting point for setting up and building a legal framework on the role and functions of a national bar association. Therefore, they are advised to introduce such a provision into their national laws.

It appears that in Moldova the administrative capacity of the secretariat is limited as a result of its small number of staff. This might have an adverse effect on the efficiency of the Bar. The experts are also concerned with the fact that the budgets of the Bar Associations of Armenia and Moldova might not be sufficient to finance all operational activities, especially those relating to the representation and promotion of the interests of advocates.

State institutions and the Bar Associations must ensure that the rights and legitimate interests of lawyers are respected and defended (Georgia).

1.1 Lawyers' Monopolies in the legal market

Introduction

The purpose of the present chapter is to provide a general overview of the issue of lawyers' monopolies in the legal market in the Eastern Partnership countries. The issue of monopolies over legal services can relate to court representation and/or to the provision of legal advice. Practice in the administrative law context is extremely varied, and so it has been decided to focus for the purposes of the present report upon representation and advice in civil and criminal cases only.

Relevant European Standards

European standards regarding monopolies over legal services derive from two sources: (1) the European Convention for the Protection of Human Rights and Fundamental Freedoms and Recommendations of the Committee of Ministers of the Council of Europe, and (2) the practice of the European countries.

The right to a fair trial is set out at Article 6 of the Convention, which provides that "*in the determination of his civil rights and obligations or of any criminal charge against him, everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law*" and that "*everyone charged with a criminal offence is entitled to defend himself in person or through legal assistance of his own choosing*". The right to a lawyer and access to legal assistance constitute essential components of the concept of a fair trial.

In order to help secure the rights of all groups within the European population, including the poor, vulnerable and disadvantaged, the Committee of Ministers has passed several Recommendations aimed at facilitating access to justice and the setting up of legal aid systems in Members States[9]. It should be noted that Recommendation 2000 (21) on the Freedom of exercise of the profession of lawyer refers to persons "*qualified and authorised according to the national law to plead and act on behalf of his or her clients, to engage in the practice of law, to appear before the courts or advise and represent his or her clients in legal matters",* whereas Recommendation No R (93) on effective access to law and justice for the very poor advises Member State governments to consider *"the possibility of enabling non-governmental organisations or voluntary organisations providing support to the very poor, to give assistance, in the context of access to the courts, to persons who are in a position of such dependence and deprivation that they cannot defend themselves; this appraisal should concern both proceedings before national tribunals and proceedings before the European Commission and Court of Human Rights and other international instances of judicial nature".*

To sum up, the current European standards envisage the availability of both professional lawyers[10] and lay representatives to act in the legal services market.

As for the practice of European countries, they can be divided into three groups:

[9] Recommendation No K (81) 7 on measures facilitating access to justice; Recommendation No K (93) 1 on effective access to law and justice for the very poor; Recommendation (2001) 3 on the delivery of court and other legal services to citizens through the use of new technologies.
[10] Here "professional" means "qualified and authorised".

1) countries in which lawyers enjoy a monopoly over court representation and the provision of legal advice, i.e. a full monopoly over legal services. In these countries, no one can provide legal services unless he/she is a lawyer (**Austria, Cyprus, Czech Republic, Germany, Hungary**).
2) countries in which lawyers enjoy a monopoly over court representation only. In these countries, legal advice is not the exclusive reserve of lawyers and members of other professions (if not everyone) can provide legal advice. However, court representation remains the exclusive domain of lawyers (**Belgium, Lithuania, Norway, Portugal**).
3) Countries where lawyers do not have any monopoly over legal services (**Finland, Sweden**).

The vast majority of European countries fall into the first two groups in which lawyers enjoy either full or partial monopolies in the legal market. Of course, there are certain variations of these two models: some countries provide for exceptions concerning representation of/by family members in civil cases; others allow the provision of legal advice on a non-professional basis (that is, free of charge), and so on. However, all of these countries reserve criminal defence to qualified lawyers. Only a few countries fall into to the rather exceptional third group. In most cases, this is as a result of the national legal tradition of the country in question. The latest trend, especially in EU Member States, to liberalise markets generally has had an effect upon legal services. However, these trends generally affect other aspects of legal services such as ownership of law firms, and not monopolies in the legal market. [11]

Faced with these varied arrangements, the focal point becomes the **quality of legal assistance**. Legal assistance should be practical and effective. Advocates should undergo effective legal education and special training aimed at the continued development of their skills and knowledge. They must be bound by rules of ethics and have civil liability insurance, where the country's laws requires such insurance. All of these elements contribute to the necessary quality of the service they provide and helps ensure that the clients' best interests are protected. Lay persons do not necessarily possess this know-how. The outcome of a case, especially in criminal proceedings, might have irreversible effects. Therefore, allowing a non-lawyer to act as a representative in criminal proceedings might in itself raise doubts as to whether the state in question has complied with its Convention obligation to guarantee the individual's rights to effective legal assistance and to a fair trial.

On the other hand, allowing lay persons to represent litigants might improve access to justice in civil proceedings. This is especially true in countries with a small number of lawyers in relation to the general population and those in which lawyers fees are higher in relation to the average person's income.
Thus, current European standards or - perhaps more accurately - *practices* in relation to the question of lawyers' monopolies demonstrate that lawyers have both a right and duty to carry out court representation in criminal cases, whereas representation in civil cases and legal advice may be offered by others. However, it should always be borne in mind that states must always guarantee to their citizens their rights to access to justice and to a fair and public hearing. As a result, any legal assistance through which citizens can avail themselves of their Convention rights must be practical and effective.

Regulatory framework in the participating countries

[11] See the information on:
http://www.ccbe.eu/fileadmin/user_upload/NTCdocument/EN_CCBE_Response_to_1_1253696350.pdf

Armenia

Armenian advocates have no monopoly over legal advice but enjoy a monopoly in terms of court representation. According to Article 5 of the Law on Advocacy, "court representation, or defence in criminal cases [...] shall, as an entrepreneurial activity, be carried out solely by an advocate". The Law on Advocacy provides for certain exceptions, for example, lay persons may provide representation in criminal cases if in so doing they are not engaging in "an entrepreneurial activity". The rationale behind this exception is unclear.

In the experts' opinion, when it comes to court representation – particularly in criminal cases – the exceptions to the rule that only advocates can act should be well-substantiated or better avoided. Such exceptions can be accepted only in the context of an entrenched legal tradition and a stable justice system providing adequate procedural safeguards (such as that found in Finland). There is a very high risk that the rights of a defendant being represented by a non-advocate in criminal proceedings will not be adequately protected.

Summary and Recommendations

In Armenia, legal advice is not the monopoly of advocates. Advocates do enjoy a monopoly over court representation, but subject to exceptions. The experts are concerned that lay persons can provide legal assistance in criminal proceedings. This contravenes European best practice. The experts recommend that Armenia reconsider the right of lay persons to defend clients in criminal proceedings.

Azerbaijan

Advocates have no monopoly over legal advice. They do enjoy a monopoly in terms of court representation in criminal proceedings. Article 92.1 of the Criminal Procedural Code states that: "Only persons entitled to work as lawyers in the Azerbaijan Republic may act as defence counsel in criminal proceeding". According to Article 66 of the Civil Procedural Code, advocates shall provide representation in civil cases. However, their monopoly is limited to proceedings at cassation level only. In other courts, lay persons can also act as representatives.

Summary and Recommendations

The regulation of the lawyers' monopoly over legal services in Azerbaijan complies with the current European standards.

Georgia

In general terms, anyone can provide legal assistance. However, advocates enjoy a full monopoly over court representation in criminal matters. In civil matters, the situation is different: Article 94 of the Civil Procedural Code states that all persons have a right to provide court representation at first instance. However, according to Article 440 of the Civil Procedural Code, non-lawyers may not appear in courts at the appeal or cassation level.

Summary and Recommendations

Advocates in Georgia enjoy a monopoly over court representation in all criminal cases and also in civil cases at the appeal and cassation levels. Legal advice and representation in civil cases is open to anyone at first instance level. These arrangements comply with European standards.

Moldova

Advocates have no monopoly over the provision of legal advice. As for court representation, Article 67 of the Criminal Procedural Code and Article 75 of the Civil Procedure Code establish a full advocate's monopoly over representation in criminal and civil cases. This is very common in European countries and complies with European standards.

Summary and Recommendations

The regulation of the lawyers' monopoly over legal services is in line with the current European standards.

Ukraine

The Ukrainian legislation does not provide for a monopoly over the provision of legal advice for advocates. As for court representation, Article 44 of the Criminal Procedural Code provides that advocates, as well as other legal specialists and family members, can act as defence counsel in court proceedings. This raises several concerns. First, the meaning of "legal specialist" is not clear as it is not defined in the Code. Secondly, the rationale behind allowing family members to act as defence counsel is not clear to the experts as family members might have no knowledge of the law or legal procedure, meaning the defendant may be left without an effective defence. The legislation in the vast majority of European countries does not allow lay persons to defend clients in criminal cases. The experts are of the opinion that the right of lay persons to act for defendants in criminal proceedings fails to meet European standards and best practice.

In civil proceedings, according to Article 12 of the Civil Procedural Code, representation can be provided by an advocate or any other person with legal capacity aged 18 years or more who is authorised in accordance with a prescribed procedure to provide legal assistance in court. The right for anyone to act as a representative in civil proceedings is not inconsistent with European standards but is not encouraged.

Summary and Recommendations

Advocates in Ukraine have a monopoly over legal advice but not court representation. The experts recommend that in criminal proceedings, only advocates should provide defence representation.

General conclusions and recommendations

In each of the participating countries, advocates have no monopoly over legal advice. Notwithstanding that some European countries reserve legal advice to lawyers only, the absence of a lawyers' monopoly over legal advice is not in itself incompatible with current European standards.

In Azerbaijan, Georgia and Moldova, advocates enjoy a full monopoly over court representation in criminal proceedings, and they have a partial monopoly in Armenia and Ukraine. The experts are concerned by the fact that in Armenia and Ukraine lay persons are entitled to provide defence representation in criminal cases. This appears to conflict with European standards and best practice. They therefore recommend that those states reconsider and amend their national arrangements in this regard.

In all countries except Moldova, advocates have no monopoly over court representation in civil proceedings. In Azerbaijan and Ukraine representation in civil cases is open to everyone. In other countries, there is a general monopoly in the civil sphere, with certain exceptions (Armenia) or a partial monopoly at certain court levels (Georgia). Such arrangements comply with European standards, but in order to ensure that clients have the best possible legal assistance, the experts suggest that the states in question consider whether advocates should in fact be granted a greater or full monopoly over civil court representation.

2. Entry to the profession

Introduction

The present chapter aims to evaluate the participating countries' arrangements in terms of access to the legal profession.

In order to do so and to arrive at recommendations regarding possible improvements, an agreed universal standard or benchmark is needed. Only when there is a common understanding of the required minimum professional standards can the practice and legal framework of individual states be measured and recommendations for improvement made.

Relevant European standards

The fundamental role which lawyers play in ensuring the protection of human rights and freedoms deserves in-depth attention by law- and policy makers at international and national level. However, documents dealing with lawyer's profession, and in particular the access to the profession, are less than those devoted to judges and prosecutors. At international level, the United Nations Basic Principles on the Role of Lawyers provide that "*governments, professional associations of lawyers and educational institutions shall ensure that there is no discrimination against a person with respect to entry into or continued practice within the legal profession on the grounds of race, colour, sex, ethnic origin, religion, political or other opinion, national or social origin, property, birth, economic or other status, except that a requirement, that a lawyer must be a national of the country concerned, shall not be considered discriminatory***.**"

As to the key European documents, Recommendation No. R (2000) 21 on the freedom of exercise of the profession of lawyer, it states that "*decisions concerning the authorisation to practise as a lawyer or to accede to the profession, should be taken by an independent body. Such decisions, whether or not taken by an independent body, should be subject to review by an independent and impartial judicial authority***".**

The Council of Bars and Law Societies of Europe (CCBE), a source of best practice at European level, which has assumed the role of umbrella organisation for European Bar Associations, sees as one of its missions the promotion of access to justice and the protection of clients through respect for the core values of the profession. Among the papers issued by the CCBE, some address the training of lawyers and set out common training standards.
To sum up, the European standards on access to the legal professions include the following principles:

1. The various sources referred to in chapter II of Recommendation No. (2000)21 require that persons seeking to access the legal profession receive the appropriate education and training. In this respect, one can conclude that the standards require candidates to hold a university law degree.
2. Recommendation No. (2000) 21 stressed that the body determining entry to the profession, that is, the licensing body, should be independent.
3. It is also important that the decision on whether a candidate may enter the legal profession be made in a transparent manner, on the merits of his or her application, and on an objective and non-discriminatory basis.
4. Finally, all decisions relating to entry to the profession should be subject to a review

by an independent and impartial judicial authority.

Regulatory framework of the participating countries

Armenia

In Armenia, lawyers' activities are regulated in the main by the "Law of the Republic of Armenia on Advocacy" (the most recent amendments to which were made in December 2011) and by the Charter on the "Chamber of Advocates of the Republic of Armenia". Additional rules are found in the Constitution and the Civil and Criminal Procedure Codes.

According to Article 1 of the Law on Advocacy, it "*shall establish the basics of practising the profession of advocate and of forming a professional association of advocates, as well as the manner of practising the profession of advocate in the Republic of Armenia*."

The difference between the "*basic practice rules of the profession of advocate"* and *"manner in which the profession of advocate shall be practised"* appears to the expert to be unclear and confusing. Given that various aspects of lawyers' activities are regulated by separate procedural codes, this confusing wording could be the result of complex nuances in the legal drafting practice. This was noted by the Armenian delegation itself.

This very detailed (or as the Venice Commission calls it, "positive") approach to drafting often leads to fragmented legislation. Repetition also runs the risk of inconsistencies.

Article 5 of the Law provides s follows:
"*Advocate activities are rights-protecting in nature, they are carried out by an advocate and aimed at the realization and protection of the rights, freedoms, and interests of the person receiving legal assistance by all means not prohibited by law.*
An advocate may carry out the following activities:
1) Counseling, including counseling of clients on their rights and obligations, the review of documents, and the preparation of other legal documents (hereinafter "Counseling");
2) Representation, including representation in court (hereinafter "Court Representation");
3) Defense in criminal cases; and
4) Provision of legal assistance to victims in the cases and procedure stipulated by law…"

Given that the first chapter of the Law provides a number of definitions, one would expect a definition of "advocate" within that chapter, but one has to wait until the beginning of chapter 3 at Article 17, where it is stated that "*...while rendering legal assistance advocates shall:*
(1) provide both oral and written advice on legal issues;
(2) prepare applications, complaints, claims, motions and other documents of a legal nature and drafts thereof;
(3) participate, as a representative of the client, in civil proceedings and in the hearing of the case before the Constitutional Court of the Republic of Armenia;
(4) participate in criminal proceedings or cases on administrative offences as a representative or defence counsel of the client;
(5) participate, as a representative of the client, in hearings of cases before an arbitral tribunal or other dispute settlement bodies;
(6) represent the interests of the client in state and local self-government bodies, in nongovernmental and other organisations, foreign government agencies, courts and bodies of preliminary investigation or inquest, international tribunals, and foreign non-governmental

organisations unless otherwise provided for by the legislation of the relevant state, charter documents of international tribunals and other international organisations, or by international" treaties of the Republic of Armenia.
An advocate shall have the right to render other types of legal assistance not prohibited by law".

Here, it is unclear why each article contains a different description of the lawyers' role. Moreover, it is not clear whether such a detailed list of activities is necessary or helpful, especially when, as in case of Armenia, lawyers have no form of monopoly over most legal proceedings. It would make more sense to specify which functions can be carried by advocates only.

Excessive detail is also found at chapter 2 of the Law, which relates to the Chamber of Advocates. The Law is very precise as to the various bodies within the Chamber and their functions. It is clear that the legislator should determine the fundamental facets of such an institution. At the same time, however, at Article 13.I the Law regulates in minute detail matters of a more or less administrative nature, such as the Chamber's voting procedure. The inclusion of such detailed rules in the primary law regulating the legal profession risks rendering almost invisible the fundamental guidelines and structures of the Chamber, which find themselves lost in a raft of technical regulations. In the course of the working group's discussions, the Armenian delegation pointed out that the description of the voting procedure is necessary, as the Law refers to this procedure at different points, namely at Articles 10 and 39. Even if one accepts this, it is questionable whether the place in which this detailed description appears within the law reflects good drafting practice. One might instead expect such explanatory provisions to appear in the general part of the Law among the other definitions, or at the point at which the Law first refers to the procedure in question.

Summary and recommendations

As in the previous recommendation, the experts propose the setting-up at national level of a working group to consider – whilst maintaining the substance of the current Law – a streamlining of the "Law on Advocacy" to render it more consistent. Questions of an administrative and technical nature should be confined to secondary legislation.

According to Article 7, the Chamber of Advocates shall "administer the advocates' licensing process," and according to Article 10, the Board of the Chamber of Advocates (which is the executive body of the Chamber) should "*determine applications from advocacy candidates in accordance with Article 29 of this Law*". Article 29 provides that a candidate who wishes to receive a licence shall submit an application and a copy of the certificate issued by the Qualification Commission. Here, it is the experts' understanding that the Law refers to the certificate issued upon passing the qualification examination, as organising and publishing the results the qualification examination is, according to Article 12, the only purpose of that body. What might confuse the reader is that the Law does not provide any details about this examination within its first six chapters.

Article 28, which set out the requirements for obtaining authorisation to practise as an advocate, was deleted during the recent amendments. However, in the new version of the Law, Article 29 cross-refers to Article 28 and provides that "*an application may be rejected on the basis that the requirements set out at Articles 33 and 28 of this Law have not been met*". Thus, the legislator should now amend Article 29.

Some additional details on the qualification examination are found in the newly-drafted chapter 7. According to Article 45.2, the School of Advocacy set up under the latest amendments shall administer the qualification exams for trainees of the School. According to Article 45.18, they are the only persons eligible for this exam. It is therefore clear that access to the school is the first step to accessing the legal profession. It is surprising therefore that the Law falls short of setting out extensively the eligibility criteria for becoming a trainee. All that Article 45.6 provides is that "*a trainee of the School can be a natural person who is capable of working and who has a legal education with a bachelor's degree or diploma...*" The Law does not address the admission procedure but leaves this, according to Article 45.1, to other legislation. Consequently, the experts cannot comment on the admission criteria or selection process.

In general terms, it is very positive that applicants for entry into the legal profession must have a legal education. It is also complies with European standards that entry to the profession follows an examination, although the examination procedure is not clear.

Summary and recommendations

The essential regulations on access to the legal profession contained in the Law complies with European standards. However, important issues still have to be resolved through secondary legislation and the updated Charter. Therefore, it is not currently possible to evaluate the procedure fully. Assessing the entry process would necessitate an in-depth analysis of this procedure, especially those parts of it that relate to the oral and written examination process.

Further, the experts remain of the opinion that the Law is overburdened with administrative details, which might obscure from view important structural provisions. Therefore, the experts recommend moving some administrative aspects to secondary legislation and/or to the Charter.

Azerbaijan

The main instrument regulating lawyers and advocates is the "Law of the Republic of Azerbaijan on Advocates and Advocates' Activities". According to Article 4 of the Law, **"***only persons admitted to a collegium of advocates in accordance with the established procedure and who have taken an oath are entitled to practice as advocates***".**
The procedure for obtaining an advocacy licence and membership of the collegium is set out at Art. 8: *"... a person holding a university degree in law and having at least three years' professional experience as a lawyer or at least three years' work experience in the legal sphere in academic and teaching educational institutions, who has successfully passed the qualification exam consisting of an oral interview and written test of professional aptitude set by the Qualification commission, and who has successfully completed compulsory training at the educational and academic institution of the relevant executive authority may become an advocate***."**

It follows that an applicant for an advocate's licence must hold a university degree in law. This, as stated above, fully complies with European standards. Furthermore, the candidate requires at least three years' work experience in the legal field. Even if the expert does not see

any benefit in this requirement, European standards clearly do not prevent it. As long as this requirement remains, the expert recommends that Azerbaijan consider, from the perspective of transparency, defining clearly what constitutes "work in the legal sphere".

In addition to these formal requirements, each candidate must pass the qualification exam. As stated in the chapter above, it is beyond the scope of this Project for the experts to review the secondary legislation that regulates the examination. It is therefore not possible for the experts to evaluate and comment upon the selection process. It is positive, however, that the licensing procedure is based on objective criteria, in particular professional aptitude (or professional competence, as described in Article 13).

The exam is administered under the auspices of the Advocates Qualification Commission, which consists of eleven members: five advocates, three judges and three legal academics. It is questionable whether the composition of the Commission is fully compliant with Rec(2000)21, which envisages an independent body being responsible for entry to the profession if at all possible. In the experts' view, testing is fundamental to the process of entry to the profession and is therefore a function that should be administered by an independent body. In Azerbaijan, the five lawyers are appointed by the Presidium of the Collegium (Article 13) which is, according to Article 11, elected at the General Meeting of the Collegium. The six other members are elected by a Plenary Session of the Supreme Court (judges of the Supreme Court are appointed by the Milli Majlis following a proposal by the President of Azerbaijan (Article 131 of the Constitution) and by the relevant executive body, namely the Ministry of Justice. Given that the majority of the members of the Qualification Commission are not advocates, it is difficult to view it as independent in the sense of the Recommendation Rec(2000)21. In the experts' view, the composition of the Commission cannot be justified or explained by reference to the principle of checks and balances, as the national delegation argued. That principle envisages bodies exerting mutual control over one another, not an external body or office controlling entirely a self-governance body. That ultimately it is the Presidium of the Collegium who decides upon admittance to the profession rather than the Qualification Commission does not sway the experts in their view as no individual will be admitted without having passed the examination.

Summary and recommendations

In light of the above, the experts recommend reconsideration of the composition of the Qualification Commission in order to render it independent, as recommended in Rec(2000)21.

In addition to the requirements mentioned above, Article 8 provides that all candidates (subject to certain prescribed exceptions) must undergo compulsory training at a teaching, educational or academic institution within the relevant executive authority (usually the Ministry of Justice). Unfortunately, the texts made available to the experts do not provide any details about this training and how it is organised. The experts cannot comment, therefore, on whether it is of benefit to the profession.

Finally, Article 8 prohibits persons holding dual citizenship from becoming advocates. In the experts' view, it is highly doubtful whether this prohibition conforms with the fundamental provisions of Rec(2000)21, in particular, the requirement not to reject any candidate for discriminatory reasons. The Recommendation is clear that a requirement for a candidate to have citizenship of the country in question does not amount to discrimination, however the

effect of the dual citizenship rule in Azerbaijan may well be classed as discrimination. The argument made by the national delegation that the Constitution does not allow for dual citizenship does not affect the experts' view as it has no bearing on the compatibility of the relevant provision with European standards. In addition, the experts looked into this matter further by checking the Constitution of Azerbaijan in its English version as published on the website of the President of Azerbaijan and could find no general prohibition of dual citizenship (see Article 52 of the Constitution). On the contrary, the fact that the Constitution expressly prevents the President (Article 100) and deputies of the Mili Majlis (Article 85) from holding dual citizenship leads the experts to conclude that holds dual citizenship is indeed possible in Azerbaijan.

Summary and recommendations

The experts recommend reconsideration of whether it is justifiable to reject a candidate's application on the basis that he/she holds dual citizenship.

Georgia

In Georgia, the document setting out the basic principles underpinning legal practice, including the principles relating to the work of advocates, is the Law on Advocates.

According to Article 1.I and II of the Law, **"***an advocate shall be entitled to practise law in Georgia and an advocate is an independent professional who answers only to the laws and norms of professional ethics and who is a member of the Georgian Bar Association***."** Therefore, the Law requires that anyone wishing to practise law in Georgia must become a member of the Bar. When examining entry to the profession, therefore, regard must be had to the rules regulating access to the Bar.

Articles 2 and 3 of the Law indicate the kinds of activities deemed "*legal practice*", as well the "*principles of legal practise*"[12]. Articles 1-3 of the Law envisage and define clearly the role of advocates' in Georgia.

Chapter 3 of the Law deals with entry to the profession. According to Article 10, any Georgian citizen with a higher legal education may become an advocate. The two main

[12] **Article 2**. Legal Practice (24.09.2010 N 3619 In effect from 1 October 2010)
Legal practice shall include: giving of a legal advice by an advocate to a person (client) who has applied to him/her for assistance; representation of a client in the courts, arbitration, detention and investigation bodies in respect of a constitutional dispute or a criminal, civil or administrative law case; preparation of legal documentation in respect of third persons and submission of any documentation on behalf of a client; provision of legal assistance, which is not in connection with the representation of third persons.
Article 3. Principles of Legal Practice
The principles of legal practice shall be:
a) Legitimacy;
b) Freedom and independence of legal practice;
c) Non-discrimination and equality of all advocates;
d) Non-interference in legal practice;
e) Respect for and protection of rights and freedoms of a client by an advocate;
f) Prohibition of refusal by an advocate to protect a client, except for the cases stipulated by this Law;
g) Protection of professional secret by an advocate;
h) Protection of norms of professional ethics by an advocate.

additional requirements, according to Article 10, are passing the Bar examination (Article 10.I.b) and carrying out work experience as a lawyer or intern of an advocate for one year or more (Article 10.I.c).

The Law provides that the written examination is administered twice a year and that the Executive Council of the Bar is responsible for preparing the content and procedure of examination (Article 11.II). The same Article provides that the Advocates Qualification Commission shall be regulated by the General Assembly of the Bar. It is unclear why there is a reference to the Qualification Commission here. The Law does not specify the role of the Commission in relation to the written examination. In this respect, it is remarkable that neither in the list of rights and duties of the General Assembly, nor in any other article of the Law, can one find detailed information on the Commission. In the course of the discussions that took place during the working group session, it was stated that the Commission's role and functions are set out in protocols of the Executive Council. These were not made available to the experts. However, the experts would like to point out that Article 11.II is contradicted by Article 26.VII.c, which provides that it is the Executive Council of the Bar and not the General Assembly which is responsible for approving the regulations of the Qualification Commission. Further details regarding its set-up or functions could not be found in the Law. In light of these inconsistencies as to which is the body competent to review the Commission's activities and whether the General Assembly or the Executive Board is responsible for adopting the necessary regulations, it appears doubtful that the activities of the Commission has any valid legal basis.

Summary and recommendations

The role and function of the Qualification Commission should be clarified and the inconsistencies between Article 11 and Article 26 of the Law eradicated.

As to the examination itself, the Law requires that it should be a general test, a civil law test or a criminal law test. It goes on to list the relevant topics or areas of law for each of these three categories. The Law is, however, silent as to the assessment criteria and the format of the test. It is not clear whether the test proceeds on the basis of case studies, is multiple choice, involves full written answers, or is a combination of any or all of these. The experts learnt that multiple choice is used in practice. However, as it is not clear whether the "procedure for holding a written test" as set out in Article 11.I envisages all these possible formats and whether it is the Executive Council of the Bar which decides which format to adopt, the experts are unable to measure the practice against the written legal framework. If the Executive Council is mainly responsible for the test, then the test can be considered to be in the hands of an independent body within the meaning of Rec (2000)21[13].

Moldova

Moldova regulates the work of advocates and entry to the profession mainly by means of the Law on Advocates and the Advocacy Charter.
The requirements for becoming an advocate are set out in Article 10 of the Law, according to which R **"***advocacy can be exercised by a person who is a citizen of the Republic of Moldova, has a full legal capacity, has a diploma of a licentiate of law or equivalent degree, has*

[13] See page 32.

impeccable reputation and is admitted to the advocate's practice having passed the qualification exam"[14].

According to paragraph III of the same Article, "*a person who applied for the advocate's license cannot be considered as a person with impeccable reputation and his/her application shall be dismissed if this person:*

a) was previously convicted for intentional serious, especially serious or extraordinary serious crime regardless whether or not his/her criminal record spent;

b) has un-spent conviction for other crime;

c) was previously excluded from the Bar or was deprived of the license for providing legal assistance on compromising ground;

d) was dismissed from law enforcement bodies on compromising grounds or was dismissed from the position of a judge, notary, jurist or civil servant on compromising grounds;

e) pursue activities incompatible with requirements of the Code of Advocate's Ethics or his/her behaviour does not meet these requirements;

f) violated basic human rights and freedoms which was established by a court decision."

It is remarkable that all the grounds listed under c)-f) exclude the applicant from becoming an advocate for an unlimited period of time, that is, regardless how much time has elapsed since the infringement was committed. This seems to be unreasonably onerous and disproportionate. This is especially so given the other reasons set out in Paragraph III, for example under point b), which deals with *unspent* criminal convictions, thus setting a time limit during which the exclusion remains effective. In the course of the working group's discussions, the experts underlined that there are pending cases before of the European Court of Human Rights which concern exactly this issue and that one can expect that provisions, for example, that have the effect excluding for life persons with a criminal conviction from entering the profession will be found to be incompatible with the European Convention on Human Rights.

Summary and recommendations

In this connexion, the Moldovan legislator ought to consider attaching time limits to the grounds listed at Article 10, III.

Aside from a law degree, another pre-requisite to entering the profession is passing the qualification examination. Article 20, I of the Law provides that **"***in order to be admitted to practise as an advocate, an advocate-intern must sit the qualification exam set by the Advocates Licensing Commission***".** It is only upon reading this Article that it becomes clear that working as an advocate-intern is a pre-condition to sitting the exam. The internship is therefore a *de facto* pre-condition for entry to the profession, despite not being mentioned in the relevant Article. This is not a sufficiently streamlined regime.

A digression concerning the internship:

14 There are certain exceptions for holders of a doctors degree and judges which are not totally relevant for the discussion in the present Report.

As the internship is for most of applicants (that is, those who have to pass the exam) a pre-condition to becoming an advocate, it merits a brief examination.

Articles 15 and 19 [15]of the Law give indications as to what an advocate-intern is and what he/she does. The intern must hold a university degree in law and pass an internship examination. Thereinafter, he/she may practice under the supervision of an advocate-mentor and may provide paid legal assistance to clients. An advocate-intern is personally liable for the quality of legal assistance provided and has to pay for the internship.

It is beyond the scope of the present Report to examine the regulations concerning internships but, in a nutshell, the experts wish to express their opinion that the whole regime surrounding the internship seems cumbersome and not sufficiently well thought out. First, it is not clear why an intern – if acting under supervision of the mentor – ought to be personally liable for the quality of his/her services. As an intern, he/she should be guided through his/her work. This guidance should ensure that his/her work is of the highest quality and the highest quality whilst at the same time allowing him/her at to develop the necessary skills for carrying out future work.

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15 **Article 15.** Advocate-intern

(1) A legally capable citizen of Moldova who obtained a diploma of a licentiate of law, has impeccable reputation, passed an internship examination and concluded an agreement on professional internship with an advocate may practice as an intern.

(2) An advocate-intern shall practice under the supervision of an advocate-mentor.

(3 An advocate-intern may provide paid legal assistance to clients in courts, appeal chambers and before public authorities.

(4) An advocate-intern shall be personally liable for the quality of provided legal assistance and shall be subject to the disciplinary liability established by the Chapter IX.

(5) An advocate-intern shall be subject to same tax regime which is applicable to advocates.

(6) An advocate-intern shall be obliged to:

a) pay for his/her internship;

b) complete the initial training. The duration of the initial training may not be shorter than 80 hours throughout the professional internship;

c) provide legal assistance on the basis of an agreement on legal assistance concluded in accordance with the procedure established by paragraph (1) of Article 60 and validated by an advocate-mentor;

d) keep files on legal assistance;

e) keep professional secrets.

Personal files of advocates-interns shall be stored at the Council of Association of Advocates.

Article 19. The professional internship

(1) A person who passed the exam for admission to the internship shall complete the 18-month obligatory internship on the professional training during which he/she has the status of an advocate-intern.

(2) Conditions of the completion of the professional internship, rights and duties of an advocate-intern, an advocate-mentor, as well as rights and duties of a collegium of advocates towards advocates-interns shall be regulated by the Advocacy Charter.

(3) The professional internship shall be completed on the basis of an agreement concluded between an advocate-intern and an advocate-mentor and registered with the Council of the Association of Advocates.

(4) An advocate-mentor should possess premises sufficiently large in order to ensure the professional internship, should have at least 5-year experience as an advocate and impeccable reputation. An advocate-mentor may not supervise more than 2 advocates-interns simultaneously.

(5) The professional internship shall be suspended during the period of the army service, due to unavailability of an advocate-intern for valid reasons, or in case if the termination of mentoring not due to the fault of an advocate-intern. The period of the previously completed internship shall be included in the professional internship.

(6) Upon completion of the professional internship, an advocate-intern shall sit the qualification exam. If 3 years passed from the moment of the completion of the professional internship, an advocate-intern may sit the qualification exam only under the condition of doing the 3-month internship.

It is not clear why an intern should pay for an internship, or how much is to be paid or to whom. This issue was discussed extensively during the working group's meeting. According to the representative of the Bar of Moldova, the internship payment is limited to an administrative fee of roughly 75 Euros payable to the Bar Association. However, the discussion revealed that mentors may ask their interns for additional payments. Following discussion at the working group, it is clear that the law needs to set out clear rules on payments. As the experts understand it, the idea of an internship is that training ought to be provided for free. Furthermore, Moldova should consider whether mentors ought to be obliged to pay a modest "salary" to their interns.

The examination for entry to the internship is dealt with at Articles 21-23 of the Advocates' Charter. According to these provisions, internship candidates are required to answer 400 questions from a pool of 1,000 (to which they have access prior to the examination). They require to obtain a mark of at least 350/400 in order to obtain an internship. Such an examination appears to test knowledge only and does not require candidates to demonstrate any working understanding. As such, it is doubtful whether it helps identify the best internship candidates.

At the end of the internship, Article 25 dictates that an advocate-mentor shall undertake an objective appraisal of the candidate and either recommend that the candidate progress to sit the qualification exam or decide that his or her candidacy go no further. It is not clear what objective criteria are applied or what the consequences of a negative decision are. For example, does the candidate have a right of appeal?

A digression concerning the Commission for Licensing of Advocacy

The Advocates Licensing Commission is regulated by Article 43 of the Law[16]. It comprises eleven members, eight of whom are advocates of at least five years' standing, and the remaining three of whom are active academics. It is notable that there is no specific requirement relating to the academics' fields of expertise or experience. Article 47 of the Charter of Advocacy, which deals with the Licensing Commission and repeats the text of Article 43, adds that academics require five years of professional experience. The discussion revealed that, in reality, the academic members are also advocates. However, in the experts' opinion, the Charter, which was formally approved by the lawyers' association, should not attempt to prescribe or fetter the discretion provided in the primary legislation if that legislation does not delegate such a power to the association, yet here we have an example of the Charter purporting to do just that. The Law grants decision-making power to the Charter

16 **Article 43.** The Advocates Licensing Commission

(1) The Advocates Licensing Commission shall be composed of 11 members elected following a competition. Eight shall be advocates of at least five years' standing and 3 shall be active academics.

(2) The competition for membership of the Advocates Licensing Commission shall be administered by a special commission appointed for this purpose by the Council of the Associations of Advocates. The procedure for organising the competition shall be regulated by the Advocacy Charter.

(3) The Advocates Licensing Commission shall:

a) determine applications for admission to the exam;

b) prepare the internship admission and qualification exams;

c) approve the results of the internship admission exam and decide upon whether a candidate ought to be admitted to a professional internship;

d) approve the results of the qualification exam and decide upon whether a candidate ought to be admitted to practise as an Advocate.

(4) Decisions of the Advocates Licensing Commission as to the exam procedure may be appealed to the Administrative Court. Qualifications, once granted, may not be appealed.

only in relation to organising the competition for membership of the Commission. Thus the Charter's additional requirement regarding the experience of advocates appears dubious.

On the competition, the Article 47Charter states:

"(2) The organisation of a competition for the position of a member of the Commission for the Licensing of the Advocacy shall be as follows:

a) The Council of the Associations of Advocates announces a competition for the position of a member of the Commission for Licensing of the Advocacy.

b) The Council of the Associations of Advocates appoints a special commission who will be in charge of the organisation of the competition for the position of a member of the Commission for Licensing of Advocacy.

c) The text of the announcement shall be published on the official web site of the Associations of Advocates 1 month before the competition.

d) Those willing to become a member of the Commission for Licensing of Advocacy shall submit following documents to the special commission:

• an application for participation in the competition;

• a certificate indicating the length of professional experience;

• a certificate indicating the length of academic experience.

e) 10th days before the date of the competition shall be the deadline for the submission of documents.

(3) The special commission shall take a decision on successful candidates to the positions of the members of the Commission for Licensing of Advocacy by an open ballot by majority of votes.

(4) Candidates who received the highest number of votes in the descending order shall be considered successful.

(5) In case of equality of votes the candidates shall be chosen by lot.

(6) Elected candidates shall become full pledged members of the Commission for Licensing of Advocacy.

(7) The special commission shall forward to the Association of Advocates a decision on elected members of the Commission for Licensing of Advocacy."

It is noted that the text of the Charter appears to set out instructions as to the specific details of the competition. However, it does not provide any indication as to selection criteria and makes it impossible to assess whether the selection of members is fair and objective. The Charter is also silent as to whether and to what extent members are remunerated. It is therefore not possible to assess the Commission's independence.

The Advocates Licensing Commission takes all administrative actions and decisions relating to the qualification exam. Here is notable that, pursuant to Article 43.IV, the Commission's decisions may be appealed only as they relate to the examination procedure; the decision on qualification may not be appealed. Given the importance of the substantive decisions, it is at the very least questionable whether it is appropriate to exclude the possibility of a review or appeal. The experts appreciate that it is difficult to review the results of an oral examination at a later stage, and some measure of discretion must be afforded to the qualification panel. Therefore, an objective and fair examination panel composition would act as an important safeguard for the candidate. The situation is different when it comes to written examination results, which can readily be reconsidered at a later date by a third party.

Summary and recommendations

The Charter should be clearer as to the selection criteria for membership of the Licensing Commission and should not focus purely upon the administrative procedure relating to selection. Consideration should be given to the possibility of appealing the Commission's substantive decisions.

Ukraine

According to Article 2 of the Law on Advocacy, any person who has:

- a higher legal education certified by a Ukrainian diploma or a diploma of another state recognised under international treaties entered into by Ukraine;
- work experience in the legal sphere amounting to not less than two years;
- a command of the State language;
- passed the necessary qualification examinations;
- received a certificate entitling him/her to engage in advocacy in Ukraine,
- taken the Ukrainian Advocate's Oath

may become an advocate.

It is positive that all persons wishing to become an advocate are required to have undergone higher education in law. Work experience is a common requirement across the region. In order to examine its value in terms of the selection of advocates, it is necessary to look in more detail at the definition of "work in the legal sphere", as the formulation set out in the Law affords a wide margin of discretion to the decision-making bodies.

As in other countries, the qualification exam is a key part of the selection process. Pursuant to Article 13 of the Law, the examination falls under the purview of the Qualification and Disciplinary Commissions of the Bar. The difference is that Ukraine has set up commissions by region, that is, commissions in the Republic of Crimea, in the various *oblasts*, and in the cities of Kiev and Sevastopol.

The composition and administration of these bodies lies under the control of different executive bodies, depending on the region or city in question. Under the Law, the certification chamber of each qualification and disciplinary commission should be composed of eleven members, only four of whom are advocates. The other members are judges or representatives of the local executive. This composition and the method according to which members are selected leads to the conclusion that the certification chambers of the qualification and disciplinary commissions are not independent bodies within the meaning of Rec (2000)21. The experts took into account the argument that citizens lack trust towards lawyers and that, as a result, a commission consisting only of lawyers would fail to engender the necessary trust and command the requisite authority. However, neither this argument nor the discussion with the national delegation as a whole led the experts to conclude that the level of trust the public held towards the executive or any other state power was greater than the level of trust it held towards lawyers. Therefore, the number of non-lawyers in these bodies should be significantly reduced.

Summary and recommendations

The experts recommend strengthening the role of professionals in terms of the composition and work of the certification chamber of the qualification and disciplinary

commissions.

The Law does not cover in any detail the qualification examination. It is silent as to the examination's content, structure and organisation. Moreover, there is no clear delegation of the power to define the necessary detail of the examination. The Law provides only that the procedure for the administration and activities of a qualification and disciplinary commission is to be determined by regulations to be approved by the President of Ukraine. It is entirely unclear who is responsible for laying those regulations before the President, on what grounds the President may approve or refuse to approve them, or what procedure is followed in the case of a refusal.

According to the Law, where a candidate fails the examination, he/she will be entitled to re-sit it one year later. In addition, the certification chamber's decision may be appealed to the High Qualification Commission of the Bar. The same problems and shortcomings arise in relation to the administration and work of this Commission as alluded to above. Of particular concern is the fact that the Commission is affiliated to the Cabinet of Ministers. Once again, this undermines the independence of this body *vis-à-vis* the executive and does not accord with Rec (2000)21, which requires an independent licensing body.

Summary and recommendations

In order to ensure the existence of a competent and independent body responsible for the licensing process, consideration should be given to handing over responsibility for the creation and administration of the licensing body to lawyers. Further, such a body should be responsible for determining its operational legal framework. The rules regulating the qualification examination require further elaboration.

General conclusions and Recommendations

It is clear that in many countries within the region, the Laws and Charters are overburdened with administrative detail (Armenia, Moldova and Ukraine). Further, the Charters – which in many cases repeat the content of the Law – at times contradict the relevant Law (Moldova). Consequently, Partnership countries are urged to consider streamlining their regulations and avoiding duplication between the various Laws and Charters.
Certain countries should aim to further improve their legislation in terms of the independence of their licensing bodies (Azerbaijan and Ukraine).

In addressing many of the problems cited above, the Georgian legislator has identified appropriate modern solutions which ought to be seen as good examples for the other countries in the region.

3. Training of lawyers

Relevant European Standards

Lawyers play an important service role in the societies in which they operate. They are key protectors of fundamental rights and freedoms. They play a pivotal role in the life of the justice system and are vital to the promotion and protection of the rule of law. For these reasons, European states and other countries regulate entry into the practice of law in the interests of the citizens and clients for whom lawyers act.

"It is self-evident that the lawyer cannot effectively advise or represent the client unless the lawyer has the appropriate professional education and training. Recently, post-qualification training (continuing professional development) has gained increasing emphasis as a response to rapid rates of change in law and practice and in the technological and economic environment. Professional rules often stress that a lawyer must not take on a case which he or she is not competent to deal with." Principle (g) – the lawyer's professional competence: Charter of core principles of the European legal profession (11/2006) CCBE.

In order to practice law in the courts of any state, a person must be licenced or admitted to its bar in accordance with the procedure set out in the relevant national legislation. When it comes to legal education and training and licensing of lawyers, each country has its own legal order and traditions. It is difficult, therefore, to identify a 'European' model for delivering legal education and training. Several distinctions can be drawn between the various legal traditions, the most well-known being the distinction between the common law and civil law systems.

A high level of professional competence is one of the core principles of the legal profession as enshrined in the CCBE Charter of Core Principles, the Council of Europe Recommendation on the freedom of exercise of the profession of lawyer (Rec(2000)21), the European Parliament resolution on the legal professions and the general interest in the functioning of legal systems and the United Nations Basic Principles on the Role of Lawyers. Lawyers cannot effectively advise or represent a client unless they have had the training necessary to enable a professional to keep pace with continuous changes in law and practice and in the regulated technological, social and economic environments.

While the EU does not regulate the specifics of national training systems, strengthening the European judicial area as a whole means that all practitioners must have access to training of the equal quality. Therefore, the EU encourages the closing of gaps between the training regimes in place across Member States and greater interaction between the various "camps" that make up the legal family: lawyers, judges, prosecutors, investigators, bailiffs, and so on. By ensuring a level playing field in terms of the levels of training provided to lawyers, they are free to specialise as their careers progress in such a way that the variations between different legal occupations are easier to reconcile.

Recommendation (2000) 21 of on the freedom of exercise of the profession of lawyer proposes that countries take all measures they consider necessary to secure high standards of legal training[17].

[17] ***Principle II – Legal education, training and entry into the legal profession***
"All necessary measures should be taken in order to ensure a high standard of legal training and morality as a prerequisite for entry to the profession and to provide for the continuing education of lawyers.

In this context, and taking into account the European Qualification Framework, the Directives on the free provision of services, recognition of diplomas and free establishment, the CCBE adopted the "Resolution on training for lawyers in the EU". According to this Resolution, the CCBE lays down several principles[18] upon which the training of lawyers proceeds. These can be seen as standards applicable to the education and training of lawyers:

→ ***Legal education*** that takes place prior to professional training – the level of legal education required is not prescribed;

→ ***Initial training in professional practice***, the duration and content of which is to be determined by the countries themselves;

→ ***Examination*** of the knowledge and skills gained ***as part of the initial training****;*

→ ***'On-the-job' training*** (also known as traineeship, internship or pupillage) under the supervision of a lawyer-mentor (a professional in a legal establishment) which can be take place before, after or during the initial training;

→ ***The use of Community Law*** in training curricula, with an emphasis upon its practical application (especially for EU lawyers);

→ ***The training of training personnel*** within the institution providing the training, in order to ensure that they are familiar with the specific methodologies required in order to teach in the practical application of law;

→ ***Compulsory continuing training,*** with an annual minimum number of hours, a proportion of which, in the case of EU lawyers, is devoted to Community law and European comparative law.

3.1 Pre-professional education

'Pre-professional education' is education at university level. A prospective lawyer must obtain a law degree as a pre-requisite to beginning professional training. It is also the most basic EU standard on entry to the legal profession. The primary aim of university legal studies is to instil in students knowledge of the law rather than an understanding as to its practical application. The latter is taught during post-graduate practical legal training, which is required in most jurisdictions.

Legal education, including programmes of continuing education, should seek to strengthen legal skills, increase awareness of ethical and human rights issues, and train lawyers to respect, protect and promote the rights and interests of their clients and support the proper administration of justice."

[18] "1. training and examination in professional practice before gaining a legal professional qualification, and the duration and content of such training;
2. practical on-the-job training (such as a 'stage' or pupillage) under the supervision of a lawyer, before or where appropriate after, qualification;
3. all legal training in the EU to take account not only of domestic requirements but also of:
- the use of Community law focused on concrete and practical applications of that law;
- an introduction to characteristic features of great European legal systems;
- knowledge of the European Code of Conduct;
4. training of training personnel;
5. compulsory continuing training, with minimum components relating to the number of hours that all EU lawyers should complete annually and the proportion of hours dedicated to Community law and European comparative law."

In the common law countries, most notably in the UK, there are two (principal) legal professions - Barristers and Solicitors. Each involves prospective lawyers in a different course of training. Law in England, Wales and Northern Ireland is a three year undergraduate degree. Once students obtain a degree, each profession has its own "vocational" course: the Bar Professional Training Course (BPTC) for Barristers and the Legal Practice Course (LPC) for solicitors. After the vocational stage, prospective lawyers have to secure a kind of apprenticeship with an established firm or chambers – a training contract for solicitors (2 years) and a pupillage for barristers (1 year).

In civil law European countries, individuals who wish to practice law must typically study law at university. The duration of study required varies from country to country from three to five years. Some countries require a first cycle of university study to be completed, others a second cycle also (see the European Qualification Framework). The next step is to undertake practical legal training in a specialised legal training institute followed – almost everywhere now – by a period of practical experience with a qualified legal professional. The final step is to obtain a licence to practise, often by means of passing an exam.

Regulatory framework in the participating countries

Armenia

The prerequisite for entering the legal profession in the Republic of Armenia is obtaining a Law degree. The duration of period of legal study required depends on individual universities. There are now many foreign universities now in Armenia, most of which offer a 3-year training programme for obtaining a Law degree. State universities continue to operate a 4-year programme.

The eligibility requirements for admission to the School of Advocates are set out in Article 45.6 of the Law on Advocacy: *"A natural person with legal capacity and a higher legal education may attend the School of Advocates, unless he/she has been convicted of an intentional crime and his or her conviction has not been set aside or removed."*

The level of legal education required as a pre-condition to sit an entrance exam (as was explained by the members of the Armenian delegation) is a Bachelor's degree within the meaning of the Bologna system, which Armenia adopted several years ago.

Summary and Recommendation

Legal education is the first condition for becoming a lawyer in Armenia. Therefore, the relevant European standard is fully met.

However, given the differing standards of the various universities offering law degrees and the resulting differences in the levels and quality of legal knowledge among students, consideration could be given to offering future attendees of the School of Advocates a refresher course designed to equalise the level of knowledge of candidates. Equally, there is room for improvement and standardisation of the legal studies curricula within all universities in Armenia.

Azerbaijan

To be eligible to sit the qualification exam, candidates must have a university degree in law and three years of professional experience in the legal field[19]. A university degree in law, as was explained by the members of the delegation from Azerbaijan, requires four years of study at the end of which students must obtain a Bachelor of Diploma in law. The legislation does not stipulate the quality or level of the legal education required. The law provides for some exemptions or privileges for those who hold a 'third cycle' diploma, such as Doctor of Juridical Science. Such individuals can become advocates without need to pass the examination or undertaking the otherwise compulsory training. The same privileges are accorded to former judges of the Constitutional Court and presidents of the appellate and cassation courts.

Summary and Recommendation

In Azerbaijan, an education in a legal field is also the initial precondition to becoming a lawyer. This complies with European standards.

Georgia

A higher legal education is the only pre-requisite to taking the written qualification test. The Law indicates that "any person holding a higher legal education shall be entitled to undertake a written test." (Article 11.1). The members of the Georgian delegation informed the experts that Article 2 (l) of the Georgian Law on Higher Education defines Bachelors' degree as the first degree of higher education.

Summary and Recommendation

In Georgia, as in other countries in the region, legal studies are required before a candidate may sit the qualification exams. Georgian law therefore also complies with the European standard that legal education is a pre-condition to becoming a lawyer.

[19] "Subject to the requirements of part II of this Article, anyone holding a university degree in law and having at least three years' professional experience as a lawyer or at least three years' work experience in the legal sphere in an academic/teaching educational institution, who has successfully passed the qualification exam consisting of an oral interview and written test of professional aptitude before the Qualification Commission, and who has successfully completed compulsory training at the educational and academic institution of the relevant executive authority, may become an advocate. Former advocates (except those whose practice was terminated as a result of disciplinary proceedings) or judges may become advocates after an oral interview without the need to sit a written test or undertake compulsory training. Anyone holding an academic degree in doctor of juridical science and anyone who has previously worked as a judge of the Constitutional Court of the Republic of Azerbaijan, as well as presidents of appellate and cassation courts, may become advocates without the need to sit a written test or undertake an oral interview or compulsory training.'(paragraph 1 of Article 8, Law on Advocates and Advocacy).

Moldova

Every citizen of Moldova with legal capacity and a diploma in law may sit an exam in order to obtain a professional internship. It is not explicitly stated but can be presumed that the 1st level of legal study should be followed by training because to those with higher level of education the Law grants certain privileges. For example, *"Anyone holding a doctoral degree or who has at least 10 years' experience as a judge (provide he/she applies for an advocate's licence within 6 months of his or her resignation as a judge) shall be exempted from the professional internship and the qualification exam. Anyone who has resigned from his or her position as a judge or prosecutor shall enjoy the same privilege, provided he/she has continued to work in a legal field"* (Article 10.2 Law on Advocates).

Summary and Recommendation

The Moldovan provisions establishing a legal education as the first step towards becoming a lawyer are consistent with the relevant European standards.

Ukraine

Persons are eligible to sit the qualification exam where they hold a higher legal education, have at least 2 years of work experience in a legal field, and have a command of the state language[20]. It might be that under new legislation, the duration of legal studies will be extended to five and a half years, that is, to a level equivalent to post-graduate level.

Summary and Recommendation:

As in all other countries in the region, the legislation in Ukraine regulating the conditions necessary to becoming a lawyer fully complies with the relevant European standard.

3.2 Initial Professional Training

The key EU standards for professional training are the first and the second CCBE principles in the Resolution on training for lawyers in EU: "*training and examination in professional practice before gaining a legal professional qualification, and the duration and content of such training***"** and "*practical on-the-job training (such as a 'stage' or pupillage) under the supervision of a lawyer, before or where appropriate after, qualification".*

There are two main models of or approaches to providing professional training for lawyers: a system involving specialised vocational schools, as in France (the Bar School); or a system

[20] Any person in possession of a higher legal education certified by a diploma of Ukraine or a diploma of another state conforming to the international treaties entered into by Ukraine, who has undertaken a period(s) of work experience in the legal sphere of not less than two years, who is able to demonstrate a command of the state language, who has passed the qualification examinations, who has received a certificate entitling him/her to engage in advocacy in Ukraine, and who has taken the Ukrainian Advocate's Oath, is entitled to be an advocate (Article 2 of the Law on the Bar).

based on courses, as in England and Wales (this is typical for larger, wealthier countries). Meanwhile, smaller countries usually opt for a cheaper, more flexible system involving a traineeship, apprenticeship, internship or pupillage, with no standard approach to the training of each individual practising lawyer as he/she approaches the bar exam.

Regardless of the model chosen, the National Bar Associations are responsible for the quality of the training provided and are therefore in charge of accrediting the institutions – or providers of professional training for lawyers. Although the costs of this professional training are in almost all countries borne by the prospective lawyer, the various Bar Schools usually determine the number of students who can be admitted each year. Before being selected, candidates must sit an entrance exam.

More liberal acceptance policy is applied by licenced or accredited schools offering Bar vocational courses. Some do not even have entrance exams and for reasons of cost-efficiency set a minimum number of students required in order for the course to be implemented.

However, whatever the system, competence is measured by means of exams during or at the end of candidates' time in the classroom. This part of the course usually takes six months. Some countries have up to a year of classroom-based work and then reduce the length of the next stage, the internship. The internship or traineeship, although a separate step of the process of becoming a lawyer, is considered to be part of the initial training programme. The duration of the internship or traineeship varies from six months to two years.

The main standards on the content of professional training are based on the training outcomes to be met by future for European lawyers as defined in the CCBE Recommendation on Training Outcomes for European Lawyers.

According to the Recommendation, the outcomes are divided into three areas:

I. Deontology and professional status

"Prospective lawyers should not only have regard to the specific technical legal problems with which they are dealing, but should also deal with their tasks in a wider ethical context, taking into account that the functions which lawyers perform are not only for the benefit of their clients but also for society at large. Professional rules must be used as a guide to foster the quality of such legal services." (Point 1, Paragraph 3 of Recommendation)

II. Implementing the work of the lawyer and

"Prospective lawyers should master the major concepts of the legal system in which they are working and use such concepts to provide their clients with the most effective solutions to their problems. This implies not only a knowledge of the law, but also a mastery of methods which ensure that the law itself is used correctly. Lawyers should be able to orient the client towards timely and cost effective solutions." (Point 2, Paragraph 2 of Recommendation)

III. Means of performing the lawyer's mission

"Prospective lawyers should be aware that strict legal competence alone is not enough: they should learn and observe all procedures aimed at protecting clients' interests (notably professional secrecy/client confidentiality, avoidance of conflicts of interests etc.) and at ensuring that the office runs as smoothly and effectively as possible. Prospective lawyers should learn to observe the duty of loyalty towards their colleagues. This is a basic principle of the profession. Its observance will facilitate their success in the profession and will benefit their clients." (Point 3, Paragraph 3 of Recommendation)

These three areas cover the basic knowledge that a future European lawyer ought to possess in order to competently perform his or her functions.

Regulatory framework in the participating countries

Armenia

Until recently, there was no initial stage of professional training for lawyers in Armenia. However, several months ago the authorities established the School of Advocates which is responsible for the professional training of candidate-advocates, the entrance exams, the continuous professional development of advocates, and other activities:

Article 45.2 of the Law on Advocacy provides that *"the School of Advocates is a non-commercial organisation that has the status of a foundation"…. "The Chamber of Advocates, acting through the Board of the Chamber of Advocates, is the founding body of the School of Advocates…"*.

The School's governing bodies are the Governing Board and the 'Director'. The office of Director is composed of the Chairman of the Chamber of Advocates and at least four members appointed by the Board of the Chamber of Advocates. The Chairman of the Chamber of Advocates is the *ex officio* Chairman of the Governing Board.

From June 2012, the first generation of prospective lawyers will attend the initial training programme at the School of Advocates. Article 45.8. of the Law provides that the overall duration of the training period must not be less than six months. The Charter of the School sets out further details regarding the initial training period. According to the Charter, training should be implemented in two phases: the schooling period and the practice (probation) period, each which lasts for six months.

Article 45.6 of the Law states that *"any natural person with legal capacity and a higher legal education may attend the School of Advocates, unless he/she has been convicted of an intentional crime and the conviction has not been set aside or removed"*. In order to be able to enter the School, candidates must pass the entrance exam.

According to the Draft Charter of the School, the number of attendees is determined annually by the Board of the School of Advocates upon a proposal by the School Director. The entrance exams are administered by the Entrance Committee of the School of Advocates. The detailed procedure of the entrance exams is regulated in the bye-law, 'Draft Procedure of Entrance Exams to the School of Advocates'. In order to ensure the transparency and objectivity of the selection process and to avoid the possibility of corruption, the entrance exam utilises computer software that randomly selects questions from a total number of 2,400 questions contained in a database. The fee for the entrance exam and a tuition fee for the initial training programme shall be borne entirely by each attendee.[21]

[21] Both bye-laws were, at the time of drafting this report, in draft only. No information was available as to whether these drafts were eventually adopted by the School Board.

The curriculum package for the initial training now includes five modules comprised of sixteen courses,[22] with a total of 319 hours to be undertaken within six months of the schooling period. Additional forty hours are set aside for moot court exercises and examinations.

Experienced participants (those with five years of practice) undergo a less intensive initial training programme in terms of both the schooling and practical periods.

To standardise the level of knowledge across participants, some courses in the first five years will also be offered to practising lawyers as a means of continuous professional development.

According to the Draft Charter of the School, the probation period is mandatory for all attendees. It is composed of three phases, lasting two months each and taking place in a lawyer's office (for a minimum two months) or any other institution approved by the Board of the School. Each phase is supervised by a probation supervisor who may supervise several participants simultaneously. Supervisors are assigned by the Director of the School. Each phase ends with a written test. Any participant who fails the test should repeat only the probation phase in question before retaking the test.

The qualification exam for obtaining an advocate's licence takes place twice a year, following the school terms[23]. Only those attendees who have passed the initial training stage are eligible to sit the qualification exam. The exam is administered by the School of Advocates and is held by the Qualification Committee of the Chamber of Advocates. Any attendee who fails the qualification exam may re-sit the exam after he/she has retaken the courses at the School of Advocates.

Training personnel or lecturers are only briefly mentioned in the Armenian legislation. The selection criteria for training personnel and their contractual terms and conditions are the responsibility of the Charter of the School of Advocates.

Summary and recommendations

The professional training period envisaged in the relevant legislation of Armenia complies with the relevant European standards and practices. It should be noted, however, that the implementation of new provisions dealing with the initial training will take effect in June 2012.

[22] The courses that were due to be implemented as part of the initial training curriculum package were: General Module: Legal Writing Skills; Deontology and Professional Ethics; Establishment and Practice Management; Advocacy Skills Module: Oratory skills – Public Speaking; Communication; Negotiation; Legal Thinking; Human Rights Module: Universal Mechanisms and Instruments; European Convention on Human Rights; Techniques and Practice in Civil Proceedings Module: Tactics for Preparing for Civil Proceedings; Strategies and Tactics for Holding a Judicial Examination; Providing Arguments and Proofs; Factual Evidence and Proof in Specific Cases; The Advocate's Role in the Trial; Representation and Defence in Criminal Proceedings Module: Pre-trial Proceedings in Criminal Cases; Proceedings in the First Instance Court and Appellate Proceedings.

[23] The qualification exam consists of a single examination that candidates must sit in order to obtain an advocate's licence. Only those who have completed the appropriate period of education at the School of Advocates may sit the examination (Law on Advocacy, Article 45.11).

Azerbaijan

All three legal professions in Azerbaijan – judges, prosecutors and lawyers – are required to undergo a period of mandatory initial training. The new Charter of the Academy of Justice designates the Academy of Justice as the institution responsible for *"the compulsory training of officials permitted to serve as professionals in the justice, prosecution and advocacy services*." (Article 17).

The qualification exam involves an interview and a computer-generated written test. The test proceeds on a random selection of questions drawn from a database (the same database is used for judges). Thereinafter, all *"candidates who have successfully passed the examinations and interview undergo compulsory initial training"* (Article 18 of the Charter of the Academy of Justice).

At the end of the initial training, attendees are provided with certificates permitting them to practise in the legal profession.

According to the Charter, the funds required for the functioning of the Academy are drawn from the State budget and from other sources. The delegation from Azerbaijan mentioned that although the establishment of the Academy has had a legal base since 2009, it is still not operational. The idea of having one institution – the "Justice Academy" – to train lawyers, judges and prosecutors together in one establishment appeared to be mainly due to economic reasons. The construction of the building is supported by the World Bank, but this is also still only at the design stage.

The training curricula for prospective lawyers involves a total of 104 hours (52 topics, each covered in two hours). An examination of the topics covered leads to the conclusion that they are focussed mainly upon knowledge rather than skills. The CCBE recommends that training should not only be concerned with transferring *"knowledge of the law, but also a mastery of methods which ensure that the law itself is used correctly. Lawyers should be able to orient the client towards timely and cost effective solutions"*. A very positive aspect of the curriculum is the topics relating to professional ethics. The initial training programme began a few months ago. As explained by the delegation, it had been piloted as a one-month training programme with a view to extending this in the near future.

Trainers/lecturers are mentioned neither in the legislation, nor in the submission made by the delegation. Accordingly, there is a need for further clarification of this issue.

Summary and recommendations:

It is positive that Azerbaijan has the most advanced model for training legal professionals, involving standardised training for judges, prosecutors and lawyers alike. This is at least envisaged under the legislation. However, in practice the initial training programme is still in being developed. It is a good starting point and there is a valuable opportunity to improve upon the effectiveness of the programme at a very early stage of its implementation. With a view achieving this goal, it is proposed that the current curricula are bolstered with courses focused on equipping candidates with advocacy skills.

Furthermore, as explained by the delegation from Azerbaijan, the training of

members of all three legal professions is envisaged to take place under one roof. However, in practice, attendees from the various different professions would be trained completely independently of one another. European standards seek to bring closer, to as great an extent as possible, the initial training programmes for different legal professions. The experts recommend as a first step, therefore, that the Justice Academy begin by running joint courses and that it then continue with a joint initial training programme.

Georgia

The written tests are held twice a year. The procedure for the work and composition of the Advocates Qualification Commission is regulated by the General Assembly of the Georgian Bar Association. The law provides for the possibility of specialisation in civil or criminal law, after which specialised lawyers can only practice in their area of specialisation: *"An advocate, who has passed the written test in a particular specialised field shall be entitled to practice law in that field. Any advocate shall be entitled to practice law in constitutional legal proceedings"* (paragraph 8 of Article 11). *However, it is also possible to take the general exam, after which advocates may practice in all legal fields*. The Georgian Bar Association is responsible for determining the content of the written exam, however it should adhere to the list of legal areas set out in paragraph 5 of Article 11 of the Law. This leads to the conclusion that the written exam assesses only theoretical knowledge rather than practical skills. The exam is not therefore sufficiently selective and not capable of ensuring that only those competent to practice law and to help ensure the proper administration of justice are admitted to the profession.

The detailed procedure surrounding the written test can be found in the "Rules on Conducting the Written Test". The test is based on the MCQ model (with four alternative choices of answers). Each candidate receives 100 questions extracted at random from a database of 5400 questions. To pass, a candidate must answer at least 70 questions correctly.

A written test qualification certificate is provided to those who pass the test. The certificate is valid for 7 years. If a lawyer fails to begin practising law within this period, the certificate becomes void.

The Law mentions neither initial training nor any kind of institutionalised training to prepare candidates for their future profession.

Having passed the exam, a period of at least one year of professional work or work as a legal intern is required. Candidates apply for internships at any law firm at which they wish to train. Where a lawyer or firm accepts an intern, they must inform the Bar Association within five days. There are no details as to what the internship must cover. There is no provision for any assessment at the end of the internship. In such case, the written test taken before the internship makes little sense, with respect to its presumed objective to evaluate the competence of a prospective lawyer.

Summary and Recommendation:

Taking the written test immediately after university seems premature, especially given the content of the test. It is a test of knowledge gained at university which does not assess the competences and skills of the would-be lawyer. In terms of possible

specialisation, it must be difficult to assess the competence of a prospective lawyer in a specialised field immediately after he/she has completed his or her university studies, without him/her having undergone any training or practice in the relevant field. Therefore, the experts recommend that the exam be taken after the initial training, or after the internship.

The initial training should take the form of compulsory professional training delivered by a specialist institution. This role could be taken up by the Training Centre, as envisaged by Article 23. As for the law office internship (as a part of the whole internship process), this should be made compulsory and ought to be coordinated by the Training Centre.

Moldova

The Advocates Licensing Commission of the Bar is responsible for preparing an exam for entrance to the professional internship. The tests are organised to take place in two sessions: spring (March to May) and autumn (September to November).

The first stage is for the Commission to examine applications and approve those applicants who fulfil the criteria defined at Article 21 of the Advocacy Charter.[24] Any Moldovan citizen with legal capacity and a diploma in law may sit the exam for entrance to the professional internship. The test lasts three hours and is based on the MCQ model, with 400 questions randomly extracted from a database of 1000 questions published on the official website of the Bar. A candidate shall pass the test if he/she answers at least 350 questions correctly.

Upon passing the exam, a candidate obtains the status of 'lawyer-intern' and is admitted to the professional internship, which lasts eighteen months. An agreement is signed between the lawyer-intern and his or her lawyer-mentor, and this is registered with the Council of the Bar.

According to Article 16.6.c of the Law, a lawyer-intern must "*complete the initial training. The duration of the initial training must be no fewer than 80 hours over the course of the professional internship".* The Law defines only the minimum hours for initial training and contains no provision as to the content or procedure of the initial training programme, or as to which institutions or providers ought to deliver it.

The representatives of Moldova mentioned that this obligatory training is usually supported by various donors. As for the National Institution of Justice, this was initially created for the

[24] An application for the admission to sit the professional internship entrance exam must be submitted to the Advocates Licensing Commission of the Association of Advocates of Moldova. The following documents must be enclosed:

a) a copy of an identity document;
b) a copy of a diploma of a licentiate of law;
c) a copy of a job record book (if applicable);
d) a certificate confirming the absence of any criminal record;
e) a medical certificate;
f) a declaration that that applicant undertakes to refrain as of the moment of admission to the professional internship from pursuing activities which prohibited by the Law by reason of being incompatible with an advocate's practice;
g) a receipt confirming payment of the fee for admission to the internship examination;
h) a statement of an advocate willing to act as a mentor (Article 21.2).

purpose of training judges and prosecutors. Later, it opened its doors to advocates, notaries, bailiffs and court staff members. Currently, the institution runs several programmes: some of them for interns, others for practising advocates. There are also joint training programmes. All training is free of charge and, as stated above, is financed by various donors.

Upon completion of the initial training, candidates may sit the qualification exam. If more than three years have elapsed since the completion of the internship, the candidate may only sit the exam upon the condition of carrying out an additional three-month internship.

The role, rights and duties of a lawyer-mentor are set out in Article 25 of the Advocacy Charter. A lawyer may be a mentor if he/she has five years of experience and an 'impeccable reputation'. A maximum of two lawyer-interns may be supervised by one lawyer-mentor at a time.

The lawyer-mentor is responsible for preparing an individual plan for the internship, for coaching and guiding his/her mentee, for coordinating and controlling the internship, for contributing to the mentee's professional development, and, at the end of the internship, for evaluating the mentee's performance over the course of the internship.[25]
The cost of the internship and the initial training are borne by the prospective lawyer. According to Article 18.1 (a) of the Advocacy Charter, a lawyer-intern is obliged to pay for the internship. The Charter does not specify how much he/she should pay, to whom, and on what basis.

The Council of the Bar is responsible for taking decisions in relation to the continuous professional development of lawyers, including approving the initial and continuous training programme and approving the list of institutions entitled to deliver professional training.

The representatives from Moldova voiced their concerns as to the length of the work experience required. They were of the view that work in a law office during legal study should also count towards fulfilment of the two-year work experience requirement.

[25] Rights and duties of an advocate-mentor towards an advocate-intern:
(1) The professional training of an advocate-intern shall be carried out by an advocate-mentor pursuant to a written agreement.
(2) The professional training of an advocate-intern shall be provided by advocates posessing the qualities set out in the Law: he/she must possess at least 5 years' experience as an advocate, have an impeccable reputation, demonstrate professionalism, have access to a private or shared advocates's office, have access to appropriate facilities, and meet certain other requirements as specified in resolutions of the Council of the Association of Advocates.
(3) An advocate may not be a mentor for more than 2 interns simultaneously.
(4) An advocate-mentor shall:
a) prepare an individual internship plan;
b) coordinate and control the internship;
c) create an appropriate environment and support the fulfilment of the internship plan;
d) contribute to the advocate-intern's professional development;
e) assist the advocate-intern if he/she takes part in court proceedings.
(5) At the end of the professional internship, the advocate-mentor shall undertake an objective appraisal and either recommend or refuse to recommend that the advocate-intern sit the qualification exam (Article 24 Charter of Advocates).

Summary and Recommendation:

The procedure, content and implementation of the entry test is transparent and objective.

The internship is well-organised. Everything is regulated by the Law on Advocates and the Advocacy Charter. It can even be said that excessive detail is regulated by the Law. It is preferable for specific details to be left to bye-laws as this allows for flexibility and greater scope for introducing changes as and when required. The repetition of provisions should be avoided. Nevertheless, the legislation covering the internship part complies with European standards.

As for the initial training, its organisation is unclear. It should be neither donor-driven, nor donor-dependent but be an institutionalised activity based on training curricula developed for the purpose of enhancing the practical skills of prospective lawyers. The minimum duration of eighteen hours prescribed in the Law on Advocates appears insufficient to ensure that prospective lawyers are prepared to take up their future roles. In light of the best European practices, approximately 300 hours should be considered for the schooling part.

Work undertaken during legal studies should not be counted as professional experience.

Ukraine

Since the qualification exam is currently the only means of assessing the competence of a prospective lawyer and it is not accompanied by any period training, it is dealt with in the Chapter on entry to the profession[26].

In Ukraine, there is no initial training. No traineeship is required to prepare prospective lawyers for exercise of their duties. The only pre-condition to full qualification is the qualification exam and two years of work experience. However, it appears that the current legislative reform envisages a three-month traineeship.

There are no provisions relating to the work experience required. This could be any work in the legal field. There is no specific requirement for work to be undertaken in a law office. It can only be presumed that during this two-year period, candidates are prepared for the qualification exam.

Summary and Recommendation:

Mandatory initial professional training should be introduced based on a clearly defined set of learning objectives and a transparent selection process. Due to the size of the country and its economic situation, it may be worth selecting a model based on various accredited institutions charged with providing such training.
The experts recommend at least a six-month schooling period followed by the mandatory traineeship involving compulsory traineeship in a law office lasting at least

[26] See page 50.

two months. The traineeship should cover a programme set and implemented by a lawyer-mentor.

3.3 Continuous Professional training

Continuous professional training is defined as work undertaken over and above the normal commitments of lawyers with a view to enhancing their skills, knowledge and professional standards in areas relevant to their present or future area of practice, and in order to keep them up to date and to maintain the highest standards of professional practice.

The key European standard for professional training against which the countries in the present Report are reviewed is the final CCBE principle indicated in the Resolution on training for lawyers in the EU: ***"Compulsory continuing training, with minimum components relating to the number of hours that all EU lawyers should complete annually and the proportion of hours dedicated to Community law and European comparative law".***

Furthermore, according to the Recommendation on continuing training in the CCBE, *"lawyers should undergo continuing training in their chosen area of practice, including the applicable European Community law, and deontology*."

The Recommendation also identifies the activities that can be considered to constitute continuing training: attendance at lectures, seminars, meetings, conferences and congresses, e-learning, writing of articles, essays, books, teaching and any other activity recognised by the profession.

The obligation for lawyers to undertake continuous professional development exists in most European countries and is almost always enshrined in the relevant legislation. The legislation is usually confines itself to general matters; specific details should be covered by the secondary rules of the Bar/Chamber.

Most countries have a '*credits-based'* or '*points-based'* system defining the number of qualifying hours of continuous professional training that a practising lawyer must undertake each year. In some countries, a qualifying 'hour' amounting to one 'credit' is equals 60 minutes, whilst in others it is 45 minutes.

There are no exemptions from the obligation to undergo continuous professional training. However, valid grounds for exemption could be, for example, a long-term disability, or if a lawyer has complied with his/her continuing training obligation in the state in which he/she is established, pursuant to the Model Scheme for continuing training. The Scheme, developed by the CCBE, sets out how National Chambers can regulate the continuing training regime of practising lawyers.

The issue of whether lawyers are permitted to choose their own particular training topics varies from country to country. Some have mandatory topics, particularly during the early years of practice, whilst some allow lawyers a free choice of training topics, and/or a choice over the institution at which they wish to improve their levels of knowledge. In France and the UK, for example, young lawyers are obliged to study ethics and the relevant codes of conduct in the very early stages of their career. However, all countries agreed that topics

should be selected from the area of the lawyer's current or future practice. In Belgium, a recognition committee is responsible for acknowledging each course.

In most countries, continuous professional training is carried out by institutions, including universities, accredited by the national Chamber of Advocates or Bar Council. Law firms can also be recognised as training institutions. These firms may provide 'in-house courses'.

Training costs are almost always borne by practising lawyers themselves. Sometimes they are partly covered by the Chamber, for example, when they form part of the annual membership fee.

The continuous training undertaken by lawyers should be evaluated on a regular basis. Different countries may have different systems of verifying fulfilment of lawyers' continuing training obligations. Methods include the central filing of credits, or a system of random checks by the Bar/Law Society, or registration at a recognised training institution. A self-certification system is common, whereby lawyers control their own continuous professional training activities and declare them to the Bar Council (for example, France). However, self-certification is subject to audit by the Bar Councils and the reference period is usually one calendar year.

Some countries are fairly rigorous in punishing failure to undergo continuous professional training, whilst others are more lenient. The usual consequence of a failure to comply with the required hours is a disciplinary procedure for breach of the Code of Conduct.

Harmonisation of the quality of training does not necessarily mean harmonisation of its content. The priority is harmonising the quality. The primary aim, therefore, of ensuring unified training is to encourage the adoption of training regimes and to establish a culture of quality and training for lawyers in the public interest.

Regulatory framework in the participating countries

Armenia

Even before the new Law on Advocacy entered into force, the Chamber of Advocates organised training events for the professional development of licensed advocates. However, pursuant to the new Law, continuing training has been institutionalised and made compulsory. Paragraph 2 of Article 45.12 of the Law provides that *"an advocate must undergo training courses in accordance with the procedure and for the number of hours determined by the Board of the Chamber of Advocates, and these courses must not amount to fewer than 48 hours over a two-year period"*.

According to paragraph 3 of Article 45.2, the School of Advocates is responsible for organising and delivering the professional training of lawyers. Lawyers may freely choose whether they wish to undergo their training in the School or in another institution accredited by the Board of the Chamber (paragraph 1 of Article 45.12).

The Board of the School of Advocates approves the training curriculum, which should conform to guidelines approved by the Board of the Chamber. The Board of the School is also responsible for monitoring and supervising the implementation of continuing training. The

Law provides for the possibility of training in different institutions accredited by the Chamber of Advocates. A self-certification system is envisaged.

Pursuant to Article 39.9 of the Law, lawyers who have committed a disciplinary offence may be required to take additional training courses. Article 38 of the Law states that a lawyer *"whose licence has been reinstated must undergo training courses for a number of hours set by the Board of the Chamber of Advocates"*.

Summary and recommendations

The Law has only been enacted recently and some bye-laws are still being drafted. However, on the face of it, the Armenian legislation on continuous professional training complies fully with European standards. It is too early to assess its practical application or to look at any potential problems that arise.

Azerbaijan

Article 16-1 of the Law on Advocates and Advocate's Activities states that "*advocates shall be consistently engaged in professional training and improvement upon their qualifications in the educational/academic institutions of the relevant executive body.*" As was explained by the delegation from Azerbaijan, training is voluntary and free of charge.

According to Article 14 of the Charter of the Justice Academy, the Academy is responsible for the continuing training of lawyers, as well as for providing training to other legal professionals:

"The Academy shall conduct training, re-training and ensure the raising of the professional skills of:

14.1. employees in the field of justice and those persons newly-admitted serve in bodies in the field of justice, as appropriate to their respective positions;

14.1-1. Judges and candidates for the judiciary;

14.2. persons holding positions in the prosecution service as appropriate to the position held;

14.3. court staff members

14.4. Lawyers of the Bar Association and persons applying to become Bar Association lawyers;

14.5. specialist notaries;

14.6. employees and officers in the state and municipal civil service;

14.7. staff members of departments, institutions and organisations regardless of property forms;

14.8. other categories, according to the main purposes and positions of the Academy.

It is not clear if the Justice Academy is the only provider of continuous professional training for lawyers. The Law and the Charter do not pay much attention to the training of lawyers.

Summary and recommendations:

The continuous professional training of advocates is neither mandatory, nor institutionalized in Azerbaijan. Therefore, the first and the main recommendation would be to introduce the minimum number of mandatory hours. The suggested minimum, in light of the best European practices, would be twenty mandatory hours in the period of one year The second recommendation would be to introduce a fee for

taking the trainings. Even though the finances are currently provided by donors, the state has to secure the sustainability of future trainings. Finally, it is advised to give the Chamber of Advocates greater responsibility in respect of designing and monitoring of the continuous professional training of advocates.

Georgia

Among the duties of advocates in Georgia, Article 5 (f) of the Law on Advocates requires them to participate in a mandatory continuous legal education programme approved by the Executive Council of the Bar Association.

The Law does not specify the minimum number of hours or the content of the training programme, but simply that it should be provided by the Advocates Training Centre. This Centre should be set up as part of the GBA (Article 23). However, it appears that it has yet to be established.

The Georgian representatives indicated that the Chamber finances 20% of all training, and that the introduction of compulsory training in ethics is envisaged for all lawyers in 2012.

Summary and recommendations

The Georgian legislation only partially meets European standards. Continuous professional training is mandatory, however no minimum number of hours is specified. The training, including educational programmes, should be based on a thorough assessment of training needs. The experts recommend the establishment of a specialist centre to take over responsibility for delivering continuous professional training. In this respect, the experts advise that consideration be given to whether training should be provided free of charge only where the fees are included in the general membership fee or where donations are relied upon (although even in such circumstances a nominal fee ought to be charged). A minimum number of qualifying hours/credits should be set. European best practice suggests a minimum of 20 hours per year.

Moldova

One of the duties of lawyers in Moldova is to engage in continuous professional training. According to Article 54 of the Law, a practising lawyer should undertake at least 40 hours per year. The planning of the training is approved by the Council of the Bar.

The emphasis is upon the development and application of professional ethics and professional standards. According to paragraph 3 of Article 11 of the Advocacy Charter, continuous training should be arranged by the Union of Advocates, collegia of advocates and advocates' practice groups. The representatives from Moldova indicated that the curricula are annually worked out by the Union of Advocates.

The precise forms continuous professional training shall take, as well as mechanisms for monitoring and evaluation, are detailed in the legislation[27].

[27] (4) Continuous training shall take the following forms:

Summary and recommendations:

The legislation of Moldova on continuous training complies fully with Recommendations of the CCBE and the latest European trends in this field. Even the system of monitoring and evaluation is described, which is rare in many European countries. The only issue regarding monitoring and evaluation which still remains to be considered is the method which ought to be used.

Ukraine

According to Article 10 of the Rules on Advocates Ethics, *" given the public importance and complexity of an advocate's professional duties, a high level of professional training is demanded of him, as well as a detailed knowledge of the current law, its practical application, tactical approaches, and the methods and techniques of advocacy and oratory"*.

There was no other legislation made available to the experts regulating the professional development of lawyers in Ukraine. However, as stated by the national delegation, significant legislative changes had been recently made in this respect. According to their submissions, a credits/point system was introduced in August 2011. A lawyer must earn sixty points over a period of five years and one hour is the equivalent of one point. Certificates of training are issued by the High Qualification Board, which is also responsible for the accreditation of training providers. Further, the Board is responsible for approving the curriculum and training personnel and for deciding how many points ought to be attributed to each type of activity. For example, a lawyer can earn three points for teaching, sixteen points for writing and publishing articles, and forty-five to sixty points for doing post graduate study.

The members of the Ukrainian delegation mentioned that the fees for the qualification exams are used for financing the continuous professional training. In order to secure the sustainability of future training, fees for all training programmes should be introduced to cover costs.

Summary and recommendations

The continuous training regime in Ukraine complies with European standards. The existing policy and practices can be viewed as a contemporary approach to ensuring that the professional competence levels of advocates are maintained. However, the system was introduced only recently and it will take some time to assess whether such a system is capable of functioning properly in the Ukrainian context, especially given the size of the country and the number of lawyers in Ukraine. Besides, the experts

a) activities coordinated by and carried out under the auspices of the Association of Advocates;
b) participation in programmes, seminars, meetings, conferences, congresses and other similar events organised for the purposes of enhancing knowledge and developing the advocate's skills;
c) online training;
d) preparation and publication of legal notes, articles, essays, and studies;
e) special events in educational institutions organised by the Association of Advocates and collegia of advocates;
f) activities organised in collaboration with educational institutions or professional training institutions in fields relating to advocacy;
g) other professionally-recognised activities (Article 11 of the Advocacy Charter).

recommend that fees should be introduced soon for all training programs.

General conclusions and recommendations

Admission to initial training. The legislation in all countries under review does not distinguish between the 1st or 2nd level of legal studies that one requires to complete in order to become a lawyer. No distinction is drawn in the CCBE recommendation either. It cannot be said, therefore, that the countries do not meet this European standard. However, it should be noted that pursuant to the European Qualification Framework and EU practice, the term "completed legal studies" requires individuals to hold a Bachelor of Laws diploma/degree.

Initial training. The initial training is not always mandatory and is rarely implemented. Armenia and Azerbaijan were the first countries to set up institutionalised initial training programmes. It follows that their legislation complies with the relevant European standards, although it is not yet possible to assess the effectiveness of the training programmes in question. In this respect, the experts recommend that all countries introduce mandatory professional initial training for prospective advocates based on clearly-defined learning objectives and following a transparent selection process. The experts recommend that the schooling component of this training included an appropriate number of hours (300 hours could be regarded as a good practice). The content of the training should focus upon developing advocacy skills. This component should be followed by a mandatory internship (or 'on-the-job training') of at least two months in a law office. The forms and duration of internships vary across the region, but they are obligatory almost everywhere.

Continuous professional training. In almost all of the countries, continuous professional training is funded by donors. Whilst there exist certain annual training plans, these are subject to change according to the donors' priorities and goals. They are prepared on the basis of the funds available and in response to the donors' input rather than on the basis of a comprehensive analysis of training needs. The training is free of charge. Quite often, training amounts to little more than a formality, especially in countries that have introduced a set number of mandatory hours for continuous professional training.

In order to secure the sustainability and effectiveness of continuous professional training, states ought to introduce fees that cover their costs. Furthermore, training should be made attractive to lawyers and reflect their actual needs. The experts recommend, therefore, that a thorough annual training needs analysis be carried out.

In the countries adopting a credits system, the national Chamber should carefully define a system on how credits are apportioned (Ukraine).

4. Disciplinary liability of lawyers

Relevant European standards

The issue of disciplinary proceedings is a delicate topic. On the one hand, disciplinary proceedings are useful and exist in order to ensure minimum standards amongst advocates in terms of their professionalism and the quality of the services they provide to clients. On the other hand, it is important to bear in mind that lawyers are one of the most important tools in securing the protection of fundamental human rights and freedoms. In this context, it must be understood that lawyers, in order to be able to fulfil effectively this crucial role and just like any other actors in the justice system, must be protected against any kind of undue pressure.

Rec2000(21) calls for a system which "*guarantees the independence of lawyers in the discharge of their professional duties without any improper restriction, influence, inducement, pressure, threats or interference, direct or indirect, from any quarter or for any reason*".

As for disciplinary sanctions, Rec2000(21) has given effect to the general principles above by translating them into four main rules, which are set out in "Principle VI" of Recommendation:

"1) Where lawyers do not act in accordance with their professional standards, set out in codes of conduct drawn up by Bar associations or other associations of lawyers or by legislation, appropriate measures should be taken, including disciplinary proceedings."

Reading this first paragraph of principle VI, it becomes clear that as in the cases of judges and prosecutors, an infringement of the code of conduct does not automatically result in the commencement of disciplinary proceedings. It should also be noted that disciplinary proceedings are only one possible consequence when a lawyer does not act in accordance with professional standards. It is important to note that measures applied should be appropriate.

The second theme, slightly hidden within paragraph 1, is that the code of conduct should ideally be prepared by the Bar or by a similar association of lawyers. This is clear from the fact that this is mentioned in paragraph 1 before any reference to laws regulating the principles set out in the Regulation, and from the fact that paragraph 2 of principle VI requires a leading – or at least an important – role for a lawyers' association in disciplinary proceedings.

"2) Bar associations or lawyers' professional associations should be responsible for or, where appropriate, be entitled to participate in the conduct of disciplinary proceedings against lawyer."

This paragraph underlines, as stated above, the crucial role lawyers' associations have to play when it comes to upholding discipline within the profession.

"3) Disciplinary proceedings should be conducted with the full respect of the principles and rules laid down in the European Convention of Human Rights, including the right of the lawyer concerned to participate in the proceedings and to apply for judicial review of the decision."

Whilst the Recommendation envisages at least the initial stage of disciplinary proceedings being conducted under the auspices of a professional self-governing body, and therefore outside the justice system, it is important to understand the need, in light of the requirement of independence of lawyers in exercising their duties, and given that disciplinary proceedings can have such serious consequences as exclusion from the profession, for lawyers to enjoy the procedural guarantees set out in the European Convention of Human Rights. These are drawn mainly from the principle of a fair trail enshrined in Article 6 of the Convention.
"4) The principle of proportionality should be respected in determining sanctions for disciplinary offences committed by lawyers."

At the heart of all disciplinary proceedings are the sanctions to be applied to the lawyer concerned. The principles listed above require a proportionate response. Only then can the sanction be seen not as a means of undue pressure but the result of proceedings that comply with the European Convention on Human Rights. In order to ensure proportionality, it is important to set out a range of sanctions for different types of misdemeanour. The principle of proportionality must be enshrined in national regulations, which should supply guidelines for certain categories of case on the one hand and allow individual, facts-based decisions on the other.

Regulatory framework of the participating countries

Armenia

In the case of Armenia, one can find the provisions on disciplinary proceeding in the Armenian Code of Ethics for Advocates, in the Charter and in the Law on Advocates.

According to Article 10, I of the Law, the Board of the Chamber is the body responsible for conducting disciplinary proceedings. Under this recent regulation, the "double jurisdiction" that formerly applied in disciplinary proceedings (which resulted in the involvement of both the Board of the Chamber and the disciplinary commission) has been eradicated, thus contributing to a more effective and transparent process.

It has been mentioned above that the members of the Board should, in accordance with Art. 10, III, be elected by the General Meeting of Advocates by means of "rating criteria". What this requirement means is unclear to the experts. However, it is positive that all Board members are elected by their peers, which helps ensure the Board's independence. Decisions are taken by a simple majority of the votes of those members present at the meeting.
The substantive rules, consequences of breach and procedural regulations in disciplinary matters are set out in Chapter 6, Articles 39-40 of the Law.

According to Article 39 of the Law, advocates may incur disciplinary liability **"***for violating the requirements of this Law and the Code of Conduct for Advocates***".** Formerly, there were additional grounds for disciplinary action, namely **"***violating the requirements of the Charter of the Chamber of Advocates and ... failing to perform or improperly performing his/her professional duties***"**. The experts welcome the deletion of those additional grounds.

If the experts are correct in the assumption that any breach of the Law on Advocacy or of the Code of Conduct can form the basis of disciplinary action, the legislator should consider adopting the word "or" in place of the word "and", which suggests that only where both the Law and Code are violated can disciplinary proceedings result.

Paragraph II of Art. 39 states that "*the issuing of a court judgment to the detriment of the client ... shall not of itself lead to disciplinary liability***".** If the word "itself" is to be read as meaning that an adverse judgment cannot in and of itself be a reason for disciplinary liability, then this new regulation represents a considerable improvement upon the old version.

In the revised law, the reasons for opening disciplinary proceedings are still extremely broad. They envisage almost every kind of improper behaviour in the course of an advocate's professional duties. Further, it appears that all infringements of the Code of Conduct continue to lead (automatically?) to the opening of disciplinary proceedings. This is confirmed by the Code of Conduct, which states at Art. 1.2 that *"failure to follow [the] principles may lead to disciplinary sanctions"*.

According to Article 39.1 of the Law, "*the procedure for disciplinary proceedings shall be set out in this Law and in the Advocates' Code of Conduct*". The Code of Conduct makes reference to an 'Annex 1', which was not made available to the experts. .
According to Art. 39.1,II, No1, the reasons for initiating disciplinary proceedings include "applications and complaints". It is unclear whether only directly-affected persons/entities may initiate proceedings, or whether those not directly affected may do so also. This becomes important when one looks at the further procedural steps. The Law refers to "parties" to the proceedings without defining what this means in the context of disciplinary proceedings. As far as the experts are concerned, it would be preferable for the law to refer to "information" rather than "applications and complaints".

In compliance with Rec2000(21), the Law secures to advocates all of the rights that are key to a fair trial. Thus, Article 39.2 sets out the rights of the advocate and the applicant during disciplinary proceedings. In this respect, the experts draw attention to the fact that according to Art. 39.1 there is not always an applicant (see also 39.1, II, No. 2-5), and the Law does not make clear whether any of the rights enumerated at Article 39.2 are bestowed also upon institutions.

After having received a complaint or information demonstrating a "*prima facie*" case (see Art. 39.1), the Chairman of the Chamber shall initiate a preliminary investigation (Art. 39.3). The same Article sets time limits. Where there are no grounds for disciplinary proceedings, the Chairman shall issue a reasoned decision refusing to initiate them (Art. 39.4). Here, the Law provides that "*a decision to refuse to initiate disciplinary proceedings can be appealed by any interested party to the court ...***"** (Art. 39.4, III). It is unclear who might constitute an **"***interested***"** party. For example, is a general interest sufficient, or does the Law envisage only "applicants", within the meaning of Art. 39.1, and does it cover the institutions mentioned in Art. 39.1, II? This should be clarified in order to ensure the smooth implementation of the law.

Art. 39.3, II grants to the Chairman of the Chamber a right to request additional documents. The Chairman may delegate this role. His power to delegate some of his work in the context of disciplinary proceedings is not in itself problematic. However, the experts suggest that the legislation specify who the work may and may not be delegated to in order to ensure that at this important stage only qualified and unbiased people are involved.

The experts are not fully clear on the procedure described under Art. 39.6 and, in particular, under paragraph II.

The 'decision' referred to in Art. 39.7 does not raise any specific cause for concern. However it is unclear to whom (in addition to the lawyer) the decision will be sent in accordance with Art. 39.7, VII (this arises also in relation to Art. 39.7, VIII).

Disciplinary penalties are listed in Art. 39.9 and the range of penalties allows for a proportionate use of fines. The Law is in this respect fully complies with European standards, even if "participation in training" is a questionable form of penalty – this is a right and, to a certain extent, a duty of the advocate. It does not constitute a penalty in the true sense.

Summary and recommendations

The new Chapter of the Law on Advocacy on disciplinary liability complies with European standards. It should be considered whether it could be improved, especially in terms of the rights of applicants, complainants and other parties. Reconsideration should be given to the fact that infringements of the Code of Ethics continue to lead automatically to disciplinary liability. The regulations on disciplinary proceedings as set out in the Annex to the Code of Conduct have not been reviewed.

Azerbaijan

The General Meeting of members of the Collegium of Advocates elects members of the Disciplinary Commission,[28] which is in charge of the initial stage of disciplinary proceedings. In particular, the Commission is responsible for investigating and issuing an opinion based on which the Presidium of the Collegium brings or refuses to bring disciplinary proceedings against an advocate (Article 22.II).

The rules governing the activities of the Disciplinary Commission are beyond the scope of the present Report. However, it is noted that this body is independent when measured against the European Recommendations.

Article 22, V provides that investigations are to be carried out with the involvement of the advocate being investigated. It remains unclear what is meant by this, as it cannot be said that this provision grants rights to the advocate which would be necessary in order to ensure the basics of a fair trial.

Paragraph VI of the same Article lists as possible sanctions –
- *Rebuke;*
- *Reprimand; and*
- *Suspension for a period from three months to one year.*

28 **Article 10.** General meeting of members of the collegium of advocates

I. The adoption of the Charter of the Collegium of Advocates; the Regulations of the Qualification and Disciplinary Commissions; the Regulation of the rules of ethics for advocates, their modification and amendment; the election of the president of the Presidium of the Collegium of Advocates, deputy president and other members; the election of the president and members of the Disciplinary commission; the approval of the official advocate's emblem; the description of the special dress of advocates; the determination of the budget of the Collegium of Advocates; and the amount of the members' fee shall fall within the exclusive competence of the general meeting of the members of the Collegium of Advocates.

The Law does not give indicate which sanctions should be used in response to which type of infringement. The principle of proportionality is not mentioned either. It is not clear, therefore, that the sanctions regime complies with European standards.

According to paragraph VII of the same Article, the **"***decision to suspend an advocate from practice for a period from three months to one year can be challenged in court."* The corollary appears to be that all other decisions cannot be challenged in court, which again does not comply with European standards.

Summary and recommendations

Disciplinary proceedings, according to the Law of Azerbaijan, comply only partly with European standards. The legislator should eradicate the deficiencies relating to the rights of advocates in disciplinary proceedings and ensure the proportionality of sanctions.

Georgia

The Georgian legislator regulates the disciplinary liability of advocates in the "Law of Georgia on Advocates".

Article 32 sets out the "grounds for imposing disciplinary liability against an advocate".

According to this provision, disciplinary liability should be imposed on an advocate for

1. non-fulfilment of the duties set out in Articles 5-9 of this law[29]

29 **Article 5.** Duties of an Advocate (17.11.2009 N 2040)
An advocate shall be obliged to:
a) Discharge his professional duties in good faith;
b) Observe precisely and firmly the norms of professional ethics;
c) Not infringe upon the rights of the court or other parties to the proceedings;
d) Uphold confidentiality;
e) Carry out his/her duties as prescribed by procedural legislation and in the event of a conflict of interests inform his client immediately;
f) Engage in the mandatory continuous legal education programme approved by the Executive Council of the Bar Association.
Article 6. Protection of Client's Interests
1. An advocate shall be entitled to use any measures not prohibited by law or by norms of professional ethics to protect his/her client's interests.
2. An advocate shall be obliged to provide his/her client with all relevant information and to explain to his client all his/her potential financial obligations in relation to the conduct of his/her case.
Article 7. Confidentiality
1. An advocate shall be obliged:
a) To preserve client confidentiality regardless of how much time may have elapsed;
b) Not to disclose information gained during the exercise of legal practice without the client's consent.
2. A failure to preserve client confidentiality by an advocate shall result in liability as set out in this Law and under the advocates' code of professional ethics.
Article 8. Conflicts of Interest
1. An advocate shall be obliged not to carry out any activities, or establish any relationship, which poses a threat to a client's interests, the advocate's professional practice or his/her independence.
2. An advocate shall be prohibited from carrying out professional functions if s/he has already acted for the opponent the same case.

2. infringement of the advocates' code of ethics.

The list set out in Articles 5-9 is extensive and covers a variety of different grounds. It also covers the "non-observance" of professional ethics. It was mentioned during the discussion that in light of European standards, automatic disciplinary proceedings for breach of ethical rules is undesirable. This also reflects the understanding that a Code of Ethics is a profession's expression of self-understanding. Here, it should be pointed out that the Law refers to observing norms of professional ethics "firmly". The experts do not know the difference between "firm" observance and observance that is "not firm". Besides, the formulation is in any event too vague to form a solid basis on which to mount disciplinary proceedings.

Summary and recommendations

It seems advisable to change the position whereby infringement of ethical norms automatically results in disciplinary proceedings. Reconsideration should also be given to whether all of the grounds listed at Art. 5-9 should serve as a basis for disciplinary proceedings.

Responsibility for conducting disciplinary proceedings is, in accordance with Art. 33 of the Law, vested in the Ethics Commission of the Bar. Art. 28.I provides that the Commission consists of fifteen members out of which at least twelve should be advocates. Members are elected by the General Assembly of the Bar Association, and so it can be concluded that the Commission is an independent body. The other provisions relating to the Ethics Commission do not require specific comment as they seem to comply with European standards.

The following list of disciplinary sanctions is set out at Art. 34 of the Law:

1. warning
2. suspension of the right to practise law for a period from 6 months to 3 years
3. termination of membership of the Bar

Aside from disciplinary sanctions, the Law also provides for disciplinary measures which are set out in paragraph 2 of the Article:

- personal letter of reprimand
- termination of the authority of a member of the Bar, the Executive Council, Ethics Commission or the Audit Commission.

As stated above, European standards require that disciplinary sanctions be proportionate. In general terms, the current list of sanctions are, in this sense, compliant.

The procedure set out in Art. 35 specifies the necessary majority within the Commission required in order to impose a sanction. Before taking any decision, the Commission must allow the advocate to express his/her opinion, to request and present evidence and to "fully

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3. Acting in a case in which the advocate has previously discharged functions in his or her capacity as a judge, prosecutor, investigator, inquirer, court session secretary, interpreter, attendant, witness, expert, specialist, public servant or notary shall be prohibited and the advocate will be required to comply with all other requirements set out in the procedural rules.

Article 9. Insurance

An advocate shall be obliged to insure his/her professional practice when and according to the procedure required by law in order to ensure that clients are compensated for any material damage.

exercise the right to protection". It is understood by the experts that the opportunity to "fully exercise the right to protection" includes all rights envisaged under the European Convention on Human Rights. The rights granted to the advocate, as specified by Art. 34, include also a right to appeal to the Supreme Court against a decision by the Commission.

Summary and recommendations

The composition of the Ethics Commission and the disciplinary proceedings as set out in Art. 32-36 comply with European standards.

Moldova

As for the Moldovan Union of Advocates, according to Art. 35. V of the Law, the Commission for Ethics and Discipline is responsible for disciplinary issues. The composition of this Commission is set out in Art. 44, according to which it should consist of eleven lawyers, of whom six are elected by the Congress of Lawyers and five delegated by the collegia of advocates.

Art. 44 also lists the competences of the Commission, which include:

b) examining cases of breach of discipline and professional ethics by advocates and interns;
c) bringing disciplinary proceedings against advocates and interns; and
d) determining disciplinary cases.

In light of the composition of the Commission and its duties and competences, one can conclude that disciplinary proceedings against lawyers lie in hands of an independent body, as proposed by Rec2000(21).

Disciplinary liability and disciplinary proceedings are regulated by Article 56-59 of the Law. According to Article 56.I, **"***advocates shall be subject to disciplinary liability for actions which violate the provisions of the present Law, the Code of Advocate's Ethics and other laws regulating an advocate's practice.***"** The wording of this Article seems to suggest that, as in other countries, in Moldova a breach of ethical rules automatically leads to disciplinary proceedings.

Summary and recommendations

Lawmakers should ensure that breaches of ethical rules do not automatically lead to disciplinary liability.

As for the proceedings themselves, Article 56.III is interesting because it allows the Commission to request documents from an advocate under investigation. It remains unclear how this right squares with the advocate's duty of confidentiality and how infringements of the privacy of clients are to be avoided in such cases.

According to Article 56.VIII, **"***an advocate in respect of who disciplinary proceeding were opened shall have a right to attend a meeting when an issue of his/her disciplinary liability is being examined and give submissions directly to the Commission for Ethics and Discipline."*

The Law does not grant advocates under investigation a right to legal representation. In the course of the working session, the experts learned that the absence of any rule regarding the possibility of legal representation should be interpreted as meaning that such representation is possible. In light of this, and given that the procedural rights of representatives are adequate, the disciplinary proceedings can be considered "*to be conducted in a manner that fully respects the principles and rules laid down in the European Convention of Human Rights.*"

The disciplinary measures specified in Article 57 range from a warning to an annulment of the advocate's licence to practice and allow for the proportionality of the sanction, as required by paragraph II.

The possibility of an appeal to the court against decisions of the Commission fully complies with European standards.

Summary and recommendations

Advocates' rights in disciplinary proceedings should be strengthened and the rights of third parties such as clients, especially in the area of data privacy, must be protected.

Ukraine

In Ukraine, disciplinary proceedings are the responsibility of the Qualification and Disciplinary Commission (Article 13 of the Law). According to this Article, the disciplinary chamber of the commission consists of nine members of whom at least five are advocates. The decision to take disciplinary proceedings against an advocate is made upon the basis of a two-thirds majority vote.

Further details as to the operation of the chamber can be found in the Regulation on the Qualification and Disciplinary Commission of the Bar. Paragraph 10 of this Regulation provides that the advocate members of the chamber are elected by the General Assembly. Thus, the majority of the members of the chamber are members of the profession elected by their peers.

According to paragraph 15 of the Regulation, the disciplinary chamber of the qualification and disciplinary commission:

- examines complaints of citizens; special decisions of courts and judges; decisions and motions of investigatory bodies, the president of the qualifications and disciplinary commission and its members; applications of advocates' associations, enterprises, institutions and organisations; relating to the actions of advocates;
- resolves issues in bringing disciplinary proceedings against advocates, examines cases already underway, and determines disciplinary actions;
- summarises on an annual basis the jurisprudence of the chamber and advocates' associations.

Disciplinary sanctions are listed in Article 16 of the Law and paragraph 36 of the Regulation. As mentioned above, it is disappointing that the Regulation, in an attempt to repeat the text of the Law, employs different wording. Such inconsistencies can easily create an obstacle to the implementations of the relevant norms, and should be avoided.

In general, both texts contain sanctions such as a warning, suspension of the advocate's practising licence for up to a year, and withdrawal of the licence. There is a significant leap from a warning to a licence suspension for up to a year. The experts noted the argument that in practice, suspensions are applied flexibly and last from one month to one year. However, consideration should be given to introducing additional penalties, as seen in other participating countries.

Furthermore, neither the Law nor the Regulation specifies which penalty is appropriate in response to which breach. The experts doubt, therefore, that the concept of proportionality is sufficiently deeply-rooted within the Ukrainian legal framework.

Summary and recommendations

The Ukrainian legislator should consider widening the range of disciplinary sanctions so as to ensure the proportionality of sanctions.

The experts also question the fairness of proceedings. The Ukrainian Law entitles an advocate under investigation to attend the meeting of the Chamber and to file motions and provide explanations. However, there are no provisions allowing him/her to be represented by counsel. The Law provides only that "*at the discretion of the Disciplinary Commission, it may hear submissions made by other persons upon the request of an advocate or the Chamber ...*". Therefore, it is for the Commission to decide upon whether representation can be provided. Notwithstanding the argument that in practice lawyers are usually allowed legal representation, a specific safeguard within the Law would be necessary in order for it to comply with European standards.

Decisions of the Disciplinary Commission can be appealed to the High Qualification Commission. According to the Regulation on this Commission, its decisions are final, that is, there is no appeal. For advocates, this means that even in case of suspension of their licence (which would prevent them from working) there is no means of judicial review of their case. The final arbiter is the High Qualification Commission. According to information received during the working group session, the lawyers concerned may exercise, like anyone can, their right to appeal an illegal act in court. However, this right appears limited to procedural errors and does not cover substantive decisions.

Summary and recommendations

In order to comply with European standards, the rights of advocates facing disciplinary proceedings should be strengthened. In particular, it should be possible for the advocate concerned to avail him or herself to representation and to appeal against the decision of the High Commission to a court.

General conclusions and recommendations

Several countries still provide within their legislation that any breach of ethical rules will automatically result in disciplinary proceedings and sanctions. In light of the discussion that took place during the working session, the experts recommend that this be eradicated within

the countries in question (Armenia, Georgia and Moldova).

It has been repeatedly emphasised that it is of the utmost importance that disciplinary proceedings be conducted in a manner consistent with the principles set out at Article 6 of the European Convention on Human Rights, and to ensure that lawyers facing proceedings enjoy sufficient procedural rights. In the cases of Azerbaijan and Ukraine, the rights of advocates must be strengthened, and in case of Moldova they must be more clearly articulated.

Not all countries have laws giving effect to the principle of proportionality. Further, in Ukraine, the list of possible sanctions is too short and does not allow for proportionate sanctions. In this respect, positive examples can be found in the laws of the Republic of Moldova and Georgia.

5. Code of Ethics:
Impact, scope and delimitation from disciplinary liability

Relevant European standards

In recent times, in response to the marked increase in the expectations of society towards civil servants, entrepreneurs and professionals in terms of ethical standards, it has become common to develop professional ethical standards for many different professional groups.

Such a set of rules is undoubtedly of greater significance the more important the relevant professionals' role in ensuring the protection of human rights and fundamental freedoms. The development and promotion of the Code of Ethics for lawyers is an essential tool in raising higher professional standards and the standing of the profession in the minds of the wider population. The Council of Europe Recommendation[30] makes clear reference to the need to develop binding ethical guidelines. It states that "*Bar associations or other lawyers' professional associations should draw up professional standards and codes of conduct…".*

A profession's ethical standards must be compatible with the moral norms governing civil society as a whole, but at the same time must go further by extrapolating from the general norms specific rules governing discrete aspects of the work of the profession in question. The exercise of developing an ethical code is worthwhile in itself as it forces a large number of people to reconsider afresh their mission and the key obligations they have – both as a group and as individuals – towards society as a whole. At the same time, ethical rules tailored to a specific profession "*...enhance the sense of community among members, of belonging to a group with common values and a common mission*."[31]

Given the various ways in which a code of ethics can impact a profession, it is the ideal instrument:

- to define acceptable and unacceptable conduct;
- to promote high standards of practice;
- to provide a benchmark for members as a means of self-evaluation;
- to establish a framework for professional behaviour and responsibilities;
- to embody a profession's identity;
- to embody a profession's maturity.

It is clear that an ethical code can only be seen as a success when it is based on a common understanding of basic principles. Such an understanding must be developed thorough discussions between professionals and other members/representatives within the legal community.

Once a set of rules is in place, it must be enforced by a control mechanism capable of verifying the compliance of lawyers with ethical norms, and allowing for the commencement of proceedings and the application of appropriate measures where the rules are not respected. Lawyers alleged to have abused their position should be subject to disciplinary, civil and/or criminal proceedings, and appropriate sanctions ought to be applied where abuses have taken

[30] Rec 2000(21), III.1 and VI.1-4
[31] Kultgen J, 1988. *Ethics and Professionalism*. Philadelphia; University of Pennsylvania Press. pp.212-213).

place[32]. This simply ensures compliance with the law and engenders the trust of the population in the system. Moreover, a well-defined system of checks and balances is the optimum way in which to prevent and combat corruption.

The contents of an ethical code can vary. Many countries have adopted a "template" code of conduct from the CCBE (for example, Armenia, code adopted by the Chamber of Advocates on 10 February 2012; Georgia, code adopted by the Executive Council of the Georgian Bar on 23 February 2008; Moldova, code adopted by the Moldovan Council of the Bar on 15 July 2007; and Ukraine, code adopted by the Ukrainian Bar Association on 12 June 2009).
This chapter shows that when it comes to the rules of conduct for lawyers, there is no one set of direct, robust, or 'soft' standards available. The Recommendation itself simply states that lawyers should develop such rules for themselves. However, an appraisal of the codes presented by the participant countries during the working group's meetings can be made against well-established principles reflected in European best practice. Furthermore, the experts also took into account the role of lawyers outlined by the principles enshrined in the European Convention on Human Rights and the case law of the European Court of Human Rights.

Regulatory framework of the participating countries

Armenia

Armenia presented a newly-drafted "Advocate's Code of Conduct".

One of the most striking features of the document is its volume. At sixteen pages, the Code is much more comprehensive than the Codes of the majority of other countries in this region. Often, the large volume of a set of rules can raise concerns as to its quality: first, rules should set out guiding principles and, secondly, they should leave room for continued development. The experts' initial impression that the Code might represent a document too detailed to be seen as a "living instrument of a professions' self-understanding" was confirmed during the in-depth study of the text. It should be reiterated that there are no concrete standards on the length or content of a code, yet in the light of the latter's importance and impact over the lawyers' profession, it should be developed in the most efficient manner possible.

In Chapter 1 - the preamble of the code – there is a helpful introduction (Articles 1.1. and 1.2). However, questions arise in relation to some of its regulations. Article 1.3 should, according to its heading, define the goal of the Code. However, the text does not tell the reader anything (although this may be due to inaccurate translation). The next Article in this Chapter contains several definitions. It should be noted that the meaning of "contractor", despite the definition given, remained unclear to the experts. Furthermore, the Code contains definitions that appear to be quite general (such as "public interest organization"). Careful scrutiny is required to ascertain whether such definitions can be found in other codes and if so, whether it is necessary to repeat them in the code of conduct. If repetition is necessary, care should be taken not to contradict definitions in other codes unless the definitions given in Article 1.4 are limited only to the Code of Conduct (for example, "Law" in the sense of this Code means the Law on Advocacy). It was especially surprising to see definitions of terms such as "chapter", "paragraph" and "sub-paragraph".

[32] CoE Rec(2003)17; IV, 6

Chapter 2 sets out "general provisions".
Art. 2.1 deals with the important principle of "Independence". It is striking that the Code does not limit itself to stipulating that lawyers should maintain professional independence in the course of performing their duties but attempts also to provide an explanation as to what independence means and why it is important. In the experts' eyes, the Code is too ambitious here and attempts to weave within a commentary within the body of the code. This ambitious approach, which is maintained throughout the whole text, has some disadvantages. In particular, it contributes to the size of the Code, meaning that it is not a quick read. In addition, the Code sets out numerous self-evident facts. Such a detailed approach hinders the ongoing development and evolution of the guiding principles the Code enshrines. Moreover, such detail and, to some extent, repetition, runs the risk of contradictions, including within the body of the Code itself.

Example: Art. 2.3. states that

> *2.3.1 "Confidentiality is essential to an advocate's work... The following are considered to be confidential: information and evidence that a person seeking legal aid has provided to the advocate; the content and nature of advice given by the advocate; and the information and evidence (materials, CDs etc.) that an advocate has obtained through his/her activities…"*
> *and*
> *2.3.2 "The advocate must preserve the confidentiality of any information obtained in the course of his/her professional practice."*

Here, paragraph 2.3.2 is much wider than paragraph 2.3.1. It contains the substance of the rule, whereas paragraph 2.3.1 does not add anything of substantive value and could mislead the reader.

As mentioned previously, the meaning of "contractor" is not clear. Therefore, the effect of Art. 2.3.7 is not clear.

Art. 2.6 is also unclear. However, this may be a result of inaccurate translation.

Art. 2.10 deals with the advocate's relationship with the Chamber. Paragraph 2.10.1 provides that an advocate must pay a membership fee to the Chamber. The experts fail to see how such an obligation can be deemed to be an ethical one. The same is true of the regulation contained in paragraph 2.10.3.

Art. 2.11 entitles an advocate to disclose certain information gained during his his/her activities with the client's consent. In the experts' opinion, this rule should be turned on its head so that the advocate is not allowed to disclose any confidential without the prior consent of his/her client. This should also apply whether the client is a natural or other person (Para. 2.11.4). The present exceptions (for example, para. 2.11.2) are not justified and amount to a breach of Art. 25 of the Law on Advocacy.

Art.2.13 obliges an advocate to refrain from acting in his own case or in those of a close relative if **"***the emotional nature of the case may prevent him/her from providing appropriate legal representation***"**. In this context, it is interesting that according to the second sentence of the regulation, a **"***infringement of this requirement leads to disciplinary liability if the advocate representing himself or a close relative commits a violent or abusive act(s) towards other parties or advocates***".** In the expert's opinion, it is generally accepted that advocates

should avoid taking any case in which they are not able to provide appropriate legal services. This includes cases in which the emotional nature of a dispute involving them or their relatives means that they are unable to properly discharge their professional duties. It is also the experts' understanding that violent or abusive acts should always lead to disciplinary liability.

The experts consider the regulation contained in Art. 3.1.2, which make possible that not a client directly but his/her "friend" seeks advocate's assistance, to be problematic. In such cases, even if, as envisaged by the Code, the advocate obtains the client's consent within a reasonable time, it may be that the advocate is acting on behalf of the "client" before obtaining the necessary consent and this might produce uncertain situation. Such rules should also be measured against laws such as the Civil Code and its provisions on the conclusion of contracts.

Art. 3.2. sets out the circumstances in which an advocate may refuse to accept instructions, and deals with conflicts of interest. The detailed rules set out in paragraphs 3.2.1 to 3.2.9, are to a large extent unclear and subject to many exceptions which are, in the expert's eyes, unjustified. It is difficult to decipher clear guiding principles amid this array of details, explanations and exceptions.

Chapter 4 and 5 do not raise any specific concerns that have not already been mentioned above.

Chapter 6 regulates advocates' relations with bodies involved in criminal proceedings. With the exception of paragraph 6.2.2 which imposes certain obligations on an advocate where a detainee in custody is injured, the Articles set out only general rules. These rules are not simply expressions of lawyers' self-understanding but are equally relevant for other persons.

Chapter 8 deals with advocates' assistants and foreign advocates. The only concern in terms of this chapter is the fact that Art. 8.2 provides that "*where an advocate's assistant violates the requirements of this Code, he/she shall be subject to disciplinary liability in accordance with the procedure established by Law and by the Code*"**.** This provision implies that every infringement of the regulations spelled out in the law and the Code leads automatically to disciplinary proceedings. As discussed in previous chapters, such automatic liability should be avoided.

Summary and Recommendations

The new Advocate's Code of Conduct is a very comprehensive text that does not quite attain its goal of constituting a code, a commentary and a textbook at the same time. The Code does not comply fully with the Law on Advocacy. The wording of the code is not always sufficiently clear. The detailed, 'positive' approach of regulation does not leave sufficient room for continuous development of the rules through case law. The experts recommend considerably shortening the Code and focusing upon guiding ethical principles instead of regulating every conceivable detail of a lawyer's activities. The Code should not address areas regulated by formal law and should avoid any form of internal inconsistency.

Azerbaijan

According to Art. 10, I of the Law of the Republic of Azerbaijan on Advocates and Advocate's activities**,** the general meeting of members of the collegium of advocates is responsible for the adoption of a **"***regulation on the rules of advocates' ethics***"**. In this sense, and in particular by empowering the self-governing body to develop and approve the profession's own ethical rules, the system in Azerbaijan complies with the existing European standards.

However, some basic ethical rules are found in the Law itself. Art. 18 provides that advocates must "*refrain from relying on client confidentiality for their own ends or for the commercial other purposes of third parties; refrain from illegal acts or their instigation; refrain from rude or offensive actions or words, from offending the honour or dignity of a person and from acting in a manner incompatible with the protection of right; refrain from hindering any judge at a court hearing, from interrupting persons speaking at the hearing, from interfering with the work of the court during a hearing, and from breaching the working order of the hearing; and observe other ethical rules set out in the Regulation on the rules of advocates' behaviour as approved by the general meeting of the collegium of advocates***."**

As the above rules are of a basic nature, the expert considers that they leave sufficient scope for the lawyers themselves to elaborate upon them and do not affect the opinion expressed above.

As for the "Statute of Conduct", this is a brief document which regulates the individual obligations of lawyers without having a clear guiding structure or vision behind it. The statute lacks a systematic approach to the development of principles of conduct. The few principles that are set out in the Statute are vague and potentially misleading (for example, in Art. 10, the principle of "impartiality" seems, in fact, to prohibit discrimination). They are also a repetition of the rules set out in the law on advocates (for example, Articles 12.1 and 12.2, according to which an advocate should obey the rules of disclosure of information gained through the exercise of his/her profession and may not use such information for personal gain) or which are self-evident such that repeating them in the Statute does not add any value (for example, Art 6.2 which states that an advocate should obey the restrictions set out in the legislation relating to advocacy).

Summary and Recommendations

It is positive that the legislation in Azerbaijan establishes that the legal profession's self-governing body shall be responsible for the code of conduct, thus ensuring that the profession has ownership over its ethical rules. It is also encouraging that the first set of ethical rules has been already adopted. However, the statute in its current form requires an extensive overhaul or, better still, a complete redraft in order to serve as a solid guidance document for lawyers in terms of their professional conduct and for citizens as a reliable source of information as to which types of conduct they might expect when using the services of advocates.

Georgia

The Georgian "Code of Professional Ethics for Lawyers" is a well-structured document providing guidance on professional ethics to Georgian lawyers. On a positive note, the Code, according to Art. 11, must be approved by the General Meeting of lawyers, thus ensuring a certain degree of ownership[33] of the profession over the Code. This complies with European standards.

Art. 1 of the Code enumerates the guiding ethical principles (independence, trust, confidentiality, acting in the client's best interests, avoiding conflicts of interest, and collegiality) of professional ethics and gives clear and comprehensible definitions of each principle (in the translated version, the principle of 'trust' is described in Art. 3 as the principle of 'confidence'. The experts have assumed that the original text employs identical wording in both Art. 1 and Art. 3, otherwise the use of identical wording ought to be considered).

Art. 1 of the Code enumerates guiding principles (independence, trust, confidentiality, priority of clients' interests, inadmissibility of conflicts of interest and collegiality) of professional ethics and gives in the following Articles clear and easy-understandable definitions of each of them (in the translated version the principle of trust is described in Art. 3 as principle of confidence. Experts assume that the original text uses identical wording in both Art. 1 and Art. 3, otherwise that should be considered).

Chapter II of the Code deals with the advocate's relationship with his/her clients, the courts and other lawyers. It is no surprise that the rules relating to the lawyer-client relationship, which lies at the heart of the legal profession, receive the most extensive treatment. Art. 8 sets out rules governing all the key questions relating to the lawyer/client relationship and requires no specific comment. The same is true of Art. 9 and Art. 10, which deal with the relationship between lawyers and the courts (and other quasi-judicial institutions), as well as relations between lawyers.

There remain questions in relation to Art. 11 of the Code, according to which "*a lawyer shall be responsible for the ethical conduct of persons acting under his/her instructions or on his/her behalf.*" Obligations under the code of ethics are in the main of a strictly personal nature and are, according to what has been said above, an expression of how the whole profession understands itself. This does not square with stretching responsibility to the acts of third persons, even if they act for or under the supervision of a lawyer. In the experts' opinion, a lawyer should be responsible only for familiarising his/her staff with the ethical principles and to disseminate their content and values to them (as envisaged, for example, under the Ukrainian Code).

Summary and Recommendations

Georgia has in place a modern and well-structured code of ethics as adopted by the General Meeting of advocates. On the one hand, the Code sets out guiding principles, and on the other leaves scope for interpretation and further development. The focus in the short term should be placed on dissemination of the contents and guiding

33 The concrete degree of ownership also depends on the way of elaborating the code and discussion before the adoption

principles for the ethical code to all who work in the legal profession.

Moldova

The Code of Ethics for Lawyers of the Moldova Bar Association was adopted at the Congress of Lawyers of 20 December 2002, and amended at the Congress of Lawyers of 23 March 2007. The document is clearly structured and contains the principle guidelines for lawyers' conduct.

The rules set out in the document do not raise any specific issues of concern. The value of the Code and its benefit for all stakeholders relies upon the dissemination of the rules among lawyers as well as their implementation by those working within the profession and the relevant body within the Bar. This implementation should now be the focus of all concerned.

Summary and Recommendations

In terms of its contents and structure, the Moldovan Code of ethics reflects European standards. The dissemination of its values and principles the focus in terms of future implementation.

Ukraine

Ukraine's Code of Ethics for advocates was adopted in 1999 by the Supreme Qualification Commission of the Bar. As mentioned above, given the role and function of ethical rules, in particular in terms of expressing the profession's level of self-understanding as to acceptable conduct, consideration should always be given to allowing a general assembly such as the General Meeting of advocates to vote upon the adoption of the relevant ethical rules.

It is also worth mentioning the fact that the voluminous Code is quite comprehensive and complex, which may be off-putting to the reader. In the experts' opinion, a more succinct approach – to the extent that the complexity of the issue allows it – should be adopted.

As to the specific content, after setting out definitions and explanations as to the scope of the Code, Art. 5 introduces the principle of "Independence". The law provides not only a general definition but lists examples of situations which might compromise lawyers' independence. This is helpful in order to facilitate a better understanding of the term in the context of a lawyer's work. However, as mentioned above, such an ambitious aim in terms of the structure and content of a legal text means that it soon becomes excessively detailed and lengthy. At the same time, it hinders the ongoing development of the definitions and understanding of certain terms, as it detracts from the flexibility which a code of conduct ought to possess. Therefore, it may be advisable to consider a substantial truncation of the Code.

Art. 13 lays down standards of conduct applicable to the advocate's professional practice and private life. The experts consider that an attempt to influence advocates' private lives by requiring that each should **"***uphold the prestige of his role as an advocate and maintain a high standard of conduct, be dignified, reserved, tactful, show self-control and self-command, and maintain a proper appearance***"** goes too far and is not justified by the public role which an advocate might have in the course of his/her private life. Further discussion of what is

meant by “proper appearance” would be helpful, as it is not clear to the experts what this might mean in the private context.

The Code of Conduct dedicates a full page to the regulation of advertising (Art. 14). This Article is again an attempt to regulate by means of a positivist approach minute detail and runs the risk of becoming outdated very quickly. Consideration should also be given to how far professional regulations as opposed to formal legislation introduced by Parliament is capable of restricting professional freedom in the manner envisaged by Art. 14.

The question of the form of lawyer-client contracts (dealt with at Arts. 16-19) is not, in the experts' opinion, a question suitably dealt with within a code of conduct and should be regulated separately.

Arts. 20-63 address further specifics of the relationship between advocates and their clients, including many contractual questions. Again, this is overly detailed. In addition, very few of these articles deal with matters of an ethical nature. Therefore those rules which are deemed necessary should, following thorough consideration, be enshrined in a separate legal document, such as the Charter of Advocates or the Law on Advocates.

In its later chapters, the Code deals with questions relating to the conduct of advocates towards each other, and the influence of ethical rules on advocates' work in terms of publications and teaching. Most of the provisions here are, in the eyes of the experts', superfluous, as their content is encapsulated in the more general Articles at the beginning of the Code.

The rules concerning the link between infringements of the Code of Ethics and disciplinary proceedings can be found in chapter IX of the code. Art 77 specifies only that breaches of the ethical rules may lead to disciplinary liability. The chapter suffers, in the expert's eyes, from several structural defects. For example, it is unclear why Art 81, IV is located in this chapter.

Summary and Recommendations

In summary, the Code is excessively detailed and suffers from certain structural defects. Both these aspects might have a negative impact on the fair and transparent implementation of the principles enshrined in the rules. Given the lack of clarity and the structural defects, the experts advise that a new Code be drafted. The new code ought to be widely discussed among lawyers and adopted by the lawyers themselves (for example, during the congress of lawyers or regional meetings).

General conclusions and Recommendations

It is encouraging that the five participating countries have all recognised the need for a set of rules regulating the conduct of lawyers. In Armenia, Azerbaijan, Georgia and Moldova the code/set of rules was adopted by general meetings of lawyers. In Ukraine such a procedure was not followed. As a result, notwithstanding the organisational difficulties that it might present, the procedure for adopting the code should be changed.

With future amendments in mind, all countries should ensure that the process of adopting

professional conduct rules does not to begin simply with the vote as to whether to adopt or not adopt it. The vote should instead be preceded by extensive discussions. This is a general observation made by the experts without having carried out a specific appraisal of the current position in each country.

As to content, the Codes of Georgia and Moldova are examples of sets of regulations that strike the right balance and which set out the main guiding principles whilst leaving sufficient scope for further development and adaptation.

Lawyers in Azerbaijan and Ukraine should consider further discussion and redrafting, as the rules in their present form either cover too many incidental issues (Ukraine) or are too vague and, due to their ambiguity, apt to mislead (Azerbaijan).

Discussions during the working group meetings revealed that the dissemination of rules of conduct and of the values enshrined in the Codes should be the focus of the future work of the respective Bars and lawyers' associations. Training in this sphere should be intensified or, depending on the current situation in the participating countries, remain a priority. In order to ensure compliance with the codes, it is advisable to better promulgate the relevant norms among citizens and potential clients. If clients have heightened expectations, advocates will have a greater need to stick to the rules.

APPENDIX 1

Analysis of the legislation of Belarus on the Role of the Bar, entry to the legal profession, the training of lawyers and the disciplinary liability of lawyers

The present comparative analysis is made by the experts of the Council of Europe following an assessment of the Law of the Republic of Belarus on the Bar and Advocates' Activities of 1993 and the Law of the Republic of Belarus on the Bar and Advocates' Activities of 2011. The experts also took into account submissions made by representatives from the Civil Society Forum.

The Bar

The **Law of 1993** established the Republican, regional and Minsk City collegia of advocates, and the Specialised Belarus Collegium of Advocates. Membership was mandatory. The Law did not specify the functions of the collegia of advocates. However, the Charter of the Republican Collegium of Advocates set out its four key goals:
(1) To ensure the existence of organisational and legal guarantees for the provision of legal assistance by qualified persons;
(2) To promote the role of advocates in society and in the state;
(3) To bring together advocates' efforts in the establishment and promotion of the rule of law;
(4) To protect advocate's professional and social rights.

The highest decision-making organ of the advocates' organisation was the Presidium of the Republican Collegium of Advocates, composed of 33 members, seven of them chairpersons of the seven regional collegia and the others elected by each of the regions. The members of the Presidium elected the Chairperson and the Deputy, each for a five-year term. The Chairperson was the executive organ of the Republican Collegium of Advocates.

The **new Law** established territorial collegia of advocates as well as a Republican Collegium of Advocates (i.e. a collegium at national level). The advocates' self-governing bodies are the Congress of advocates and the collegia of advocates (Article 40). Membership of the collegia is mandatory for all advocates. According to the new Law, the Republican Collegium of Advocates represents and protects the interests of advocates in their relations with state bodies and other organisations, coordinates the activities of the relevant territorial collegia of advocates, and takes measures directed towards improving the quality of legal assistance (Article 46). According to the representatives of the Civil Society Forum, there are at least ten persons working within the secretariat of the Republican Collegium of Advocates, and about five in each regional collegium. Under the new Law, the Presidium the Republican Collegium of Advocates was replaced by the Council, which consists of fourteen persons, that is, two representatives from each territorial collegium of advocates. One half of the Council must be re-elected every two years, that is, one representative from each territorial collegium of advocates. The President of the Republican Collegium of Advocates and his/her Deputy are elected by the members of the Council from among themselves for a period of four years, following the approval of the Ministry of Justice (Article 47).

In the experts' opinion, the rule providing that the election of the President and Deputy President of the Republican Collegium of Advocates should be approved by the Ministry of Justice appears to be a blatant and serious infringement of the principle of independence of

bar associations. As such, it is incompatible with European standards, which require the independence of lawyers from the executive and legislative branches of the state. There are other provisions of the new Law which also raise concern.

According to Article 31 of the Law of 1993, the Ministry of Justice was authorised *inter alia*:
(1) to adopt, in accordance with legislation, legal norms regulating the activity of the Bar;
(2) to suspend decisions of the governing bodies of the collegia of advocates running contrary to legislation and to lodge applications with those bodies with a view to annulling the decisions in question;
(3) to exercise other powers relating to the general management of the Bar;
(4) within the limits of its powers, to organise inspections of the activities of collegia of advocates;
(5) where the legislation is breached, to lodge a motion with the General Meeting (or Conference) and the Presidium of the Republican Collegium calling for the dismissal of the President of a collegium of advocates;
(6) to receive from advocates confidential information as to compliance with the legislation on advocates' activities;
(7) within the limits of their powers, to be responsible for ensuring compliance with the legislation on advocates' activities and to take measures in response to infringements.

All of these provisions have remained in **the new Law**. The functions and authorities of the Ministry of Justice (and the Minister of Justice) towards the advocates of Belarus have even been expanded. Now the Ministry of Justice is entitled to:

- set up the Qualification Commission and to arrange its work;
- develop and approve Rules of Advocates' Ethics;
- lodge with the governing bodies of the collegia of advocates proposals on candidates for the positions of presidents of the collegia of advocates; and
- suspend the activity of an advocate against whom the Minister of Justice has brought disciplinary proceedings (Article 38).

Summary and recommendations

<u>In summary</u>, the experts find that the collegia of advocates in Belarus cannot be regarded as independent or self-governing, and that neither the previous nor the present legislative framework complies with European standards. According to Recommendation Rec(2000)21 on the freedom of exercise of the profession of lawyer, bar associations should be self-governing and independent of the authorities. The aforementioned functions of the Ministry of Justice mean that the collegia of advocates are neither independent nor self-governing. Indeed, there exists a flagrant lack of independence, self-governance and self-regulation. There is no free exercise of the legal profession. If lawyers' professional activities are closely supervised and can be interfered with and/or restricted by the executive, the protection of human rights and fundamental freedoms cannot be guaranteed. The experts strongly recommend, therefore, the introduction of legislative changes, in particular in relation to the powers of the Ministry of Justice.

Lawyers' monopoly over the legal market

Advocates do not enjoy a monopoly over the provision of legal advice, which can be provided by anyone. As to the court representation, Article 26 of the Law on the Activities of Advocates states: "*Only advocates shall be entitled to represent on a professional basis clients' interests in criminal cases, civil cases, cases arising out of commercial disputes, and cases concerning administrative offences in the general courts, economic courts, and criminal or administrative tribunals*". It could be said, therefore, that advocates enjoy a monopoly over court representation.

Access to the profession

Article 7 of the **previous Law** established that a person wishing to become an advocate was required to:

- be a citizen of the Republic of Belarus;
- have a university degree in law;
- have passed the qualification exam;
- hold the necessary licence; and
- have not less than three years' professional experience as a lawyer, or have undertaken training in the Bar for a period from six month to a year Bar.

The citizenship condition complied with Rec(2000)21. It was positive that the Law required a university degree in law. As for training, Art. 8 provided that persons who did not have the minimal professional experience of three years could complete a six-month training period as preparation for the qualification exam. Where a trainee failed the exam, the training would be extended for a further six months. Consequently, candidates could qualify despite their lack of professional experience.

Summary and recommendations

In general, the experts are of the opinion that the possibility of substituting the work experience element with a six-month specialised training period is positive as it enables the profession to attract young people at the very beginning of their careers whilst at the same time helping to ensure that future advocates obtain sufficient preparation for professional practice.

The experts would be interested to learn more about the structure, content and organisation of the Bar training. For example, the previous Law was unclear as to whether the trainee received any kind of salary during the traineeship, or whether he had to pay for the training.

Summary and recommendations

In any event, legislation is required to regulate the details of the training and, in particular, its organisation, structure and content. Additional regulations on the issue of payment (to or by) trainees should also be introduced. If such detailed regulations cannot be introduced as formal laws, these should at least delegate the competence to introduce such regulations.

As stated above, all candidates had to sit the qualification exam. This exam was organised by the Qualification Commission on Matters relating to the Activities of Advocates in the

Republic of Belarus,[34] which was in charge of all issues relating to admission to the profession. Upon a close examination of the law, it became clear that the Commission was set up by the Ministry of Justice and composed of an undefined number (although at least nine) **"***representatives of state bodies, advocates with at least five years' professional experience as an advocate and other legal specialists".*

Given that it was the Ministry of Justice which was responsible for setting up the Commission (including the selection of its members) and that the Commission was headed, according to the Law, by the Deputy Minister of Justice, it could not be seen as an independent body as required by Rec(2000)21. This was all the more true given that, according to the Law, the "*regulation relating to the Qualification Commission on Matters relating to the Activities of Advocates in the Republic of Belarus shall be developed and approved by the Ministry of Justice of the Republic of Belarus***".**

The findings showed clearly that the Commission was under the full control of the Ministry of Justice. The regulation is all the more remarkable given that *"the decision of the Qualification Commission is final and not subject to review".*

The Experts are of the firm view that any decisions which are decisive in terms of access to the profession must always be subject to appeal, which in normal circumstances should be examined by a court.

Summary and recommendations

The Qualification Commission system which was responsible for regulating the whole process of admission to the profession did not comply with Rec(2000)21 as it accorded full control over the Commission to the Ministry of Justice instead of creating an independent body to manage the admission process.

In those circumstances, the legislator is called upon to reconsider the set-up of the commission and to strengthen the influence of a self-governing institution upon the commission's administration and work. It should also consider introducing a possibility

34 **Article 11**. **Qualification Commission on Matters Relating to Advocates' Activities in the Republic of Belarus**

Issues relating to admission to the bar are determined by the Qualification Commission on Matters Relating to Advocates' Activities in the Republic of Belarus.

The Qualification Commission on Matters Relating to Advocates' Activities in the Republic of Belarus shall be created by the Ministry of Justice for a period of three years. It composition shall include not less than nine members from the representatives of state bodies, advocates with not less than five years' experience and other legal specialists. The Deputy Minister of Justice of the Republic of Belarus is the President of the Commission.

The Qualification Commission shall be responsible for arranging an exam for persons applying for the right to carry out advocates' activities and shall also determine the absence of the grounds set out at Article 10 of this Law.

The Commission shall be considered competent if at least two thirds of its members are present not less than once every six months and shall adopt decisions by simple majority of the members present. Where there is a tied vote, the President shall take the decision.

Decisions of the Qualification Commission are final and not subject to review. Repeating the Qualification Commission exam is possible only after one year, with the exception of trainees who repeat the exam upon expiry of the traineeship period.

The Regulation on the Qualification Commission on Matters Relating to Advocates' Activities in the Republic of Belarus shall be elaborated and approved by the Ministry of Justice of the Republic of Belarus.

of appeal against decisions of the qualification commission.

Those candidates who successfully passed the qualification exam needed, in order to be allowed to work as an advocate, to obtain the licence. Art. 12 of the Law provided that *"the licence to carry out the activities of an advocate shall be issued by the Ministry of Justice of the Republic of Belarus following a decision by the Collegium of the Ministry of Justice of the Republic of Belarus on the basis of an opinion of the Qualification Commission Relating to Matters of Advocates' Activities in the Republic of Belarus for a period of not less than five years but no more than ten years."*

The Law was not clear on the margin of discretion of the relevant bodies.

In the experts eyes, the involvement of so many different actors in the licence-issuing process means that it is overly cumbersome and insufficiently transparent, at least as long as there is no explicit description as to which body is responsible for making which decisions, and on which criteria.

Further, the criteria on the basis of which the decision is made as to whether the licence is issued for five or for ten years were not specified. It was not clear to the experts why a time limit was necessary or why there were two different time limits. The description as to how the quality of an advocate's work was measured in deciding whether it ought to be extended was vague. The Law referred vaguely to an appraisal conducted by the relevant collegium of advocates. In the experts' eyes, the Law had to be more precise and detailed so that as allow for an objective appraisal purely based on the professional merits of the advocate.

Summary and recommendations

The licensing process as described should be looked at afresh and consideration given to limiting the number of institutions involved. Where there is room for discretion of the institutions involved in the process, this should be specified. The rules governing appraisal of the advocate's work in considering extensions to the licence should be clearly elaborated.

Amendments in light of the **new Law**

The new version of Art. 7, which sets out the pre-conditions to becoming an advocate, provides that each candidate must:

- *be a citizen of Belarus*
- *have a higher legal education*
- *have completed the training required by law and the qualification examination*
- *have received the necessary licence and*
- *be a member of the collegium*

Art. 9 of the new Law contains details of the necessary training. The most striking aspect of the training in that it is under the total control of the Ministry of Justice, which prescribes even the number of trainees.

Depending on the previous work experience of the candidate, the duration of the training varies between three and twelve months. At the end of the traineeship, each trainee is appraised by his/her trainer. The Law does not indicate what form this appraisal should take. It provides that in order for the candidate to be admitted to the qualification examination, this appraisal should be presented (in addition to other documents) to the qualification commission. However, no indication is given in the Law as to the possible consequences of a negative appraisal.
After completing the traineeship, a candidate must apply for admission to the qualification exam to the qualification commission of the collegium, which decides whether to grant admission on the basis of **"***requirements established by the law***".** It is unclear whether this simply means checking the formal criteria set out in the Law or whether there is certain margin of discretion.

The Law sets out the fields of law that form part of the qualification examination. It does not provide any details of the appraisal of the candidate's performance during the examination. Art. 9 leaves the development of rules and the detail of the examination to the Ministry of Justice.

It is positive that the Law provides that every trainee shall receive a work contract during his traineeship which guarantees him/her a minimum monthly salary. However, the following provision merits focused discussion:

"The employment contract concluded with the relevant territorial collegium of advocates may contain a condition that the advocate's trainee must obtain his/her licence at the end of the traineeship and work for two years in the legal consultancy office referred to in that contract" (Article 10, paragraph 2).

This is an unusual restriction upon the freedom of the trainee, and seems disproportionate to the "investment" made by the mentor. Whilst freedom to choose an occupation is not expressively guaranteed by the ECHR, the experts would recommend reviewing this provision against the rights granted by the Convention in order to ensure its compliance with European standards.

Summary and Recommendations

The amended procedure for access to the advocates' profession in the Republic of Belarus still fails to comply with European standards. The body determining applications for entry to the profession is not independent within the meaning of Rec(2000)12 as the whole procedure is under the control of the Ministry of Justice.

The key rules relating to the qualification examination were not available to the experts and so a critical part of the admission process could not be appraised. The fact that the rules are determined by the Ministry of Justice further undermines the independence of the admission process. Accordingly, the experts recommend reconsideration of the whole admission process and a redrafting of the Chapter in question to ensure it complies with European standards and best practice.

Professional Training of Advocates

There were two avenues to sitting the qualification exam and becoming a lawyer in Belarus: the first required a law degree followed by three years of professional experience; the second required an internship with the Bar from six months to one year.[35] Both methods required a legal education as the initial step, but the law was silent as to the level of education required. With both routes, legal education was the initial requirement, although level of education required was not specified.

According to the representatives from the Civil Society Forum, previously trainees were not remunerated for their work. Although the legislator never addressed this issue in the Law on Advocacy, there were no obstacles to the regional collegia (and the one collegium in the city of Minsk) to introduce a compensation system, however this never happened in practice.

The Law on Advocacy and the Activities of Advocates, which came into force on 6 April 2012, provides for the possibility of remunerating the work of a trainee (Article 35 of the Law). According to Article 10, "*An advocate's trainee shall be hired on the basis of a fixed-term employment contract concluded with the relevant territorial collegium of advocates (where a trainee is sent to a legal consultancy office), the advocates' bureau or an advocate practising independently"*. The employment legislation currently in force provides that remuneration is a pre-condition to the conclusion of a contract of employment. Therefore, relevant amendments will be made to the Charters of the collegia and to the rules of law firms. Presumably, trainees' wages will be equivalent to the minimum wage in the country (present slightly above 100 Euros per month).

As the representatives of the CSF stressed, quality legal education strongly affects the quality of the legal services eventually provided by lawyers. Where there was no follow-up to the initial training, the knowledge acquired during legal studies pre-qualification became even more important in terms of ensuring the competence of prospective lawyers.

As for the continuous training of lawyers, the previous Law did not regulate continuous professional development of lawyers. However, it was highlighted by the representatives that, in practice, this training was organised by the Republic Chamber. All training was free of charge for all lawyers and organised within the framework of permanent courses.

Summary and Recommendations

It ought to be emphasised once again that according to European standards, a legal education is the initial pre-condition to becoming a lawyer. The legislation of the Republic of Belarus meets this requirement.

As in other countries in the region, the standards of universities providing legal studies vary/varied and this might hamper the quality of education being provided to prospective lawyers. Accordingly, there is/was a need to standardise the legal studies

35 *A citizen of the Republic of Belarus who has university degree in law, has professional experience as a lawyer of not less than three years or, where he/she lacks such experience, has undertaken training for a period from six months to one year at the bar, who has passed the qualification exam and received the special permission (licence) (hereinafter - licence) to practise as an advocate may be an advocate in the Republic of Belarus* (Paragraph 1 of Article 7, Law on the Bar).

curricula in universities in order to create a level playing field in terms of students' knowledge.

There is/was also a need to strengthen the legal skills of lawyers. The experts did not have available to them up-to-date information as to how continuous professional training is now organised and delivered. However, it ought to be reiterated that training can be provided free of charge only where the training fees are wrapped up in the membership fee, or where funding for training comes from donors (but even then, a nominal fee ought to be requested). The minimum number of qualifying hours/credits for continuous professional training should be defined. The content of training should focus upon the actual, current needs of lawyers and follow a full training needs assessment made before the training year starts. In general, a culture of training among lawyers in Belarus needs to be created or enhanced.

Disciplinary liability of lawyers

The disciplinary liability of advocates was addressed in Articles 19-24 of the previous Law. According to Article 19, **"***complaints about the conduct of advocates shall be examined by the Qualification Commission on Matters relating to the Activities of Advocates in the Republic of Belarus, republican, regional, Minsk City Collegium of Advocates and Belinyurkollegiya acting within the limits of their powers, and the Ministry of Justice of the Republic of Belarus.***"**

The meaning of this provision was not clear to the experts, but it seemed that there were different regional bodies that supervised the practice of advocates in addition to the Ministry of Justice. It was unclear whether the Ministry always had to be involved in addition to the competent local body, or if each of the bodies listed could act alone.

Further confusion arose upon reading Article 21 of the same Law, which stated that **"***disciplinary proceedings against an advocate can be initiated and examined by advocates' self-governance bodies".* The Law did not expressly link the power to examine an advocate's conduct as set out in Art. 19 with the power to initiate disciplinary proceedings set out in Art.21. It was the experts' provisional understanding that the institutions listed in Art. 19 had power to investigate, whilst the power to decide on whether disciplinary proceedings should be brought remained exclusively with the competence of the self-governance bodies. This was supported by Article 21, in particular its second sentence, according to which disciplinary proceedings were initiated *"following a decision by any body or a complaint by an interested person as to the conduct of the advocate"***.** It is not clear whether "*any body*" meant the bodies listed in Articles 19 and 21, or simply "anybody".

It was unclear why the Law stated that where complaints were made by the Minister of Justice, the Commission was required to act within two weeks whereas there was no time limit in respect of complaints of others bodies/persons (see Article 21).

The possible disciplinary sanctions envisaged by Art. 20 were as follows:

"1) warning;
2) reprimand;
3) severe reprimand;
*4) exclusion from the bar***"**

The list left sufficient room for applying proportionate measures in response to disciplinary infringements but it was noted that the law did not refer to the principle of proportionality. Neither did it set out the advocate's rights during disciplinary proceedings. In this respect, the European standards were not observed.

In the **new Law**, disciplinary proceedings are regulated by Articles 20-25. According to Art. 20, **"***advocates shall be subject to disciplinary liability for the commission of actions contradicting this Law, the rules of professional ethics for advocates and other legislative provisions on the bar"*. In the new version, the Law envisages a very wide spectrum of infringements capable of leading to disciplinary proceedings. The automatic link between a breach of the Code of Conduct and disciplinary liability has not been removed.

Art. 22 of the Law provides that the governing bodies of the collegium, in addition to the Minister of Justice, may initiate disciplinary proceedings. The Minister of Justice issues an order to the disciplinary commission in which the grounds for the disciplinary proceedings in question are set out. This considerable influence of the Minister of Justice casts very serious doubt over the independence of the disciplinary commission. These doubts are confirmed upon reading a further provision which provides that the Minister also sets the binding time frame applicable to the proceedings and that the he/she *"....can recall the order on the initiation of disciplinary proceedings before the disciplinary proceedings are determined"*. In conclusion, the Law does not ensure the necessary independence of the disciplinary commission and its work as recommended by Rec(2000)21.

The new Law sets out in Art. 21 the following possible disciplinary sanctions:

- *rebuke (this appears to amount to a warning);*
- *reprimand;*
- *exclusion from the relevant local office of the collegium of advocates.*

The sanction of 'severe reprimand', which was provided for under the old law, is excluded from the list. It has been repeatedly stressed that participant countries are encouraged to develop a range of sanctions, which allows for the selection of a sanction appropriate to each particular case. To this extent, narrowing down the existing catalogue of possible measures seem to have been a step forward.

The Law does not provide any guidance as to which sanctions should be used in which cases (as it does when it comes to addressing exclusion from the collegium – see below), and neither does it enshrine in law the principle of proportionality.
Exclusion from the collegium is covered under Art. 24 of the Law. This article is, in the experts' opinion, of crucial importance to understanding the legal profession and the independence of lawyers. It has there for been decided to set out the relevant provisions in full:

"Article 24. Exclusion of advocates from the relevant territorial collegium of advocates
...
2. A decision to exclude an advocate from the relevant territorial collegium of advocates shall be taken where an advocate:

- practises or occupies an elected position(s) within a self-governing body(ies) whilst suspended from practice on the grounds set out in item 1 of Article 12 of this Law;

- fails to practise as an Advocate for a period of one year without a valid reason;

- systematically (that is, two or more times in the space of 12 months) infringes the requirements and conditions of advocacy practice set out in legislation;

- commits offences incompatible with the role of an advocate and listed in the rules of professional ethics for advocates ;

- infringes the rules on compensation of expenses or on remuneration having provided legal assistance upon the request of a body conducting criminal proceedings which has led to unlawful expenditure for the amount exceeding ten times or more the basic amount established on the day when the infringement was committed;

-hinders the work of the Ministry of Justice of the Republic of Belarus in taking measures to control the observance of the legislation on licensing, licence requirements and conditions, including the failure to carry out lawful orders or requests of officials of the Ministry of Justice of the Republic of Belarus issued in the course of their official duties, the intentional submission to them of misleading documents and/or other information relating to his/her practise as an Advocate;

- infringes the requirements of item 4 of Article 18 of this Law;

- cannot perform his/her professional duties due to his/her not being qualified to do so, this having been confirmed by a decision by the Qualification Commission;

- has his/her citizenship of the Republic of Belarus revoked;

- is guilty of an intentional crime as determined by a valid court judgment;

- refuses to provide legal assistance in cases where the provision of legal assistance is mandatory pursuant to legislation on grounds not envisaged by the normative laws.

3. The Ministry of Justice of the Republic of Belarus shall be notified of the decision to exclude an advocate from a territorial collegium of advocates within five days of the date of adoption of the decision.
Where an advocate is excluded from the relevant territorial collegium of advocates on the grounds envisaged by item 2 of this Article, the Ministry of Justice of the Republic of Belarus shall terminate the advocate's licence or shall suspend the decision that he/she has committed a violation and shall file a proposal to the relevant territorial collegium of advocates that the decision be quashed."

Reading through the list of circumstances that may lead to exclusion from the collegium, one is first struck by how extensive it is. However, the grounds it contains are more problematic than its length.

"Systematic infringement" is a ground for exclusion. The Law sets out that two infringements within a period of twelve months amounts to a systematic infringement. It does not take into account the severity of an infringement and does not differentiate between intentional and

non-intentional infringements. This opens the door to imposing disproportionate measures and arbitrary decision-making.

Also, it is concerning that every breach of the Code of Conduct can lead to exclusion from the collegium and this might lead to the same disproportionate and arbitrary results as mentioned above.

In the context of the independence of advocates, this paragraph on disciplinary sanctions, which envisages a high level of intervention by the Ministry of Justice, is of particular interest and concern. One of the reasons for exclusion from the collegium includes "*hindering the Ministry of Justice in the supervision of advocates*," and this provision on its own would compromise the independence of the legal profession. Upon a reading of the provision in its entirety, it appears (at least from the English translation) that non-compliance with any order of the Ministry might lead to exclusion from the collegium. This renders advocates a tool of the Ministry and will have a significant adverse impact on the possibility for them to carry out their role in the justice system.

The Ministry's complete control becomes ultimately apparent at paragraph 3 of the same Article which allows this body to propose to the commission the quashing of a decision excluding an advocate from the collegium. There is no hint as to upon which criteria the Ministry of Justice might file such a "proposal" and which criteria ought to then be used by the commission in deciding whether to give effect to the "proposal" in question.

Summary and Recommendation:

Viewed in the round, the new regulations on disciplinary proceedings bring the experts to the conclusion that under the current legal framework advocates in Belarus are subordinated to the control of the Ministry of Justice to an extent that does not allow them to effectively defend clients' interests and human rights. The chapter on lawyers' disciplinary liability should be completely redrafted in light of the relevant European standards and best practice.

APPENDIX 2

Legal Acts of the Republic of Armenia

LAW OF THE REPUBLIC OF ARMENIA ON THE PROFESSION OF ADVOCATE

Adopted on 14 December 2004

CHAPTER 1

GENERAL PROVISIONS

Article 1. Subject Matter of the Law

This Law shall establish the basics of practising the profession of advocate and of forming a professional association of advocates, as well as the manner of practising the profession of advocate in the Republic of Armenia.

Article 2. Legislation on the Profession of Advocate

Legislation on the profession of advocate shall comprise the Constitution of the Republic of Armenia, the Civil Procedure Code of the Republic of Armenia and the Criminal Procedure Code of the Republic of Armenia, this Law and other legal acts.

The procedure set forth in this Law shall be uniform and binding for all advocates.

Article 3. The Profession of Advocate and the State

The profession of advocate shall be a professional association of advocates which, as institution of civil society, shall not be a part of the system of state or local self-government bodies. The profession of advocate shall be based on the principles of independence, legality, selfgovernment and legal equality of advocates.

Article 4. Restriction on the Use of the Concepts of this Law

Use of the concepts “advocate”, “chamber of advocates”, “collegium of advocates”, “union of advocates”, as well as of word combinations- containing any of their case forms or their semantic translations in foreign languages- in the titles of organisations and non governmental associations, shall be agreed upon with the Board of the Chamber of Advocates.

Article 5. Practice of the Profession of Advocate

Practice of the profession of advocate shall be a form of advocacy aimed at enforcing, through means and ways not prohibited by law, the legitimate interests of a person receiving legal assistance.

Practice of the profession of advocate shall include:

(1) advice, including advising clients on their rights and obligations, on activities of the judicial system with respect to the rights of the client, as well as examination of documents and drawing up of other documents of a legal nature;

(2) representation, including court representation;

(3) defence in criminal cases.

Court representation, or defence in criminal cases, referred to in this Article, shall, as an entrepreneurial activity, be carried out solely by an advocate.

Legal assistance provided by persons in an employment relationship and acting for the benefit of the employer shall not constitute practice of the profession of advocate.

This Law shall not cover persons who are not advocates, but who carry out representation, or defence in criminal cases, in the manner prescribed by law and not as an entrepreneurial activity.

Article 6. The Paid Nature of Practice of the Profession of Advocate
Advocates shall be entitled to remuneration for his/her services.

The amount of and the manner of remuneration for the practice of the profession of advocate shall be determined by a written contract concluded between the advocate and the client in accordance with the Civil Code of the Republic of Armenia.

The State shall guarantee legal aid in criminal cases pursuant to the procedure and in cases provided for by the Code of Criminal Procedure of the Republic of Armenia, as well as pursuant to the procedure prescribed by the Code of Civil Procedure of the Republic of Armenia in the following cases:
(1) in actions with regard to collecting maintenance payments;
(2) compensation for losses incurred as a result of mayhem or other injury to the health, as well as the death of the bread-winner;

Legal aid shall be provided by the Chamber of Advocates on account of the State in accordance with Articles 41 and 42 of this Law.

Free legal assistance may also be provided at the initiative of the advocate.

CHAPTER 2
Arrangements for the Profession of Advocate

Article 7. The Chamber of Advocates of the Republic of Armenia
The Chamber of Advocates of the Republic of Armenia (hereinafter "the Chamber of Advocates") shall be a professional, independent, self-governed legal person, the peculiarities of which shall be defined by this Law. The Chamber of Advocates shall acquire the status of a legal person upon its registration in accordance with the law.

The Chamber of Advocates shall have the following tasks:
(1) to create conditions for the exercise of professional practice by its members;
(2) to protect the rights and lawful interests of its members in their interrelation with state and local self-government bodies and with organisations, as well as before court;
(3) to arrange vocational education and training of its members;
(4) to carry out supervision over the observance by its members of the requirements of the Code of Conduct for Advocates and the Charter of the Chamber of Advocates;
(5) to take measures to strengthen the standing of the profession of advocate;
(6) to ensure, in cases prescribed by this Law, the provision of equally accessible and efficient legal aid for everyone.

The Chamber of Advocates may cooperate with foreign structures of advocates, international and other organisations.

Article 8. Bodies of the Chamber of Advocates
The bodies of the Chamber of Advocates shall be the following:
(1) General Meeting of the Chamber of Advocates;
(2) Board of the Chamber of Advocates;
(3) Disciplinary Committee of the Chamber of Advocates;
(4) Qualification Commission of the Chamber of Advocates.

Members of the bodies of the Chamber of Advocates shall work in those bodies without remuneration except for the Chairperson of the Chamber of Advocates.

Members of the bodies of the Chamber of Advocates may, in parallel with their work in those bodies, practise the profession of advocate.

Members of the Chamber of Advocates shall be eligible for only one body of the Chamber of Advocates.

The powers, the manner of formation, operation, tasks and functions of the bodies of the Chamber of Advocates shall be defined by this Law and the Charter of the Chamber of Advocates.

Article 9. General Meeting of the Chamber of Advocates
The General Meeting of the Chamber of Advocates shall be the general assembly of advocates which shall be authorised to discuss and settle issues relating to the profession of advocate and arising from this Law.

The General Meeting of Advocates shall be the supreme body of the Chamber of Advocates, which shall:
(1) approve the Charter of the Chamber of Advocates and the Code of Conduct for Advocates and make amendments and additions thereto;
(2) elect and recall members of the Board of the Chamber of Advocates and the Disciplinary Committee of the Chamber of Advocates;
(3) elect and recall advocate members of the Qualification Commission of the Chamber of Advocates;
(4) elect and recall the Chairperson of the Chamber of Advocates;
(5) hear the report of the Board of the Chamber of Advocates on the activities of the Board of the Chamber of Advocates in the reporting period as well as the report of the Head of the Office of Public Defender on the activities of the Office of Public Defender in the reporting period;
(6) hear the results of the audit;
(7) (Point 7 repealed by LA-105-N of 1 June 2006).
(8) exercise other powers provided for by this Law and the Charter of the Chamber of Advocates.

The General Meeting of the Chamber of Advocates shall be convened at least once every two years at the initiative of the Chairperson of the Chamber of Advocates. An extraordinary General

Meeting of Advocates may be convened at the initiative of one third of the members of the Chamber of Advocates, or the Board of the Chamber of Advocates.

The General Meeting of the Chamber of Advocates shall have a quorum when more than half of the members of the Chamber of Advocates are present at the meeting. The General Meeting of the Chamber of Advocates shall commence its activities upon the registration of advocates.

Where the activities of the General Meeting of the Chamber of Advocates last more than one day, the registration of advocates shall be carried out on each of those days.

Decisions of the General Meeting of the Chamber of Advocates shall be taken by simple majority of the votes cast in an open voting except in cases provided for by this Law. The Charter of the Chamber of Advocates may provide for other cases of voting by secret ballot. The powers of the General Meeting of the Chamber of Advocates may not be transferred to other bodies.

With the purpose of attending the General Meeting of the Chamber of Advocates a member of the Chamber of Advocates may delegate his/her vote to another member of the Chamber of Advocates in accordance with the Charter of the Chamber of Advocates.
(Article 9 amended by LA-141-N of 8 July 2005, LA-105 of 1 June 2006)

Article 10. The Board of the Chamber of Advocates
The Board of the Chamber of Advocates shall be the executive body of the Chamber of Advocates.

Members of the Board of the Chamber of Advocates, other than the Chairperson of the Chamber of Advocates, shall be elected for a term of two years from among the advocates through preferential voting by secret ballot. The Board of the Chamber of Advocates shall consist of eleven members and the Chairperson of the Board.

The Board of the Chamber of Advocates shall:
(1) form the Qualification Commission;
(2) develop the Code of Conduct for Advocates and submit it to the General Meeting of the Chamber of Advocates for approval;
(3) submit to relevant state bodies recommendations for the improvement of laws and other legal acts;
(4) prepare and approve the annual budget of the Chamber of Advocates as well as prepare financial applications on remuneration for the provision of legal aid and submit it to the Ministry of Finance and Economy of the Republic of Armenia through the Ministry of Justice of the Republic of Armenia;
(5) arrange vocational education and training of advocates;
(6) decide, in accordance with Article 29 of this Law, on issuing an authorisation to practise the profession of advocate to a person claiming it (hereinafter “the applicant”);
(7) decide on repealing the authorisation of an advocate pursuant to Article 36 of this Law;
(8) decide on suspending or reinstating the authorisation of an advocate pursuant to Article 38 of this Law;
(9) develop and approve the procedure for arranging and conducting the probation of interns;
(10) prescribe the amount and the manner of payment of advocate membership fees, as well as membership access fees and other payments by the applicant;
(11) approve the establishment plan of the Chamber of Advocates;
(12) open disciplinary proceedings against an advocate and decide on imposing a disciplinary penalty on an advocate;

(13) exercise other functions provided for by law and by the Charter of the Chamber of Advocates.
Meetings of the Board of the Chamber of Advocates shall be convened by the Chairperson of the Chamber of Advocates when necessary, but no less than four times a year. Meetings of the Board of the Chamber of Advocates may also be convened by one third of the members of the Board of the Chamber or at the initiative of 30 members of the Chamber of Advocates.

A meeting of the Board of the Chamber of Advocates shall have a quorum when at least seven members of the Board of the Chamber of Advocates are present at the meeting.

Members of the Board of the Chamber of Advocates shall vote in person at meetings of the Board of the Chamber of Advocates.

Decisions made at meetings of the Board of the Chamber of Advocates shall be adopted by the simple majority of votes of members present at the meeting.
(Article 10 amended by LA-141-N of 8 July 2005, LA–105-N of 1 June 2006)

Article 11. The Disciplinary Committee of the Chamber of Advocates
The Disciplinary Committee of the Chamber of Advocates shall be a body responsible for disciplinary proceedings.

The Disciplinary Committee of the Chamber of Advocates shall be elected for a term of two years from among the advocates, through preferential voting by secret ballot, and with a membership of nine. The Disciplinary Committee of the Chamber of Advocates shall:
(1) conduct disciplinary proceedings against an advocate;
(2) render an opinion on imposing a disciplinary penalty on an advocate in accordance with Article 40(1), (2) and (3) of this Law.
(3) render an opinion on repealing the authorisation of an advocate.

The Chairperson of the Disciplinary Committee of the Chamber of Advocates shall be elected from among the members of the Disciplinary Committee of the Chamber of Advocates.

The meetings of the Disciplinary Committee of the Chamber of Advocates shall be convened by the Chairperson of the Disciplinary Committee of the Chamber of Advocates.

A meeting of the Disciplinary Committee of the Chamber of Advocates shall have a quorum when more than two third of the members of the Chamber of Advocates is present at the meeting.

Decisions made at meetings of the Disciplinary Committee of the Chamber of Advocates shall be adopted by the simple majority of votes of the members present at the meeting.
(Article 11 supplemented by LA-141-N of 8 July 2005)

Article 12. The Qualification Commission of the Chamber of Advocates
The Qualification Commission of the Chamber of Advocates shall be formed with the purpose of organising and summarising the results of qualification examinations.

The Qualification Commission of the Chamber of Advocates shall be formed for a term of two years with the membership of nine and with the following proportion of representation:

(1) six advocates elected through preferential voting by secret ballot from among advocates having at least five years experience as practising advocates;
(2) one representative from the Ministry of Justice of the Republic of Armenia, upon submission by the Minister of Justice of the Republic of Armenia;
(3) one academic lawyer from the Academy of Sciences of the Republic of Armenia, upon submission by the head of that institution;
(4) one judge from the Court of Cassation of the Republic of Armenia (hereinafter referred to as "the Court of Cassation") upon submission by the President of the Court of Cassation.

The Chairperson of the Qualification Commission of the Chamber of Advocates shall be elected from among the advocate members of the Qualification Commission.

Meetings of the Qualification Commission of the Chamber of Advocates shall be convened by the Chairperson of the Qualification Commission.

A meeting of the Qualification Commission of the Chamber of Advocates shall have a quorum when at least two third of its members are present at the meeting.

The decisions of the Qualification Commission on conducting qualification examinations of the applicant shall be adopted by the simple majority of votes of its members present at the meeting through voting with nominal ballots. The form of the ballot shall be approved by the Board of the Chamber of Advocates. The minutes of the meeting of the Qualification Commission shall be signed by all of its members, irrespective of the position of each during voting. Ballots and texts of written answers to the questions (tests) shall be attached to the minutes and kept in the files of the Chamber of Advocates for a period of three years. The decision of the Qualification Commission of the Chamber of Advocates shall be announced to the applicant immediately after the voting is concluded (Article 12 supplemented by LA-141-N of 8 July 2005).

Article 13. Chairperson of the Chamber of Advocates
The Chairperson of the Chamber of Advocates shall be the highest official of the executive body of the Chamber of Advocates.

The Chairperson of the Chamber of Advocates shall be elected from among members having at least seven years experience as practising advocates through closed voting by secret ballot, for a term of four years, but for no more than two consecutive terms.

The candidate receiving more than half of the votes cast (votes of those who were given ballots) shall be deemed elected as Chairperson of the Chamber of Advocates.

When two or more candidates stand and none have received the required number of votes, a second round of voting shall be held and contested by the two candidates with the most votes from the first. In case of a tie vote, the second candidate to participate in the second round shall be determined by drawing lots.

The candidate receiving the majority of votes in the second round shall be deemed elected. In case of a tie vote, lots shall be drawn.

In case when only one candidate is voted for, he/she shall be deemed elected if he/she receives more than half of the votes cast.

In case where the Chairperson of the Chamber of Advocates is not elected, a new election shall be held within one month following the voting.

The Chairperson of the Chamber of Advocates shall:
(1) represent the Chamber of Advocates;
(2) take decisions on issues with regard to ensuring the smooth functioning of the Chamber of Advocates;
(3) appoint and remove from office the head of staff and other staff members of the Chamber of Advocates;
(4) determine terms of reference of the staff of the Chamber of Advocates;
(5) enter the name of an advocate in the list of advocates;
(6) issue certificates of advocate, and their assistants and interns;
(7) exercise other powers defined by this Law and the Charter of the Chamber of Advocates.

The Chairperson of the Chamber of Advocates shall, for the purpose of exercising his/her powers, have a deputy who shall be appointed by the Chairperson of the Chamber of Advocates from among the members of the Board of the Chamber of Advocates. The Deputy Chairperson of the Chamber of Advocates shall replace the Chairperson of the Chamber of Advocates during his/her absence.

The Chairperson of the Chamber of Advocates shall be the ex officio Chairperson of the Board of the Chamber of Advocates.

The work of the Chairperson of the Board of the Chamber of Advocates in parallel with practice of the profession of advocate shall not hinder the exercise of the powers of the Chairperson. (Article 13 supplemented by LA-141-N of 8 July 2005)

Article 131. The Procedure for Conducting Preferential Voting by Secret Ballot
The name and surname of each candidate shall be followed by the words "I am for" and a blank box for marking.

The voter shall, when voting for a candidate, mark the box “I am for”; no marking shall be made when voting against.

The candidate receiving the majority of votes shall be deemed elected. In case of a tie vote, lots shall be drawn.
(Article 131 supplemented by LA-141-N of 8 July 2005)

Article 14. Supervision of Financial-Economic Activity of the Chamber of Advocates
Supervision of financial-economic activity of the Chamber of Advocates shall be conducted at least once every two years by an independent audit firm selected by the Board of the Chamber of Advocates.

Article 15. Property of the Chamber of Advocates
The property of the Chamber of Advocates shall be formed of membership fees of advocates and other resources not prohibited by law.

Article 16. Non-Governmental Associations of Advocates
Advocates shall have the right to establish non-governmental associations of advocates or

become members thereof pursuant to the legislation of the Republic of Armenia.

Non-governmental associations of advocates shall not be entitled to exercise the powers of the Chamber of Advocates or their bodies as provided for by this Law except for the powers provided for in Article 10(3)(3) and (5) of this Law.

CHAPTER 3
Advocates and their Activities

Article 17. The Advocate

An advocate shall be the person who has obtained an authorisation pursuant to this Law to practise the profession of advocate, is a member of the Chamber of Advocates, and has made an oath. An advocate shall be an independent adviser on legal issues.

Advocates shall promote the rule of law in society and preach legality in terms of respect for human rights and freedoms and strengthening adherence to international recognised norms.

Advocates, while rendering legal assistance, shall:
(1) provide both oral and written advice on legal issues;
(2) prepare applications, complaints, claims, motions and other documents of a legal nature and drafts thereof;
(3) participate, as a representative of the client, in civil proceedings and in the hearing of the case before the Constitutional Court of the Republic of Armenia;
(4) participate in criminal proceedings or cases on administrative offences as a representative or defence counsel of the client;
(5) participate, as a representative of the client, in hearings of cases before an arbitral tribunal or other dispute settlement bodies;
(6) represent the interests of the client in state and local self-government bodies, in nongovernmental and other organisations, foreign government agencies, courts and bodies of preliminary investigation or inquest, international tribunals, and foreign non-governmental organisations unless otherwise provided for by the legislation of the relevant state, charter documents of international tribunals and other international organisations, or by international treaties of the Republic of Armenia.

An advocate shall have the right to render other types of legal assistance not prohibited by law. In civil proceedings and in proceedings on administrative offences, state and local selfgovernment bodies may be represented by advocates except for cases when those functions are performed by members of staff of such bodies and unless otherwise prescribed by law.

Advocates shall conduct education of their interns.

Advocates shall pay membership fees in the amount and manner determined by the Chamber of Advocates for the general needs and other expenses related to practice of the profession of advocate.

Practice of the profession of advocate in the Republic of Armenia by a foreign advocate shall correspond to this Law, the Charter of the Chamber of Advocates and the Code of Conduct for Advocates unless otherwise prescribed by international treaties of the Republic of Armenia. Practice of foreign advocates in the Republic of Armenia shall be based on

authorisation issued by the relevant organisation of advocates of their state, and on accreditation from the Chamber of Advocates.

Foreign advocates may not provide legal assistance on issues related to state or official secrets of the Republic of Armenia.
Foreign advocates may not be elected to the bodies of the Chamber of Advocates.
(Article 17 amended by LA-63-N of 25 December 2006)

Article 18. Basic Rights of Advocates
The basic rights of advocates participating in civil and criminal proceedings, and in proceedings on administrative offences as a representative or defence counsel of the client shall be defined by law.

In particular, advocates shall have the right to:
(1) represent or defend the interests of natural or legal persons in accordance with the Code of Civil Procedure and the Code of Criminal Procedure of the Republic of Armenia as well as represent the interests of clients in state and local self-government bodies, non-governmental entities and organisations;
(2) obtain and present evidence in the best interests of the client in the manner prescribed by law;
(3) file requests with state and local self-government bodies or with organisations to obtain documents and information necessary for rendering legal assistance. The mentioned bodies and organisations must provide the originals or copies of the required documents to the advocate in the manner prescribed by law;
(4) file written requests to people, with their consent, who allegedly possess information related to the case on which the advocate is providing legal assistance;
(5) involve experts on a contractual basis to provide clarification on issues which require, in connection with rendering legal assistance, professional knowledge.

Article 19. Basic Duties of Advocates
Advocates shall be obliged to:
(1) protect, honestly and in good faith, the rights and lawful interests of the client by all means and ways not prohibited by the legislation of the Republic of Armenia;
(2) observe the requirements of this Law, the Code of Conduct for Advocates and the Charter of the Chamber of Advocates;
(3) not disclose information covered by advocate-client privilege except for cases provided for by law;
(4) improve their knowledge continually;
(5) pay membership fees;
(6) not to take any action prejudicing the interests of a client; not to take any position without the consent of the client except in cases when the advocate is certain of false self-incrimination by the defendant; and not to admit the client's connection to the incident of crime if this conflicts with the client's position;
(7) fulfil the duties defined by the Law of the Republic of Armenia on Money Laundering and Terrorism Financing Control. (Article 1 supplemented by LA-87-N of 26 May 2008)

Article 20. Peculiarities of Basic Rights and Duties of Advocates
Advocates shall not be authorised to accept the instructions of a person requesting legal assistance when:
(1) it is apparently illegal;

(2) they have their own interests with regard to the subject matter of the contract with the client which conflict with that of the client.

Advocates shall not be authorised to provide legal assistance where:
(1) there is conflict with regard to the same issue between the interests of the advocate and the client or between the interests of his/her clients;
(2) they have been involved in the relevant case as a judge, prosecutor, investigator, employee of the inquest body, expert, victim or witness, or where they have been officials authorised to make decisions favouring the client;
(3) they have kinship, personal ties with, or dependency from an official who is or has been engaged in the examination of that person's case;
(4) they are to represent a client in a case, and that person's interests prejudice the interests of a former client, unless the latter gives his/her written consent.

Advocates shall not be authorised to:
(1) make statements about the client's guilt being proven if the latter denies it;
(2) disclose, without the client's consent, information communicated by the latter to the advocate in connection with rendering legal assistance.

Advocates must cease rendering legal assistance to two or more persons when there is a conflict of their interests.

Advocates shall be authorised to renounce the obligations assumed as against the client only in cases prescribed by this Law and by the contract entered into with the client.

Clients shall have the right to refuse to receive services from the advocate at any time by remunerating for the service already provided.

In case of refusing to represent the interests of the client, the advocate shall notify the client thereon in good time and provide sufficient time before leaving for the client to select a new advocate. The advocate shall transmit to the client all the documents in his/her possession relating to the case.

Advocates shall have other rights and duties prescribed by law.

Article 21. Guarantees for Practice of the Profession by Advocate
Advocates, when practising their profession, shall act independently and shall abide only by the Constitution of the Republic of Armenia, this Law, the Code of Conduct for Advocates and the Charter of the Chamber of Advocates.

Intervention by state or local self-government bodies, officials thereof, political parties, nongovernmental organisations and mass media in the practice of the profession of advocate shall be prohibited.

Advocates shall be provided with an opportunity of individual, unhampered, confidential communication with their clients and provision of advice thereto.

Advocates shall not be prosecuted or subjected to liability for any action performed in accordance with the requirements prescribed by law, including expression, in the course of in

good faith performance of their professional duties, of their opinion or position in court or in the bodies of inquest or preliminary investigation or in other authorities.

Article 22. Legal Protection of Advocates
Advocates, as well as members of their family, and their property, shall be under state protection.

Authorised state bodies shall undertake the necessary measures prescribed by law to protect advocates when, in connection with the performance of their professional duties, they or members of their family have been threatened with physical violence, destruction of their property or any other unlawful act.

When arresting or detaining an advocate, the authority conducting the proceedings shall immediately inform thereon the Chairperson of the Chamber of Advocates.

Article 23. Assistants to Advocates
Advocates shall have the right to an assistant or assistants. Persons referred to in Article 33 of this Law may not become an assistant to advocate.

Assistants to advocates shall not be entitled to practise the profession of advocate.

Assistants to advocates shall not be allowed to disclose information covered by advocate-client privilege except for the information on grave or particularly grave anticipatory criminal offence provided for by the Criminal Code of the Republic of Armenia, which is certain to occur.

Assistants to advocates shall be admitted to employment based on the employment contract concluded with the undertaking which employs the advocate, or the employment contract concluded with the advocate acting as a sole entrepreneur. Assistants to advocates shall establish their identity with the ID of the assistant to the advocate, the form and manner of issuance of which shall be approved by the Board of the Chamber of Advocates.

Article 24. Interns of Advocates
Advocates having five or more years experience as a practising advocate shall be entitled to have an intern or interns.

An intern shall be a person with higher legal education, except for persons referred to in Article 33, who passes an internship from one to two years in the bodies of the Chamber of Advocates, in the undertaking which employs the advocate, or by entering into an employment contract with an advocate acting as a sole entrepreneur.

The manner and terms of passing an internship, as well as of its termination shall be determined by the Board of the Chamber of Advocates.

Interns of advocates shall carry out their activity under the supervision of the advocate, performing specific assignments related to practice of the profession by the advocate. Interns of advocates shall not be entitled to practise the profession of advocate independently. Interns of advocates shall not be allowed to disclose information covered by advocate-client privilege except for the information on grave or particularly grave anticipatory criminal offence provided for by the Criminal Code of the Republic of Armenia, which is certain to occur.

Interns of advocates shall be admitted to employment by the undertaking which employs the advocate, or through concluding an employment contract with the advocate acting as a sole entrepreneur.

Interns of advocates shall establish their identity with the ID of the assistant to the advocate, the form and manner of issuance of which shall be approved by the Board of the Chamber of Advocates.

Article 25. Advocate-Client Privilege

Advocate-client privilege shall cover the information that clients provide to advocates, as well as the information and evidence not known to the public and obtained by advocates independently during the practice of their profession.

Interrogation of advocates on circumstances which became known to him/her in connection with the request to provide legal assistance or in connection with providing such assistance shall be prohibited.

Advocates shall disclose information covered by advocate-client privilege when:
(1) the client gives his/her consent;
(2) it is necessary in supporting claims made in a court dispute between the advocate and the client, or for the advocate's defence;
(3) there exists information on grave or particularly grave anticipatory criminal offence provided for by the Criminal Code of the Republic of Armenia, which is certain to occur. The duty to observe advocate-client privilege shall have no time limit.

Article 26. Legal Forms of Activities of Advocates

Advocates may choose, in practising their profession, any of the legal forms provided for by thelegislation of the Republic of Armenia.

Article 27. The Code of Conduct for Advocates

The Code of Conduct for Advocates shall determine the rules of conduct and the principles of ethics of advocates.

CHAPTER 4
Authorisation of Practice of the Profession of Advocate

Article 28. Requirements for Obtaining Authorisation to Practise the Profession of Advocate

Those persons shall be eligible to obtain authorisation to practise the profession of advocate who:
(1) have a higher legal education or degree in law and at least two years experience of practising the legal profession;
(2) have taken a qualification examination and been awarded a relevant certificate.

For the purpose of obtaining an authorisation to practise the profession of advocate the applicant shall take an examination with a programme determined by the Board of the Chamber of Advocates. The procedure for conducting and taking examination shall be determined by the Board of the Chamber of Advocates.

For the purpose of obtaining an authorisation to practise the profession of advocate the applicant shall submit to the Qualification Commission an application, a copy of an identification document, CV, a copy of an employment record book or other document certifying their experience of practising the legal profession, a copy of a document certifying that they have a higher legal education or law degree, as well as other documents required by the legislation on the profession of advocate.

In case of necessity, the Qualification Commission shall arrange the verification, within a two months period, of the authenticity of the documents and data submitted by the applicant.

The qualification examination shall consist of a written test and oral interview. The requirements for the qualification examination, the list of subjects to be tested on and the evaluation standards shall be determined by the Qualification Commission.

The results of the qualification examination may be appealed in court.

The applicant failing the qualification examination shall be allowed to retake it after one year. There shall be no limit on the number of attempts taken in order to pass the examination.

Examinations shall be held at least once a year.

The experience of practising the legal profession required for obtaining an authorisation to practise the profession of advocate shall include employment or activity:
(1) as judge or prosecutor;
(2) in a position requiring higher legal education in a non-governmental, state or local selfgovernment
body or organisation;
(3) as an advocate or an advocate's intern;
(4) as a notary or investigator;
(5) as a law professor in secondary, university or post-graduate educational institutions.
A person may obtain an authorisation to practise the profession of advocate without taking a qualification examination and receiving a relevant certificate if he/she has at least 15 years working experience as a judge or advocate.
(Article 28 amended by LA-105-N of 1 June 2006)

Article 29. The Procedure for Issuing Authorisation to Practise the Profession of Advocate

For the purpose of obtaining an authorisation to practise the profession of advocate the applicant shall submit to the Chamber of Advocates an application with a request to obtain membership of the Chamber of Advocates, accompanied by a copy of the certificate issued by the Qualification Commission.

The application of the applicant shall be examined and decided on by the Board of the Chamber of Advocates within one month.

Discrimination of any kind on the basis of national origin, nationality, race, sex, language, religion, political or other opinions, social origin, property or any other status shall be prohibited.

An application may be rejected, if the requirements provided for in Articles 28 and 33 of this

Law have not been met.

Rejection of an application may be appealed in court within one month.

If the application is rejected, the applicant may submit a new application one year after the date of the decision on rejection.

A person receiving membership of the Chamber of Advocates shall receive, within five days, an authorisation endorsed with the seal of the Chamber of Advocates and the signature of the Chairperson.

The authorisation shall be issued without any time and age limitation.

Article 29.1. Advocates Accredited in the Court of Cassation of the Republic of Armenia
(Article 29.1 supplemented by LA-95-N of 21 February 2007)
(Article 29.1 repealed by LA-236-N of 26 December 2008).

Article 30. Special Authorisation and the Procedure for Issuance thereof
(Article 30 repealed by LA-105-N of 1 June 2006)

Article 31. Registration in the Court of Cassation of Advocates with Special Authorisation
(Article 31 repealed by LA-105-N of 1 June 2006).

Article 32. Oath of the Advocate
An advocate obtaining an authorisation to practise the profession of advocate for the first time shall take an oath with the following content in front of the Board of the Chamber of Advocates during a solemn ceremony:

"I solemnly swear to perform honestly and in good faith the duties of advocate, to observe advocate-client privilege and to protect clients' rights, freedoms and interests by abiding by the Constitution and laws of the Republic of Armenia, and the Code of Conduct for Advocates."

The oath shall be taken individually where each advocate reads the text of the oath.

Advocates shall sign the text of the oath.

Article 33. Limitations on Practice of the Profession of Advocate
A person shall not be eligible to become an advocate where he/she:
(1) has been declared by court judgment as having no or limited legal capacity;
(2) has been convicted of intentional criminal offence, and the conviction has not expired or been cancelled.

Article 34. The List of Advocates and Enrolment Therein
To ensure the access of the public to the practice of the profession of advocate, the Board of the Chamber of Advocates shall keep and publish, at least twice a year, a list of advocates.

The list of advocates shall include the name and surname of the advocate, his/her contact information, specialisation of the advocate, as well as other information if the advocate wishes, which must be specified in detail in the advocate's application.

The Chairperson of the Chamber of Advocates shall, within 14 days of receipt of an application from an advocate holding an authorisation to practise the profession of advocate or a foreign advocate authorised to practice the profession of advocate, enrol them in the list of advocates.

Advocates shall be held liable pursuant to law for false information published in the list of advocates.

Article 35. Removal from the List of Advocates

Advocates shall be removed from the list of advocates upon the decision of the Board of the Chamber of Advocates, when:

(1) they submit a written application requesting to have their name removed from the list of advocates;

(2) their authorisation is withdrawn on grounds provided for in Article 36 of this Law;

(3) the authorisation of a foreign advocate to practise the profession of advocate in his/her home country has been withdrawn.

CHAPTER 5
Withdrawal and Suspension of Authorisation to Practise the Profession of Advocate

Article 36. Withdrawal of Authorisation

The authorisation of an advocate shall be withdrawn when:

(1) the advocate files a written request with the Chairperson of the Chamber of Advocates to withdraw the authorisation;

(2) the advocate obtained the authorisation in violation of the requirements of law;

(3) circumstances referred to in Article 33 are present;

(4) a disciplinary penalty for three or more times within a one year period has been imposed on the advocate;

(5) the advocate has died, or a court decision declaring him/her as dead has become effective;

(6) the advocate submitted false data to the Qualification Commission;

(7) the period provided for in Article 38 of this Law for suspension of the authorisation has expired.

Authorisations shall be withdrawn by the Board of the Chamber of Advocates by repealing it. The Board of the Chamber of Advocates shall, in cases referred to in points 4 and 5 of part 1 of this Article, repeal the authorisation based on the opinion of the Disciplinary Committee of the Chamber of Advocates.

The decision to withdraw an authorisation may be appealed in court within a period of one month.

Advocates shall be entitled to apply for a new authorisation two years after its withdrawal.

A foreign advocate, whose authorisation to practise the profession of advocate was withdrawn in the country where he/she had obtained the relevant authorisation, may not practise the profession of advocate in the Republic of Armenia.

Article 37. Withdrawal of the Special Authorisation
(Article 37 repealed by LA-105-N of 1 June 2006).

Article 38. Suspension of Authorisation
Authorisation shall be suspended for a period of up to five years when the advocate:
(1) has been elected to an elective state body or to the position of head of the community, for his/her term of office;
(2) has been drafted for active military service, until the expiry of the period of the service;
(3) is unable to fulfil his/her professional duties due to health problems for a period exceeding one year, if relevant documents certifying the health condition may be provided;
(4) has moved to state service, for the term of state service;
(5) has been declared as missing pursuant to the procedure prescribed by law;
(6) is charged with an intentional criminal offence connected with his/her practice of the profession.

Authorisation shall be suspended in other cases provided for by law.

The Board of the Chamber of Advocates may suspend advocate's authorisation when the court imposes medical enforcement measures on the advocate.

Suspension of the advocate's authorisation shall result in the suspension of guarantees for advocates provided for by this Law.

Authorisations shall be suspended by the Board of the Chamber of Advocates.

The advocate must notify the Chairperson of the Chamber of Advocates about circumstances referred to in points 1, 2, 3 or 4 of part 1 of this Article within ten days.

Advocate's authorisation shall, upon elimination of the grounds referred to in part 1 of this Article, be reinstated upon the decision of the Board of the Chamber of Advocates at the request of the advocate whose authorisation had been suspended.

Decisions rejecting reinstatement of advocate's authorisation may be appealed in court.
(Part 9 repealed by LA-105-N of 1 June 2006)
(Article 38 amended by LA-105-N of 1 June 2006)

CHAPTER 6
Liability of Advocates

Article 39. Disciplinary Liability of Advocates
Advocates shall be subject to disciplinary liability for violating the requirements of this Law, the Code of Conduct for Advocates, the Charter of the Chamber of Advocates, and for failing to perform or improperly performing their professional duties. Disciplinary proceedings shall be opened on the basis of written communications received by the Chamber of Advocates or of publications of mass media. Anonymous communications shall not be subject to verification.

Advocates shall have the right to participate in disciplinary proceedings opened against them, to have counsel, to familiarise themselves with the files of disciplinary proceedings, to present evidence, to summon witnesses, to ask questions and to file motions.

Disciplinary proceedings shall be opened in case of discovery of elements of a disciplinary violation, within ten days of receipt of the statement or communication concerning them.

The decision on opening a disciplinary proceeding shall be communicated to the advocate.

Disciplinary proceedings may not be opened against advocates, and opened proceedings shall be dismissed if six months have passed since the discovery of the violation.
Where a criminal case has been instituted or criminal prosecution is conducted against an advocate, and the institution of a criminal case is rejected or the criminal prosecution is terminated, the advocate shall be subject to disciplinary liability within two months from the date of issuance of the decision on rejecting the institution of a criminal case or termination of the criminal prosecution when elements of a disciplinary violation do exist in the actions of the offender.

Disciplinary proceedings shall be closed no later than within two months following the date of its opening, including the time necessary for decision making. The findings of the disciplinary proceedings shall be announced by the Disciplinary Committee of the Chamber of Advocates.

Article 40. Types of Disciplinary Penalties Applicable to Advocates
One of the following disciplinary penalties may be imposed on an advocate found guilty in disciplinary violation:
(1) reprimand;
(2) severe reprimand;
(3) fine.
The amount of fine, which may not exceed 100-fold the minimal salary, shall be determined by the Board of the Chamber of Advocates. The fine shall be paid to the Chamber of Advocates.

When imposing disciplinary penalties, the personality of the person committing the disciplinary offence, the severity and recurrence of the act, as well as its consequences and the size of the damage caused, shall be taken into account.

The advocate may appeal in court the imposition of a disciplinary penalty within one month following the date of its imposition.

In case of a reprimand, a disciplinary penalty shall be effective for three months, in case of a severe reprimand for six months, and in case of a fine for nine months, starting from the date of the decision to impose the disciplinary penalty. After the end of the prescribed period of effectiveness of disciplinary penalties the penalty imposed on an advocate shall be deemed expired.

CHAPTER 7
Public Defence and the Office of Public Defender

Article 41. Public Defence
Public defence shall be the legal aid in matters referred to in Article 6 of this Law.

Article 42. The Office of Public Defender
Public Defence shall be carried out through the Office of Public Defender.
The Office of Public Defender shall be a structural subdivision within the Chamber of Advocates and comprise the Head of the Office of Public Defender and Public Defenders.

Article 43. Head of the Office of Public Defender
The Head of the Office of Public Defender shall be elected through closed voting by secret ballot by the General Meeting of the Chamber of Advocates from among the members who have at
least ten years experience as practising advocates, for a term of four years, but for no more than two consecutive terms.

The Head of the Office of Public Defender shall be elected pursuant to the procedure prescribed by Article 13 of this Law for the election of the Chairperson of the Chamber of Advocates.
The Head of the Office of Public Defender shall:
(1) represent the Office of Public Defender;
(2) arrange, in cases provided for by this Law, the provision of equally accessible and efficient legal aid for everyone;
(3) divide work among public defenders;
(4) take decisions to ensure the smooth functioning of the Office of Public Defender;
(5) take a decision, at the request of the authority conducting criminal proceedings or, in cases provided for by Article 6 of this Law, at the request of a citizen, on awarding the request on public defence and assigning the case to a public defender, or on denying the request on public defence where public defence is not provided for by Article 6 of this Law;
(6) supervise the quality and timeline of legal assistance rendered by public defenders;
(7) file a motion on opening disciplinary proceedings against a public defender.

The Head of the Office of Public Defender shall participate in the meetings of the Board of the Chamber of Advocates with the right to a consultative vote.

The Head of the Office of Public Defender shall receive appropriate remuneration for his/her activity in the amount of 95 percent of the salary of the Chairperson of the Chamber of Advocates.
(Article 43 amended by LA-141-N of 8 July 2005)

Article 44. The Public Defender
Public Defender shall be an advocate employed in the Office of Public Defender and acting under an employment contract concluded with the Chairperson of the Chamber upon submission by the Head of the Office of Public Defender. A competition may be announced for the position of Public Defender in accordance with the procedure determined by the Board of the Chamber of Advocates.

Article 45. Remuneration of Public Defenders and Funding of the Office of Public Defender
Public Defenders shall be remunerated for their work from the State Budget. The amount of remuneration to be paid to the Chamber of Advocates from the State Budget shall be determined in the amount equivalent to remuneration for monthly work of public defender

which shall be equal to remuneration prescribed by law for one working month of a Community Prosecutor of Yerevan.

The Office of Public Defender shall be financed from the State Budget of the Republic of Armenia. The funds allocated to the Office of Public Defender may not be spent for other purposes.

The Office of Public Defender may attract additional funds from sources not prohibited by law, which may be used for improving the functioning of the Office and for bonuses with the purpose of increasing the efficiency of Public Defenders' activity.
Funds of the Office of Public Defender shall be disposed of by the Head of the Office of Public Defender.

CHAPTER 8
Transitional and Final Provisions

Article 46. Entry into Force of this Law
This Law shall enter into force on the day following its official publication.

The Law of the Republic of Armenia LA-234 of 18 June 1998 on the Practice of the Profession of Advocate shall be repealed upon entry into force of this Law.

Article 47. Formation of the Chamber of Advocates
The Chamber of Advocates shall be the successor of the advocate unions operating in the Republic of Armenia.

After the entry into force of this Law the powers of other advocate unions operating in the Republic of Armenia shall be maintained until the formation of the Chamber of Advocates.

The Chamber of Advocates shall be formed within two months after the entry into force of this Law, through reorganisation of the advocate unions operating in the Republic of Armenia pursuant to Article 63 of the Civil Code of the Republic of Armenia.

The founding General Meeting of the Chamber of Advocates shall be convened by the Minister of Justice of the Republic of Armenia who shall preside the meeting until the Chairperson of the Chamber of Advocates is elected.

The founding General Meeting of the Chamber of Advocates shall be entitled to start its work if two third of the total number of advocates of the existing union of advocates is present.

Article 48. Legal Status of Interns of Advocates Having Obtained Authorisations before the Entry into Force of this Law
The advocate unions operating in the Republic of Armenia shall be considered reorganised upon their registration pursuant to the procedure established by law.

The Chamber of Advocates shall replace the authorisations of the advocate-members of the advocate unions operating in the Republic of Armenia with the authorisations of the Chamber of Advocates. The authorisations issued by the advocate unions operating in the Republic of Armenia shall be valid for three months following the registration of the Chamber of Advocates.

Persons who, before the entry into force of this Law and during the period of effectiveness of the Law of the Republic of Armenia on Practice of the Profession of Advocate, have been providing representation in court in the territory of the Republic of Armenia as an entrepreneurial activity, and who meet the requirements set forth in Article 28(1) of this Law, may, within a month of the entry into force of this Law, receive authorisations to practise the profession of advocate without passing a qualification examination and obtaining a relevant certificate, by submitting relevant documents certifying the fact of exercise of court representation as an entrepreneurial activity, except for persons who had hold an authorisation to practise the profession of advocate which has been withdrawn.
Probationers of the advocate unions operating in the Republic of Armenia shall be recognised as interns of the Chamber of Advocates.
(Article 48 edited LA-105-N of 1 June 2006)

Article 49. Legal Status of Persons Authorised to Provide Representation in an Arbitration
Tribunal or in Other Courts Prior to the Entry into Force of this Law

The limitation in Article 5(3) of this Law shall not apply to persons who have obtained authorisation to provide representation in an arbitral tribunal, or, prior to the entry into force of this Law, in other court.

President of the Republic of Armenia
R. Kocharyan
13 January 2005

Law of the Republic of Armenia on Making Amendments to the "Law on Advocacy" of the Republic of Armenia

Adopted on December 8, 2011

Article 1.Edit Article 4 of the "Law on Advocacy" of the Republic of Armenia of December 14, 2004, HO-29-N (hereinafter, Law) as follows:

"**Article 4. Limitation of Use of Definitions in This Law**

Organizations are prohibited to use the word "advocate", all its declination forms or word combinations including that word, as well as the semantic translation of the word "advocate" in other languages, with the exception of the Chamber of Advocates, Advocate's School and organizations established to carry out advocate's activities."

Article 2. Edit Article 5 of the Law as follows:

"Article 5. Advocates' Activity

1. Advocate's activity is a type of law-protecting activity carried out by an advocate, which aims at accomplishing legitimate interests of the person who receives legal assistance, with means and methods not prohibited by law.

2. Advocate activity includes:

1) consultation, including consulting clients on their rights and obligations, as well as studying documents, preparing other documents of legal nature (hereinafter, Consultation);
2) representation, including court representation (hereinafter, Court Representation);
3) defence in criminal cases;
4) provision of legal aid to a witness in cases and procedure provided by law

3. Only an advocate shall provide court representation or its organization prescribed by this Article, as a service rendered on paid or regular basis, except for cases:

1) when free representation is rendered to a close relative, including parents, children, adopter, adoptee, full siblings, half siblings,, cousins, nephews, grandfather, grandmother, grandchildren, as well as spouse or the spouse's parents, brother-in-law, sister-in-law;
2) when the interests of a legal entity are represented in court, more than the half of the stocks of the authorized capital of which is owned by a close relative(s).

4. Only an advocate can provide defense in criminal cases prescribed by this Article.

5. Rendering legal aid to the employer by the advocate based on the employment contract shall not be considered as advocate activity, except for the activity carried out by an advocate employed by an advocate."

Article 3. Edit Article 6 of the Law as follows:

"**Article 6. Payment for Advocates' Activity**

1. Advocate is entitled to receive remuneration for his or her services.

2. The amount and procedure of honorarium for advocate's activity shall be decided by the written contract (hereinafter, the Contract) signed according to the Civil Procedure Code of the Republic of Armenia between the advocate and the client.

3. On the advocate's initiative legal aid can be rendered for free.

4. The state shall guarantee free legal aid to persons prescribed by Article 41 of this Law and in cases and procedure prescribed by the same article herein.

5. In order to determine the reasonable remuneration amount for the advocate related to compensation of court costs (damages) by judicial bodies, the Board of the Chamber of Advocates can set an average pricelist of fees for advocate's activity. This pricelist cannot be used for other purposes."

Article 4. Edit Article 7 as follows:

"**Article 7. Chamber of Advocates of the Republic of Armenia**

1. The Chamber of Advocates of the Republic of Armenia (hereinafter referred to as "Chamber of Advocates") is a professional, independent, self-governed, non-profit organization for all advocates established based on this Law. Chamber of Advocates acquires a status of a legal entity upon its registration in the manner prescribed by law.

2. Objectives of the Chamber of Advocates are as follows:

1) protect rights and lawful interests of its members in their interrelation with government and local self-government bodies, organizations and in courts;
2) organize the licensing process of advocates;
3) organize professional education of trainees and training of advocates;
4) oversee that its members follow the requirements of the code of advocate's conduct and the charter of the chamber of advocates;
5) take measures with the purpose of raising the reputation of advocate's profession;
6) ensure the right to free legal assistance as prescribed by this law equally accessible and effective to all.
7) promote to raise public legal consciousness and legal culture.

3. Chamber of advocates can cooperate with bar associations of foreign countries, with international and other organizations.

4. Chamber of Advocates can exercise entrepreneurial activities only for purposes of meeting the objectives prescribed herein. The Chamber of Advocates is entitled to exercise those types entrepreneurial activity that are provided only by its Charter."

Article 5. In Article 8 of the Law find

1. Paragraph 3, part 1 of the Law ineffective;

2. In part 2, after the word "chairman" add "as well as in cases prescribed by the Charter of the Chamber of Advocates";

3. Add **a new part (part 6) to Article 8**
"The powers of the bodies of the Chamber of Advocates (and the Chairman) and shall terminate only after the new body (or the Chairman) is elected, upon the assumption of powers."

Article 6. Amend Article 9 of the Law as follows:

"Article 9. General Meeting of the Chamber of Advocates

1. General Meeting of Advocates is the supreme body of the Chamber of Advocates, which:

1) adopts the Charter of the Chamber of Advocates and the Code of Advocate's Conduct;
2) elects and recalls the Chairman of the Chamber of Advocates, members of the Board; as well as persons provided under Article 39.5 of the Law;
3) resolves other issues provided by the Charter of the Chamber of Advocates.

2. The General Meeting of the Chamber of Advocates shall make decisions

1) by convening a general meeting
2) without convening a general meeting (hereinafter referred to as 'distance procedure')

3. The general meeting of the Chamber of Advocates consists of all advocates who are a member of the Chamber of Advocates.

4. The rules for convening, organizing and administering the General Meeting, as well as the voting by distance procedure (including elections) (related to the procedure and terms of nomination and pre-election campaign of the Chairman, Board members as well as persons provided under Article 39.5 of the Law) shall be established by the Charter of the Chamber of Advocates.

5. General Meeting of the Chamber of Advocates (either by convention or by distance procedure) shall be summoned by the decision of the Chairman of the Chamber of Advocates or the Board of the Chamber of Advocates. Upon the request of one-forth members of the total number of members of the Chamber of Advocates the Chairman of the Chamber must summon a General Meeting pursuant to the procedure and terms prescribed by the Charter of the Chamber of Advocates.

6. General Meeting of the Chamber of Advocates is competent if:

1) more than one-third of the members of the Chamber of Advocates having right to vote are present at the meeting; or
2) more than one-third of the members of the Chamber of Advocates take part in the distance meeting.

7. Decisions of the General Meeting of the Chamber of Advocates shall be approved with simple majority vote through open election except for cases provided by this Law.

8. Powers of the General Meeting of the Chamber of Advocates cannot be transferred to other bodies.

9. The decisions of the General Meeting of the Chamber of Advocates shall enter into force upon promulgation as provided by the procedure of the Charter of the Chamber of Advocates unless otherwise is provided by the Charter of the Chamber of Advocates.

10. The decision of the General Meeting of the Chamber of Advocates can be challenged in court by an interested advocate within one month the decision enters into force."

Article 7. Amend the Law by adding a new article-Article 9.1

"Article 9.1. Counting Committee of the Chamber of Advocates and Summarizing Voting Results

1. To register the nominees for the chairman of the Chamber of Advocates, the Board, as well as persons provided under Article 39.5 of the Law, as well as to organize the voting of the General Meeting of the Chamber of Advocates and summing up the results of voting (elections), the Board of the Chamber of Advocates shall form the counting committee of the

Chamber of Advocates (hereinafter, Counting Committee) pursuant to the procedure of the Charter of the Chamber of Advocates.

2. The term of powers of the Counting Committee members and the number of members shall be established by the Charter of the Chamber of Advocates.

3. The Charter of the Chamber of Advocates shall set forth the rights of the nominees' proxies and observers and the order of enforcement.

4. After the voting at the General Meeting of the Chamber of Advocates, the Counting Committee shall sum up the voting results according to the procedure established by the Board of the Chamber of Advocates.

5. The voting results shall be announced by the Chairman of the Committee or by another member by the Committee's decision not later than the following day of making the protocol on finalized results.

6. The decision of the General Meeting of the Chamber of Advocates shall be considered approved upon promulgation of voting results."

Article 8. Amend Article 10 of the Law as follows:

"**Article 10. Board of the Chamber of Advocates**

1. The Board of the Chamber of Advocates is the executive body and the body carrying out disciplinary proceedings of the Chamber of Advocates.

2. The number of the Board members of the Chamber of Advocates shall be established by the Charter of the Chamber of Advocates, which can be no less than twelve members besides the chairman of the Board.

3. Members of the Board of the Chamber of Advocates (except for the chairman of the Board) shall be elected with rating criteria by the General Meeting for four years' term except for cases stipulated by part 4 of this Article.

4. In case of untimely termination of powers of a member of the Board of the Chamber of Advocates he/she shall be replaced by the advocate who received the successive prevailing number of "affirmative" rating votes as of the latest elections of members for the Board of the Chamber of Advocates, but who was not elected, for the remaining period of the specified term of the former member according to the procedure prescribed by the Charter of the Chamber of Advocates.

5. The Board of the Chamber of Advocates:

1) appoints the Head of the Public defender's Office;
2) develops and submits to the General Meeting of the Chamber of Advocates the new edition of the Charter for its approval, amendments to the Charter;
3) develops the Code of Advocate's Conduct and submits it to the General Meeting of the Chamber of Advocates for its approval;
4) forms the Counting Committee;

5) forms the qualification commission;
6) proposes recommendations on amendments to and adoption of laws and other legal acts to relevant government bodies, as well as gives an opinion about draft legal acts to the drafting bodies;
7) approves draft annual budget of the Chamber of Advocates upon its submission by the Chairman of the Chamber of Advocates;
8) Budgets and through the Ministry of Justice submits financial requests for reimbursement of provision of free legal aid to the Ministry of Finance of the Republic of Armenia.
9) takes a decision on providing license for advocates' activities to candidates for advocacy (hereinafter referred to as "candidate") in accordance with the provisions prescribed by Article 29 of this Law.
10) takes a decision on recognizing an advocate's license ineffective;
11) takes a decision on suspending or reinstating an advocate's license;
12) determines the amount and payment order of advocates' membership fee and candidates' admission and other payments, as well as the amount of payments for training;
13) approves the staff list of the Chamber of Advocates;
14) resolves the issue of disciplining the advocate and imposing a disciplinary sanction;
15) carries out other powers prescribed by the law and Charter of the Chamber of Advocates.

6. Sessions of the Board of Chamber of Advocates shall be convened by the Chairman of the Chamber of Advocates upon necessity, but no less than 4 (four) times a year. Sessions of the Board of Chamber of Advocates can also be convened by one third of Board members of the Chamber of Advocates or on the initiative of 30 members of the Chamber of Advocates. The specifics related to convention of a session of the Board of the Chamber of Advocates with the purposes of examining a disciplinary case are set forth by Article 39.6 of this Law.

7. A session of the Board of Chamber of Advocates has legal power if at least half of the members of the Board of Chamber of Advocates are present at the session. A session of the Board of the Chamber of Advocates shall be administered in the presence of the Board members. A member of the Board of Chamber of Advocates shall vote and fulfill his/her powers at sessions of the Board of the Chamber of Advocates in person.

8. Decisions of sessions of the Board of Chamber of Advocates are made by simple majority vote of the members present at the session unless a bigger number of votes is provided by the Charter of the Chamber of Advocates."

Article 9. Find Article 11 of the Law ineffective.

Article 10. In Article 12 of the Law

1. In part two
a) "replace the words "for the term of two years consisting of nine members" with "for the term set by the Charter of the Chamber of Advocates consisting of eight members";
b) Amend paragraph 1 as follows:
"1.The Chairman of the Chamber of Advocates, who is also the Chairman of the Qualification Commission by virtue of his office, and four members elected in the procedure prescribed by the Charter of the Chamber of Advocates";

2. Find part three ineffective;

3. In part five replace the words “one-third” with the word “half”;

4. Find part six ineffective.

Article 11. In Article 13:

1. Replace the word “seven” with “ten” in part two;

2. Edit part 8 as follows:

“The Chairman of the Chamber of Advocates:
1) represents the Chamber of Advocates;
2) acts without a power of attorney and issues powers of attorney;
3) concludes agreements according to the established procedure, including employment agreements;
4) opens account numbers of the Chamber of Advocates in bank;
5) takes decisions on issues related to proper functioning of the Chamber of Advocates;
6) appoints and dismisses the staff of the Chamber of Advocates;
7) defines the job descriptions of the staff of the Chamber of Advocates;
8) includes the name of an advocate into the list of advocates;
9) files a disciplinary proceedings against an advocate;
10) terminates the term of the license of deceased advocates and removes the name from the list;
11) issues certificates for advocates and advocate’s assistant;
12) oversees the work of the Public Defender’s Office;
13) Based on the proposal of the Head of the Public Defender’s Office submits the draft expenditure budget (budget request) of Public Defenders’ Office to the Government of the Republic of Armenia to be included in the draft state budget;
14) manages the property of the Chamber of Advocates, including its finances in the procedure set by the Charter of the Chamber of Advocates;
15) carries out other powers prescribed by the law and the Charter of the Chamber of Advocates, as well as not reserved for the authority of other bodies”.

3. Amend the first sentence of part 9 as follows:
“To carry out his powers the Chairman of the Chamber of Advocates can appoint deputies from among advocates.”

Article 12. In Article 17 of the Law:

1) Amend part one as follows:
“An advocate is a qualified lawyer, who has received a relevant license to carry out advocate’s activities”;

2) Add the words “and administrative” after the word “civil” in part three, paragraph 3;

3) Delete the 2nd sentence from part four;

4) Find parts two, five, seven, eight and nine ineffective.

Article 13. Add a new Article 17.1 to the Law:

“Article 17.1. Foreign Advocate

1. A foreign advocate shall practice advocate’s activity in the Republic of Armenia pursuant to the order set forth in this Law, in the Charter of the Chamber of Advocate and the Code of Advocate's Conduct, unless otherwise is prescribed by international agreements of the Republic of Armenia.

2. A foreign advocate functions in the Republic of Armenia based on the license issued by the relevant advocates' institution of his or her country and he or she shall get accreditation at the Chamber of Advocates in the procedure provided by the Charter of the Chamber of Advocates. The order for issuing an accreditation and terminating the effectiveness of the accreditation shall be established by the Board of the Chamber of Advocates. The Board of the Chamber can terminate the effectiveness of accreditation if the foreign advocate violates the requirements of this Law, the Charter of the Chamber of Advocates and the Code of Advocate’s Conduct. Fees for accreditation determined by the Board of the Chamber of Advocates shall be charged from a foreign advocate”.

Article 14.In Article 18 of the Law

1. Find part 1 ineffective;

2. In part two
a) Delete the word “in particular”;
b) Add the words “and administrative” after the word “civil” in paragraph 1;
c) Amend sub-paragraphs 2 and 3 as follows:

“2)obtain, record, and produce evidence (information) in favor of the client following the procedure nor prohibited by law, including using technical means, such as video, audio, photo and copying equipment, unless otherwise is prescribed by law or does not violate the rights and legal interests of other people.”

“3) apply to government, local self-government bodies, private entrepreneurs and legal entities (hereinafter referred to as Businesses) to get documents (information) necessary for rendering legal assistance. The state and self-government bodies shall provide required documents (information) or their copies to the advocate within 10 (ten) days unless otherwise is provided by laws regulating the activities of those bodies or if the required documents (information) contain a secret guarded by law. Rejection to provide documents (information) shall be in writing and substantiated. In the cases mentioned herein a fee can be charged from advocate for providing the documents (information) or their copies which cannot exceed the cost for their preparation, unless other sum is provided by the legislation.”

3. Add paragraph 6 to part 2:

6) have private and confidential meetings with his/her client with no limitation as to the number and length of the meetings, as well as involve a licensed interpreter unless otherwise is prescribed by law.

4. Add a new part (part 3) with the following content:

"In carrying out advocate's activities the advocate is free to do anything that is not prohibited by law and does not violate the rights and freedoms of other persons".

Article 15. In Article 19 of the Law:

1. Add a new paragraph 4.1 with the following content:

4.1) participate in training courses provided by this Law in the procedure and time prescribed.

2. Word paragraph 7 as follows:

"7) fulfil the duties, set forth in the Law of the Republic of Armenia on "Struggle Against Money Laundering and Financing Terrorism if the fulfilment of these duties does not breach the requirement of maintaining advocates' confidentiality provided by this Law

3. Add paragraph 8:

"8) meet the requirements of legal acts adopted by the bodies of the Chamber of Advocates and the Chairman of the Chamber of Advocates within the scope of their authority. "

Article 16. Add a new paragraph 8 to Article 20 of the Law with the following content:

A foreign citizen or a person without citizenship who is a member of the Chamber of Advocates, as well as an advocate of another country has no right to provide legal aid on issues involving state or official secret of the Republic of Armenia".

Article 17. Edit Article 21 of the Law as follows:

"**Article 21. Guarantees for Advocate's Activity**

1. The advocate shall be independent in his/her activities and shall be guided only by the RA Constitution, International Treaties and Laws of the Republic of Armenia, Code of Advocate's Conduct and Charter of the Chamber of Advocates.

2. Interference of national or local self-governing authorities, the officials thereof, legal and physical entities (including the mass media) with the activity of an advocate shall be prohibited.

3. An advocate shall be provided an opportunity to have individual, unhampered, confidential communication and consultation with his or her clients in state bodies and institutions, , including also judicial bodies. State and judicial bodies and institutions and their officials must undertake all necessary measures to ensure the advocate's right to communicate with his client in an individual, unhampered and confidential manner.

4. An advocate cannot be prosecuted, incur liability or be taken to police, arrested or be subject to restriction of rights with regard to the performance of his/her professional duties, including expressing his or her opinion or position before the body in charge of the proceedings and other bodies, for.

5. An advocate shall not be identified with his/her client relying on the performance of professional duties by the advocate.

6. An advocate's apartment, transportation means and office or the office of an advocate organization cannot be searched with regard to divulging such circumstances that are related to advocate's activity. It is not allowed to search an advocate at the time of direct performance of his/her professional duties.

7. Documents and information carriers (computers, audio-video equipment, CDs, film strips, etc.) that are related to services provided by an advocate shall be inviolable and cannot be seized (taken) and used as evidence. Documents (materials) and information carriers seized from an advocate or advocate organization cannot be used as evidence.

8. It is prohibited to question the advocate as a witness about events that became known to him at the time of providing legal aid or referrals. In the meaning of this part any person, who is not an advocate and is employed by an advocate shall be equal to the status of an advocate.

9. An advocate shall not be prohibited to get acquainted with all court materials that deal with his client, as well as to take as many notes and copies as necessary, except for data affirming the defendant's identity

Article 18. Edit Article 23 as follows:

Article 23. Advocate's Assistant
1. An advocate has the right to have assistants. Persons having higher education can only serve as an advocate's assistant. People described in article 33 of this law cannot become an advocate's assistant.

2. An advocate's assistant achieves his status by receiving a license by the Board of the Chamber of Advocates in a simplified procedure established by the Board.

3. In the meaning of this Law the status of an advocate's assistant is equal to that of an advocate, who shall enjoy all rights of an advocate except for the following:
1) an advocate's assistant has no right to participate in court or in investigative and trial activities in the pre-trial proceedings without his/her supervising advocate;
2) an advocate's assistant has not right to sign and file applications, motions, objections, announcements, replies, recusals, appeals to the Court of Appeal or Court of Cassation, as well as to ask questions when participating in investigative or trial activities;
3) an advocate's assistant has no right to participate in the general meeting of the Chamber of Advocates, including in the general meeting held by distance procedure, to elect and to be elected for the bodies of the Chamber and as a chairman of the Chamber, participate in the voting of the Charter and Code of Conduct of the Chamber.

4. Other cases of restriction of the rights of an advocate's assistant may also be provided by the Code of Advocate's Conduct.

5. An advocate's assistant assumes all responsibilities that are provided by this Law for an advocate, except for the responsibility to take part in training courses.

6. Other cases of restriction of the responsibilities of an advocate's assistant may also be provided by the Charter of the Chamber of Advocates.

7. In the event an advocate's assistant violates the requirements of the Code of Advocate's Conduct shall be disciplined according to the procedure prescribed under Chapter 6 of this Law.

8. Termination or suspension of the license of an advocate's assistant shall be carried out in cases and in the procedure prescribed by Articles 36 and 38 of this Law.

9. An advocate's assistant's identification is determined by an advocate's assistant's ID, the form and procedure of issuance for which is determined by the Board of the Advocate's Chamber.

Article 19. Find Article 24 of the Law ineffective.

Article 20. Edit Article 25 of the Law as follows:

"Article 25. Advocate's Secret (Confidentiality)

1. The information and evidence confidentially provided to an advocate by the person who seeks free legal aid, the conversation between the advocate and the client, the essence and contents of the consultation given by the advocate as well as the information and evidence (materials, CDs) obtained by an advocate independently in the course of his or her advocate activity, shall be considered as advocate's secret.

2. An advocate, a non- advocate employed by the advocate, as well as the employee of the Chamber of Advocates has no right to disclose an advocate's secret, except for cases provided under this Article.

3. An advocate can disclose advocate's secret if:
1) client consent is available;
2) it is necessary for supporting the claims in a dispute arisen between the advocate and the client, or for advocate's defence;
4. Advocate discloses advocate's secret if there is information about preparation of grave or especially grave crime provided by the Criminal Code of the Republic of Armenia.
5. The obligation to preserve the advocate's secret shall not be limited in time and applies to the person whose license for advocate's activities has been suspended or terminated."

Article 21. Edit Article 27 of the Law as follows:

"Article 27. **Code of Advocate's Conduct**

1. Code of Advocate's Conduct sets unified rules for advocates' conduct and principles for advocate's ethics, which is binding for all advocates, as well as their employees.
2. In employment agreements concluded with technical staff advocates must include a provision about their responsibility to meet the requirements of the Code of Advocate's Conduct and observe their maintenance."

Article 22. Find Article 28 of the Law ineffective

Article 23. Edit Article 29 of the Law as follows:

1. Edit part 1 as follows:
"1. In order to receive an advocate license, a candidate shall submit to the Chamber of Advocates an application requesting to get a membership of the Chamber of Advocates, and attaching a copy of the certificate issued by the Qualification Commission. The certificate issued by the Qualification Commission is valid from the day it was issued until the next qualification examination for receiving a license for advocates' practice."

2. Find part 6 ineffective.

Article 24.In Article 34 of the Law:

1. Word part one as follows:
"The Chairman of the Chamber of Advocates shall publish the list of advocates in the procedure prescribed by the Charter of the Chamber of Advocates on www.azdarar.am website";

2. In part 2 replace the words "other information as the advocate's wishes, which shall be mentioned in the advocate's application in details" with "other information provided by the Charter of the Chamber of Advocates";

3. In part 3 replace the words "includes him/her in the advocate list" with "accordingly includes him/her in the advocate list and in the list of foreign advocates";

4. In part 4 add the word "disciplinary" before "responsibility".

Article 25. Amend Article 35 of the Law as follows:

"Article 35. Removal of Advocates from the Register

1. Based on the decision of the Board of the Chamber of Advocates an advocate shall be removed from the register if:
1) he or she submitted a written request to remove his or her name from the List of Advocates;
2) his or her license is terminated if grounds provided in this Law are in place;

2. By the decision of the Chairman of the Chamber of Advocates the advocate can provisionally be removed from the register if the validity of his/her license is suspended.

3. By the decision of the Board of the Chamber of Advocates a foreign advocate is removed from the list of foreign advocates if his right to advocate's activity is terminated in the country where that right was made available or the effectiveness of his accreditation is invalid".

Article 26. Edit Article 36 of the Law as follows:

"**Article 36. Termination of License**
1. An advocate's license shall be terminated if:
1) he requests the Chairman of the Chamber of Advocates in writing to terminate his license;

2) he received a license by violations of the requirements of law;
3) circumstance described in Article 33 of this Law are present;
4) he died, or a court decision on finding him dead entered into legal force;
5) he or she submitted false data to receive license for practicing advocacy, as well as to take the qualification examination;
6) term provided by Article 38 of this Law for suspension of license has expired.

2. The Board of the Chamber of Advocates shall terminate the advocate's license and in the case mentioned in part 3 and 4 of part 1 of this Article - the Chairman of the Chamber of Advocates by finding it ineffective.

3. The Board of the Chamber of Advocates can terminate the license of an advocate also in cases provided by Article 39.9 of this Law.

4. Decision on finding an advocate's license ineffective may be appealed in court within one month.

5. A person has a right to apply for a new license one year after termination of his or her license.

6. A foreign advocate cannot practice advocate's activities in the Republic of Armenia if his right to practice has been terminated in the country where he got the relevant authorization to conduct advocate's activity".

Article 27. Edit Article 38 of the Law as follows:

1. An advocate's license shall be suspended if an advocate:
1) has been elected to an elective position in a state body or a position of community leader or a councillor for the term of office;
2) has been drafted for mandatory military service until the period of the service expires; 3) is unable to fulfil his or her professional duties for health reasons for over 1 year, if he or she has relevant documents to prove that, but no longer than for five years' period;
4) moved to state service, for the term of state service, but no longer than for five years' period;
5) has been recognized as missing for unknown reasons pursuant to a procedure prescribed by law.

2. An advocate's license can be suspended in cases when the court imposes coercive measures of medical nature on the advocate.

3. An advocate shall notify about circumstances described in the first paragraph, point 1, 2, 3 or 4 of this article to the Board of the Chamber of Advocates within ten days' period.

4. A license is suspended by the Board of the Chamber of Advocates.

5. Suspension of an advocate's license shall lead to suspension of guarantees applied towards that advocate under this Law.

6. A member of the Chamber with a suspended license has no right to participate in the election of the bodies of the Chamber and the Chairman.

7. Upon elimination of circumstances described in the first part of this article, the advocate's license shall be recovered by a decision made by the Board of the Advocate's Chamber based on an application of the advocate whose license had been suspended.

8. A decision rejecting recovery of an advocate's license can be appealed in court.

An advocate, whose license has been recovered, must take training courses in accordance with the timetable set by the Board of the Chamber of Advocates.

Article 28. Edit Chapter 6 and 7 of the Law as follows:

CHAPTER 6
Liability of Advocate

Article 39. Grounds to Subject an Advocate to Disciplinary Liability

1. An advocate is subject to disciplinary liability for violating the requirements of this Law and the Code of Advocate's Conduct.
2. The judicial act to the detriment of the advocate's client with participation of the advocate in a criminal, administrative or civil case does not itself result in disciplinary liability for the advocate.

Article 39.1. Procedure of Disciplinary Proceedings, Reasons and Grounds for Initiating Disciplinary Proceedings against Advocate

1. The procedure of disciplinary proceeding shall be provided under this Law and the Code of Advocate's Conduct.

2. The reasons for initiating disciplinary proceedings against an advocate are:
1) Applications (complaints) from state, local self-governing and non-state bodies, other persons as well as from publications in the media;
2) The court sanction on applying to the Chamber of Advocates regarding imposition of liability.
3) The record submitted by the Accountant of the Chamber about the advocate's failure to pay the membership fee during the specified time period;
4) The record submitted by the Director of the School of Advocacy about the advocate's failure to pass training during the specified time period;
5) The motion of the Head of the Public Defender's Office about initiating disciplinary proceedings against a public defender.

3. A letter, statement with no signature or with a false signature or written by an invented person or anonymous information about subjecting someone to disciplinary liability shall not be a reason for bringing a disciplinary proceeding.

4. A ground for initiating disciplinary proceedings against an advocate is the prima facie existence of elements of violation of the requirements of this Law and the Advocate's Code of Conduct in the advocate's conduct.

Article 39.2. Rights of the Advocate and the Applicant during the Disciplinary Proceedings

1. According to the procedure set under this Law the advocate and the applicant have equal rights:

1) To participate in all stages of the disciplinary proceedings in person or through a representative;
2) To become familiar with all materials upon the moment the disciplinary action is filed, take notes of any length and receive their copies;
3) To give explanations or to refuse giving explanations;
4) Present evidence to be attached to the disciplinary case and to be examined;
5) To challenge the Board member of the Chamber of Advocates and persons preparing the case;
6) To make motions;
7) To invite witnesses, ask questions to own witnesses as well as to witnesses of the other party or those called by the Board of the Chamber of Advocates;
8) To ask questions to speakers;
9) To make a closing argument;
10) To receive the decision made by the Chairman and the Board of the Chamber of Advocates;
11) To appeal the decision made by the Chairman and the Board of the Chamber of Advocates.

Article 39.3. Procedure for Considering Statements about Disciplinary Violations and Initiation of Disciplinary Proceedings against and Advocate

1. If a reason and a ground exist to initiate disciplinary proceedings the Chairman of the Chamber of Advocates shall make a decision about initiating disciplinary proceedings within one month upon the moment the reason arises.

2. Within the specified period the Chairman of the Chamber or another person designated by him may request additional documents, explanations and other materials.

3. Disciplinary proceedings can be initiated within six month after finding out the ground for disciplinary liability, but no later than one year after the ground originates. After the term defined under this part has expired disciplinary proceedings cannot be initiated, also the proceedings which was initiated by a violation is subject to dismissal. From the day of initiation of the disciplinary proceedings the limitation period foreseen for this part is suspended.

4. Within five days after the decision about initiating disciplinary proceedings is made, according to the procedure established by the Board of the Chamber of Advocates the Chairman of the Chamber shall send the disciplinary case to the person provided by Article 39.5 of this Law and in cases provided by Article 40 of this Law – to the Board of the Chamber of Advocates.

5. Within five days upon making the decision about initiating disciplinary proceedings, its copy shall be sent to the natural or legal entity having reported about initiating the

disciplinary proceedings and the advocate against who the disciplinary proceedings has been filed.

6. The Head of the Public Defender's Office shall also be notified within five days upon the moment the decision about initiating disciplinary proceedings against a public defender is made.

Article 39.4 Refusal to Initiate Disciplinary Proceedings

1. In case a reason or ground to initiate disciplinary proceedings is absent, the Chairman of the Chamber of Advocates shall make a reasoned decision about refusing to initiate the disciplinary proceedings.
2. Within five days upon making the decision about refusing to initiate disciplinary proceedings, its copy shall be sent to the natural or legal entity having reported about initiating the disciplinary proceedings.

3. The decision about refusing to initiate disciplinary proceedings can be appealed by the interested to court within one month upon receiving the decision.

Article 39.5. Preparation of the Disciplinary Case for Examination by the Board of the Chamber of Advocates

1. The disciplinary case shall be prepared for the examination by the Board of the Chamber of Advocates by advocates elected by closed secret ballot for that purpose by the General Meeting of the Chamber of Advocates for a four year term based on ranking (hereinafter, case preparer). Their number shall be set forth by the Charter of the Chamber of Advocates.

2. The sharing of disciplinary cases among the case preparers shall be done pursuant to the procedure established by the decision of the Board of the Chamber.

3. The case preparer must collect evidence in order to ensure the lawfulness of the disciplinary proceedings and to disclose the circumstances essential for just resolution.

4. The case preparer shall finish the process of gathering evidence and the disciplinary case shall be sent to the Board of the Chamber within reasonable time, but no later than within two months upon the moment the case is received.

Article 39.6 Procedure for Examining the Case about Disciplining the Advocate

1. The Board of the Chamber of Advocates is body which examines the disciplinary case on the merits and makes a final decision.

2. The disciplinary case brought to the Board of the Chamber of Advocates shall be admitted by the member of the Board to proceedings about which he/she shall make a decision. The Board member having admitted the disciplinary case to proceedings shall act as presiding member of the session (hereinafter, presiding member) when the case is being examined in the Board of the Chamber of Advocates.

3. The Chairman of the Chamber of Advocates shall not participate in the examination of the disciplinary case on behalf of the Board of the Chamber of Advocates.

4. Within 10 days upon the moment the disciplinary case is admitted to proceedings the presiding member of the session must schedule a session of the Board of the Chamber of Advocates and send an appropriate notice about the place and the time of the session to the advocate against who the disciplinary action ahs been filed, the applicant, witnesses and other persons participating in the disciplinary case.
5. The session of the Board of the Chamber examining the disciplinary case is competent if at least half of the Board members are present at the session.

6. The Board of the Chamber shall examine the case on disciplining the advocate in a reasonable time period but no longer than six months upon the moment the case is received.

Article 39.7. Decision of the Board of the Chamber of Advocates on Disciplining an Advocate

1. Within one disciplinary action, even if the same advocate committed a few disciplinary violations, the Board of the Chamber of Advocates shall make one decision.

2. The decision is taken in chambers. Only members involved in the Board examining the given case can be in the chambers. The presence of other people shall not be allowed.

3. The decision is made through an open vote of the Board Members of the Chamber of Advocates. In case of equal number of votes, the decision which is more favorable for the advocate shall be adopted.

4. Issues discussed in the chambers of the Board of the Chamber of Advocates, opinions of Board Members and the results of voting are not subject to be made public neither at the session nor after the examination of the case is over.

5. Following the examination of the case on disciplinary action, the Board of the Chamber of Advocates can make one of the following decisions:
1) On applying a disciplinary sanction against the advocate in compliance with this Law;
2) On dismissing the disciplinary action.

6. All doubts concerning the proof of the fact of disciplinary violation that cannot be dispelled within an appropriate legal procedure which is in compliance with the provisions of this Law and the Code of Conduct shall be construed in advocate's favour.

7. The decision shall be drafted and sent to the parties within twenty days upon its promulgation.

8. The parties can appeal the decision of the Board of the Chamber to court within one month upon receiving the decision. The decision of the Board of the Chamber shall enter into legal force after the period for appeal expires.

9. The appeal of the Board decision not yet entered into legal force shall suspend its effectiveness.

10. The decision of the Board of the Chamber shall be executed after they enter into legal force.

Article 39.8. Grounds for the Board of the Chamber of Advocates to Dismiss a Disciplinary Action against an Advocate

1. The Board of the Chamber of Advocates shall dismiss a disciplinary action against an advocate in case:
1) No disciplinary violation is present;
2) The basis for bringing a disciplinary action against an advocate is not well-grounded;
3) After committing the disciplinary violation, the person had an incurable mental disease or was recognized as incapable by a legally effective court decision;
4) After committing the disciplinary violation, the advocate's license was terminated by force of law;
5) There is a decision, which has not been quashed, on filing, rejecting to file or dismissing a disciplinary action on the same grounds and related to the same case.
6) The statute of limitations prescribed under this Law has lapsed.

Article 39.9. Disciplinary Penalties Applied to Advocate

1. After examining the issue of the advocate's disciplinary liability, the Board of the Chamber of Advocates can apply one of the following types of disciplinary penalties to the advocate, except for the case provided under part 3 of this Article:
1) reprimand;
2) severe reprimand;
3) participation in additional training courses;
4) fine;
5) termination of the advocate's license.

2. The penalty used against the advocate shall be proportional to the violation. When imposing the disciplinary penalty on the advocate the Board of the Chamber of Advocates shall also take into consideration the consequences of the violation, the advocate's personality, the degree of the guilt, existing penalties, and other attention worth circumstances describing the advocate.

3. The number of hours for participating in additional training courses shall be determined by the Board of the Chamber of Advocates. Participation in additional training courses can also be applied as a supplementary measure of penalty along with applying the penalties provided by paragraphs 1, 2 and 4 under part 1 of this Article.

4. The amount of fine shall be set by the Board of the Chamber of Advocates, which cannot exceed the two hundredfold of the minimum salary. The fine shall be paid to the budget of the Chamber of Advocates.

5. Termination of the advocate's license as a type of penalty can be imposed by the Board of the Chamber only in case of intentional, apparently gross disciplinary violation.

6. An advocate shall be deemed to have no penalty:
1) In case of reprimand –- three months upon the moment the decision on imposing the disciplinary penalty enters into legal force;
2) In case of severe reprimand - six months upon the moment the decision on imposing the disciplinary penalty enters into legal force,

3) As a primary penalty, in case of participating in additional training courses - six months after passing the training;
4) In case of fine - nine months upon the moment the fine is fully paid off
5) In case the advocate's license is terminated - two years upon the moment the decision on imposing the disciplinary penalty enters into legal force.

7. The person whose license has been terminated as a penalty has the right to apply to receive an advocate's license on general principles after the statute of limitations has expired.

8. The statute of limitations shall be interrupted if the person commits a new disciplinary violation before the mentioned terms expire. In such a case the calculation of the statute of limitations shall begin from the day the new disciplinary violation is committed.

Article 40. Speedy Examination Procedure of Disciplinary Action

1. When filing a disciplinary action based on the fact of failure on part of an advocate to pay membership fee or to pass training the Chairman of the Chamber of Advocates shall immediately send the disciplinary case to the Board of the Chamber for consideration.

CHAPTER 7
Public Defence and the Public Defender's Office

Article 41. Public Defence

1. Public defence is free legal aid which is provided on cases falling under this Article.

2. Free legal aid shall include:

1) consultation: drafting of claims, applications, appeals and other legal documents, including provisions of legal information;
2) representation or defence in criminal, civil, administrative and constitutional cases.

3. In the meaning of this Article representation or defence shall be exercised on criminal cases in the pre-trial proceedings in the first instance, Appellate and Cassation Courts of the Republic of Armenia and in the Constitutional Court of the Republic of Armenia.

4. The body in charge of the criminal proceedings shall ensure free legal aid through the Public Defender's Office in cases provided by the laws of the Republic of Armenia or international treaties or if the interest of justice requires so.

5. The Public Defender's Office, except for providing legal aid to the suspect or the defendant in a criminal case, as well as cases provided in part 6 herein, shall provide free legal aid prescribed under this Article to the following persons:

1) family members of soldiers deceased (died) during the defence of the borders of the Republic of Armenia;
2) people with 1st, 2nd degree of disability;
3) convicts;
4) members of families registered in the family indigence assessment system and those having a rate of indigence higher than "0";

5) participants of the Great Patriotic War and battles of the Republic of Armenia during the defence of its borders;
6) unemployed people;
7) pensioners living alone;
8) children left without parental care, as well as persons who belong to the group of children left without parental care;
9) refugees;
10) those who received temporary asylum in the Republic of Armenia;
11) those indigent natural persons, who present truthful data that certify their indigence. In the meaning of this provision indigent is a natural person not having sufficient income, an employed family member who lives with him, as well as does not have any immovable property or a vehicle exceeding the amount of thousand fold of the minimum salary, other than his personal apartment.

6. Free legal aid cannot be provided to persons mentioned in part 5 of this Article:

1) cases having entrepreneurial nature (including corporative disputes);
2) property (money) cases exceeding thousand fold of the minimum salary, except for cases when the person acts as a respondent or a third person acting on the respondent's side;
3) if there is truthful factual information denying the indigence of the applicant.

Article 42. Public Defender's Office

1. Public Defence is carried out through the Public Defender's Office.

2. Public Defender's Office is a structural subunit operating within the Advocate's Chamber comprised of the Head of the Public Defender's Office, two deputy head public defenders, public defenders and the support staff.

3. The Board of the Chamber of Advocates shall determine the number of advocates employed at the Public Defender's Office within the funding received from the state budget.

Article 43. Head of the Public Defender's Office

1. The Head of the Public Defender's Office shall be appointed by the Board of the Chamber of Advocates with recommendation of the Chairman of the Chamber of Advocates, from among the members who have no less than 10 years' advocate's experience, for 4 years' term.

2. Powers of the Head of the Public Defender's Office can be terminated earlier by the Board of the Chamber of Advocates, with recommendation of the Chairman of the Chamber of Advocates, by at least two thirds of the general number of Board Members, pursuant to the procedure and in cases set forth in the Charter of the Chamber of Advocates.

3. The Head of the Public Defender's Office:

1) represents the Public Defender's Office;
2) organizes legal assistance, which shall be equally accessible and efficient for all in cases provided by this Law;
3) divides work among public defenders;
4) takes decisions to ensure proper functioning of the Public Defender's Office;

5) based on application or request of the body in charge of criminal proceedings or application (request) of a citizen in cases provided by article 41 of this Law, takes a decision to either grant the request on public defence and assign the case to a public defender or to reject it, if it is not provided by article 41 of this Law;
6) monitors the quality and timeline of legal assistance provided by public defenders.
7) files a motion on initiating a disciplinary action against a public defender.
8) may apply to state or local self-governing bodies or businesses to check the fact of indigence of indigent people, as well as to get information necessary for rendering free legal aid. Such bodies and businesses must provide the requested documents (information) or their copies for free within five days, except when the documents requested contain confidential information maintained by law.

4. The Head of the Public Defender's Office participates in the sessions of the Board of the Chamber of Advocates with a right to advisory vote.

Article 44 . Public Defender

1. Public Defender is an advocate working at the Public Defender's Office under an employment contract concluded with the Chairman of the Chamber, upon recommendation of the Head of the Public Defender's Office.

2. A competition can be held for the position of a public defender pursuant to the procedure established by the Board of the Chamber of Advocates.

Article 45. Funding of the Public Defender's Office, Reimbursement of Costs Related to the Activities of the Public Defender

1. The Public Defender's Office shall be financed from the State Budget, which shall ensure the proper functioning of the Public Defender’s Office.

2. Considering the statistics on the citizens’ written requests to receive free legal aid and cases when legal aid was actually provided, based on the proposal of the Head Public Defender within time prescribed by law the Chairman of the Chamber of Advocates shall submit the budget of expenditure (Budget Call) of the Public Defender’s Office to the Government of the Republic of Armenia in order to be included in the Draft State Budget.
3. In case the Budget Call for the Public Defender’s Office is accepted by the Government of the Republic of Armenia, it shall be included in the Draft State Budget and in case of an objection it shall be submitted to the National Assembly of the Republic of Armenia along with the Draft State Budget. The Government of the Republic of Armenia shall submit the reasoning on the objection to the Budget Call to the National Assembly of the Republic of Armenia and the Chamber of Advocates.

4. The funds of the Public Defender's Office shall be managed by the Head of the Public Defender's Office.

5. Costs related to the work of Public Defenders shall be reimbursed from the State Budget, which includes the salaries for the positions of the Head Public Defender, deputy head public defenders and public defenders, as well as other costs related to the activities of the Office. The funds allocated to the Public Defenders' Office cannot be spent for other purposes.

6. The salary of the public defender and the Deputy Head of the Public Defender's Office shall be equal to that of a prosecutor of Yerevan City Community as provided by law. If necessary, the Head of the Public Defender's Office can conclude employment contracts with advocates not employed at the Public Defender's Office subject to payment by hours worked, in which case the amount reimbursed shall be equal to one working hour paid to a prosecutor of Yerevan City Community.

7. The Head of the Public Defender's Office shall receive salary for his work, which is 25 percent more than the amount for the position of a public defender.

8. The amount for reimbursement of other costs related to the work of the Public Defender's Office shall be calculated by thirty per cent of the amount envisaged for the salary of the Head of the Public Defender's Office, deputies and public defenders regardless of actual costs incurred by public defenders.

Article 29. Add new Chapter 7.1 to the Law

"Chapter 7.1

School of Advocacy, Training of Advocates

Article 45.1. Goal and Legal Status of the School

1. The School of Advocacy is a non-profit organization having the status of a foundation.

2. Issues related to the legal status of the School of Advocacy, its foundation, governing bodies, regulations, dissolution, use of property, as well as other issues shall be regulated by the Law of the Republic of Armenia on Foundations considering the specific features established by this Law.

3. The founder of the School of Advocacy is the Chamber of Advocates in the person of the Board of the Chamber of Advocates.

4. The Board of the Chamber of Advocates approves the Regulations of the School of Advocacy, as well as makes amendments and additions to it.

Article 45.2. Functions of the School of Advocacy

1. In compliance with this Law and the goals of the Regulations of the School of Advocacy, the School of Advocacy shall:

1) organize and administer professional training of the trainees of the School of Advocacy;
2) organize qualification examination for the trainees of the School of Advocacy;
3) organize and administer professional training of advocates
4) perform other activities provided by the Regulations of the School of Advocacy.

Article 45.3 Governing bodies of the School of Advocacy

1. The management of the School of Advocacy shall be executed by the Governing Board of the School of Advocacy, the Qualification Commission of the School of Advocacy and the Director of the School of Advocacy.

Article 45.4. Governing Board of the School of Advocacy

1. The Governing Board of the School of Advocacy shall carry out the general management of the School of Advocacy and the monitoring of the current activities.

2. The Governing Board of the School of Advocacy from shall be formed by the Chairman and the Board of the Chamber of Advocates, in compliance with the Regulations of the School of Advocacy having at least four appointed members and one representative from the Ministry of Justice of the Republic of Armenia.
3. By virtue of his office the Chairman of the Governing Board of the School of Advocacy shall be the Chairman of the Board of the Chamber of Advocates.

4. The Governing Board of the School of Advocacy shall:

1) approve the amount of tuition fee, the procedure of paying the tuition fee, the by -laws and staff lists of the School of Advocacy;
2) approve the annual budget of the School of Advocacy upon its submission by the Director of the School of Advocacy;
3) listen to the reports of the Director of the School of Advocacy by sequence set forth in the Regulations of the School of Advocacy;
4) approve advocates' training and trainees' learning curricula in compliance with the guidelines approved by the Board of the Chamber of Advocates;
5) discuss and resolve the issue of expulsion of a trainee upon the recommendation of the Director of the School of Advocacy;
6) annul, eliminate or suspend individual or internal legal acts adopted by the Director of the School of Advocacy;
7) carry out other powers stipulated by this Law and the Regulations of the School of Advocacy.

Article 45.5 Director of School of Advocacy

1. The management of current activities of the School of Advocacy shall be carried out by the Director of the School of Advocacy, who is appointed to and removed from office pursuant to the procedure set by the Regulations of the School of Advocacy by the Governing Board of the School of Advocacy upon the recommendation of the Chairman of the Governing Board .

2. The Director of the School of Advocacy shall:

1) supervise the education process;
2) organize the enforcement of the Governing Board decisions;
3) manage the property of the School of Advocacy according to the procedure established by the Regulations of the School of Advocacy, including the funds, conduct transactions on behalf of the School of Advocacy;
4) represent the School of Advocacy in the Republic of Armenia and abroad;
5) submit the policy rules and the staff list for the approval of the Governing Board;
6) submit the curricula of the School of Advocacy for the approval of the Governing Board;

7) give orders, instructions, directives required for performance within the scope of his authority and oversee their fulfilment;
8) impose disciplinary liability against a trainee of the School of Advocacy;
9) carry out other powers provided by this Law and the Regulations of the School of Advocacy.

Article 45.6. Status of a Trainee of the School of Advocacy

1. A trainee of the School of Advocacy can be a natural person who is capable of working and who has legal education with a bachelor's degree or with a diploma, unless he is convicted for a crime committed intentionally and his conviction is not completed or cancelled.

2. A person acquires the status of the trainee of the School of Advocacy upon the moment he/she is admitted to the School of Advocacy pursuant to the procedure established by the Regulations of the School of Advocacy.

Article 45.7 Disciplinary Sanctions Imposed on the Student of the School of Advocacy

1. In cases and procedure provided by the Regulations of the School of Advocacy a trainee can be subject to disciplinary liability.

2. Types of disciplinary sanctions are as follows:
1) reprimand
2) severe reprimand
3) expulsion from school.

3. A trainee who has been expelled from the School of Advocacy as a result of the disciplinary sanction for two years shall be deprived of the right to be admitted to the School of Advocacy.

4. The trainee can appeal the decision on imposing disciplinary sanction on him in court within one month upon the receipt of the decision.

Article 45.8 Education at the School of Advocacy

1. Education of a trainee in the School of Advocacy is provided according to the procedure and timelines established by the Regulations of the School of Advocacy. The instruction shall be conducted in two stages: theoretical instruction and practical instruction (probation). The entire duration of education cannot be less than six months.

2. The education of a trainee having at least five years of professional legal experience shall be conducted according to the simplified procedure provided by the Regulations of the School of Advocacy.

3. Upon submission by the Director of the School of Advocacy the curricula of the School of Advocacy shall be approved by the Governing Board of the School of Advocacy.

Article 45.9 Probation of Trainees

1. Probation of trainees can be administered both at an advocate and in other institutions set by the Governing Board of the School of Advocacy.

2. The procedure for administering probation shall be established by the Regulations of the School of Advocacy.

Article 45.10 End of Instruction

1. Trainees, who have finished the School of Advocacy, shall be given a certificate by the Director of the School of Advocacy that will allow a trainee to take part in the qualification examination.

Article 45.18 Qualification (Examinations

1. The Qualification Examination is a unified examination for receiving a license for advocate's activities in which only the trainees who have had relevant education in the School of Advocacy shall be eligible to take part.
2. The Qualification Commission of the Chamber of Advocates shall administer the Qualification Examination. The Board of the Chamber of Advocates shall determine the rules for administering and taking the examination.

3. A trainee who has not taken part in the examination or has not passed it shall take a special course in the School of Advocacy in order to take the Qualification Examination again, except when he/she had excused reasons for not it. A trainee who has failed the examination the second time can take part in the qualification examination again after studying at the School of Advocacy anew on general basis.

4. The results of the Qualification Examination can be appealed to the Board of the Chamber of Advocates or to court within one month upon the moment the results of the examination are made public.

Article 45.12 Organization of Training of Advocates

1. An advocate can get training at the School of Advocacy or in other institutions accredited by the Board of the Chamber of Advocates.

2. An advocate must get training courses in the procedure and timeline set by the Board of the Chamber of Advocates, which cannot be less than forty eight hours within two years.

Failure on part of advocates to attend pre-trial and (or) trial proceedings during training shall be considered as an excused reason, if the advocate has notified the respective body about it.

Article 30. Transitional Provisions

1) This Law shall become effective on the tenth day following the day of its official promulgation.

2) Article 22 of this Law shall become effective upon the moment the School of Advocacy is established.

3) Paragraphs 1-2, 4-5 and 7-10 of part 5 of Article 41 provided under Article 28 of this Law shall become effective from January 1, 2013 and paragraphs 3, 6 and 11 –from January 1, 2014.

4) The organizations that are prohibited to use the word "advocate" in their names by force of this Law, all its declination forms or word combinations including that word must remove that word, all its declination forms or word combinations including that word from their names within six months upon the effective date of this Law. Organizations that will breach the time mentioned herein shall be subject to an administrative liability.
5) Before this Law becomes effective the powers of the elected Chairman and the members of the Board of the Chamber of Advocates shall continue for the term provided by the law effective at the time of their election.

6) The moment this Law becomes effective the powers of the members of the Qualification Commission, members of the Disciplinary Committee and the Head of the Public Defender's Office shall be terminated.

7) A person having at least fifteen years of work experience as an advocate, judge can receive a license for advocate's activities within one year upon the moment the School of Advocacy is founded without studying at the School of Advocacy and taking the Qualification Examination.

S. Sargsyan

President of the Republic of Armenia

December 29, 2011
Yerevan
HO-339-N

CODE OF ADVOCATE'S CONDUCT

CHAPTER 1. PREAMBLE

The Code of Advocate's Conduct establishes the rules of advocate's conduct and the principles of advocate's ethics. The procedure of a disciplinary proceeding is prescribed by Law and the "Procedure of a Disciplinary Proceedings against an Advocate", which is an annex to this Code.

1.1 Advocate's role in the society

In a society based on respect towards rule of law, the advocate occupies a special role. The advocate's duties are not solely limited to conscientious performance of assignments. The advocate shall serve the interests of justice, as well as the rights and benefits that are entrusted to him for the representation of a client's interests.
Respect towards the advocate's professional practice is essential in the rule of law and democracy in the society.
Advocacy thus pursues a number of (at times conflicting) legal and ethical obligations to:
-the client;

-courts and other law enforcement bodies, where the advocate defends the case and acts on the client's behalf;
-legal profession in general and every member of that sphere in particular;
- public, for which the independence of the profession along with respect for the rules related to the profession are an essential tool for human rights protection, which is for the benefit of the Republic of Armenia and other public interests.

1.2 The principles of the profession

The principles of the profession have been developed by the Chamber of Advocates of the Republic of Armenia to assure the proper activity of advocates to which all civilized societies attach importance. The conventions of the Chamber of Advocates of the Republic of Armenia, European bar associations and the provisions of "Code of Conduct for European Lawyers" defined by the council of legal communities played a substantial role for the development of the principles.
Improper application of those principles by advocates may lead to disciplinary sanctions.
The procedure of disciplinary proceedings against an advocate is defined by Law and by this Code (Annex 1).

1.3 The goal of the Code

The development of advocacy has created a need for setting general rules related to public interests which will concern all advocates of the Republic of Armenia.

1.4 Definitions

- **Chamber** – Chamber of Advocates of the Republic of Armenia;
- **Law** – RA Law on Advocacy;
- **Board** – the Board of the Chamber;
- **Advocate** – a member of the Chamber, who has a license for advocacy;
- **Law firm** – (1) a for-profit organization that practices advocacy and an advocate has at least 10% in the chartered capital, or (2) an advocate, who is a private entrepreneur, practicing advocacy and has staff, or (3) a non-profit organization that practices advocacy;
- **Support staff** – physical persons employed in the law firm (including non-advocates);
- **Client** – a physical or legal person (state or community), which seeks aid from an advocate;
- **Contractor** – a physical or legal person, who us not a client, that has concluded a contract with an advocate or a law firm for representing the client's interests;
- **Opposing party** – a person having a dispute with an advocate's client, and in criminal cases also the prosecution;
- **Honorarium** – a remuneration for a service provided by an advocate;
- **Pactum de quota litis** – a sum indicated in the agreement between the advocate and the client entered before the case is over by which the client must pay the advocate a portion of the proceeds that the client will recovered as a result of the case in form of money or other profit;

- **Host country -** a country where an RA advocate practices advocacy;

- **Public interest organization** – a non-governmental organization having the monopoly and a dominant place in the commodity market that renders services to the public in the spheres of health, sport, education, culture, social security, transport and communication, as well as in the financial market (such as banks, insurance organizations, organizations that supply gas, water and electricity);

- **Public defender** – an advocate, who works in the Public Defender's Office, which is a structural unit operating under the auspices of the Chamber;

- **Chapter, paragraph or subparagraph** – structural parts of the Code. The provisions are laid down under paragraphs having a subsequent number. The paragraphs consist of enumerated subparagraphs. A number of homogenous paragraphs are grouped under chapters.

CHAPTER 2. GENERAL PROVISIONS

2.1 Independence.

In performance of his professional duties the advocate must be independent from influence and especially influence which may arise from advocate's personal interests or external pressure, which may adversely affect the client's case. Such independence is as much necessary for the formation of trust towards administration of justice, as the impartiality of a judge. Therefore, the advocate should avoid doing anything that would weaken his independence and should be cautious about his professional criteria so that they are not adjusted in a way to satisfy the client, the court or third parties.

This independence is necessary both in disputable cases and during trials. The advocate's advice to the client has no value if it is given to please the client, to serve his own interests or in response to external influence.

2.2 Self-confidence and respect for the profession

2.2.1 Relations based on trust may exist on if the advocate's reputation, integrity and competence do not raise any doubt. These traditional values are professional duties for an advocate.

2.2.2 The advocate must not take actions that may cast doubt on his reputation, integrity and competence (access to the proposals made by the opposing party).

2.2.3 With their professional, public and all other activities advocates shall promote respect towards the essence and public calling of advocate's profession.

2.3 Confidentiality

2.3.1Confidentiality is the essence of advocate's work, i.e. the client provides the advocate such information that no one else knows and the advocate must possess of the information on confidentiality basis. The following is considered confidential: information and evidence that the person seeking legal aid has provided to the advocate, the content and nature of advice given by the advocate, as well as the information and evidence (materials, CDs) that the advocate obtained through his/her own activities.

If there is uncertainty about the confidentiality, there can be no trust. Thus, confidentiality is the primary and basic right and duty of the advocate.

The duty of an advocate to keep things confidential serves the administration of justice and the interests of the client.

2.3.2 The advocate must keep confidential all information obtained in the course of his/her professional activities.

2.3.3 The duty to confidentiality is not limited to time.

2.3.4 The law firm or the advocate must require his assistants, staff and any person involved by him in the case to provide a professional service to be committed to keep the information confidential.
2.3.5 Right to publicize confidential information is permitted only in cases directly provided by Law.
2.3.6 In the case when contractor, who is not a client, has concluded a contract with the advocate or the law firm, the advocate or the law firm that should try to disclose any potential conflict t of interest between the contractor and the client. In case such conflict is found they must refuse to provide the required information to the contractor in full or in part (including the strategy of legal aid).

2.4 Respect for the norms of other bar associations and legal institutions
When practicing law abroad the advocate can be obligated to follow the professional rules of the relevant bar institution of the Host Country.

2.5 Incompatible activities
2.5.1 For an advocate to carry out his activities freely, independently and in line with his duty to administer justice, he has no right to be involved in a government or community service.
2.5.2 The advocate can render a service to a state or local self-governing body.

2.6 Personal recognition
2.6.1 An advocate or a law firm may inform the public about his/its services making sure that the information is clear and accurate, specifying about the duty to confidentiality and the main values of the profession.
2.6.2 The personal recognition of an advocate may be achieved through any mass media, in particular the press, radio, television, electronic communication means or other permissible means.

2.7 Interests of the client
2.7.1 Pursuant to the requirements of the Law and professional conduct the advocate must always act in behalf of the client's interests and those interests must prevail over his own interests.
2.7.2 In case of a conflict with the contractor who has concluded an agreement with the client and the advocate, the advocate must only be guided by the client's interests.

2.8 Competence
2.8.1 The social-legal importance of advocacy requires high-quality professional competence; knowledge of the legislation and practical experience, strategy, methods, tactics and oral advocacy skills.
2.8.2 An advocate shall zealously provide legal assistance to the client within his/her competence, which requires knowledge of relevant legal norms, scrutiny of all circumstances relating to the client's case.
2.9 Improvement of knowledge
2.9.1 The advocate shall continuously improve their knowledge and professionalism and follow the changes made in the legislation.
2.9.2 The advocate must participate in training courses provided by Law according to the procedure and timing set by the Board of the Chamber.

2.10 Relations with the Chamber

2.10.1 An advocate must pay a membership fee to the Chamber according tot eh established procedure and amount.
2.10.2 An advocate shall abide by the decisions made by the bodies of the Chamber made within the scope of their power. He is also allowed to treat them critically and appeal them in cases and procedure prescribed by law.
2.10.3 An advocate must have an e-mail address and provide it to the Chamber for contact. Any message or notification sent to the e-mail provided by the advocate shall be considered proper even in cases when the advocate has changed his e-mail and failed to notify the Chamber about it.

2.11 Publicity of advocate's activities
2.11.1 The advocate, considering his client's interests, may publicize his activities in a concrete case. When making use of this right the advocate must take into account the restrictions on publicizing the investigation data used by the investigation body.
2.11.2 Before publicizing the case, the advocate must reach the client's agreement, except when
- the advocate has answered the journalists' questions immediately after the hearing or a relevant procedural action;
- a need has arouse for refuting the information presented in public or ex-parte by the opposing party;
- the client is intimidated or under an influence and the advocate tries to avert or find out anything about that influence.
2.11.3 In all cases the client has a right to require from the advocate to stop publicizing the case.
2.11.4 The advocate or the law firm may post information about his/its clients that are legal entities on the website or commercial materials (without disclosing the nature of the case or other details), except when otherwise is provided in the contracts concluded with such entities.
2.11.5 In the case when the judgment on the client's case is public (is available online), the advocate or the law firm may analyze the case on the website or his/he materials.

2.12 Advocate's case file
2.12.1 An advocate or a law firm (including the advocate, who is a private entrepreneur) must make a relevant case file (folder) for every criminal, civil or administrative proceeding, which must include all essential materials of the proceedings. The case mentioned herein is protected for being confidential and the advocate or the law firm does not have the right to provide it to a state body (including law enforcement bodies), except for cases identified by the advocate and his client.
2.12.2 The minimum term for keeping a case file is three years.
2.12.3 In the case when the advocate has provided free legal aid to a physical or legal entity and at the same time is a partner of a law firm or a private entrepreneur, he must register that case separately from other cases taken on entrepreneurial basis, except when free legal aid is provided by the law firm or the advocate as a private entrepreneur.

2.13 Personal case of the advocate
2.13.1 The advocate must avoid taking his own case or the case of his close relative, if the emotional nature of the case may prevent from providing appropriate legal aid.
2.13.2 A violation of this requirement leads to a liability, if the advocate representing himself or his close relative commits violent or abusive acts towards other participants of the proceedings or advocates.

CHAPTER 3. RELATIONS WITH CLIENTS

3.0 A disciplinary proceeding on the ground of violating the rules prescribed under this Chapter can be initiated only based on the client's (including a former client) statement, except for a violation of the rule mentioned in either of the following subparagraphs: 3.1.6, 3.1.7, 3.1.8, 3.1.9, 3.1.10, 3.2.1, 3.2.5, 3.5.1, 3.5.3, 3.5.4.

3.1 Accepting the case

3.1.1 The advocate shall not take the client's case, if the client has not assigned him to do it, except for cases mentioned under 3.1.2.

3.1.2 The advocate may take a case, if

- The client's relative or friend has applied to him;
- The client's advocate or authorized representative has applied to him.

After accepting the case, the advocate must get a relevant confirmation on his/her authorities from the client or from the client's authorized representative within a reasonable time. A power of attorney in the name of the advocate ratified by a competent foreign official can be considered equal with such confirmation.

If the advocate is unclear about the identity, competence and authority of the person who give the assignment, the advocate shall spare no effort to disclose them.

3.1.3 After accepting the case, if this is done on paid basis, the written agreement on legal aid must be concluded by the law firm or by a private entrepreneur advocate. This agreement must be concluded within a reasonable time (within three months upon the moment the assignment was factually accepted), if there is a need to check certain circumstances of the case or the volume of the service.

3.1.4 The agreement on paid service must include:

- The amount of the honorarium and the order of payment;
- The nature and volume of the assignment (court instance, stage, etc.) or the criteria for determining it.

3.1.5 If the advocate provides free legal service, it is desirable to conclude a contract between the advocate and the client, in order to resolve the disagreements that may exist between them in the future.

3.1.6 If the client's assignment and the result desired by the client or means to achieve that result are unlawful, the advocate must explain to the client why it is inadmissible to apply such methods and inform which is the lawful way of reaching such or similar results. If, nevertheless, the advocate fails to reach an agreement with the client and to give up the intention of using unlawful means, the advocate must refuse to accept the client's case.

3.1.7 When accepting the case on providing legal assistance, the advocate shall take into account his/her ability to fulfil it and shall refuse to accept the case if the advocate has sufficient reason to believe that he/she may not be able to meet the requirements set forth in this Code. The advocate shall not accept a case which is not within his/her competence without cooperating with another advocate who is competent to do it.

3.1.8 An advocate shall not accept a case on legal assistance if the advocate cannot zealously and timely perform the assignment because of workload or any other reason.

3.1.9 In the investigation and trial stages, an advocate shall not accept an assignment on providing legal assistance on a client's case from an official in charge of the investigation of that case. If the advocate fails to prove that he/she provides legal assistance in a criminal case upon the client's request or the request of another private person upon the client's assignment, the Board of the Chamber may consider it proved that the advocate appeared in the criminal proceeding based on the order of the body in charge of investigation. The Board of the

Chamber may also consider the nature of actions taken by the advocate in light of proper representation of the client's interests. **Advocate's involvement in the case upon the assignment (proposal) of the investigation official along with misrepresentation of the client is considered a gross disciplinary violation.**

3.1.10 Except for zealous and competent fulfillment of his/her professional duties, the advocate cannot give any other guarantee. In particular, he/she cannot guarantee the outcome of the assignment no matter how predictable it is, when this outcome depends on the decision made by the judge or the body in charge of the proceeding. **Advocate's promise about the judicial act being in favor of the client in a civil, criminal or administrative case, as well as the promise about the final decision of the body in charge of the criminal case being in favor of the client, is considered a gross disciplinary violation.**

3.1.11 The advocate shall inform the client about the availability of free legal aid, if the possibility to get such an aid exists.

3.2 Reasons why an advocate shall refuse to accept a case, conflict of interests

3.2.1 An advocate has no right to accept a case if he/she is in kinship with officials participating in that case.

3.2.2 An advocate shall not provide legal assistance to two or more clients on the same issue if they have adverse interests. In the mentioned case the advocate can accept the case if there is a written consent of the client (this requirement is also considered to be met if a relevant note is made in the contract concluded between the advocate (law firm) and the client). In the case when the advocate's client is a state or local self-governing body, a state institution, an organization funded from budgets, as well as an organization of public significance, the advocate (law firm) can represent his/her clients interests against that body, except for the following cases: (1) the new case directly or indirectly is related to the previous case or some significant aspects of it, or (2) there is a restriction in the contract concluded between the advocate (law firm) and the former client about claims to be instituted against that client in the future.

3.2.3 In the case when the advocate takes a client's case to review it and after that they do not find a common ground about the services to be rendered and later on the opposing party applies to the advocate, the advocate shall be guided by paragraph 3.2.2 of the Code, except for cases mentioned under 3.2.4.

3.2.4 In the case mentioned in paragraph 3.2.3 of the Code, an advocate can accept a client's case if it is found out that

- The person acting as a former client intentionally applied to the advocate in order to create circumstances that would prevent the advocate from taking the case based on par. 3.2.2 of the Code;
- The former client has also applied to other advocates who are specialized in the subject matter of the case in order to have a factual cooperation with an advocate at the time of filing the application.
- The former client has not revealed secret information to the advocate and the information disclosed has been made public;

The opportunity mentioned in this subparagraph shall not be effective if the advocate has taken honorarium from the former client for reviewing the case.

3.2.5 An advocate shall not accept a client's case in other cases provided by the RA Law on Advocacy.

3.2.6 An advocate cannot advise on the same case, represent or act on behalf of two or more clients, if there is a potential risk of conflict of interests among the clients.

3.2.7 An advocate must stop acting on behalf of two or all interested parties, if a conflict of interests arises between the clients and if there is a risk of disclosing the entrusted secret or when the advocate's independence may be restricted.
3.2.8 An advocate must refuse to represent a new client if there is a risk of disclosing the secret entrusted by the former client or if the information known to the advocate about the former client may unconscionably turn to the new client's advantage.
3.2.9 In the meaning of this paragraph, restrictions shall be effective even in cases when different advocates of the same law firm have rendered (are rendering) services to former and new clients. The director of the law firm, who enjoys the status of an advocate, must disallow such situations. In the case mentioned under this subparagraph, advocates involved in the case of the same law firm and the director of the law firm can be disciplined based on the fact that they have been aware of the restriction mentioned herein.
3.2.10 It is considered to be a serious disciplinary violation if the interests of the given client are represented again or the activities for representing the client's interests are not stopped after a disciplinary action is brought by the Board of the Chamber against an advocate for the violation prescribed under this paragraph.

3.3 Honorarium, Pactum de Quota Litis
3.3.1 The remuneration (honorarium) that the advocate or the law firm receives must be entirely disclosed to the client, it should also be fair and reasonable. The amount and order of paying the honorarium must be left to the parties' discretion to agree upon. Other expenses incurred by the advocate shall not be included in the amount of the honorarium (particularly costs related to transportation, translation or inviting other specialists, printing, coping, notary costs and other court expenses), unless otherwise is agreed by the parties.
3.3.2 The advocate's honorarium may consist of a per hour payment, fixed amount payment or other payment methods agreed by the parties. The amount of honorarium may change due to the changes in the volume of the duties factually assumed by the contract, as well as due to the terms for completing the assignment, a new or additional assignment given by the client if such are accepted by the advocate and/or it is impossible to fulfill the primary assignment unless those are completed.
3.3.3 The advocate has no right to include pactum de quota litis in the contract which is more than 20 (twenty) per cent of the proceeds if the given case proves to be successful.

3.4 Accepting the assignment by several advocates
3.4.1 Upon a client's wish or consent, the representation of the case by more than one advocate is permitted. In such a case, duties, authorities and the scope of activities of the advocates representing client's case can be set forth in a contract.
3.4.2 In the event when the client concludes an agreement on legal assistance with a concrete advocate and later on concludes a second one on the same case with another advocate without the former's consent, each advocate, who is not informed about the other's involvement, has a right to waive the agreement, except for cases when a waiver to provide legal assistance by an advocate is prohibited by law.
3.4.3 In the event when the assignment is assumed by a law firm, it shall designed the lawyers who must provide legal assistance to the client, unless otherwise is agreed by parties.
3.5 The advocate's actions in fulfilling the assignment
3.5.1 During the fulfillment of the assignment, the advocate shall not be permitted to use means that are prohibited by law.
3.5.2 The advocate shall waive the agreement on legal assistance if one of the circumstances provided under paragraph 3.2 of the Code became known to him/her in the fulfillment stage of the assignment on providing legal assistance.

3.5.3 The advocate shall take no action that conflicts with the client's interests, take a position without the client's consent, except for cases when the advocate is convinced of the client's (defendant's) self-slander, plead guilty or admit the client's relation to the case against the client's position, and cause or persuade the client to plead guilty.
3.5.4Being convinced that the offense the client is charged with is not well-grounded or the evidence obtained on the case imply a milder crime and the defendant pleads guilty, the advocate must discuss these issues with the defendant and accordingly reach an agreement about taking new positions. If no agreement is reached about the new position, the advocate has a right to assume an independent position which is different form the defendant's position.
3.5.5 The advocate must advise and represent his/her client consciously, zealously and on time, as well as act on his/her behalf.

3.6 Informing about the Status of a Client's Case
3.6.1 An advocate shall constantly keep a client informed on the status of the case and timely respond to the client's questions.
3.6.2 The notice can be given via telephone, e-mail, letter or personal conversation.
3.6.3 In case the advocate changes his/her work address or telephone number, he/she must notify the clients within a reasonable time about his/her address or telephone number.

3.7 Friendly settlement
3.7.1 The advocate must undertake all reasonable measures within his ability for the friendly settlement of the case. The advocate must discuss with the client a reasonable friendly settlement proposal made by the opposing party must, except when such a proposal made by the opposing party intends to unduly delay the trial.
3.7.2 The advocate shall not create spurious disputes (bring actions) for the client in order to increase the amount of honorarium unless the new action was necessary to influence the general outcome of the case or to create other favorable condition for the client.
3.7.3 In case of having the authority to conclude an agreement on friendly settlement, the advocate must agree the text of the agreement or its main terms with the client or the contractor (in writing, either by e-mail or other means), unless the client is out of the Republic of Armenia and the friendly settlement agreement fully reflects the client's interests. **Conclusion of a friendly settlement agreement without the client's consent, which is unfavourable to the client, has caused harm or has put undue obligations on the client, is considered a gross disciplinary violation.**

3.8 Termination of Contract on Providing Legal Assistance
3.8.1 A contract on providing legal assistance can be terminated any time with the mutual agreement of the client and the advocate.
3.8.2 A client can terminate a contract on providing legal assistance any time provided that the client pays the advocate for the work he has factually done. An advocate shall not exert any pressure on a client in order to impede the client's exercise of that right.
3.8.3 Unless prohibited by law, the advocate can terminate the contract on providing legal assistance on the following grounds:

1) the client takes a course of action related to the case contradicting with law, ignoring the advocate's explanations;
2) the client insists on accomplishing the anticipated outcome, which objectively proves to be impossible due to newly emerged circumstances and facts;
3) A client makes gross violations of his/her duties assumed under the contract on providing legal assistance;

4) Proper fulfilment of client's request becomes impossible because of the client's actions which are adverse to advocate's advice;
5) A client takes actions that degrade the advocate's honour, dignity and reputation;
6) A client refuses to make the payments set forth in the contract on providing legal assistance.

3.8.4 In case the advocate terminates the contract on providing legal assistance, he/she shall explain to the client the reasons for terminating the contract and avoid actions that might affect the client's interests. The advocate shall not quit the case in a way and in circumstances that can make the client appear in a hopeless situation and not to get legal assistance on time. If the advocate wishes to terminate the contract on providing legal assistance less than five days before the deadline to appeal a court decision, judgment or any other judicial act expires and the client is not able to use another advocate's service within such a short period, the advocate must continue providing legal assistance and duly fulfil his/her duties prescribed under the contract on providing legal assistance and then to terminate the contract.

3.8.5 In terminating a contract, an advocate shall:

1) Return the client or the contractor the part of the honorarium for which no actual work has been done, unless otherwise provided by the contract;
2) Return the funds planned but not spent for case related expenses;
3) Return to the client documents received from the client or obtained by him/her in the course of fulfilling the assignment (the advocate may keep the copies of such documents).

3.9 The client's money

3.9.1 The advocate who wins money for his client or a third party (hereinafter, the client's money) must transfer it to the clients bank account or the subaccount, which is in the advocate's name, opened on the Chamber's account, unless otherwise is provided in the written agreement reached between him and the client. The client's bank account must be separate from the advocate's bank account. The client's money must be transferred by the advocate upon receipt to the client's bank account unless the client has agreed that the money can be used in some other way.

3.9.2 The advocate must keep full and accurate notes including all transactions related to the client's money and make a distinction between the client's money and other money that the advocate possesses.

3.10 Professional indemnity insurance

3.10.1 If possible advocates must be insured against civil-legal liability outside their professional activity as much as it is necessary considering the nature and amount of risks that they face as they carry out their professional activities.

3.10.2 If this is impossible, the advocate must let the client know about the situation and its consequences.

CHAPTER 4. RELATIONS WITH COURTS

4.1 Rules of conduct in court

An advocate, who participates in the case or appears before a court or arbitration tribunal, must follow the rules of conduct applied by the court or by the tribunal, as well as treat the court and other trial participants with respect. The duty to follow those rules does not restrict the advocate's capacity to object to the judge's actions or to enjoy other procedural rights.

4.2 Fair trial

An advocate shall use all possible fair trial means when representing the interests of the client

and to promote the administration of a fair trial.

4.3 Conduct in court

Along with showing respect and regard towards the court, an advocate shall represent his client's interests freely and bravely without considering his own interests or other consequences that would happen to him or any other person.

4.4 False or misleading information

An advocate shall never consciously present any false or misleading information to the court.

4.5 Communication with judges

An advocate can communicate with a judge with respect to professional discussions, except when the judges is examining a case in which the advocate is involved and the discussion is about that case or may be perceived as such.

A judge being an advocate's "friend" in a social network or being in the same interest group shall not in itself serve as evidence (ground) for dependent relations.

CHAPTER 5. RELATIONS AMONG ADVOCATES

5.1 General description of the profession

5.1.1 The general description of the profession requires trust and collaboration among advocates, which is in the client's interests, and it aims at keeping the advocates away from unnecessary disputes and other harmful activities, which may have bad reflection on the reputation of the profession. These rules cannot be construed as a challenge for the profession's interests versus the client's interests.

5.1.2 An advocate must know all other advocates as colleagues in profession and show sincere and courteous conduct towards them.

5.2 General restrictions

5.2.1 An advocate shall not:

1) Commit actions or make expressions that would tarnish the dignity and reputation of another advocate;
2) have the client waive the agreement on legal aid concluded with another advocate;
3) discuss with the client another advocate's personal life, financial status, professional skills, and other facts related to the remuneration of the case and things not related to the fulfillment of the assignment.

5.3 Honorary fee

5.3.1 The advocate has no right to request or accept an honorary fee, mediation fee or any other compensation from another advocate or person for advising or offering the services of an advocate to a client.

5.3.2 The restriction herein does not include the cooperative relations of advocates.

5.4 Communication with the opposing party

An advocate shall not exchange any direct information with the opposing party with regard to a case or an issue if the opposing party is represented by another advocate and the latter does not consent to it (also, he/she must be informed about such communication), except when the meeting is set up on the initiative of the opposing party. The advocate must advise the opposing party that the subsequent discussions are arranged in the presence of the advocate.

CHAPTER 6. RELATIONS WITH OTHER BODIES

6.1 Relations of an advocate with the bodies of inquiry and investigation, as well as with the prosecutor.

6.1.1 When representing the client's interests in the pretrial proceedings, the actions of the advocate must be commensurate with the requirements of the Criminal procedure Code and the Law.
6.1.2 In the pretrial proceedings the advocate has no right to influence the body in charge of the proceedings through means that are prohibited by law.
6.1.3 In the pretrial proceedings an advocate must show respect towards the participants of the trial and be courteous and respond to the actions and improper expressions of the trial participants (the prosecutor, etc.) by means prescribed by law , i.e. through written requests, announcements, motions, recusals, objections and appeals.
6.2 Advocate's conduct in arrest and detention facilities and penitentiary institutions.
6.2.1 An advocate must maintain order in arrest and detention facilities and penitentiary institutions and must not hand prohibited items over to his/her client or somebody else.
6.2.2 In case an injury is detected on the Clients' body, the advocate must find out what caused the injury and undertake relevant measures for the protection of the client's rights.

CHAPTER 7. THE PUBLIC DEFENDER

7.1 The scope of liability of a public defender
7.1.1 In addition to the liability assumed for work discipline, a public defender can be subject to liability for violating the rules of the Code, including the provisions related to other advocates and the ones provided under this Chapter.
7.1.2. A disciplinary action brought against a public defender for violating work discipline is no hindrance for bringing a disciplinary action on the ground of violating the rules of this Code.
7.2 Impermissibility for a public defender to take other cases and to receive gifts.
7.2.1 A public defender shall not provide legal aid on other cases except for his/her own cases or that of a relative upon the permission of the Head of the Public Defender's Office. A violation of the rule mentioned herein committed by a public defender disciplined for that rule within the last one year is considered a serious disciplinary violation.
7.2.2 A public defender has no right to accept money or other valuable gifts (exceeding 50.000 AMD) from a client (in the meaning of this Chapter a client is a person who has applied for unpaid legal aid). In case of accepting money or a valuable gift, a public defender must submit a written report within one day to the Head of the Public Defender's Office or the Chairman of the Chamber and hand it over to the Chamber. The violation of this rule is a serious disciplinary violation.
7.3 Conflict of interest in the Public Defender's Office
7.3.1 If the public defenders of the Public Defender's Office represent the interests of opposing parties, they must keep the materials of case confidential form one another and not discuss it among themselves.
7.3.2 In the case mentioned in the above paragraph, public defenders must report about it to the Head of the Public Defender's Office and the Chairman of the Chamber and from that moment on report about the case to the advocates designated by the Chairman of the Chamber for supervision.
Any violation of the rule mentioned in this paragraph is considered as a serious violation.

CHAPTER 8. ADVOCATE'S ASSISTANT AND A FOREIGN ADVOCTE

8.1 Advocate's assistant
8.1.1 Advocate's assistant is a person who has received a license of the advocate's assistant

issued by the Board of the Chamber.
8.1.2 Advocate's assistant must obey his/her supervisor and act under his/her supervision.
8.1.3 The rules of advocate's conduct must apply to the advocate's assistant as appropriate.
8.1.4 Advocate's assistant must have an e-mail address and provide it to the Chamber as contact information. The latter or notice sent to the e-mail address provide by the assistant shall be considered as proper even in the case when the advocate's assistant has changed the e-mail address and has failed to notify the Chamber about it.

8.2 A disciplinary action brought against an advocate's assistant
8.2.1 In case the advocate's assistant violates the requirements of this Code, he/she must be subject to a disciplinary liability in the procedure established by Law and by the Code.
8.2.2 When examining the issue of disciplining the advocate's assistant, it is checked whether the supervising advocate has exercised proper control and if it is discovered no proper supervision has been exercised the supervising advocate may also be disciplined.

8.3 A foreign advocate
8.3.1 A foreign advocate shall practice advocacy according to the procedure by Law, the Charter of the Chamber of Advocates and the Code.
8.3.2 When practicing within the territory of the Republic of Armenia, the rules of conduct for the RA advocates shall also apply to the foreign advocate accredited by the Chamber as much as the rules may refer to the foreign advocate.

8.4 Effectiveness of accreditation
8.4.1 The term of the accreditation issued to a foreign advocate shall be terminated if the foreign advocate has violated the requirements of this Code.
8.4.2 In the event when an unsubstantial violation committed for the first time by a foreign advocate is possible to eliminate and it has not caused any essential damage to the client, the Board of the Chamber can reprimand the foreign advocate.

CHAPTER 9. FINAL PROVISIONS

9.1 The Code of Advocate's Conduct (Former Code) adopted by Decision N … made on /date/ by the General Meeting of the Chamber shall be considered ineffective upon the moment this Code enters into force.

9.2 This Code has no retrospective effect.

9.3 An advocate can be liable for the violation of the Code only for deeds committed after the Code enters into force.

9.4 In the case when the advocate committed a deed at the time when the Former Code was effective and the deed was considered a violation under the Former Code and is considered a violation under this Code, the advocate shall be liable for violating the rule under the Former Code.

9.5 In the case when the advocate committed a deed at the time when the Former Code was effective and the deed was considered a violation under the Former Code and is not considered a violation under this Code, the advocate shall not be liable for such deed.

9.6 The right to construe the Code shall be given to the Board of the Chamber.

9.7 The Board of the Chamber must ensure the identical application of the Rules of Conduct. The Board of the Chamber may change its position as a result of the development of the law. In this case, the Board of the Chamber must present a proper reasoning for the need to change the previous position.

9.8 “The Procedure of a Disciplinary Proceedings against an Advocate” is the constituent part of the Code.

APPENDIX 3

Legal Acts of the Republic of Azerbaijan

Law of the Republic of Azerbaijan

On Advocates and Advocate's activity

This Law is passed for the purposes of regulating the implementation of the right of any person on the territory of the Republic of Azerbaijan to seek the assistance of an advocate of their choice during court proceedings and pre-trial investigation and inquiry to safeguard their rights and legitimate interests to use the help of a defence counsel from the moment of detention, arrest, bringing charges in the commission of a crime, and the activity of advocates providing legal assistance on other matters.

The Law establishes the general principles of advocate's activity on rendering high quality legal assistance to natural and legal persons, legal status of advocates and the basis of their self-governance in the Republic of Azerbaijan.

Article 1. The Bar in the Republic of Azerbaijan

I. The Bar in the Republic of Azerbaijan is an independent legal institution which professionally carries out legal defence activity.

II. *The Bar functions on the basis of the principles of the supremacy of law, independence, democracy, humanity, fairness publicity and confidentiality*.

III. *The main principles of the Bar include the following*:

- compliance with the Constitution of the Republic of Azerbaijan, this Law, procedural legislation of the Republic of Azerbaijan and other laws of the Republic of Azerbaijan;
- prevention of interference into the professional activity of advocates and their associations and exercise of pressure on them by prosecutorial, judicial and other state authorities, public associations, any enterprise, institution or official;
- *equality of rights of advocates*;
- *adoption of independent decisions on the matters of self-governance and activity of advocates*.

Article 2. The legislation on advocates and advocate's activity

I. The legislation on advocates and advocate's activity consists of the Constitution of the Republic of Azerbaijan, this Law and other legal acts of the Republic of Azerbaijan and international treaties signed by the Republic of Azerbaijan.

II. Procedural rights and duties of advocates are regulated by the Criminal Procedure Code, Code on Administrative Offences and Civil Procedure Code of the Republic of Azerbaijan.

Article 3. The objectives of the Bar

The main objectives of the Bar include the protection of rights, freedoms and legitimate interests of natural and legal persons and the provision of high quality legal assistance to those persons.

Article 4. The activity of the Bar

I. A person who has been admitted to a collegium of advocates in accordance with the established procedure and has taken an oath can carry out the activity of an advocate.

II. The protection of accused and suspects in criminal proceedings, representation of a person who has lodged a cassation appeal (additional cassation appeal) in civil proceedings or a request to re-open the proceedings due to the existence of newly discovered circumstances to the Supreme Court and the representation of a person who has filed a complaint about the violation of rights and freedoms can be performed exclusively by an advocate.

III. Advocates participate in the following matters connected with the provision of legal assistance:

- representation of natural and legal persons in state and non-state bodies and organisations including those in the foreign countries and international organisations;
- provision of oral and written consultations, clarifications and summaries on legal issues;
- drafting of applications, complaints and legal documents;
- provision of the requisite legal assistance to natural and legal persons, carrying out of the legal support of their activity;
- provision of other kinds of legal assistance.

Article 5. General rules of carrying out of advocate's activity

I. Advocate's activity is based on the priority of rights and freedoms of a person and a citizen, supremacy of the law, independence of advocates, voluntary character of relations between advocates and the persons seeking their legal assistance, irrespective of race, nationality, religion, language, gender, origin, property, official status, opinions, membership in political parties, trade unions and other public associations with due respect to the advocates' ethics.

II. Advocate's activity shall be carried out on the basis of the entrustment of an advocate with the function of defence and representation of interests of the persons who has sought legal assistance in accordance with their instructions.

III. An advocate participates in judicial proceedings exclusively on the basis of an agreement concluded between the person seeking legal assistance and the advocate, working independently or with the institution referred to in *Part* V of this Article of which the advocate is a member.

IV. The advocate explains to the person seeking legal assistance all the conditions pertaining to the possibility of performing the request concerning the substance of the case and in case of reaching an agreement drafts the relevant agreement in writing.

A person who has sought legal assistance can restrict or cancel the assignment imposed on the advocate without prior notification.

A person who has sought legal assistance can refuse the services of the appointed advocate and conclude an agreement with another advocate in accordance with the procedure established by Article 20 of this Law.

V. Advocate's activity can be carried out *independently or within the framework of associations of advocates* (legal consultancy offices, advocates' offices, advocates' firms, etc.), *created by an advocate (advocates) in accordance with the requirements of the legislation of the Republic of Azerbaijan*. Advocates choose the legal and organisational form of advocate's activity on a voluntary basis.

VI. Advocate's activity can be carried out after state registration of the entity in the legal and organisational form chosen for performance of such activity. Only advocates can be founders of such entity.

Article 6. Symbols of the Bar

I. Symbols of the Bar in the Republic of Azerbaijan include the State flag, State emblem of the Republic of Azerbaijan and the official emblem of the Bar.

II. Advocates of the Republic of Azerbaijan taking part in court hearings shall follow special dress code.

III. Description of the official emblem of the Bar and special dress code for advocates shall be determined at the general meeting of the collegium of advocates.

Article 7. Guarantees of the activity of advocates

I. Institutions, enterprises and organisations irrespective of their legal and organisational form shall be obliged to assist advocates exercising their professional duties.

II. Staff members of judicial, investigatory and inquiry bodies and other state bodies serving as intermediary between an advocate and a person receiving legal assistance is impermissible.

III. An advocate cannot be questioned about the facts he/she became aware of in connection with the exercise of professional duties.

Documents and other evidence, advocates' case files (dossier) compiled by advocates in connection with performance of professional duties cannot be requested and seized by investigatory and judicial bodies.

In case of detention of an advocate and the adoption of a decision to bring him to criminal responsibility the Prosecutor General of the Republic of Azerbaijan and the Collegium of Advocates should be immediately informed about it.

IV. The secrecy of information about recourse to advocates and their organisations is secured. The persons detained, arrested or convicted should be provided with necessary conditions to meet and consult the advocate privately and confidentiality should be secured.

V. Advocates shall be protected and their safety ensured in accordance with the provisions of the Law of the Republic of Azerbaijan "On State Protection of Persons Participating in Criminal Proceedings".

Article 8. Advocate

I. Subject to the requirements of part II of this Article a person holding a university degree in law and having at least three years' professional experience as a lawyer or at least three years' work experience in the legal sphere in academic and pedagogical educational institutions, who has successfully passed qualification exam consisting of oral interview and written test of professional aptitude before the Qualification commission and successfully completed compulsory training at the educational and academic institution of the relevant executive authority can become an advocate. Persons who used to be advocates (except those whose advocate activity was terminated as a result of disciplinary proceedings) or judges can become advocates after an oral interview without a written test and compulsory training. Persons who have an academic degree of a doctor of juridical science and persons who had previously worked as judges of the Constitutional Court of the Republic of Azerbaijan, presidents of appellate and cassation courts can become advocates without a written test, oral interview and compulsory training.

II. Persons having double citizenship, obligations before other countries, declared incapable in the order established by law or whose legal capacity has been restricted, unable to carry out advocate activity due to mental disability confirmed by a medical opinion obtained in accordance with the procedure established by law, whose conviction for the commission of minor crimes, serious and particularly serious crimes has not been executed or discharged, persons in whose regard there exist a valid court decision on application of compulsory medical treatment cannot be advocates.

III. Advocates shall be admitted in all kinds of proceedings in courts of all instances and in the Constitutional Court of the Republic of Azerbaijan.

IV. Persons occupying official state service positions can undertake the activity of an advocate only after they retire and obtain the status of an advocate in accordance with the procedure established by this Law. *In case of an advocate's appointment to the official state service position his/her activity as an advocate is suspended until his/her retirement from that position.*

V. Unlawful use of the title of an advocate by a person who has not obtained the status of an advocate in the order prescribed by this Law results in responsibility, established by the legislation of the Republic of Azerbaijan.

Article 8-1. Advocate's assistant

I. A citizen of the Republic of Azerbaijan having university degree in law can be an advocate's assistant.

II. An advocate's assistant works on the basis of the contract of employment concluded with the advocates' associations created in accordance with the requirements of the legislation of the Republic of Azerbaijan by an advocate (advocates) for the purposes of carrying out the activity of an advocate and in case of a private practice of an advocate in the form and order determined by the Presidium of the Collegium of Advocates. The salary of the advocate's assistant is paid by the advocates' association or an advocate who concluded such a contract.

III. The advocate's assistant works under the supervision of the advocate performing advocate's assignments. The advocate's assistant cannot carry out the activity of an advocate independently.

IV. The advocate's assistant is obliged to follow the bar's secrecy rules and rules regulating advocate' behaviour.

Article 9. The Collegium of Advocates

I. A nongovernmental independent self-governing collegium of advocates comprising all advocates operates in the Republic of Azerbaijan. Persons who are not members of the collegium of advocates cannot carry out the activity of an advocate.

II. The Collegium of Advocates is a legal person.

III. The organisation and activity of the collegium of advocates is regulated by *law and the Charter of the Collegium of Advocates adopted pursuant to the law*.

IV. General Meeting (conference) and Presidium of the Collegium of Advocates shall be the supreme bodies of the Collegium of Advocates.

V. The Collegium of Advocates performs the following functions:

- in accordance with the requirements of this Law decides on the issues of admission to the bar;
- in accordance with the requirements of this Law exercises disciplinary supervision;
- pursuant to requests of law enforcement bodies and court presents opinion on the issues connected with advocate's activity;
- *within the limits of their powers in cases and in the order established by law operates as a supervisory control body over advocates in respect of legalization of money and other assets obtained by illegal means and the financing of terrorism;*
- in accordance the requirements of this Law resolves other issues.

VI. Pursuant to the law of Nakhichevan Autonomous Republic the Collegium of Advocates of Nakhichevan Autonomous Republic can be created. The Collegium of

Advocates of Nakhichevan Autonomous Republic forms part of the Collegium of Advocates of the Republic of Azerbaijan.

Article 10. General meeting (conference)of members of the collegium of advocates

I. The adoption of the Charter of the Collegium of Advocates, the Regulations of Qualification and Disciplinary Commissions and regulation on the rules for advocates' ethics, their modification and amendment, the election of the president of the Presidium of the Collegium of Advocates, deputy president and other members, president and members of the Disciplinary commission, the approval of the official emblem of the advocate and the description of special service dress of advocates, determination of the budget of the Collegium of Advocates and the amount of members' fee shall be the exclusive competence of the general meeting (conference) of the members of the Collegium of Advocates. If the number of members of the Collegium of Advocates exceeds five hundred the powers of the general meeting of the members of the Collegium of Advocates are carried out by the Conference of members of the Collegium of Advocates.

III. The general meeting of the Collegium of Advocates is convened by the Presidium of the Collegium not less than once in three years. In case of necessity on request of one third of members of the Collegium of Advocates an extraordinary General meeting of the Collegium of Advocates can be convened no more than once in two years. In case the General meeting of the Collegium of Advocates is convened the Presidium of the Collegium of Advocates arranges for its organisation and conduct within two months.

IV. The Conference of the Collegium of Advocates shall be conducted on the basis of the standards of representation and powers envisaged by Part I of this Article. The convention and holding of the Conference of members of the Collegium of Advocates is determined by the Charter of the Collegium of Advocates.

Article 11. Presidium of the Collegium of Advocates

I. Persons who have practiced as advocates for not less than three years who command respect among the members of the Collegium of Advocates and have not been subjected to administrative sanctions before the election date can be elected as president, deputy president and other members of the Presidium of the Collegium of Advocates.

II. President, deputy president and other members of the Presidium are elected at the general meeting of members of the Collegium of Advocates for five years. President of the Presidium of the Collegium of Advocates and his/her deputies shall simultaneously be deemed as the president of the Collegium of Advocates and his/her deputies respectively. Noone can be elected as president of the Collegium of Advocates more than twice.

III. Presidium of the Collegium of Advocates:

- convenes the general meeting and provides for enforcement of its decisions;

- *resolves issues of admittance as members of the collegium of advocates*, *exercises powers on termination of the activity of advocates in the order envisaged by Article 23 of this Law, keeps the register of advocates*;

- composes the duty roaster of advocates, rendering legal assistance at the expense of the state and presents to the places of temporary keeping;

- appoints member of the qualification commission;
- determines the rules of the qualification exam and the frequency of holding the exam;
- prepares methodical recommendations on the issues of advocate's activity;
- *initiates disciplinary proceedings in respect of advocates;*
- *organises the conduct of information work among advocates in the sphere of legislation and jurisprudence*;
- approves the structure, organisation chart, the estimate of expenditure of the staff of the presidium and the employees' salary and resolves other issues envisaged by this Law.

IV. Presidium's meetings shall be deemed competent if two thirds of its members are present. At the meetings of the presidium decisions are taken by simple majority.

Article 12. Authority of the President of the Collegium of Advocates

The President of the Collegium of Advocates:

- represents the collegium of advocates;
- organises the presidium's work and directs the work of its staff;
- *in cases and in the order established by this Law* prepares and introduces the issues of admission to and exclusion from the collegium of advocates at the presidium's meetings;
- presides at the meetings of the presidium;
- hires and fires employees of the presidium's staff;
- controls the observance of the labour and executive discipline by the employees of the presidium's staff;
- organises the analysis of the statistical data;
- receives citizens, organises the presidium's work on receiving citizens, examination of applications and complaints;
- manages financial means within the limits of the approved estimates.

Article 13. Qualification Commission of Advocates

I. Qualification commission shall be created for the purposes of determining *the correspondence of the candidates seeking advocate's status to the requirements of this Law and professional competence*.

II. Qualification commission is composed of eleven members including five advocates, three judges and three legal scholars.

III. Advocates — members of the qualification commission shall be appointed by the presidium of the collegium of advocates respectively, judges — members of this

commission — by the Plenary Session of the Supreme Court of the Republic of Azerbaijan, members of the qualification commission who are legal scholars are appointed by the relevant executive authority.

IV. Qualification commission conducts the compulsory qualification exam for the purposes of determining professional aptitude of candidates seeking advocate status and in case of necessity requests the relevant documents and data on issues under consideration from state bodies, other legal and natural persons.

V. Following determination of professional aptitude of candidates seeking advocate's status the qualification commission presents the relevant opinion to the presidium of the collegium of advocates.

VI. The meeting of the qualification commission shall be deemed competent can take a valid decision if two thirds of its members are present and the decisions are taken by simple majority.

VII. Candidates seeking the advocate's status can challenge the decision refusing to admit him/her as a member of the Collegium of advocates within 20 days from the date he/she was furnished with such decision in court with respect to the correctness of application of the legislation and the rules of the qualification exam.

VIII. A person who did not pass the qualification exam can be admitted to the repeated examination on the basis of the opinion of the qualification commission not earlier than in one year.

IX. The rules of the qualification exam are determined by the presidium of the collegium of advocates.

X. Qualification commission operates in accordance with the regulation adopted by the general meeting of the collegium of advocates.

Article 14. The oath of an advocate

I. A person admitted as a member of the collegium of advocates takes the following oath at the hearing of the presidium of the collegium in front of the State flag of the Republic of Azerbaijan:

«I solemnly swear observing the Constitution and laws of the Republic of Azerbaijan being independent honestly and conscientiously exercise the duties of an advocate, be fair and be the man of principle, courageously and firmly defend rights and freedoms of a person, keep professional secrets».

II. An advocate gains authority from the moment of taking an oath and from that moment the information about advocates is entered into the register of advocates.

III. Advocates sign an oath and this document is kept in personal files of advocates.

Article 15. The rights of an advocate

I. Advocates shall be independent and shall only be subject to the requirements of the law.

II. Advocates are entitled to:

- defend natural and legal persons seeking legal assistance, represent their interests before inquiry, investigatory, judicial and other state bodies and organisations, non-governmental organisations, foreign countries and international organisations;
- employ all means in their activity as an advocate which are not prohibited by law and are not contrary to the advocates' ethics;
- conduct independent investigation, collect documents in connection with professional activity, request certificates and other documents from institutions, organizations and enterprises, necessary for rendering legal assistance, study them and make copies of such documents;
- receive experts' opinion to investigate the matters requiring special knowledge;
- use technical equipment in the order prescribed by law;
- meet and talk in private with the person he/she defends or represents without any hindrance in the order prescribed by law.

Article 16. Duties of an advocate

I. When carrying out professional activity an advocate is obliged:

- to observe the requirements of the law, use all means envisaged by legislation to protect the interests of the defended or represented person:
- to keep the advocate's secrets, the oath of an advocate and the advocates ethics;
- to be guided by the requirements of the law only;
- not to take any actions contradicting the interests and hindering the exercise of the rights of the person who has sought legal assistance, not to confirm contrary to the interests of the defended person the existence of links between him/her and the crime committed and the guilt in the commission of the crime, not to declare about his/her reconciliation with the victim and not to admit the civil claim filed against him/her and from recalling the complaint lodged in his/her defence;
- not to without the permission of the person represented or defended disseminate the facts and documents the advocate became aware of in connection with the provision of legal assistance and also the information capable of damaging the morals, public order in the democratic society or state safety and also in case when it is required by the need to protect the interests of minors or private and family life of the parties;
- not to use the advocates' secrecy for personal interests or the interests of another person;
- not to refuse from the exercise of the defence obligations undertaken by him/her;
- *to comply with the requirements of the Law "On Combating the Legalisation of money and other assets obtain by illegal means and the financing of terrorism".*

II. In case damage to property of the defended or represented person occurs as a result of the commission of an offence by the advocate the advocate shall be financially responsible. In order to guarantee the responsibility before the defended or represented persons the reserve bank account of advocates shall be created. *Every advocate transfers 2 percent of the earnings to that account each month. In case the advocate does not have sufficient means to compensate the damage caused by him/her pursuant to court decision the means from the reserve bank account are used. In such a case the Presidium of the Collegium of Advocates is obliged to claim from the advocate who caused the damage the means paid from the reserve bank account in the order established by civil legislation of the Republic of Azerbaijan.*

III. *Circumstances excluding the advocate's participation in civil and criminal cases as a defender and a representative respectively are defined by the procedural legislation of the Republic of Azerbaijan.*

IV. Advocates are prohibited from receiving or acquiring by other means in their own name or for other persons assets and rights which are the object of a claim and which belong to natural and legal persons, who have sought legal assistance.

Article 16-1. Professional training and improvement of advocates' qualification

Advocates are consistently engaged in professional training and improvement of their qualification in educational-academic institution of the relevant executive body.

Article 17. Advocate's secrecy

I. Receipt of information by an advocate, rendering of consultations and issuance of certificates in connection with carrying out of professional activity represents an advocate's secrecy.

II. Dissemination by an advocate in the course of professional activity of information he/she became aware of representing the secrecy of pre-trial investigation is only possible with the permission of the prosecutor or the investigator.

III. Advocates liable for dissemination of information which constitutes the secrecy of pre-trial investigation, shall be responsible in the order established by law of the Republic of Azerbaijan.

IV. Advocate cannot be called as a witness, questioned about the facts he/she became aware of in connection with the provision of legal assistance to the person who has sought it. Advocate does not have to give explanations about the above-mentioned facts and disseminate information, imparted on him/her by the client.

V. Information constituting advocate's secrecy cannot be admitted as evidence in criminal, civil and administrative cases in which the advocate renders legal assistance and also in the court hearing with participation of such advocate.

VI. The guarantees for advocates except those envisaged by Parts IV u V of this Article are defined by criminal procedural legislation of the Republic of Azerbaijan.

Article 18. Advocates' ethics

When carrying out professional activity the advocate has according to the procedure established by law, to perform his/her duties irreproachably, has to refrain from using advocate's secrecy for personal purposes, lucrative and other purposes of other persons, has to refrain from actions, calls for commission of illegal actions, rude, offensive actions and words, humiliating honour and dignity of a person, incompatible with the protection of rights, refrain from hindering the judge at the court hearing, from interrupting those speaking at the hearing, from breaching the working order of the hearing and has to observe other rules of advocates' ethics established by the Regulation on rules of advocates' behaviour approved by the general meeting of the collegium of advocates.

Article 19. Payment for legal assistance rendered by an advocate

I. Payment for legal assistance rendered by an advocate is exercised on the basis of the agreement concluded between the parties with due account of the advocate's activity carried out individually or within the framework of advocates' associations, created by an advocate (advocates) in accordance with the requirements of legislation of the Republic of Azerbaijan.

II. The amount of the fees of an advocate who is a member of the entity created for the purposes of carrying out advocate's activity or of an advocate engaged in private practice has to be paid on the basis of an agreement concluded between the person using the advocate's services and the entity providing such person with the advocate's help or the advocate, engaged in private practice and reflecting the amount and conditions of rendering legal assistance and the fees.

III. Restriction of the amount set for rendering legal assistance by advocates' entities or advocates engaged in private practice shall be prohibited. Determination of the amount of fees for rendering legal assistance shall be the exclusive right of the party rendering such assistance and can only be settled on the parties' accord. *The order of payment and the amount paid at the expense of the state to advocates rendering legal assistance to families without sufficient means to pay for the services of an advocate shall be determined by the legislation of the Republic of Azerbaijan.*

Article 20. Provision of legal assistance at the expense of the state

I. In the order established by the legislation of the Republic of Azerbaijan legal assistance rendered by an advocate to the suspects or the accused and to the persons who do not have sufficient means for payment for legal services in administrative and criminal cases in court is provided at the expense of the state without any limitations. The amount and order of payment for legal assistance provided at the expense of the state shall be determined by the relevant executive body.

II. The person detained invites the advocate from advocates entities situated on the territory of temporary detention and from the advocates engaged in private practice on that territory in accordance with the duty roaster composed by the presidium of the collegium of advocates in the established order and on the basis of the common accord an agreement is concluded.

The advocate on duty providing legal assistance at the expense of the state to the detained person whose financial situation does not allow to hire the advocate at their own expense cannot refuse to exercise his/her duties.

Article 21. Disciplinary commission of advocates

I. Disciplinary commission of advocates is created within the collegium of advocates for the purposes of examination of complaints and applications about disciplinary violations committed by advocates in the course of exercising of their professional duties and for resolution of issues, connected with bringing them to disciplinary responsibility.

II. Disciplinary commission of advocates operates in accordance with this Law and the regulation, adopted pursuant to it by the general meeting of the collegium of advocates.

Article 22. Disciplinary responsibility of advocates

I. An advocate is brought to disciplinary responsibility in case of discovery of violation of the provisions of this Law and other legal acts, the Regulation on the rules of advocates' behaviour and also in the case of violation of the rules of advocates' ethics in the course of exercise by the advocate of professional duties.

II. An advocate is brought to disciplinary responsibility exclusively by the presidium of the collegium of advocates on the basis of the opinion of the disciplinary commission of advocates.

III. Disciplinary sanction can be applied to an advocate within six months from the date of discovery of the disciplinary offence and within one year from the date it was committed.

IV. Disciplinary proceedings in respect of an advocate are initiated in the presidium of the collegium of advocates.

V. Disciplinary commission conducts investigation as a rule with participation of the advocate within one month from the date of initiation of the disciplinary proceedings and presents the relevant report to the presidium.

VI. *The Presidium of the Collegium of Advocates applies the following disciplinary sanctions on the basis of the opinion of the Disciplinary commission:*

- reproof;
- reprimand;
- prohibition to carry out advocate's activity for the period from three months to one year;

Disciplinary proceedings are terminated in case of the lack of violation in the actions of the advocate or the expiry of the period for initiation of the proceedings.

VII. A person in whose regard a decision to suspend his/her activity as an advocate cannot be elected to a position in electoral bodies of the Collegium of Advocates. *Decision to suspend the advocate's activity for the period from three months to one year can be challenged in court*.

VIII. If grounds exist for exclusion of an advocate from the collegium of advocates the presidium of the collegium of advocates can suspend the advocate's activity on the basis of the opinion of the disciplinary commission by filing an application to court until the entry into force of court decision on the issue.

Article 23. Termination of the activity of an advocate

I. The activity of an advocate is terminated:

- in case of filing a written application about the voluntary termination of the activity;
- in case of existence of a valid conviction or a court decision about the application of compulsory medical treatment in the advocate's regard;
- in case the court declares him/her incapable or having restricted capacity;
- in case of death;
- in case the court declares the advocate dead or missing;
- in case of exclusion from members of the collegium of advocates;
- in case of discovery of his/her inaptitude to the requirements established by this Law for candidates seeking the status of an advocate;
- in case of the failure to pay member fees without a good reason for more than six months.

II. *The activity of an advocate is terminated on the basis of the decision of the presidium of the collegium of advocates. Termination of the activity of an advocate in cases envisaged in paragraphs 7 and 9 of Part 1 of this Article can be done only on the basis of the valid court decision to exclude the advocate from the collegium.*

Article 24. The funds of the collegium of advocates

I. The funds of collegium of advocates shall be composed from member's fees.

II. The amount and the order of disposal of the funds, received by the collegium of advocates are determined by its charter.

Article 25. Advocates' pension

The payment of pension to advocates shall be exercised in the order established by the legislation of the Republic of Azerbaijan.

Article 26. Provision of legal assistance by foreign citizens

I. In accordance with the requirements of this Law the provision of legal assistance on the territory of the Republic of Azerbaijan is limited to giving consultations and opinions about the application of law of the states native to such foreigner or international legal norms.

II. Foreign advocates are admitted on the territory of the Republic of Azerbaijan to court proceedings in civil, criminal cases, economic disputes, administrative offences on the basis of relations in accordance with international treaties supported by the Republic of Azerbaijan.

Transitional provisions

VIII. Third sentence of Part II of Article 11 of this Law refers to the president of the Presidium of the Collegium of Advocates.

President of the Republic of Azerbaijan

Geydar Aliyev

Baku, 28 December 1999

Unofficial translation

S T A T U T E
on conduct rules of advocates

This Statute identifies legal mechanisms of conduct rules, principles and adherence for advocates.

Chapter 1. General provisions

Article 1. Scope of the Statute

1.1. These rules apply to all persons who have status of advocate.
1.2. Every advocate should observe provisions of this Statute by governing rule of law, human rights, democratic principles and high conduct rules.

Article 2. Purposes of the Statute

2.1. Purposes of the Statute are following:
2.1.1. Strengthening of prestige of advocates and advocacy bodies, increasing peoples' confidence in advocacy bodies and advocates;
2.1.2. Increasing efficiency of activities of advocacy bodies and advocates.

Article 3. Legal regulation of professional conduct

3.1. Conduct of advocates is activity which connected with realization of rights and carrying out of duties fixed in legislation. Conduct of advocates should be based upon conduct rules and principles which stipulated by this Statute.
3.2. Conduct of advocates is regulated according to Advocates and Advocacy Act of Azerbaijan Republic, Charter of Bar Association, the Statute and other statutory acts that regulate activity of advocate.

Chapter 2. Conduct rules

Article 4. Conscientious conduct

4.1. Advocate should effectively carry out his/her duties for interests of person, society and state.
4.2. Advocate must be an example of conscientiousness for everyone within carrying out professional activity.

Article 5. Increasing professional and personal responsibility

5.1. Advocate must carry out his/her activity with high proficiency within power provided by legislation of Azerbaijan Republic.
5.2. Advocate should increase and strengthen confidence of legal persons and individuals in advocacy by his/her conduct and professional activity.

Article 6. Loyalty

6.1. In his/her professional activity advocate must avoid from acts that can damage prestige of advocacy.
6.2. Advocate should obey restrictions that determined by advocacy legislation.

Article 7. Public confidence

7.1. Advocate is obliged to increase and strengthen prestige of advocacy activity.

7.2. Advocate is obliged to remove results of violation of conduct rules that done by him/her, and must make efforts for restoration of public confidence.

Article 8. Respect to rights, freedoms, legitimate interests, dignity and self-respect, goodwill. Respect to goodwill of legal persons

8.1. Activity of advocates should serve a guaranteeing and protection of peoples' rights, freedoms and legitimate interests.
8.2. Advocate should avoid from acts/inactions that can violate rights, freedoms and legitimate interests, swear dignity and self-respect, goodwill of people.
8.3. Advocate must provide confidentiality of personal life, information about dignity and self-respect of persons and public servants.
8.4. Advocate should respect goodwill of legal persons and avoid from acts/inactions that can swear their goodwill.

Article 9. Polite behaviour

9.1. Advocate should be polite, careful and patient with respect to all people.

Article 10. Impartiality

10.1. While carrying out his/her duties, advocate sould not create condition for deriving benefit due to race, nationality, language, sex, social origin, property status and official position, religion, opinion, belonging to social or other association.
10.2. Advocate is obliged to reserve political neutrality within carrying out his/her duties.

Article 11. Restriction of illegally getting tangible and intangible assets, privilegies or concessions

11.1. Actions/inaction for illegally getting of tangible and intangible assets, privilegies or concessions within carrying out of duties is forbidden.

Article 12. Information use

12.1. Advocate should obey rules of distribution of professional information.
12.2. Advocate can not use informations which get within professional activity for personal interest.

Article 13. Social or political activity

13.1. Social or political activity of advocate, belonging to social or political associations of him/her should not give rise to doubt on carrying out duties impartially on objectively.

Chapter 3. Provision of realization of ethical conduct rules

Article 14. Liability of infringement of conduct rules

14.1. Infringement of conduct rules is basis for subjecting advocate to disciplinary liability.

APPENDIX 4

Legal Acts of the Republic of Belarus

LAW OF THE REPUBLIC OF BELARUS
15 June 1993 N 2406-XII

ON THE BAR

Chapter 1. GENERAL PROVISIONS

Article 1. The Bar in the Republic of Belarus

The Bar in the Republic of Belarus is an independent legal institution which is called upon to carry out professional human rights defence activity in accordance with the Constitution of the Republic of Belarus.

Article 2. Objectives of the Bar

The main objective of the Bar is the provision of professional legal assistance to natural and legal persons while defending their rights, freedoms and legitimate interests.

The Bar participates in clarification of legislation and legal education of citizens.

In its operation the Bar serves the principles of lawfulness, fairness and humanity.

Article 4. The right to legal assistance

The state guarantees the availability of legal assistance to anybody seeking it without any limitation. In cases, envisaged by this Law legal assistance is provided free of charge.

Any natural and legal person on the territory of the Republic of Belarus is entitled to have recourse to an advocate (of his/her choice) for protection of his/her rights and legitimate interests in courts, other bodies and organizations, competent to resolve relevant legal issues.

A person detained, arrested or convicted shall be provided with necessary conditions to meet and consult his/her advocate with due regard to full confidentiality of such meetings.

Professional defence of rights and legitimate interests of natural and legal persons in criminal and civil cases and case involving administrative offences in investigatory and judicial bodies shall be carried out exclusively by advocates.

Article 5. Kinds of legal assistance provided by advocates

Advocates render the following kinds of legal assistance:

provide consultations and clarifications on legal issues, oral and written summaries on legislation;

draft applications, complaints and other legal documents;

represent clients in courts and other bodies and organisations in civil cases and cases involving administrative offences;

participate in pre-trial investigation and trial in criminal cases as defence counsels and also representatives of victims, civil claimants and civil defendants.

Advocates provide other kinds of legal assistance to natural and legal persons.

Article 6. Provision of legal assistance to natural persons free of charge

Collegiums of advocates provide legal assistance at their own expense to claimants in first instance courts in cases connected with labour relations, alimony payments, compensation of damage to health caused as a result of injury or other health damage connected with work and also to handicapped persons of I and II group when giving consultations which do not necessitate studying of the case file, to natural persons relieved by relevant legislation from payment for legal services.

Chapter 2. ADVOCATES

Article 7. An Advocate in the Republic of Belarus

A citizen of the Republic of Belarus who has university degree in law, professional experience as a lawyer of not less than three years or in case of the lack of such experience who has undertaken training for the period from six months to one year in the bar, who has passed the qualification exam and has received the special permission (license) (hereafter - license) to carry out the activity as an advocate can be an advocate in the Republic of Belarus.
(as amended by Law of the Republic of Belarus of 29.06.2006 N 137-3)
(see the text before amendment)

Advocates and trainees cannot occupy posts in state, public and other organisations with the exception of those engaged in scientific or pedagogical activity.

Article 8. Trainees

Persons who have graduated from higher education institutions in law but who do not have three years' work experience as a lawyer undertake training at the bar for the period from six months to one year.

Training is followed by the exam organised by the Qualification Commission on matters of advocate's activity in the Republic of Belarus according to the procedure established by the Regulation on Qualification Commission on the matters of advocate's activity in the Republic of Belarus.

In exceptional circumstances in case of the negative results of the exam the training can be extended for one year. In case of the repeated failure of the exam the trainee is excluded from the bar due to professional inaptitude.

During the training the trainee is subject to the provisions of this Law.

Article 9. Advocate's assistant

Citizens who have legal education can be admitted as advocates' assistants to carry out auxiliary work in the course of providing of legal assistance by the advocate.

Admission as advocate's assistant is prevented by the existence of any ground referred to in Article 10 of this Law.

Advocates' assistants do not have the rights of advocates and cannot by allowed to represent clients in inquiry and investigatory bodies, courts and other state bodies.

Advocate's assistant is covered by the duty to keep advocate's secrecy.

The period of work as advocate's assistant is counted in the work experience required for admission to the bar.

The conditions of work and remuneration of advocate's assistant are determined by the Collegium's Charter.

Article 10. Restrictions on the right to carry out the activity of an advocate

The following persons cannot work as advocates:

1) persons with restricted capacity or those declared incapable in accordance with the established order;

2) persons who committed intentional crimes;

3) persons excluded (fired) from collegiums of advocates and also those fired from law-enforcement bodies on compromising grounds – within five years from the date of the relevant decisions unless the legal acts required otherwise.

Article 11. Qualification Commission on Matters of Advocate's activity in the Republic of Belarus

The issues of admission to the bar are resolved by the Qualification Commission on Matters of Advocate's activity in the Republic of Belarus.

Qualification Commission on Matters of Advocate's activity in the Republic of Belarus shall be created by the Ministry of Justice for the period of three years with the composition including not less than nine members from the representatives of state bodies, advocates having professional work experience as advocate of not less than five years and other legal specialists. Deputy Minister of Justice of the Republic of Belarus is the President of the Commission.

Qualification Commission organises exam for natural persons applying for the right to carry out the activity as advocates and also determines the absence of grounds envisaged by Article 10 of this Law.

The Commission shall be deemed competent if at least two thirds of its members are present not less than once every six months and adopts decisions by simple majority of votes of the members present. In case of tied vote the President takes the decision.

The decision of the Qualification Commission is final and not subject to review. The repeated taking of the exam to the Qualification Commission is possible only in one year with the exception of trainees who take the repeated exam upon expiry of the traineeship period.

The Regulation on the Qualification Commission on Matters of Advocate's activity in the Republic of Belarus shall be developed and approved by the Ministry of Justice of the Republic of Belarus.

Article 12. License to carry out the activity of an advocate

Only natural persons who obtained license in accordance with the established order can carry out advocate's activity.

The license to carry out the activity as an advocate shall be issued by the Ministry of Justice of the Republic of Belarus following the decision of the Collegium of the Ministry of Justice of the Republic of Belarus on the basis of the opinion of the Qualification Commission on Matters of Advocate's activity in the Republic of Belarus for the period of not less than five but no more than ten years. The term of validity of the license can be extended by the Ministry of Justice of the Republic of Belarus on application by the holder of the license

taking into account his/her compliance with legislation on advocate's activity on the basis of the results of appraisal conducted by the relevant collegium of advocates.

The license to carry out the activity as an advocate cannot be issued in case of discovery of circumstances referred to in Article 10 of this Law, the application for license before expiry of one year term from the date of the decision to annul the license (except the annulment of the license due to the violation of the order established by law during the issuance of such license), and also if the person applying for license in the period from the date of filing the application until the date of the issuance of the license occupied posts which count as state service experience.

Refusal to issue the license to carry out the activity as an advocate or refusal to extend its validity term can be challenged in court within one month from the date of such a decision.

Chapter 3. ORGANISATIONAL FORMS OF ACTIVITY OF THE BAR

Article 13. Advocates' associations

Citizens who obtained the license to carry out advocate's activity in the established order performs this activity by becoming a member of a collegium of advocates. The activity as an advocate can be carried out within the framework of legal consultancy offices or in other organizational forms following the decision of the relevant collegium of advocates and in order determined by such collegium subject to the requirement of exercising the functions imposed by the legislation on the collegiums of advocates (legal consultancy offices).

In the Republic of Belarus operate the Republican, regional and Minsk City collegiums of advocates and Specialized Belarus Collegium of Advocates (hereafter – collegiums of advocates unless otherwise defined by this Law).

Republican Collegium of Advocates includes regional and Minsk City collegiums of advocates and Specialised Belarus Collegium of Advocates (hereafter - Belinyurcollegiya) and exercises functions of the republican body of advocates' self-governance.

Republican Collegium of Advocates operated on the basis of the Charter adopted by the Presidium of the Collegium.

Regional and Minsk City collegiums of advocates and Belinyurcollegiya shall be created following applications of the groups of founders and shall operate on the basis of charters adopted by the general meetings (conferences) of members of the relevant collegium of advocates.

General meeting (conference) of member of the collegium shall be the supreme governing body of the collegium of advocates and the presidium of the collegium shall be the executive body.

Only the members of regional and Minsk City collegiums of advocates and Belinyurcollegiya can carry out activity as advocates. Applications for admittance to regional and Minsk City collegiums of advocates and Belinyurcollegiya shall be examined by the presidium of the relevant collegium not later than one month after it is filed.

Internal organization and activity of the collegiums of advocates, their structure, the status of the governing bodies and other matters concerning the activity of the collegiums shall be determined by their charters unless otherwise envisaged by legal acts.

Collegiums of advocates are legal persons which have their seal and stamp with their name.

Article 13-1. Belinyurcollegiya

The status of Belinyurcollegiya shall be equal to that of the regional collegium of advocates and it shall include natural persons carrying out advocate's activity and providing professional legal assistance to natural and legal persons of the Republic of Belarus abroad, foreign natural and legal persons, and also stateless persons on the territory of the Republic of Belarus in the course of defending their rights, freedoms and legitimate interests including the search for heirs in the territory of the Republic of Belarus.

In its operation Belinyurcollegiya shall be guided by this Law and other legal acts.

Belinyurcollegiya operates as part of the Republican Collegium of Advocates.

The President of Belinyurcollegiya shall be elected by the general meeting of members of Belinyurcollegiya and approved by the Ministry of Justice of the Republic of Belarus.

Article 13-2. The funds of the collegiums of advocates

Collegiums of advocates shall be non-commercial organisations and shall exist solely at the expense of deductions from money paid by natural and legal persons for the provision of legal assistance.

The amount of deductions shall be determined by the charters of the regional and Minsk City Collegium of Advocates. At the same time the amount of deductions of money to the regional and Minsk City Collegium of Advocates funds used for maintenance of the collegium and for payment of deductions to the Social Protection Fund of the Ministry of Labour and Social Protection shall not exceed 39 percent of the funds received for the provision of legal assistance to natural and legal persons.

Regional and Minsk City Collegium of Advocates shall have the right to set up increased but not exceeding 40 percent amounts of deductions for certain advocates for the period of no more than six months from the funds received from natural and legal persons for provision of them with legal assistance including the cases when the advocate works with highly-paid cases and in this connection is relieved from rendering legal assistance free of charge and (or) working as appointed advocate, unreasonably increases the costs of legal services, includes the costs of superfluous services (procedural actions) in the fees or commits another disciplinary offence.

Belinyurcollegiya assigns 70 percent of money it receives for rendering legal assistance to natural and legal persons to the republican and local budget in the form of taxes, duties and other charges, the Fund of Social Protection of the Ministry of Labour and Social Protection of the Republic of Belarus and the Republican Collegium of Advocates and for maintenance of the activity of Belinyurcollegiya and their unused part is deducted to the republican budget to compensate the expenses of state bodies on furnishing information required for rendering legal assistance.

Belinyurcollegiya assigns 30 percent of the money it received for rendering legal assistance for payment of remuneration to advocates of Belinyurcollegiya.

The money to the republican budget for compensation of expenses of state bodies on furnishing information required to render legal assistance shall be transferred by Belinyurcollegiya monthly not later than 20th date of the month following the accounting period.

The Ministry of Finance of the Republic of Belarus ensures that the deductions to the republican budget are done timely and in full. The amounts unpaid by the Belinyurcollegiya in accordance with Part six of this Article are written off in uncontestable manner on the basis of decisions of the Ministry of Finance of the Republic of Belarus.

Article 14. Legal consultancy

Collegiums of advocates create with the approval of the local executive and regulatory bodies legal consultancy offices for the purposes of providing legal assistance to natural and legal persons.
(Part one of Article 14 as amended by the Law of the Republic of Belarus of 30.04.2003 N 193-З)
(see the text before amendment)

Legal consultancy offices of regional and town collegiums are in charge with the provision of defence in criminal cases on appointment by inquiry and investigatory bodies and court (including the cases of immediate legal assistance pursuant to the law) in cases involving persons relieved according to the established procedure of payment for legal assistance and also providing other legal services free of charge.

The status of legal consultancy offices is determined by the relevant collegiums of advocates.

Article 15. Unions (associations) of advocates

Advocates can voluntarily form republican and international unions, associations on the basis of individual and collective membership.

The Union of Advocates of the Republic of Belarus is created and functions in the conditions determined by the legislation on public associations of citizens and this Law.

Chapter 3-1. STATE REGISTRATION OF THE COLLEGIUMS OF ADVOCATES, MODIFICATIONS AND AMENDMENTS OF THEIR CHARTERS

(introduced by the Law of the Republic of Belarus of 30.04.2003 N 193-З)

Article 15-1. General provisions on state registration of collegiums of advocates, modifications and amendments to their charters

State registration of the collegiums of advocates, modifications and amendments to their charters shall be done by the Ministry of Justice of the Republic of Belarus.

State duty is charged for state registration of the collegiums of advocates, modifications and amendments to their charters.

State registration of the collegiums of advocates, modifications and amendments to their charters is carried out within one month from the date of filing of all required documents.

The Ministry of Justice of the Republic of Belarus is entitled to check the veracity of the documents submitted for state registration of the collegiums of advocates, modifications and amendments to their charters and also request additional information confirming the reliability of those documents from state bodies.

Article 15-2. Documents required for state registration of the collegiums of advocates, modifications and amendments to their charters

Collegiums of advocates submit the following documents for state registration to the Ministry of Justice of the Republic of Belarus:

an application composed according to the established procedure and signed by the president of the collegium of advocates;

a copy of the minutes of the supreme body of the collegium of advocates about the adoption of the charter of the collegium of advocates;

a copy of the minutes of the supreme body of the collegium of advocates about the election of its governance bodies;

two copies of the charter of the collegium of advocates;

the list of members of the collegium of advocates;

the document confirming the right to allocate the collegium of advocates (its governance bodies) at the indicated location;

the payment documents confirming the payment of the state duty.

Collegiums of advocates submit the following documents for state registration of modifications and amendments to their charters to the Ministry of Justice of the Republic of Belarus:

an application, composed according to the established procedure and signed by the president of the collegium of advocates;

a copy of the minutes of the supreme body of the collegium of advocates about the adoption of the charter of the collegium of advocates;

two copies of the charter of the collegium of advocates;

the payment documents confirming the payment of the state duty.

Article 15-3. Adoption of decisions on state registration of the collegiums of advocates, modifications and amendments to their charters, the grounds for refusal of state registration

The Ministry of Justice of the Republic of Belarus adopts a decision about state registration of the collegium of advocates, modifications and amendments to its charter or about the refusal of state registration indicating the reasons on the basis of the documents submitted.

State registration of the collegium of advocate is refused in case of:

non-conformity of its charter documents to the Constitution of the Republic of Belarus, other legal acts and international treaties of the Republic of Belarus;

failure to furnish documents required for state registration;

submission of misleading information;

presence of other grounds established by legal acts.

Decision to refuse state registration of modifications and amendments to the charter of the collegium of advocates is taken in case those do not conform to the requirements of the legislation and also in other cases envisaged by legal acts.

In case the decision on state registration of the collegium of advocates is taken the Ministry of Justice of the Republic of Belarus enters the necessary information into the Uniform State Register of Legal Entities and Individual Entrepreneurs and issues the certificate on state registration of the collegium of advocates and one copy of the charter of the collegium of advocate, stitched and sealed by the Minister of Justice of the Republic of Belarus.

In case the decision on state registration of modifications and amendments to the charter of the collegium of advocates is taken the Ministry of Justice of the Republic of Belarus enters the necessary information into the Uniform State Register of Legal Entities and Individual Entrepreneurs and issues one copy of the charter of the collegium of advocate, stitched and sealed by the Minister of Justice of the Republic of Belarus.

The Minister of Justice of the Republic of Belarus within five days from the date of registration of the collegiums of advocates, modifications and amendments to their charters, informs state taxation and statistics bodies about the state registration carried out.

Decisions refusing state registration of the collegiums of advocates, modifications and amendments to their charters can be challenged in court in the order established by the legislation.

Chapter 4. GUARANTEES OF ADVOCATE'S ACTVITY, RIGHTS AND DUTIES OF AN ADVOCATE

Article 16. Guarantees of advocate's activity

An advocate when carrying out his/her activity is independent and is subject only to law.

It is prohibited to interfere into the professional activity of an advocate, request the provision of any information constituting advocate's secrecy and also to request detailed information from officials and technical staff of advocate's self-governing bodies and advocates' associations.

Issues raised by the person who sought legal assistance, the substance of consultations, advices and clarifications received by that person from the advocate constitute the advocate's secrecy.

Information constituting advocate's secrecy cannot be requested from the advocate and used as evidence in civil, administrative and criminal proceedings.

All bodies and officials of the Republic of Belarus recognise and observe the secrecy of consultations given by advocate to the person he/she provides legal assistance to in the course of performance by him/her of professional duties.

Article 17. Rights of an advocate

An advocate is entitled to provide natural and legal persons with any legal assistance they need.

An advocate acting as a representative or a defence counsel has the right:

1) to represent legitimate interests of natural and legal persons seeking legal assistance in all courts, state, private, public and other organisations and associations competent to resolve the relevant legal issues;

2) to independently collect, record and submit information concerning the circumstances of the case;

3) to request certificates, character references and other documents necessary in connection with the provision of legal assistance from state, private, public and other organizations and associations which are obliged according to the established procedure to issue those documents or their copies;

4) to request with the consent of the person who sought legal assistance the opinions of specialists to resolve the issues, arising in connection with the obligation to provide legal assistance undertaken by the advocate and requiring special knowledge in the area of science, technology, art and other spheres of activity;

5) to communicate in private with his/her client, suspect, accused, criminal defendant without hindrance including those in detention;

6) to file motions, lodge complaints in the established order about illegal actions of the court, state and governance bodies, infringing rights and legitimate interests of the person who sought legal assistance and also the rights of the advocate in the course of performance of his/her professional duties;

7) to use in their professional activity technical equipment (computers, video and audio recording equipment, photographic and cinematographic equipment, multiplying and other equipment).

The court and any other body or official cannot refuse the advocate's right to represent the interests of the person seeking legal assistance.

An advocate in carrying out his/her professional activity enjoys freedom of speech in oral and written form within the limits defined by certain objectives of the bar and the provisions of this Law. The advocate shall not be hold responsible for statements affecting the honour and dignity of the party, its representative, prosecutor or defender, witness, victim, expert, interpreter but not violating the Rules of professional ethics of advocates.

Article 18. Advocate's duties

An advocate in the course of his/her activity is obliged to strictly and consistently observe the legislation in force and use all means and methods of protection of rights and legitimate interests of natural and legal persons seeking legal assistance.

An advocate has to constantly promote the prestige of his/her profession as the participant of the process of administration of justice and public figure.

An advocate cannot undertake the obligation to render legal assistance to a person if he/she provides or has previously provided legal assistance in such case to persons whose interests conflict with the person seeking legal assistance or participated as a judge, prosecutor, investigator, inquiry officer, expert, specialist, interpreter, witness, attesting witness and also if an official taking part in investigation and examination of the case is a relative of the advocate.

An advocate cannot act contrary to the legitimate interests of the person who sought legal assistance, present the case in a manner uncoordinated with that person, refuse without a valid reason to carry out the obligations to defend the suspect, accused or convict.

An advocate cannot acknowledge the guilt of the person he defends if the latter denies it. Confession by the defended person does not deprive the advocate of the right to challenge such statement and ask for acquittal due to the absence of proof of guilt.

In cases when the legal assistance is provided in accordance with the legislation in force by the appointed advocate only the body which appointed the advocate can relieve him/her of the defence obligations.

An advocate is prohibited from buying or acquiring in any other way the assets and rights of natural and legal persons who sought his/her legal assistance which is the subject of the dispute whether on the advocate's own name or under the pretence of acquiring it for other persons.

Chapter 5. DISCIPLINARY RESPONSIBILITY OF ADVOCATES

Article 19. Disciplinary responsibility

Advocates are subject to disciplinary responsibility for actions contrary to this Law and the rules of professional ethics of an advocate.

Complaints about the actions of advocates shall be examined by the Qualification Commission on Matters of Advocate's activity in the Republic of Belarus, Republican, regional, Minsk City Collegium of Advocates and Belinyurkollegiya within the limits of their powers and the Ministry of Justice of the Republic of Belarus.

(Part two of Article 19 as amended by the Laws of the Republic of Belarus of 06.07.1998 N 176-З and of 30.04.2003 N 193-З)

(see the text before amendment)

Article 20. Disciplinary sanctions

The following sanctions can be applied to advocates:
1) warning;
2) reprimand;
3) severe reprimand;
4) exclusion from the bar.

Статья 21. The order of application and the manner of appeal against disciplinary sanctions

Disciplinary proceedings with respect to an advocate can be initiated and examined by advocates' self-governance bodies.
(Part one of Article 21 as amended by the Law of the Republic of Belarus of 06.07.1998 N 176-З)
(see the text before amendment)

Disciplinary proceedings against an advocate are initiated on the basis of the motion of any body or the complaint of the interested party about the actions of the advocate. Motions introduced by the Minister of Justice of the Republic of Belarus shall be examined within two weeks.

In case of initiation of disciplinary or criminal proceedings against an advocate he/she can be temporarily enjoined from carrying out of professional activity by the body examining the case for the period of its examination but no longer than for one year.

In case of acquittal in the criminal case or emergence of an exculpatory ground for termination of disciplinary proceedings the body which requested to enjoin the advocate from carrying out professional activity repays the advocate his/her average wage for the period of the suspension.

Disciplinary sanction can be challenged in court within one month from the date it was imposed.

Article 22. Statute of limitations

Disciplinary proceedings cannot be initiated and the initiated proceedings should be terminated in case of expiry of six months from the moment the offence was committed and in case of inspection and auditing of financial activity – of two years excluding the periods of temporary inability to work and being on vacation and the examination of the disciplinary case.

Disciplinary sanctions shall be applied within one month from the date of discovery of the disciplinary violation excluding the period of temporary inability to work and leave of the advocate.

Article 23. Discharge of the disciplinary sanction

If the advocate does not commit another offence within one year from the date of application of the disciplinary sanction he/she shall be deemed as not having been subjected to disciplinary sanction.

On the motion of the interested party the body which initiated disciplinary proceedings can early discharge the advocate of the disciplinary sanction but not earlier than within six months.

Article 24. Termination of membership. Annulment of the license

Membership in the collegiums of advocates is terminated as a result of the dismissal or exclusion from the collegium of advocates.

Dismissal from the collegium of advocates is exercised:

on application by the advocate;

upon discovery of the advocate's inability to perform his/her duties on health reasons;

in case of carrying out advocate practice outside the framework of the collegium of advocates.

The advocate is excluded from the collegium of advocates in the following cases:

commission of the offence incompatible with the status of an advocate;

systematic violation of this Law, the Rule of Professional Ethics or unscrupulous exercise of his/her duties if disciplinary measures have previously been applied for the above-mentioned violations;

discovery of circumstances attesting to illegal action of the advocate when obtaining the license to carry out advocate's activity.

The annulment of the license to carry out advocate's activity shall be done on the motion of the Presidium of the Collegium of Advocates or the Qualification Commission on the Matters of Advocate's activity in the Republic of Belarus and the Ministry of Justice of the Republic of Belarus or the Ministry of Justice of the Republic of Belarus independently.

A person who has been excluded in the established order from the collegium of advocates and whose license to carry out advocate's activity has been annulled can challenge the relevant decisions in court within one month.

Chapter 6. ADVOCATE'S WORK, ITS REGULATION AND REMUNERATION. TAXATION, INSURANCE OF THE ADVOCATE'S ACTIVITY

Article 25. Regulation of advocates' work

The work of advocates is regulated by this Law, other legal acts of the Republic of Belarus and charters of the advocates' associations.

The advocates' work is organised in accordance with the Rules on internal working order of the advocates' association.

Advocates are not covered by labour legislation of the Republic of Belarus.

Advocate has a right to leave, state social insurance benefits and state pension.

The determination and payment of state social insurance benefits and state pension to advocates is carried out in accordance with the legislation in force.

Advocates can create funds for social needs.

Article 26. Remuneration of advocates and other employees of advocates' associations

Advocates' work is paid for from the money received from natural and legal persons for legal assistance rendered to them.

The amount of fees is determined by the parties' agreement.

Advocate's remuneration paid from the republican and (or) local budgets is determined in accordance with the procedure established by the Council of Ministers of the Republic of Belarus.

Remuneration of advocate's work when providing legal assistance to the person relieved from payment for legal services on the basis of the decision of the head of the legal consultancy office or the presidium of the collegium of advocates is paid from the funds of the collegium.

Conditions and amount of remuneration of officials, other employees of advocates' associations is determined by their governing bodies (directors) in accordance with the requirements of the charters and the legislation in force.

Article 27. Taxation of proceeds received from advocate's activity

Advocates pay income tax on the whole amount of their remuneration less the expenses connected with the activity as an advocate confirmed by documents, - less the amounts transferred to the fund of the collegium of advocates.

Collegiums of advocates pay fees on social insurance and are relieved from state-wise taxes, duties and other payments to the budget including the extraordinary tax for financing expenses on liquidation of the consequences of the Chernobyl disaster. Local taxes and duties are paid by the collegiums of advocates in the order established by the legislation.

Article 28. Insurance of advocate's activity

For financing the measures on social protection of advocates in advocates' associations insurance funds of advocates can be created.

The rules of creating the funds, order of payment, the amount of fees paid to the insurance fund shall be determined by the general meeting of the members of the collegium of advocates.

Chapter 7. CONCLUDING PROVISIONS

Article 29. The Bar and the state

The state ensures independent functioning of the bar, accessibility of legal assistance and also cooperation between state bodies and advocates' self-governing bodies in the protection of rights, freedoms and legitimate interests of citizens, provision of legal assistance to natural and legal persons.

Article 30. The Bar and the local Councils of deputies, executive and regulatory bodies

Local Councils of deputies and executive and regulatory bodies within the limits of their competence:

1) on the basis of remuneration provide the collegiums of advocates and legal consultancy offices with suitable premises for work;

2) cooperate in the administrative matters, resolution of everyday housing and other social issues, in case of need provide privileges to the collegiums of advocates including payment of the rent for premises used;

3) carry out other measures directed at the provision of accessible legal assistance, cooperate in this respect with advocates' self-governing bodies.

Article 31. The Bar and the Ministry of Justice of the Republic of Belarus

The Ministry of Justice of the Republic of Belarus within the limits of its powers:

1) adopts in accordance with the legislation normative legal acts regulating the activity of the bar;

2) suspends the decisions of the governing bodies of the collegiums of advocates contradicting the legislation and files motions to those bodies to annul such decisions;

3) exercises other powers connected with general and methodical administration of the bar in connection with the legislation;

4) supervises the observance of the legislation by all persons carrying out activities as advocates;

5) organises within the limits of its powers inspections with regard to the activity of collegiums of advocates;

6) in case of violation of the legislation introduces a motion about early dismissal of the president of the collegium of advocates to the general meeting (conference) of the Presidium of the Republican Collegium of Advocates and takes other measures to eliminate the violations discovered;

7) has the right to receive from advocates information connected with the observance of the legislation about the activity of advocates subject to the requirement of ensuring the advocate's secrecy;

8) registers collegiums of advocates and modifications and amendments to their charters;

9) introduces motions to bring advocates to disciplinary responsibility to the collegiums of advocates;

10) performs licensing of the activity of advocates;

11) cooperates in administrative and legal and informational support of the activity of collegiums of advocates;

12) within the limits of their powers carries responsibility for observance of the legislation on advocates' activity and timely elimination of the violations discovered;

13) determines additional professional standards and organises examination of correspondence to those standards of natural persons applying for the right to carry out the activity as an advocate within the framework of Belinyurcollegiya;

14) sets up the minimum membership of Belinyurcollegiya on common accord with the Republican Collegium of Advocates;

15) together with the Ministry of Foreign Affairs of the Republic of Belarus ensures cooperation of Belinyurcollegiya with diplomatic representations and consulates of the Republic of Belarus.

Article 32. The Bar and public associations

The Bar cooperates with other public associations of lawyers, other public associations of citizens in protecting lawfulness and legal order, legal education of citizens, studying of jurisprudence, preparation of commonly agreed proposals on the improvement of legislation and on other matters.

The order and conditions of the relations between the advocates' associations and other public associations are determined by their charters and also agreements.

President of the Supreme Council

Of the Republic of Belarus
S.SHUSHKEVICH

LAW OF THE REPUBLIC OF BELARUS
30 December 2011 N 333-Z

On the Bar and the Practice of Advocacy in the Republic of Belarus

CHAPTER 1
GENERAL PROVISIONS

Article 1. Principal concepts used in this Law and their definition

The following concepts and definitions are used in this Law:

The Bar – legal institution called upon to provide legal assistance on a professional basis and in accordance with the Constitution of the Republic of Belarus with a view to implementing and protecting the rights, freedoms and interests of natural and legal persons;

Practice of an Advocate – legal assistance provided on a professional basis by advocates in accordance with the provisions of this Law to natural persons including individual entrepreneurs, legal persons and also the state (hereinafter, and unless stated otherwise, the clients) with a view to implementing and protecting their rights, freedoms and interests and securing to them access to justice;

Confidential lawyer-client information – information about the issues raised by a client seeking legal assistance, the substance of consultations, clarifications, summaries received by the client from the advocate, information about the client's private life, information received from the client concerning the circumstances of the commission of a crime in criminal cases in which the advocate is representing the rights, freedoms and interests of the client, and confidential information relating to the client's commercial interests;

Legal assistance – activity involving the provision of legal assistance to clients in understanding, properly applying and observing legislation aimed at implementation and protection of rights, freedoms and interests of clients, and representation of clients in courts, state bodies and other organisations, and before natural persons.

Article 2. Legislation on the Bar

1. Legislation on the Bar in the Republic of Belarus consists of the Constitution of the Republic of Belarus, this Law and other normative laws.

2. Where an international treaty to which the Republic of Belarus is a party sets out rules different from those set out in this Law, the rules of the international treaty shall prevail.

3. The rights and duties of advocates in the course of providing legal assistance in criminal cases, civil cases, cases concerning commercial disputes and cases concerning administrative offences shall also be regulated by the relevant legislative provisions.

Article 3. Scope of application of this Law

This Law does not apply to legal assistance rendered in the course of their activities by:

employees of legal departments of legal persons or employees of state bodies;

persons rendering legal services under special permits (or licences);

notaries, temporary (locum) managers, or patent agents unless that notary, manager or patent agent is also an advocate;

investment agents;

persons in a trade or industrial chamber in the area of international economic activities;

employees of realtor and audit organisations, auditors, or individual entrepreneurs;

persons working in public consumer groups;

bodies and persons representing the Republic of Belarus in cases set out in legislation of and international treaties entered into by the Republic of Belarus.

Article 4. Principles relating to the organisation of the Bar and Practice of an Advocate

The Bar and Practice of an Advocate proceed on the basis of the following principles:

the right to legal assistance guaranteed by the Constitution of the Republic of Belarus;

legality;

the accessibility of legal assistance;

the independence of advocates in the course of their duties;

client confidentiality;

the use of all measures and means not prohibited by law to protect the rights, freedoms and interests of the client;

maintaining the quality of legal assistance;

the prohibition of interference with the professional practice of an advocate by bodies conducting criminal proceedings, other state bodies, other organisations and officials;

the observance of the rules of professional ethics for advocates.

Article 5. The main objectives of the Bar

The main objectives of the Bar are:

The provision of legal assistance on a professional basis to clients for the purposes of enforcing and protecting their rights, freedoms and interests;

Engaging in the legal education of citizens.

Article 6. The right to legal assistance provided by advocates

1. Legal assistance shall be provided by advocates on an indemnity basis. Where provided for in accordance with procedure envisaged by this Law and other legislation, legal assistance shall be provided at the expense of the collegia of advocates, the republican and/or local budgets.

2. Any legal or natural person on the territory of the Republic of Belarus may seek the legal assistance of an advocate of his/her choice (except where legal assistance is provided at the expense of the collegia of advocates, the republican and/or local budgets) to protect his/her rights and interests before the courts, state bodies and other organisations competent to determine the relevant legal issues, and before natural persons.

3. Persons arrested, placed under administrative arrest, detained, placed under home arrest, subjected to compulsory measures to ensure their safety and treatment and convicted persons who receive legal assistance shall be provided with the conditions necessary to meet and consult with their advocate and necessary to ensuring the confidentiality of meetings and consultations.

CHAPTER 2
ADVOCATES

Article 7. An advocate in the Republic of Belarus

An advocate in the Republic of Belarus may be a natural person who is a citizen of the Republic of Belarus, who possesses a higher legal education, who has completed (were required to by this Law) training and passed the qualification exam, who has received the special permit (or licence) to practise as an Advocate (hereinafter, unless stated otherwise, 'the licence'), and who is a member of the relevant territorial collegium of advocates.

Article 8. Restrictions on the right to practise as an Advocate

The following persons may not practise as an Advocate:

persons declared to lack capacity in accordance with the procedure established by law, or persons whose legal capacity has been restricted;

persons who have committed an intentional crime;

persons excluded (dismissed) from the collegium of advocates or from law-enforcement or other bodies on discreditable grounds within a period of three years from the date of dismissal;

persons seeking a licence within one year from the date of the entry into force of a decision taken in respect of him/her or in respect of an individual legal person (where that person was registered to provide notarial or legal services) to annul his/her special permit (licence) to practise as a notary or provide legal services;

persons occupying positions of 'state service' within the period between lodging his/her application for admission to the qualification exam and the receipt of his/her licence.

Article 9. Undertaking training and passing the qualification exam

1. A citizen of the Republic of Belarus seeking to become an advocate (hereinafter, 'the candidate') must undertake the necessary training and pass the qualification exam.

2. Before taking the qualification exam, any candidate who has worked as a lawyer for not less than three years (including work as an advocate's assistant) shall undertake training under the supervision of an advocate within a legal consultancy office or advocates' bureau, or of an advocate practising independently in accordance with the directions of the relevant territorial collegium of advocates for a period of three to six months, and any candidate who does not have three years' work experience as a lawyer shall carry out his/her training for between six months and one year.

The decision to admit the candidate as an advocate's trainee and to send him/her for training in a legal consultancy office or advocates' bureau with an practising independently shall be taken (following the candidate's application) by the council of the relevant territorial collegium of advocates on the basis of the requests of the legal consultancy offices, advocates' bureaux or advocates practising on their own in private practice.

With a view to ensuring the accessibility of legal assistance in each territorial area, the Ministry of Justice of the Republic of Belarus may file binding proposals to the relevant territorial collegium of advocates concerning the number of trainees to be sent for traineeships in legal consultancy offices on the basis of the agreements referred to in item 1 of Article 10 of this Law.

A candidate to whom any of the terms of Article 8 of this Law apply may not be admitted as an advocate's trainee.

3. Upon completion of the traineeship, the advocate who has supervised the traineeship shall complete an opinion on the trainee's aptitude for practising as an advocate, and the trainee shall compile a report on the results of the traineeship in accordance with the requirements established by the Ministry of Justice of the Republic of Belarus.

4. To be admitted to the qualification exam, the candidate shall make an application to the Qualification Commission on Issues Relating to the Activities of Advocates in Belarus

attached to the Ministry of Justice of the Republic of Belarus (hereinafter, 'the Qualification Commission') together with the following documents:

a copy of his/her diploma of higher legal education;

an excerpt from his/her employment record book where he/she has worked, and in the absence of the book, a certificate from the candidate's last place of work indicating the reasons for the candidate's departure from that place of work;

a copy of the lawyer's appraisal certificate (where one exists);

an opinion on the aptitude of the advocate's trainee for practising as an advocate and a report on the results of the traineeship;

a resume.

When submitting his/her application, the candidate shall submit the original versions of his/her diploma of higher legal education and his/her employment record book (where it exists).

5. The Qualification Commission shall within one month from the date the application was lodged review the application against the requirements of this Law. Following this review, a reasoned decision shall be taken either to admit or to refuse to admit the candidate to the qualification exam.

A decision by the Qualification Commission refusing admission to the qualification exam can be challenged in court within one month of the date of adoption of the decision.

6. The qualification exam shall cover the areas of constitutional, criminal, civil, housing, family, employment and administrative law, criminal, civil, commercial and administrative procedure, and the rules of professional ethics for advocates, and shall be held within one month of the date of the adoption of the decision on the candidate's admission to the qualification exam.

A candidate who has a lawyer's appraisal certificate shall take the exam covering the areas of criminal, housing and family law, criminal procedure and the rules of professional ethics for advocates.

The qualification exam consists of a review of the candidates' knowledge and is conducted in written and oral form.

7. The Ministry of Justice of the Republic of Belarus shall determine the rules and procedure for holding the qualification exam.

8. Based on the results of the qualification exam, the Qualification Commission shall take a decision on whether the candidate satisfies the requirements and conditions of the licence.

9. Where a candidate is deemed to have failed to satisfy the requirements and conditions of the licence shall be admitted to the next qualification exam not earlier than six months after the decision that he has failed has been taken.

Article 10. Advocate's trainee

1. An advocate's trainee shall be hired on the basis of a fixed-term employment contract concluded with the relevant territorial collegium of advocates (where a trainee is sent to a legal consultancy office), the advocates' bureau or an advocate practising independently.

The employment contract concluded with the relevant territorial collegium of advocates may contain a condition that the advocate's trainee must obtain his/her licence at the end of the traineeship and work for two years in the legal consultancy office referred to in that contract.

2. An advocate's trainee shall undertake training under the supervision of an advocate who has work experience of not less than five years, and shall carry out the duties of an advocate's assistant and other duties set out in the employment contract.

An advocate may only have one trainee at a time.

Where an advocate's trainee has received a positive opinion on aptitude from the advocate who supervised his/her traineeship but fails the qualification exam the advocate may, following a decision by the council of the relevant territorial collegium of advocates, be prevented from supervising trainees for a period of up to two years.

3. An advocate's trainee is bound by client confidentiality.

4. The rules for undertaking the traineeship shall be defined by the Ministry of Justice of the Republic of Belarus.

Article 11. Commencement of the practice of an advocate

1. Advocates are entitled to practise only upon receiving their licence according to the rules set out in legislation and upon becoming a member of the relevant territorial collegium of advocates which admits the advocate.

Extensions to the term of validity of a licence shall be made by the Ministry of Justice of the Republic of Belarus following an application by the advocate and having regard to the extent to which the advocate has observed the legislation on the bar reflected by in the results of the appraisal conducted in accordance with the rules set out in the legislation.

2. In order to be accepted as a member of the relevant territorial collegium of advocates, a person who has received a licence shall submit a written application (indicating his/her proposed workplace) to the relevant collegium of advocates, which shall determine the application within five working days from the date on which the application was lodged.

3. The advocate's certificate confirms his/her legal status as an advocate and his/her membership of the relevant territorial collegium of advocates. The Ministry of Justice shall determine the form of and the rules for issuing the advocate's certificate.

Article 12. Suspension from practice of an advocate

1. An advocate's entitlement to practise shall be suspended by a decision by the relevant territorial collegium of advocates in the following circumstances:

election of the advocate to a state body or another organisation where he/she shall work there on a permanent basis;

call-up to military service;

suspension of the licence in the circumstances set out in legislation.

2. Where the grounds set out by item 1 of this Article cease to exist (except for suspension of the licence), the advocate will be entitled to practice following a decision by the council of the territorial collegium of advocates which suspended the advocate from practice following an application from the advocate whose entitlement to practice was suspended.

Article 13. Termination of an advocate's practice

1. An advocate's entitlement to practice shall be terminated where his/her licence is annulled or terminated on the grounds set out in this Law and other legislation.

2. An advocate's licence may be terminated by the Ministry of Justice of the Republic of Belarus through the application of disciplinary sanctions in the form of exclusion from the relevant territorial collegium of advocates or in the circumstances envisaged by item 2 of Article 24 of this Law.

3. A decision to annul or terminate an advocate's licence shall be taken by the Ministry of Justice of the Republic of Belarus following an opinion of the Qualification Commission.

Article 14. The Qualification Commission

1. The Qualification Commission shall:

verify that candidates satisfy the requirements of this Law;

adopt a reasoned decision to admit or refuse to admit a candidate to the qualification exam;

conduct the qualification exam for candidates;

examine complaints and/or other information concerning the issuing, modification, amendment, extension, suspension, resumption, termination or annulment of an advocate's licence, and shall assess whether persons seeking licences (licencees) satisfy the requirements and conditions of holding the licence;

conduct the advocate's appraisal or entrust the function of carrying out the appraisal to the relevant territorial collegium of advocates;

examine other issues relating to the practice of an advocate.

2. The Qualification Commission includes:

one representative from every territorial collegium of advocates;

one representative of the Supreme Court of the Republic of Belarus, the Highest Economic Court of the Republic of Belarus, and the Office of the Prosecutor General of the Republic of Belarus,

five representatives of the Ministry of Justice of the Republic of Belarus;

two representatives of academic institutions.

3. The Deputy Minister of Justice of the Republic of Belarus shall act as President of the Qualification Commission.

4. The meeting of the Qualification Commission shall have the competence to adopt decisions if not less than two-thirds of the total number of members of the Qualification Commission take part in the meeting.

5. The Qualification Commission shall adopt decisions by simple majority of the votes of those members present at the meeting. In the case of a tied vote, the President of the Qualification Commission shall have the casting vote.

6. The Ministry of Justice of the Republic of Belarus shall approve the Regulation on the Qualification Commission and its composition.

Article 15. The Registry of Advocates

1. Information about advocates, legal consultancy offices, advocates' bureaux and special permits (licences) to practise as an Advocate shall be entered in the Registry of advocates which shall be kept by the Ministry of Justice of the Republic of Belarus.

2. The Ministry of Justice of the Republic of Belarus shall determine the rules for keeping the Registry of Advocates.

3. The Ministry of Justice shall, within five days from the date of receipt of the licence by an advocate or the establishment of a legal consultancy office or an advocates' bureau, enter the relevant information into the Registry of Advocates.

4. Information about the suspension of practice of an advocate and any other modification of information contained in the Registry of Advocates shall be sent within five days by the relevant territorial collegium of advocates or the Qualification Commission to the Ministry of Justice of the Republic of Belarus. This information shall be entered in the Registry of Advocates within five days of its receipt.

Article 16. Guarantees of the practice of an advocate

1. In the course of their activities, advocates shall be independent and subject only to the law.

2. It shall be prohibited to interfere with the professional practice of an advocate carried out in accordance with legislation, to otherwise hinder these activities, to request that

the advocate divulge any information subject to client confidentiality, or to request such information from trainees or advocate's assistants.

3. Information constituting client confidentiality may not be obtained from an advocate or from trainees or advocate's assistants or used as evidence in criminal, civil, commercial or administrative proceedings.

4. Advocates, trainees and advocate's assistants may not be questioned as witnesses about the circumstances surrounding client confidentiality, and state bodies and other organisations may not obtain, seize or otherwise receive from the advocate, trainee or advocate's assistant information covered by client confidentiality.

5. It shall be prohibited to hinder an advocate in meeting with his/her client in private in conditions allowing for the maintenance of confidentiality or to restrict the number or duration of such meetings.

Article 17. Advocate's rights

1. An advocate is entitled to provide the client with any legal assistance required.

2. An advocate acting as a representative or defence counsel is entitled to:

represent the rights and interests of clients seeking legal assistance before courts, state bodies, other organisations and natural persons;

independently collect and submit information relating to the circumstances of the case;

obtain certificates, character references and other documents required in connection with the provision of legal assistance from state bodies and other organisations which are obliged in accordance with the established rules to issue those documents or copies thereof;

obtain with the client's permission specialists' opinions to facilitate the resolution of issues arising in connection with the provision of legal assistance and requiring special knowledge in the area of science, technology, art and other spheres of activity;

communicate in private with the client in the conditions that allow for confidentiality to be maintained;

file motions and lodge complaints about the actions of the court, state bodies and other organisations, officials, infringing the rights, freedoms and interests of the client and of the advocate in the course of the exercise of his/her professional duties in accordance with the established procedure;

use in their professional practice technical equipment (computers, video and audio-recording equipment, photographic and cinematographic equipment, copying and other equipment) having regard to the requirements set out in the procedural legislation;

exercise other rights set out in this Law and other legislation.

Article 18. Advocate's duties

1. In his/her activities, an advocate is obliged to:

strictly and rigorously observe legislation and use all measures and means permitted by law to protect the rights, freedoms and interests of his/her clients;

provide legal assistance in accordance with legislation when appointed through the relevant territorial collegium of advocates at the request of a body carrying out criminal proceedings or other kinds of legal assistance at the expense of the collegia of advocates, the republican and/or local budgets;

observe the rules of professional ethics for advocates;

make payments as contributions to the relevant territorial collegium of advocates;

continuously improve upon his/her knowledge and level of qualification;

carry out other duties set out in this Law and other legislation.

2. An advocate may not provide legal assistance to a client where he/she provides or has previously provided legal assistance to a client whose interests conflict with the interests

of the natural or legal person who has sought legal assistance, where he/she has acted as a judge, prosecutor, investigator, inquiry chair, expert, specialist, interpreter, court hearing secretary, witness, attesting witness, arbitrator, or has taken part in a conciliation procedure or mediation, or where the advocate's spouse, father, mother, son, daughter, brother or sister takes part or has taken part in the investigation or examination of the case.

3. An advocate must not act contrary to the client's interests or adopt a legal position which has not been discussed with the client, without prejudice to the advocate's right where a client acknowledges guilt to challenge such acknowledgement and seek acquittal or the termination of the criminal proceedings.

4. An advocate shall be prohibited from buying or otherwise acquiring the client's property where it is the subject matter of the dispute, including acquiring property rights in his/her own name or in the name of other persons.

Article 19. Advocate's assistant

1. The relevant territorial collegium of advocates (for work in legal consultancy offices), an advocate's bureau, or an advocate practising independently may, under a contract of employment, engage advocate's assistants for the purposes of assisting him/her in carrying out the practice of an advocate. The period of work of the advocate's assistant shall be counted as work experience as a lawyer where the advocate's assistant possesses a higher legal education.

2. The advocate's assistant shall perform ancillary work connected with the provision of legal assistance to clients, attend court hearings, be required to observe the legislation in the course of the exercise of the relevant procedural actions in cases involving the advocate he/she works for, and perform other duties set out in the employment contract.

3. The advocate's assistant shall be bound by client confidentiality.

CHAPTER 3
DISCIPLINARY LIABILITY OF ADVOCATES

Article 20. Disciplinary liability of advocates

1. Advocates shall be subject to disciplinary liability following the commission of acts contradicting this Law, the rules of professional ethics for advocates and other legislation relating to the bar.

2. Complaints of clients or other persons, proposals of state bodies or officials or decisions of the court to bring disciplinary proceedings against an advocate (hereinafter, the complaint, proposal or decision) shall be lodged with the territorial collegium of advocates the advocate belongs to, and in respect of the President and members of the Council of the Republican Collegium of Advocates, or the presidents and members of the council of territorial collegia of advocates, with the Republican Collegium of Advocates.

Article 21. Disciplinary sanctions

The disciplinary sanctions which may be imposed on advocates are:
rebuke;
reprimand;
exclusion from the relevant territorial collegium of advocates.

Article 22. The procedure for the imposition of disciplinary sanctions

1. Disciplinary proceedings can be initiated by the governing bodies of the collegium of advocates or the Minister of Justice on their own motion or on the basis of a complaint, proposal or decision.

Based on the results of the examination of the complaint, proposal or decision, the decision to initiate disciplinary proceedings or to refuse to initiate disciplinary proceedings shall be taken.

2. Prior to the initiation of disciplinary proceedings, a preliminary review of the information relating to the disciplinary offence of the advocate shall be conducted by obtaining from the advocate and other persons written explanations and requesting and studying the necessary materials. An advocate's refusal to provide written explanations shall not prevent the initiation of disciplinary proceedings.

3. The Minister of Justice of the Republic of Belarus initiates disciplinary proceedings by passing an order. The order indicates the grounds for the initiation of the disciplinary proceedings and the period during which the case shall be examines. This order is binding upon the disciplinary commission of the collegium of advocates.

The order together with the necessary materials shall be sent to the disciplinary commission of the collegium of advocates. The Minister of Justice of the Republic of Belarus may revoke the order to initiate the disciplinary proceedings prior to the determination of the disciplinary proceedings.

4. Where necessary, the disciplinary commission shall carry out an additional review of the grounds for bringing disciplinary proceedings against the advocate.

Where the additional review of the grounds for bringing disciplinary proceedings against the advocate takes place, the terms of Article 23 apply.

5. A copy of the decision of the disciplinary commission shall within three days of the date of the decision be sent to the advocate concerned and to the governing body of the collegium of advocates or the Minister of Justice of the Republic of Belarus who initiated the disciplinary proceedings.

Article 23. Time limits for the application of disciplinary sanctions

1. Disciplinary sanctions shall be applied no later than one month following the date of the discovery of the disciplinary offence excluding any period during which he/she was temporarily unable to work or on vacation.

2. Disciplinary proceedings shall be terminated if, from the moment of the commission of the disciplinary offence, six months have elapsed, excluding any period during which he/she was temporarily unable to work, on vacation and the duration of the disciplinary proceedings based on the results of the review conducted by the competent state bodies and other organisations if from the moment of the commission of the offence two years have passed.

3. If within one year from the imposition of the disciplinary sanction the advocate does not commit another disciplinary offence he/she shall be deemed as not having been subjected to disciplinary sanction.

4. A disciplinary sanction may be removed earlier following a decision by the disciplinary commission of the collegium of advocates, but no earlier than six months from the date of the imposition of the sanction. Where the disciplinary proceedings were initiated by the Minister of Justice of the Republic of Belarus, the disciplinary sanction may be removed earlier following the Minister's approval.

Article 24. Exclusion of the advocate from the relevant territorial collegium of advocates

1. An advocate shall be excluded from the relevant territorial collegium of advocates where his/her advocate's licence is annulled or terminated and also in the circumstances envisaged in item 2 of this Article.

2. A decision to exclude an advocate from the relevant territorial collegium of advocates shall be taken where an advocate:

- practises or occupies an elected position(s) within a self-governing body(ies) whilst suspended from practice on the grounds set out in item 1 of Article 12 of this Law;
- fails to practise as an advocate for a period of one year without a valid reason;
- systematically (that is, two or more times in the space of 12 months) infringes the requirements and conditions of advocacy practice set out in legislation;
- commits offences incompatible with the role of an advocate and listed in the rules of professional ethics for advocates ;
- infringes the rules on compensation of expenses or on remuneration having provided legal assistance upon the request of a body conducting criminal proceedings thus leaading to unlawful expenditure for the amount exceeding ten times or more the basic amount established on the day when the infringement was committed;
-hinders the work of the Ministry of Justice of the Republic of Belarus in taking measures to control the observance of the legislation on licensing, licence requirements and conditions, including the failure to carry out lawful orders or requests of officials of the Ministry of Justice of the Republic of Belarus issued in the course of their official duties, the intentional submission to them of misleading documents and/or other information relating to his/her practise as an Advocate;
- infringes the requirements of item 4 of Article 18 of this Law;
- cannot perform his/her professional duties due to his/her not being qualified to do so, this having been confirmed by a decision by the Qualification Commission;
- has his/her citizenship of the Republic of Belarus revoked;
- is guilty of an intentional crime as determined by a valid court judgment;
- refuses to provide legal assistance in cases where the provision of legal assistance is mandatory pursuant to legislation on grounds not envisaged by the normative laws.

3. The Ministry of Justice of the Republic of Belarus shall be notified of the decision to exclude an advocate from a territorial collegium of advocates within five days of the date of adoption of the decision.

Where an advocate is excluded from the relevant territorial collegium of advocates on the grounds envisaged by item 2 of this Article, the Ministry of Justice of the Republic of Belarus shall terminate the advocate's licence or shall suspend the decision that he/she has committed a violation and shall file a proposal to the relevant territorial collegium of advocates that the decision be quashed.

Article 25. The procedure for appealing against disciplinary sanctions

The decision to subject an advocate to disciplinary liability may be appealed to the Disciplinary Commission of the Republican Collegium of Advocates within one month of the date of adoption of the decision. Where the Disciplinary Commission of the Republican Collegium of Advocates rejects the complaint or does not reply within one month from the date of it having being lodged, the decision can be challenged in court.

CHAPTER 4
ORGANISATION OF THE PRACTICE OF AN ADVOCATE

Article 26. Types of legal assistance provided by advocates

1. Advocates provide clients with the following kinds of legal assistance:

Providing consultations and clarification of legal issues;

Drafting applications, complaints and other legal documents;

Representing clients' interests before courts, including at the stage of the enforcement of judicial decisions, before state bodies and other organisations including their governing bodies, and before natural persons;

Participating in pre-trial and court proceedings in criminal cases as defence counsel and representatives of victims, and in civil claims on behalf of claimants and defendants;

Participating in administrative proceedings as defence counsel and representatives of victims and other natural and legal persons party to the administrative proceedings;

Conducting legal analysis of documents and actions;

Providing legal support for commercial and other activities;

Conducting legal work related to attracting investment into the Republic of Belarus;

Conducting on behalf of and in the interests of their clients legal actions within the limits of the powers conferred upon advocates by their clients and by legislation;

Providing other kinds of legal assistance.

In addition to rendering legal assistance in accordance with part one of this item, advocates may also act as conciliators in reconciliation procedures, mediators in mediation procedures or arbitrators in the course of cases before arbitral tribunals in accordance with the procedure set out in the legislation.

2. The professional defence of the rights and interests of clients in criminal and civil cases, cases arising out of commercial disputes, cases concerning administrative offences in courts of general jurisdiction and economic courts, cases before bodies conducting criminal or administrative proceedings, shall only be carried out by advocates.

3. Advocates shall be prohibited from undertaking other paid work, with the exception of work in the governing bodies of advocates' associations and collegia of advocates, and teaching, scientific and artistic activities.

Article 27. Provision of legal assistance by advocates on a paid basis

1. Advocates provide legal assistance on the basis of an agreement for the provision of legal assistance.

2. The agreement for the provision of legal assistance shall be concluded between the advocate or advocates' bureau and the client or another person acting in the client's interests, in written form. Where an oral consultation is envisaged, an agreement for the provision of legal assistance shall not be concluded.

3. An agreement concluded in writing shall be executed and signed with two counterparts. One counterpart shall be delivered to the client (or a person acting in the interests of the client), and the second counterpart shall be kept by the advocate, legal consultancy office or advocates' bureau.

4. The material terms of the agreement for the provision of legal assistance are:

the type of legal assistance;

The procedure for payment for the legal assistance and its amount;

The procedure of refunding expenses connected with the provision of the legal assistance.

Article 28. Provision of legal assistance at the expense of the collegia of advocates, the republican and/or local budgets

1. Legal assistance to citizens of the Republic of Belarus, foreign citizens and stateless persons (hereinafter, citizens) shall be provided at the expense of the funds of the collegia of advocates:

to claimants – in courts of first instance in cases concerning employment relations and alimony payments;

to veterans of the Great Patriotic War – for oral consultations on issues not connected to business activity;

to citizens – for the drafting of applications for pensions and benefits;

to minors (or their parents, guardians or custodians) – for legal assistance to protect their interests;

to other categories of citizens – following a decision by the collegium of advocates.

2. Legal assistance provided in relation to issues of social protection, the rehabilitation of victims of human trafficking (and in cases in which the client is under the age of fourteen, to their legal representatives), and to victims of terrorist acts shall be provided out of the republican budget.

3. Legal assistance to suspects or accused persons shall be provided at the expense of the local budget where the advocate takes part in the inquiry process, preliminary investigation and trial following appointment by the relevant territorial collegium of advocates following a request by the body conducting criminal proceedings.

4. The territorial collegium of advocates determines the procedure for the provision of legal assistance at the expense of the collegium of advocates and distributes its costs among the advocates of legal consultancy offices, advocates' bureaux and advocates engaged in private practice.

5. The Council of Ministers of the Republic of Belarus determines the procedure for payment for the advocate's work at the expense of the republican and/or local budgets.

Article 29. Organisational of an advocate's practice

1. The practice of an advocate is not entrepreneurial in character.

2. Advocates may practise within the framework of an advocates' association, within a legal consultancy office, within an advocates' bureau, or in private practice.

3. Any advocate who has decided to practise independently or to set up an advocates' bureau (hereinafter, a partner) is required to have not less than three years' experience as an advocate or a person rendering legal services on the basis of a lawyer's appraisal certificate.

Any decision by an advocate to engage in private practice or to set up an advocates' bureau in a particular administrative-territorial or territorial entity must be approved by the council of the relevant territorial collegium of advocates. Approval may be refused if the decision would have an adverse effect within the relevant territory upon the provision of accessible legal assistance in criminal cases following appointment by the territorial collegium of advocates upon a request by the body conducting criminal proceedings, or contradict other requirements of this Law.

A decision by the relevant territorial collegium of advocates refusing to grant approval can be challenged in court within one month from the date of its adoption.

Article 30. Legal consultancy offices

1. Legal consultancy offices are the main organisational form of practising as an advocate and are established by the relevant territorial collegia of advocates in regions, cities, and city districts for the purposes of providing legal assistance to natural and legal persons and securing its accessibility. Legal consultancy offices do not have legal personality.

2. Legal consultancy offices ensure the provision of legal assistance in criminal cases following appointment by the territorial collegium of advocates on a request from the body conducting criminal proceedings and also secure other kinds of legal assistance provided at the expense of the collegia of advocates, the republican and/or local budgets on the territory of the relevant administrative-territorial or territorial unit, and are responsible for the accessibility of legal assistance unless otherwise provided by the relevant territorial collegium of advocates.

3. Territorial collegia of advocates determine the rules for the functioning of legal consultancy offices, and deliver material, technical, financial, organisational and personnel support to them.

4. The legal consultancy office is managed by the head of the legal consultancy office, who is appointed from among those advocates in the legal consultancy office by the council of the relevant territorial collegium of advocates.

The Ministry of Justice of the Republic of Belarus approves the Regulation on the head of the legal consultancy office.

Article 31. Advocates' bureaux

1. An advocates' bureau is a non-commercial organisation created for the purposes of providing legal assistance.

An advocates' bureau may recruit advocates, advocate's assistants and other employees under an employment contract.

An employment contract with an advocate shall be terminated where his/her advocate's licence is annulled or terminated.

2. Two or more advocates may act as partners of an advocates' bureau unless the legislation provides otherwise. The same advocate may not be a partner in two or more advocates' bureaux.

An advocates' bureau may not carry out any activities other than the provision of legal assistance and may not set up other legal entities or own property.

3. An advocates' bureau has is financially independent, may open accounts in banks and/or non-banking financial institutions, and may have a seal, stamps and letterheads displaying the address and the name of the advocates' bureau.

4 The name of an advocates' bureau may contain the first names and/or surnames of all the members of the advocates' bureau or those of one or several members followed by the words "and partners" or "and advocates". With the permission of a partner who has ceased to be a member of the advocates' bureau or his heirs it is possible to use his/her surname and/or first name in the name of the advocates' bureau.

5. The constituent document of an advocates' bureau is the charter approved by its founders. In addition to the information set out in legislation, the Charter must contain the following mandatory provisions:

the rights and duties of partners;

the rules governing the operation of the advocates' bureau and the taking of decisions by its partners;

the rules surrounding the election of the governing partner and his/her powers;

the rules on the use of the funds received for the provision of legal assistance;

the rules relating to the reorganisation and liquidation of the advocates' bureau;

the rules on modifying and/or amending the charter of the advocates' bureau.

6. Legal assistance shall be rendered by an advocates' bureau on the basis of an agreement as to the provision of legal assistance by practising as an advocate by the partners and other advocates in accordance with the employment contracts concluded between them and the advocates' bureau.

An agreement for the provision of legal assistance shall be concluded between the advocates' bureau and the client.

Advocates in the advocates' bureau shall, unless otherwise provided by a decision by the relevant territorial collegium of advocates, provide legal assistance in criminal cases following appointment through the territorial collegium of advocates upon a request of a body conducting criminal proceedings, and other kinds of legal assistance at the expense of the collegia of advocates, republican and/or local budgets.

7. The assets of an advocates' bureau shall be formed by partner's contributions, fees received for the provision of legal assistance, and from other sources not prohibited by legislation, and shall be the property of the advocates' bureau.

An advocates' bureau shall be liable for its obligations to the extent of all its property unless legislation has establish otherwise.

8. The fees received for the provision of legal assistance, minus the taxes, fees and other mandatory payments made in accordance with the established procedure to the republican and/or local budgets and also to the state extra-budgetary funds pursuant to the rules and conditions established by legislation and the charter of the advocates' bureau, shall be used for:

reimbursement for the partners' work and remuneration for managing the advocates' bureau;

reimbursement for the work of advocates who are not partners and other employees of the advocates' bureau;

reimbursement of expenses for the maintenance and further development of the advocates' bureau;

strengthening of the material and technical foundations of the advocates' bureau;

other purposes set out in the charter of the advocates' bureau.

9. The management of an advocates' bureau shall be carried out through holding a partners' meeting which shall take decisions on the following issues:

modification and/or amendment of the charter of the advocates' bureau;

changes in the composition of the partnership;

election of one partner as the governing partner of the advocates' bureau and determination of the duration of his/her powers;

management and disposal of the assets constituting the property of the advocates' bureau;

reorganisation and liquidation of the advocates' bureau;

approval of the rules governing the internal of the advocates' bureau;

other issues to be examined at the partners' meeting in accordance with legislation and the charter of the advocates' bureau.

Partners' meetings shall be held:

In the circumstances set out in the charter of the advocates' bureau, including the issues falling within the competence of the meeting pursuant to the charter;

in other circumstances set out in legislation.

The partners' meeting shall be held on the request of any partner within fifteen days from the date of notification of the other partners unless provided otherwise by legislation.

Decisions at the partners' meeting shall be taken with the common agreement of all partners. The charter of an advocates' bureau may envisage circumstances in which a decision may be taken by a simple majority of the votes of the partners.

10. The day-to-day management of an advocates' bureau shall be managed by the governing partner who shall represent the advocates' bureau in relations with state bodies, public associations and other organisations and natural persons, shall act on behalf of the advocates' bureau without power of attorney, shall conclude agreements on behalf of the advocates' bureau, shall issue powers of attorney to represent the interests of the advocates' bureau before third parties, shall sign financial and settlement documents, shall issue certificates, shall recruit and dismiss employees of the advocates' bureau, and shall exercise other powers set out in the charter of the advocates' bureau and the employment contract concluded with him/her at the partners' meeting.

11. The partners of an advocates' bureau are not liable for its obligations and the advocates' bureau is not liable for the obligations of the partners unless legislation provides otherwise.

12. The state registration and liquidation of advocates' bureaux, and the state registration of modifications and/or amendments to their charters is carried out in accordance with the procedure established by legislation.

13. Changes in the composition of the partnership within an advocates' bureau may take place as a result of:

the withdrawal of a partner;

the admission of a new partner;

the termination by a partner of the practice of an advocate on the grounds set out in this Law.

14. Partners in an advocates' bureau are entitled to:

receive assets of the advocates' bureau or the value of those assets limited by the value of the assets turned by them into the property of the advocates' bureau unless the charter of the advocates' bureau provides otherwise, upon the withdrawal of a partner from the advocates' bureau or the termination of an advocates' activity.

receive assets left after the settlement of debts with creditors limited by the value of the assets turned by them into the property of the advocates' bureau, where the advocates' bureau is liquidated.

15. The assets of the advocates' bureau that remain following the settlement of debts with creditors and settlements with partners of the advocates' bureau in the circumstances set out in paragrah 3 of item 14 of this Article, shall be distributed among the partners in equal shares unless the charter of the advocates' bureau provides otherwise.

Article 32. Specialised advocates' associations

1. Legal consultancy offices and advocates' bureaux may specialise in branches of law and/or areas of practice.

2. The President of the Republic of Belarus may regulate the establishment and practice of individual specialised advocates' associations.

Article 33. Private advocate's practice

1. An advocate who has decided to practise independentlymust have premises suitable for practising as an advocate in his/her possession either as a result of ownership, rent or other legal ground.

2. Premises for practising as an advocate may be used simultaneously by more than one advocate engaged in practice on their own account.

3. Before commencing a private advocate's practice, an advocate must register with the Ministry of Justice of the Republic of Belarus and obtain a registration certificate.

The Ministry of Justice of the Republic of Belarus determines the form of the registration certificate of an advocate engaged in practice on his/her own account and the procedure for issuing the certificate.

4. An advocate practising on his/her own in private practice, shall render legal assistance in criminal cases upon appointment through the relevant territorial collegium of advocates following a request by a body conducting criminal proceedings, and other types of legal assistance at the expense of the collegia of advocates, the republican and/or local budgets, unless the relevant territorial collegium of advocates decides otherwise.

5. An advocate practising on his/her own in private practice may open accounts in banks and/or non-banking financial organisations, have a seal, stamps, and letterheads bearing

the address of the advocate's practice, and engage natural persons under employment and/or civil law contracts.

CHAPTER 5
REGULATION AND REIMBURSEMENT OF THE WORK OF ADVOCATES, TRAINEES, ADVOCATE'S ASSISTANTS and MANDATORY STATE SOCIAL INSURANCE AND SOCIAL PROTECTION OF ADVOCATES

Article 34. Regulation of the work of advocates, trainees and advocates' assistants

1. The work of advocates, trainees and advocates' assistants is regulated by this Law, the rules of professional ethics for advocates and other normative laws.

Advocates practising in legal consultancy offices or engaged in private practice are not covered by the norms of the relevant employment legislation.

2. The work of advocates, trainees and advocates' assistants in a legal consultancy office is regulated in accordance with the internal working rules of the relevant territorial collegium of advocates and the work of advocates, trainees and advocates' assistants in an advocates' bureau is regulated in accordance with the internal working rules of the advocates' bureau.

3. Advocates, including those practising on their own in private practice, are entitled to annual leave of not less than 24 calendar days.

An advocate practising on his/her own in private practice must notify the relevant territorial collegium of advocates as to when his/her leave commences and its duration 15 days before its begins.

The procedure and conditions for leave granted to advocates in legal consultancy offices shall be determined by the charter of the relevant territorial collegium of advocates.

Article 35. Reimbursement for the work of advocates, trainees and other employees of advocates' associations

1. Advocate's work shall be reimbursed from the fees received from clients for legal assistance provided, and the funds of the collegia of advocates, the republican and/or local budgets.

2. The amount of any reimbursement for the work of an advocate at the expense of the republican and/or local budgets shall be determined in accordance with the rules established by the Council of Ministers of the Republic of Belarus.

3. The conditions and amount of any reimbursement for the work of an advocate and/or his/her trainees where they has provided legal assistance at the expense of collegia of advocates shall be determined by the governing bodies of the collegium of advocates in accordance with the legislation and its charter.

4. The conditions and amount of any reimbursement for the work of other employees of advocates' associations, including advocate's assistants, shall be determined by their employers in accordance with the legislation.

Article 36. Mandatory state social insurance and social protection of advocates

Mandatory state social insurance and social protection of advocates is provided in accordance with the legislation.

CHAPTER 6
COOPERATION OF THE BAR WITH THE STATE AND PUBLIC ASSOCIATIONS

Article 37. The Bar and the state

1. The state guarantees to advocates the opportunity to practice, assists in creating conditions for that practice, and guarantees the independence of practice at the bar, the accessibility of legal assistance, and the cooperation of state bodies and advocates' self-governing bodies in ensuring the protection of the rights, freedoms and interests of citizens, and the provision of legal assistance to natural and legal persons.

2. Control over the financial and economic activities of the collegia of advocates and advocates' associations is exercised by state bodies and other state organisations within the scope of their competence.

Article 38. The Bar and the Ministry of Justice of the Republic of Belarus

1. The Minister of Justice has the following powers in relation to the practice of an advocate:

the adoption of normative laws regulating the activity of the Bar within the limits of the powers envisaged by this Law;

the creation of the Qualification Commission and administration of its activity;

the state registration of the collegia of advocates and advocates' bureaux, modifications and/or amendments to the charters of the collegia of advocates and advocates' bureaux, and the registration of advocates practising on their own in private practice;

defining, in cooperation with the Republican Collegium of Advocates, the minimum number of advocates in legal consultancy offices on the territory of administrative-territorial or territorial units;

dealing with the proposals of advocates and advocates' associations as to the rules of professional ethics for advocates and their approval;

maintaining the registry of advocates;

the introduction of proposals to the collegium of advocates in relation to the disciplinary liability of advocates, holding the general meeting of members of the relevant territorial collegium of advocates, and the introduction of proposals to the Qualification Commission in relation to holding an extraordinary appraisal of an advocate with a view to assessing fitness to practise upon the discovery of facts calling into question his/her qualification for the role of advocate;

determining the rules for conducting advocates' appraisals;

the receipt of information connected with advocacy practice from state bodies and other organisations, which are obliged to furnish the information within fifteen days of receiving the request;

receiving from the collegia of advocates, legal consultancy offices, advocates' bureaux and advocates information and documents necessary for the proper exercise of its powers provided by law, subject to observing client confidentiality;

the suspension of an advocate's entitlement to practise during the period in which disciplinary proceedings initiated by the Minister of Justice of the Republic of Belarus are taking place;

the introduction of proposals to the governing bodies of the collegia of advocates concerning the candidates for election to the positions of presidents of the collegia of advocates;

the introduction for examination at the general meeting of the relevant territorial collegium of advocates (the Council of the Republican Collegium of Advocates) of a proposal that the president of the relevant territorial collegium of advocates (the president of the Republican Collegium of Advocates) be dismissed on the grounds of systematic infringement of the requirements of the legislation and the adoption of other measures to address any infringements discovered;

the termination of the powers of the president of the collegium of advocates on the basis of an opinion of the Qualification Commission where there is an unjustified refusal to implement a proposal of the Ministry of Justice of the Republic of Belarus as to the dismissal of the president of the collegium of advocates for systematic infringement of the requirements of the legislation;

exercising control over the observance of legislation by advocates, collegia of advocates, legal consultancy offices and advocates' bureaux in accordance with the established rules;

the suspension of decisions of the governing bodies of the collegia of advocates which do not comply with legislation or which were adopted in breach of the established procedures, and the introduction of proposals to those bodies that such decisions be quashed, and the lodging of applications with the court for the quashing of such decisions where there is an unjustified refusal to implement the relevant proposals;

exercising in accordance with legislation other powers relating to the regulation of an advocate's practice.

2. In order to ensure the proper administration of the provision of legal assistance and the activities of the collegia of advocates, the Ministry of Justice of the Republic of Belarus:

summarises statistical data relating to advocacy practice and studies and disseminates examples of their positive work;

takes measures to protect advocates from unlawful and unjustified interference with their professional practice and to ensure the protection of their professional rights;

ensures that the collegia of advocates are provided with the information and necessary legal support and the adopts measures to improve the standard of advocacy.

Article 39. The Bar and public associations

1. Advocates may engage with public associations of lawyers and other citizens in order to maintain legality and legal order, to provide legal education to citizens, to study jurisprudence, to come to mutual agreements over proposals as to the improvement of legislation, and in relation to other matters.

2. The rules and conditions for the cooperation of the collegia of advocates, advocates, legal consultancy offices and advocates' bureaux with public associations shall be determined by their charters and contracts entered into.

CHAPTER 7
ADVOCATES' SELF-GOVERNING BODIES

Article 40. Advocates' self-governing bodies

1. The advocates' self-governing bodies in the Republic of Belarus are the Congress of advocates and the collegia of advocates.

In the Republic of Belarus, Republican and territorial (Minsk city and regional) collegia of advocates shall be established.

2. Collegia of advocates operate in accordance with their charters which, aside from containing the information required by legislation, must refer to the procedure and the arrangements for securing the funding of the collegia of advocates, the ways in which that funding may be used and the procedure for exercising control over the use of the assets of the collegia of advocates.

3. The state registration of the collegia of advocates and of modifications and/or amendments to their charters shall be carried out in accordance with the rules established by legislation.

Article 41. Territorial collegia of advocates

1. Each territorial collegium of advocates is a non-commercial organisation of which membership is mandatory for advocates within the relevant administrative-territorial unit, which has financial independence, which can open accounts in banks and/or non-banking financial organisations, and which has a seal, stamps, and letterheads bearing the address and the name of the collegium of advocates.

2. Each territorial collegium of advocates is established for the purposes of securing the provision of legal assistance, the representation of advocates' interests before state bodies and other organisations, exercising control over the observance by advocates of legislation including the rules of professional ethics for advocates .

3. Each territorial collegium of advocates may not be reorganised or liquidated except where provided by legislation.

4. The assets of each territorial collegium of advocates come from advocates' contributions and other sources and are the property of the territorial collegium of advocates in question.

Where a territorial collegium of advocates is liquidated, the assets left after the settlement of debts with creditors shall be used for the purposes indicated in its charter.

5. Advocates carrying out functions in the governing bodies of the relevant territorial collegium of advocates shall combine those functions with their practice as advocates.

6. Advocates exercise functions in the governing bodies of the each territorial collegium of advocates on a voluntary basis and receive their main income from their practice as advocates. Advocates receive remuneration for the days on which they participate in the work of the governing bodies of the collegia of advocates in accordance with the procedure and in the amount determined by the general meeting of members of the territorial collegium of advocates.

7. The internal organisation and activities of each territorial collegium of advocates, the status of their governing bodies and other issues concerning the operation of the territorial collegium of advocates are determined by its charter unless the legislation provide otherwise.

8. Decisions of each territorial collegium of advocates, taken within the scope of its competence as provided by this Law and its charter, shall be binding on all members of the relevant territorial collegium of advocates.

Copies of the decisions of the relevant territorial collegium of advocates on issues relating to the administration of advocacy practice or the disciplinary liability of advocates shall be sent to the Ministry of Justice of the Republic of Belarus within five days from the date of their adoption.

Article 42. Competence of the territorial collegia of advocates

Territorial collegia of advocates have the following competences:

securing the accessibility of legal assistance, including legal assistance provided out of republican and/or local budgets;

the administration and provision of legal assistance in criminal cases following appointment through the relevant territorial collegium of advocates upon the request of a body conducting criminal proceedings, including providing information as to the rules relating to the provision of such assistance to the bodies conducting criminal proceedings and to advocates within the relevant territorial collegium of advocates, and exercising control over the provision of the legal assistance;

exercising control over the observance by advocates within the relevant territorial collegium of legislation, including the rules of professional ethics for advocates;

approving decisions of advocates to engage in independent private practice as advocates or to establish advocates' bureaux;

carrying out appraisals upon the request of the Advocates Qualification Commission;

examining complaints, proposals and decisions as to the conduct of advocates within the relevant territorial collegium of advocates;

representing and protecting the interests of advocates within the relevant territorial collegium of advocates;

exercising other functions connected to the operation of the relevant territorial collegium of advocates.

Article 43. Governing bodies of the territorial collegia of advocates

1. The chief governing body of the territorial collegium of advocates is the general meeting of its members and its chief executive body is the council of the territorial collegium of advocates.

2. The council of the territorial collegium of advocates is a collegiate executive body elected at the general meeting of members of the territorial collegium of advocates.

3. One half of the composition of the council of the territorial collegium of advocates (with the exception of its president) shall be re-elected every two years.

4. The general meeting of members of the territorial collegium of advocates shall be convened upon the initiative of its council or the votes of at least one-third of the members of the territorial collegium of advocates but shall, in any case, be held at least once a year.

5. The general meeting of members of the territorial collegium of advocates has the following powers:

approval of the charter of the territorial collegium of advocates, as well as modifications and/or amendments to the charter;

election of members to the council of the territorial collegium of advocates;

election of the president of the territorial collegium of advocates and his/her deputy from among the members of the council of the territorial collegium of advocates;

determination of the fixed fees payable by advocates to the territorial collegium of advocates based on the expenses necessary to ensure the maintenance of the relevant territorial collegium of advocates and the exercise of its functions, and also on the number of advocates within the territory of the relevant administrative-territorial or territorial unit and their work experience;

approval of the amount of the contributions by the territorial collegium of advocates towards the maintenance of the Republican Collegium of Advocates, based on the expenses necessary for its maintenance and exercise of its functions and the number of advocates in the relevant territorial collegia of advocates;

determination of the rules relating to and the amounts of remuneration payable to advocates for days spent working in the governing bodies of the territorial collegium of advocates;

approval of the annual estimate of the profits and expenses of the territorial collegium of advocates;

election of members of the audit and disciplinary commissions of the territorial collegium of advocates;

approval of the regulations on the audit and disciplinary commissions of the territorial collegium of advocates;

election of a representative of the territorial collegium of advocates to the Qualification Commission;

election of representatives to the council of the Republican Collegium of Advocates and to the Audit and Disciplinary Commissions of the Republican Collegium of Advocates;

election of representatives for participation in the Congress of advocates;

other functions connected to the operation of the territorial collegium of advocates.

6. The President of the territorial collegium of advocates shall be elected from among the members of its council for a period of four years.

7. The President of the relevant territorial collegium of advocates (or, in his/her absence, the deputy president) represents the collegium of advocates in relations with state bodies, public associations and other organisations and with natural persons; acts on behalf of the collegium of advocates (without having power of attorney); concludes agreements on behalf of the collegium of advocates; disposes of the assets of the collegium of advocates with the approval of its council and in accordance with the annual estimate of income and expenditure and the purposes for which assets have been designated; recruits and dismisses members of staff of the collegium of advocates; convenes meetings of the council; and ensures enforcement of the decisions of the council and the general meeting of members.

8. The meetings of the council of the territorial collegium of advocates are convened by its president and are held at least once a month.

9. The council of the territorial collegium of advocates has the following competences:

the adoption of decisions relating to the establishment and closure of legal consultancy offices;

the adoption of decisions relating to the admission and exclusion of members of the territorial collegium of advocates;

the approval of the decisions of advocates to engage in private practice on their own and to set up advocates' bureaux;

the adoption of decisions as to the suspension and resumption of the practice of an advocate in accordance with Article 12 of this Law;

the representation of the interests of advocates within the territorial collegium of advocates before state bodies and other organisations;

the provision of information and operational support of advocates within the territorial collegium of advocates;

the distribution among the advocates within the relevant territorial collegium of advocates of briefs as part of their duty to render rendering legal assistance at the expense of the republican and/or local budgets;

the determination of the rules regulating the distribution and spending of the funds received in advocates' fees, the funds received by advocates in legal consultancy offices for the provision of legal assistance to clients, and the rules on remunerating advocates in the legal consultancy offices and employees of the collegium of advocates in accordance with the legislation;

the appointment of heads of legal consultancy offices;

exercising other powers provided by the charter of the territorial collegium of advocates which do not fall within the exclusive competence of the general meeting of members of the relevant territorial collegium of advocates;

10. Other issues relating to the administration of the governing bodies of the relevant territorial collegium of advocates shall be regulated by its charter, unless otherwise provided by legislation;

11. Where the council or president of the territorial collegium of advocates fails to enforce the requirements of this Law, this may serve as a basis for terminating their powers upon a decision by the general meeting of members of the territorial collegium of advocates.

A decision by the general meeting of members of the territorial collegium of advocates taken in accordance with part one of this item may, within ten days of its adoption, be appealed to a court by the Ministry of Justice of the Republic of Belarus, to the council or to the president of the territorial collegium of advocates.

If the council or the president of the relevant territorial collegium of advocates fails to observe the requirements of this Law their powers shall be terminated in the following circumstances:

adoption of a decision by the general meeting of members of the territorial collegium of advocates upon the expiry of the term for lodging an appeal against it if the decision has not been appealed against;

the quashing by the court of a decision by the general meeting of members of the territorial collegium of advocates to refuse to terminate the powers of the governing bodies of the territorial collegium of advocates following a complaint by the Ministry of Justice of the Republic of Belarus, from the date of the court's judgment;

failure to hold the general meeting of members of the territorial collegium of advocates within one month from the date of a decision by the Ministry of Justice of the Republic of Belarus to adopt a proposal as to the holding of the meeting relating to the termination of the powers of the governing bodies of the territorial collegium of advocates.

Where the powers of the council or the president of the relevant territorial collegium of advocates are terminated in accordance with part three of this item and where new governing bodies have not yet been elected by the general meeting of members of the relevant territorial collegium of advocates (at the same time as the adoption of the decision terminating the powers of the previous governing bodies), the Ministry of Justice of the Republic of Belarus appoints temporary governing bodies from among the members of the collegium of advocates to act until an extraordinary general meeting of members of the relevant territorial collegium of advocates is held.

Article 44. Audit commission of the territorial collegium of advocates

1. The territorial collegium of advocates elects from among its members an audit commission consisting of at least three advocates for the purposes of exercising control over the financial and economic activities of the territorial collegium of advocates. The audit commission of the territorial collegium of advocates may, in the course of carrying out its inspections, engage specialists at the expense of the territorial collegium of advocates.

The territorial collegium of advocates may audit its financial and economic activities.

2. The audit commission of the territorial collegium of advocates accounts for its work to the general meeting of members of the territorial collegium of advocates. The audit commission of the territorial collegium of advocates conducts inspections at least once every two years.

The audit commission of the territorial collegium of advocates:

Reviews the financial and economic activities of the council of the collegium of advocates, advocates and legal consultancy offices;

Inspects the assets and outgoings of the collegium of advocates;

Exercises control over the enforcement of decisions of the governing bodies of the collegium of advocates;

Inspects the annual balance sheet and monitors adherence to the annual estimate of profit and expenditure;

Exercises other powers provided by the regulation on the audit commission.

Advocates and employees of the collegium of advocates must submit to the audit commission all documents and explanations concerning financial and economic activities as requested by the commission.

3. The President of the audit commission shall be elected from among the members of the commission by the general meeting of members of the territorial collegium of advocates.

4. The audit commission of the territorial collegium of advocates takes decisions by a simple majority vote by those members attending the meeting. In the case of a tied vote

among the members of the audit commission taking part in the adoption of the decision, its president has a casting vote.

5. Decisions of the audit commission of the territorial collegium of advocates, taken within the scope of its competence, shall be binding upon all members of the territorial collegium of advocates.

Article 45. Disciplinary commission of the territorial collegium of advocates

1. The disciplinary commission of the territorial collegium of advocates consists of seven advocates who are members of the relevant territorial collegium of advocates. The disciplinary commission of the territorial collegium of advocates may not include members of the Disciplinary Commission of the Republican Collegium of Advocates.

2. Where a complaint, proposal or decision is made in respect of a member of the disciplinary commission of the territorial collegium of advocates, the advocate in whose respect the complaint, proposal or decision is being examined shall be temporarily barred from exercising his/her duties as a member of the disciplinary commission.

3. The powers of the disciplinary commission of the territorial collegium of advocates include:

the examination of complaints, proposals and decisions relating to the conduct of advocates within the relevant territorial collegium of advocates;

examination of disciplinary cases on the grounds and within the time limits set out in the order of the Ministry of Justice of the Republic of Belarus to commence disciplinary proceedings;

arranging the review of the quality of work of advocates within the territorial collegium of advocates and adopting decisions on the need to improve their qualification levels.

4. The President of the disciplinary commission of the territorial collegium of advocates shall be elected from among the members of the commission by the general meeting of members of the territorial collegium of advocates.

5. The disciplinary commission of the territorial collegium of advocates takes decisions by simple majority of the votes of those members attending the meeting. In the case of a tied vote of the members of the disciplinary commission of the territorial collegium of advocates when adopting the decision, its president has a casting vote.

6. Decisions of the disciplinary commission of the territorial collegium of advocates taken within the scope of its competence shall be binding on all members of the relevant territorial collegium of advocates.

Article 46. The Republican Collegium of Advocates

1. The Republican Collegium of Advocates is a non-commercial organisation of which membership is mandatory for all advocates within the relevant administrative-territorial unit, which is financially independent, may open accounts in banks and/or non-banking financial organisations, and which has a seal, stamps, and letterheads bearing the address and the name of the collegium of advocates.

The Republican Collegium of Advocates acts on the basis of its charter as approved by the Council of the Republican Collegium of Advocates.

2. The Republican Collegium of Advocates represents and protects the interests of advocates in their relations with state bodies and other organisations, coordinates the activities of the territorial collegia of advocates, and takes measures directed at improving the quality of legal assistance.

3. Advocates carry out activities within the governing bodies of the Republican Collegium of Advocates on a voluntary basis and receive their main income from practising

as advocates. Advocates receive remuneration for the days on which they work in the Council of the Republican Collegium of Advocates in accordance with the procedure and in the amounts determined by the Council of the Republican Collegium of Advocates.

4. The assets of the Republican Collegium of Advocates are formed from the contributions of the territorial collegia of advocates and from other sources not prohibited by legislation and are the property of the Republican Collegium of Advocates.

5. Other conditions and rules relating to the operation of the Republican Collegium of Advocates shall be set out in its charter unless legislation provides otherwise.

Article 47. The Council of the Republican Collegium of Advocates

1. The Council of Republican Collegium of Advocates is a collegiate executive governing body which is composed of 14 representatives elected by the general meetings of members of the territorial collegia of advocates from every territorial collegium of advocates (two from each territorial collegium of advocates).

2. One half of the members of the Council of the Republican Collegium of Advocates (one from each territorial collegium of advocates), with the exception of its President and Deputy president, must be re-elected every two years.

The rules for the election and withdrawal of representatives of the relevant territorial collegia of advocates shall be determined by their charters.

3. The President of the Republican Collegium of Advocates and his/her Deputy shall be elected with the approval of the Ministry of Justice of the Republic of Belarus by the members of the Council of the Republican Collegium of Advocates from among the members of the Council of the Republican Collegium of Advocates for a period of four years.

4. The President of the Republican Collegium of Advocates (and, in his absence, the Deputy president) represents the collegium of advocates in its relations with state bodies, public associations and other organisations and with natural persons; acts on behalf of the collegium of advocates, without having power of attorney; concludes agreements on behalf of the collegium of advocates; disposes of the assets of the collegium of advocates with the approval of its council and in accordance with the annual estimate of income and expenditure and the purposes for which the assets have been designated; recruits and dismisses staff of the collegium of advocates; convenes meetings of the council; and ensures the enforcement of decisions of the council and of the general meeting of its members.

5. The President of the Republican Collegium of Advocates convenes the meetings of the Council of the Republican Collegium of Advocates, which shall be held at least once every three months.

6. The Republican Collegium of Advocates has the following competences:

representing the interests of advocates before state bodies and other organisations;

coordinating the activities of territorial collegia of advocates;

provision of informational and methodical support of territorial collegia of advocates;

approving the annual estimate of profits and expenditure of the Republican Collegium of Advocates, and the rules governing and the amounts of remuneration paid to the President, Deputy President and members of the Council of the Republican Collegium of Advocates;

developing and introducing proposals as to the improvement of legislation, in accordance with established procedure;

exercising other powers set out in the charter of the Republican Collegium of Advocates.

7. Decisions of the Republican Collegium of Advocates adopted within the scope of its competence as set out in this Law and in the charter of the Republican Collegium of Advocates are binding upon the territorial collegia of advocates and upon all advocates.

Copies of its decisions shall be sent to the Ministry of Justice of the Republic of Belarus within two days following their adoption.

8. Where the Council of the Republican Collegium of Advocates or its individual members including the President and Deputy President fail to enforce the requirements of this Law or the charter of the Republican Collegium of Advocates, this may serve as a basis for the termination of the relevant powers of the Council or its individual members in accordance with the procedure set out in the charter of the Republican Collegium of Advocates.

Article 48. The Audit Commission of the Republican Collegium of Advocates

1. The Audit Commission of the Republican Collegium of Advocates, consisting of one representative from every territorial collegium of advocates, shall be elected for the purposes of exercising control over the financial and economic activities of the territorial collegia of advocates. The Audit Commission of the Republican Collegium of Advocates may, in the course of carrying out its inspections, engage specialists at the expense of the Republican Collegium of Advocates.

The Council of the Republican Collegium of Advocates may audit the financial and economic activities of the collegia of advocates.

2. The Audit Commission of the Republican Collegium of Advocates conducts its inspections at least once every two years.

The Audit Commission of the Republican Collegium of Advocates:

reviews of the financial and economic activities of the Council of the Republican Collegium of Advocates;

inspects the assets and the outgoings of the collegia of advocates;

exercises control over the enforcement of decisions of the Council of the Republican Collegium of Advocates;

inspects the annual balance sheet and and adherance to the annual estimate of profit and expenditure of the Republican Collegium of Advocates;

exercises other powers provided by the regulation on the Audit Commission of the Republican Collegium of Advocates.

Advocates and employees of the Republican Collegium of Advocates must submit to the Audit Commission all documents and explanations relating to financial and economic activities as requested by the Commission.

3. The President of the Audit Commission of the Republican Collegium of Advocates shall be elected from among the members of the Commission by a simple majority of the votes of the members of the Commission.

4. The Audit Commission of the Republican Collegium of Advocates takes decisions by a simple majority of the votes of those members attending the meeting. In the case of a tied vote among those members of the Audit Commission taking part in the adoption of the decision, its President has a casting vote.

5. Decisions of the Audit Commission of the Republican Collegium of Advocates, taken within the scope of its competence, shall be binding upon all advocates.

Article 49. Disciplinary Commission of the Republican Collegium of Advocates

1. The Disciplinary Commission of the Republican Collegium of Advocates consists of one representative from each collegium of advocates. Members of the disciplinary

commissions of the territorial collegia of advocates cannot be elected to the Disciplinary Commission of the Republican Collegium of Advocates.

2. Where a complaint, proposal or decision is made in respect of a member of the Disciplinary Commission of the Republican Collegium of Advocates, the advocate in whose respect the complaint, proposal or decision is being examined shall be temporarily barred from exercising his/her duties as a member of the disciplinary commission.

3. The powers of the Disciplinary Commission of the Republican Collegium of Advocates include:

examination of complaints, proposals and decisions relating to the actions of the president and members of the Council of the Republican Collegium of Advocates, and the presidents and members of the councils of the territorial collegia of advocates;

examination of complaints about decisions to impose disciplinary liability against an advocate.

4. The President of the Disciplinary Commission of the Republican Collegium of Advocates shall be elected from among its members by a simple majority of the votes of the members of the Commission.

5. The Disciplinary Commission of the Republican Collegium of Advocates takes decisions by a simple majority of the votes of those members attending the meeting. In the case of a tied vote of the members of the Disciplinary Commission when adopting the decision, its President has a casting vote.

6. Decisions of the Disciplinary Commission of the Republican Collegium of Advocates, taken within the scope of its competence, shall be binding upon all advocates.

Article 50. The Congress of advocates

1. The Congress of advocates is the highest advocates' self-governing body.

2. The Congress of advocates shall be convened by the President of the Republican Collegium of Advocates upon the request of at least one-third of the total number of members of the territorial collegia of advocates.

3. Representatives of the territorial collegia of advocates shall take part in the Congress of advocates. The quota for representation of territorial collegia of advocates shall be determined by the Council of the Republican Collegium of Advocates taking into account the need to ensure equality of participation of representatives of all territorial collegia of advocates but shall not amount to fewer than thirty representatives from each territorial collegium of advocate.

4. For the purposes of preparing and holding the Congress of advocates, the Republican Collegium of Advocates shall establish an organising committee consisting of representatives of the Republican and territorial collegia of advocates.

5. For the purposes of developing projects and taking decisions on issues included on the agenda of the meeting of the Congress of advocates, working bodies of the Congress of advocates shall be established (namely a presidium, a secretariat, an editorial team, an accounting department and other commissions). The working bodies of the Congress of advocates shall include a representative of the Ministry of Justice of the Republic of Belarus and may also include representatives of other state bodies and public associations as well as legal academics.

6. Decisions of the Congress of advocates shall be taken by a simple majority of the votes of those advocates participating in the Congress.

7. The powers of the Congress of advocates include:

examining, within the scope of its competence, current problems relating to the improvement of the bar and to advocacy practice;

discussing issues relating to the improvement of the quality and accessibility of the legal assistance provided, and introduction by the subjects of the right of legislative initiative of proposals as to improvement of the legislation;

receiving the report of the President of the Republican Collegium of Advocates on the work of the Council of the Republican Collegium of Advocates;

examining other issues relating to the administration of the activities of the bar.

CHAPTER 8
CONCLUDING PROVISIONS

Article 53. Transitional provisions

1. Advocates who are members of the collegia of advocates shall maintain their status as advocates following the entry into force of this Law without the need to pass the qualification exam or to seek inclusion in the Registry of Advocates.

2. Persons carrying providing legal services on the basis of special permits (licences) may represent the interests of natural and legal persons in economic courts and bodies conducting administrative proceedings within one year after the entry into force of this Law.

3. Citizens of the Republic of Belarus who have, at the time of lodging an application for obtaining the special permit (licence) to practise as an advocate, work experience of not less than five years as a person providing legal services on the basis of the lawyer's appraisal certificate may within one year after the entry into force of this Law:

become an advocate after passing their appraisal without the need to comply with item 1 of Article 9 of this Law in accordance with the procedure determined by the Ministry of Justice of the Republic of Belarus;

thereafter decide to engage in practice on a private basis or to become a partner (member) of an advocates' bureau without the need to comply with part two of item 3 of Article 29 of this Law.

Article 54. Measures of enforcement of the provisions of this Law

1. The Council of Ministers of the Republic of Belarus shall within one month:

prepare and introduce, in conjunction with the National Centre of the Legislation and Legal Research of the Republic of Belarus and in accordance with the established procedure, a project of laws of the President of the Republic of Belarus directed at implementing the provisions of this Law;

bring decisions of the Government of the Republic of Belarus into conformity with this Law;

take other measures necessary to the implementation of the provisions of this Law.

2. The Republican and regional (and Minsk city) collegia of advocates shall within four months bring their charters and decisions into conformity with this Law and secure in accordance with the procedure established by legislation the election of governing bodies, state registration of any modifications and/or amendments introduced into their charters, and take other measures necessary to the implementation of the provisions of this Law.

APPENDIX 5

The Legal Acts of Georgia

Law of Georgia on the Advocates

Chapter I
General Provisions

Article 1. Advocate
1. An advocate shall carry out legal activities in Georgia.
2. An advocate is a person of independent profession obeying only to the laws and norms of professional ethics, and is a member of the Georgian Bar Association. *(29.12.2004 N 970)*

Article 2. Legal Practice *(24.09.2010 N 3619 In effect from 1 October 2010)*
Legal practice shall include: giving of a legal advice by an advocate to a person (client) who has applied to him/her for assistance; representation of a client in the courts, arbitration, detention and investigation bodies in respect of a constitutional dispute or a criminal, civil or administrative law case; preparation of legal documentation in respect of third persons and submission of any documentation on behalf of a client; provision of legal assistance, which is not in connection with the representation of third persons.

Article 3. Principles of Legal Practice
The principles of legal practice shall be:
a) Legitimacy;
b) Freedom and independence of legal practice;
c) Non-discrimination and equality of all advocates;
d) Non-interference in legal practice;
e) Respect for and protection of rights and freedoms of a client by an advocate;
f) Prohibition of refusal by an advocate to protect a client, except for the cases stipulated by this Law;
g) Protection of professional secret by an advocate;
h) Protection of norms of professional ethics by an advocate.

Chapter II
General Rights and Duties of an Advocate

Article 4. Rights of an Advocate
1. An advocate shall have the right to:
a) Represent and protect a client, his/her rights and freedoms at the constitutional, supreme and common courts, in arbitration and investigation bodies, in respect of other physical persons and legal entities; *(24.09.2010 N 3619 In effect from 1 October 2010)*
b) Require and receive documents, information and other factual data according to the rules established by the law, which are necessary for the protection of a client's interests and carrying out a legal practice;
c) Meet and communicate personally with a person who has been detained, arrested or placed in other places of confinement without obstacles and control anytime, in accordance with the rules established by the criminal procedural legislation;
d) Enjoy other rights foreseen under the procedural legislation.
2. Legal practice may be restricted under the law only.

Article 5. Duties of an Advocate *(17.11.2009 N 2040)*
An advocate shall be obligated to:
a) Discharge professional functions in good faith;
b) Observe the norms of professional ethics precisely and firmly;
c) Not to infringe upon the rights of the court and other parties to the proceedings;
d) Protect professional secrets;
e) Carry out his/her duties prescribed by the procedural legislation and in the event of conflict of interests inform a client immediately thereof;
f) Participate in the mandatory continuous legal education program approved by the Executive Council of the Bar Association.

Article 6. Protection of Client's Interests
1. An advocate shall have the right to use any measures, which are not prohibited by legislation or norms of professional ethics, to protect a client's interests.
2. An advocate shall be obligated to provide a client with all information and to explain to a client all potential financial obligations in relation to the administration of a client's case.

Article 7. Professional Secret
1. An advocate shall be obligated:
a) To keep a professional secret regardless of the elapsed amount of time;
b) Not to disclose the information, which became known to him/her during the exercise of legal practice, without a client's consent.
2. The violation of a professional secret by an advocate shall result in the liability foreseen under this Law and the advocates' code of professional ethics.

Article 8. Conflict of Interests
1. An advocate shall be obligated not to carry out such activities, or establish such relationship, which poses a danger to a client's interests, professional activities of an advocate or his/her independence.
2. An advocate shall be prohibited from carrying out professional functions, if s/he has already served as an advocate to the adverse party on the same case.
3. Carrying out the professional functions by an advocate in a case, in which s/he has already discharged functions in the capacity of a judge, prosecutor, investigator, inquirer, secretary of a court session, interpreter, attendant, witness, expert, specialist, public servant or notary and other obligations stipulated in the procedural legislation, shall be prohibited.

Article 9. Insurance of an Advocate
An advocate shall be obligated to insure his/her professional responsibility according to the procedure and occasions foreseen under the law, to compensate a potential material damage to a client.

Chapter III
Advocate

Article 10. Requirements to be Met by an Advocate *(29.12.2004 N 970)*
1. An advocate can be a citizen of Georgia, who has:
a) Received a higher legal education;
b) Passed the bar examination in accordance with the rules established by this Law or the qualification exam for judges (servants of the Prosecutor's Office); *(22.06.2007 N 5029)*
c) Has a working experience as a lawyer or intern of an advocate for at least one year.

2. An advocate may not be a person tried for a deliberate serious crime, unless his/her criminal record is extinguished or expunged according to the rules established under the legislation.
3. An advocate may not concurrently be an official foreseen under Article 2 of the Law of Georgia on the Conflict of Interests and Corruption in Public Service and the other person, who under the legislation is prohibited from exercising legal practice.

Article 11. Written Tests of Advocates
1. Any person having a higher legal education shall have the right to undertake a written test.
2. The written test shall be held twice a year. The procedure for holding a written test and agenda shall be approved, and the date shall be determined by the Executive Council of the Georgian Bar Association, while the regulation of the qualification commission of advocates - by the General Assembly of the Georgian Bar Association. *(25.11.2005 N 2155)*
3. Written test shall be either general or according to the specialization.
4. Advocates shall be specialized in the civil law and criminal law.
5. The general written test shall cover the following subjects:
a) Constitutional Law;
b) International Human Rights Law;
c) Administrative Law;
d) Administrative Procedural Law;
e) Criminal Law;
f) Criminal Procedural Law;
g) Civil Law;
h) Civil Procedural Law.
6. The written test of advocates specialized in civil law shall cover the following subjects:
a) Constitutional Law;
b) International Human Rights Law;
c) Administrative Law;
d) Administrative Procedural Law;
e) Civil Law;
f) Civil Procedural Law.
7. The written test of advocates specialized in criminal law shall cover the following subjects:
a) Constitutional Law;
b) International Human Rights Law;
c) Administrative Law;
d) Administrative Procedural Law;
e) Criminal Law;
f) Criminal Procedural Law.
8. An advocate, who has passed the written test according to the specialization, shall have the right to practice law in a respective field. Any advocate shall have the right to practice law in the constitutional legal proceedings.
9. The written test shall be held in the state language.
10. In case of passing the written test successfully, a person shall receive the certifying document that s/he has passed the written test of advocates.
11. The written test qualification certificate shall become invalid, if a person does not start legal practice within 7 years after passing the written test.

Article 12. Deleted *(29.12.2004 N 970)*

Article 13. Deleted *(29.12.2004 N 970)*

Article 14. Deleted *(29.12.2004 N 970)*

Article 15. Deleted *(29.12.2004 N 970*)

Chapter IV
Intern of an Advocate. Assistant of an Advocate

Article 16. Intern of an Advocate

1. A person indicated in Sub-Paragraph „b‟ of Paragraph 1 of Article 10 of the present Law, who is willing to be an intern for an advocate or in a legal bureau, must submit an application with a respective advocate or a legal bureau. An advocate or a legal bureau shall make a decision on the applicant‟s internship and inform the respective bar association about the decision not later than 5 days. *(22.06.2007 N 5029)*
2. The period of legal internship shall be included in the work tenure and professional experience.
3. Pursuant to the procedure and cases established by the legislation of Georgia, an intern shall exercise the authority of a respective advocate based on his/her instructions.
4. An intern shall not be questioned on issues, which have become known to him/her in the process of carrying out his/her professional activities. The obligations stipulated in Article 7 of the present Law shall apply to an intern.

Article 17. Assistant of an Advocate

1. In the process of exercising legal practice, with the purpose of receiving technical or other kind of assistance, an advocate may hire an assistant. S/he shall not possess any rights of an advocate and shall not be admitted to legal proceedings, in a court, arbitration and investigation bodies, other state agencies and organizations, public unions, except for the cases stipulated in Paragraph 2 of the present article. (*24.09.2010 N 3619 In effect from 1 October 2010)*
2. In the presence of a respective advocate or according to his/her instruction, based on his/her signed and certified permission, an assistant of an advocate shall have the right to get familiar with the materials of a case administered by an advocate in a court, arbitration and investigation bodies, other state agencies and organizations, public unions. *(24.09.2010 N 3619 In effect from 1 October 2010)*
3. An assistant of an advocate shall not be questioned on issues, which have become known to him/her in the process of carrying out his/her professional activities. The obligations stipulated in Article 7 of the present Law shall apply to an assistant.

Chapter V
Organization of Legal Practice

Article 18. Organizational-Legal Form of Legal Practice

1. To exercise legal practice, an advocate shall have the right to set up a legal bureau individually or together with other advocates or persons in the form of cooperation or an entrepreneurial legal entity determined under the Law of Georgia on Entrepreneurs. *(17.11.2009 N 2040)*
2. The information about setting up a legal bureau shall be submitted with the Executive Council of the Bar Association within 10 days from setting up a bureau. The information shall include the address and contact telephone of a legal bureau, name/s of the advocate/s associated in a bureau and the field/s of law that the advocate/s practice/s.

3. A bureau shall determine the rule of organization and work and the structure of a legal bureau.

Article 19. The Basis for Legal Practice
1. An advocate shall exercise legal practice based on the agreement.
2. In the investigative bodies or during legal proceedings in the court, an advocate shall be obligated to present, together with a card certifying the right to legal practice, a document duly issued by a client to him/her – a power of attorney or an order. *(24.09.2010 N 3619 In effect from 1 October 2010)*
21. If a non-entrepreneurial (non-commercial) legal entity implements a free legal aid grant or state program to achieve the objectives set under its charter, it shall have the right to issue an order based on the agreement with an advocate. *(29.12.2006 N 4332)*
3. The Executive Council of the Georgian Bar Association shall develop and approve a sample order of an advocate.

Chapter VI
The Bar Association *(29.12.2004 N 970)*

Article 20. Status of the Bar Association. *(29.12.2004 N 970)*
1. The Georgian Bar Association represents a legal entity of public law based on a membership of individuals.
2. The charter of the Association shall define the basic principles and directions of the activities of the Bar Association.
3. Article 11 and the last sentence of Paragraph 2 of Article 8 of the Law of Georgia on Legal Entities of Public Law shall not apply to the Bar Association. *(17.11.2009 N 2040)*

Article 21. Membership of the Bar Association *(29.12.2004 N 970)*
1. To become a member of the Bar Association, a person shall file an application with the Bar Association. The Executive Council of the Bar Association shall make a decision pursuant to the procedure set under the Charter of the Association within 1 month from receiving the application on affiliation of a person in the Bar Association or rejection of affiliation. *(17.11.2009 N 2040)*
2. Each person shall present the following data to the Association:
a) Name, surname, date of birth;
b) Addresses of the residence and the legal bureau, contact phone number;
c) Specialization, if s/he has passed the bar examination according to the specialization.
21. In case of any changes in the data foreseen under Paragraph 2 of the present Article, the information shall be submitted with the Bar Association within 2 weeks from the occurrence of such changes. *(17.11.2009 N 2040)*
22. In light of the interest to organize the integrated list of the Bar Association members, the Charter of the Association shall define the procedure and terms for submitting the additional data (including the changes in the data*). (17.11.2009 N 2040)*
3. Grounds for refusing to grant a membership of the Bar Association to a person shall be the following:
a) S/he does not meet the requirements set under Sub-Paragraphs 'a' and 'b' of Paragraph 1 of Article 10 and Paragraph 2 of Article 10 of the present Law;
b) 7 years have passed after a person has passed the bar examination;
c) The membership of the Bar Association has been terminated based on Sub-Paragraphs 'b' and 'f' of Paragraph 1 of Article 213 of the present Law and the term of 3 years has not expired after the termination of membership.

4. The refusal of the Executive Council of the Bar Association to grant the membership of the Association may be appealed in court within 1 month from receiving the refusal.
5. The Executive Council of the Bar Association shall publish the integrated list of the Bar Association members pursuant to the procedure foreseen under the Charter of the Association. The data foreseen under Paragraph 2 of the present Article shall be public for all interested persons. *(17.11.2009 N 2040)*

Article 211. Oath of an Advocate *(29.12.2004 N 970)*
1. In order to become a member of the Bar Association, a person shall vow the following oath:
"I swear to be loyal to the ideas of justice, carry out an advocate"s duties in good faith, and protect the Constitution and the laws of Georgia, the code of professional ethics of advocates, and the human rights and freedoms!". *(17.11.2009 N 2040)*
2. If a person refuses to vow an oath based on his/her ideology, instead of vowing an oath a person shall write a statement, thus confirming that s/he shall perform the duties of an advocate established by the present Law in good faith.
3. A person shall sign the text of the oath (statement) and it shall be kept in his/her personal file.
4. After vowing the oath (signing the statement) a person shall acquire the status of an advocate and receive a card confirming the right to practice law.

Article 212. Suspending a Membership of the Bar Association *(29.12.2004 N 970)*
1. The membership of an advocate in the Bar Association shall be suspended in accordance with the rules established by Paragraph 2 of Article 213 of the present Law, by the decision of the Executive Council of the Association:
a) Based on personal application;
b) In cases set forth in Sub-Paragraph 'b' of Paragraph 1 of Article 34 of the present Law;
c) In cases set forth in Paragraph 3 of Article 10 of the present Law.
2. In case of suspending the membership as set forth in Paragraph 1 of the present Article, an advocate shall be exempt from paying the Bar Association membership fees and be prohibited from participating in the activities of the Association.
3. The membership of an advocate shall be reinstated based on the submission of a relevant application or after expiration of the period set forth in Sub-Paragraph 'b' of Paragraph 1 of Article 34 of the present Law, or elimination of grounds determined by Paragraph 3 of Article 10 of the present Law.
4. Any person not qualifying as an advocate according to the Paragraph 3 of Article 10 of the present Law, but meeting the requirements of Paragraph 1 of Article 10, shall have the right to apply to the Executive Council of the Bar Association for membership. The membership of such persons shall be suspended immediately upon their acceptance as members.
5. Any person, whose membership of the Bar Association has been suspended, shall be prohibited from practicing law.

Article 213. Termination of Membership of the Bar Association *(29.12.2004 N 970)*
1. The membership of an advocate in the Bar Association shall be terminated:
a) Based on personal application;
b) Based on the decision of the Ethics Commission of the Bar Association and/or a court;
c) In case a court has found him/her to have limited legal capability or be incapable or declared him/her to be lost or deceased;
d) In case s/he was found guilty of committing a deliberate serious crime and the court verdict has entered into legal force;

e) Deleted; *(4.07.2007 N 5209)*
f) In case it becomes known that s/he did not meet the requirements of Article 10 of the present Law, which would have been a ground for refusal to grant to him/her a membership of the Bar Association, had it been discovered timely;
g) In case s/he does not pay membership fees;
h) In case of his/her death.
2. In case of existence of circumstances set forth in Sub-Paragraphs 'b', 'f' and 'g' of Paragraph 1 of the present Article, the Executive Council of the Bar Association, based on the full list majority and through a secret ballot shall decide on the termination of membership of an advocate in the Bar Association, whereas it shall accept the information on circumstances determined under Sub-Paragraphs 'a', 'c', 'd' and 'h'. *(4.07.2007 N 5209)*
3. The decision shall be grounded and personally handed or sent to an advocate within 5 days from its announcement, except in cases determined by Sub-Paragraphs 'c' and 'h' of Paragraph 1 of the present Article.
4. In cases set forth by Sub-Paragraphs 'b', 'f' and 'g' of Paragraph 1 of the present Article, the decision of the Executive Council of the Bar Association on the termination of the membership of an advocate shall be suspended until a final decision of the court is rendered.

Article 22. Symbols of the Georgian Bar Association
Based on the submission of the Executive Council, the General Assembly of the Association shall approve the symbols of the Georgian Bar Association.

Article 23. Organizational Structure of the Bar Association
1. To discharge the functions defined under the present Law, the following units shall be set up in the Bar Association:
a) The Executive Council;
b) The Ethics Commission;
c) The Audit Commission.
2. Bar Association shall be authorized to create other structural units to fulfill its functions, the activity-related issues of which shall be defined by the regulations of respective units. One of the Executive Council members shall head each unit.
3. The advocate training center shall be set up with the Georgian Bar Association, which shall undertake professional training of the advocates. The regulation approved by the Executive Council of the Bar Association shall determine the procedure of work of the advocate training center. *(17.11.2009 N 2040)*

Article 24. General Assembly of the Georgian Bar Association *(17.11.2009 N 2040)*
1. The General Assembly of the Georgian Bar Association shall be the supreme body of the Georgian Bar Association. The General Assembly shall meet at least once a year and it shall be qualified if attended by at least 800 Association members. In case of absence of a quorum, a repeated General Assembly shall be called within 2 weeks, which shall be qualified notwithstanding the number of attending members.
2. The General Assembly of the Georgian Bar Association shall make a decision by a simple majority votes of attending members, unless otherwise stipulated under the present Law.
3. By a simple majority of votes of the attending members, the General Assembly of the Georgian Bar Association shall:
a) Approve the Charter of the Association and bring amendments and supplements to it;
b) Elect and dismiss the Chairman, members of the Executive Council, Ethics Commission and the Audit Commission of the Association through a procedure established by the Charter of the Association;

c) Approve the Code of Professional Ethics of Advocates and the Regulation on Disciplinary Responsibility of Advocates and Disciplinary Proceedings;
d) Listens to the activity reports of chairpersons of the Executive Council, Ethics Commission and the Audit Commission;
e) Set a fixed amount of a membership fee.

Article 25. Procedure for Decision-Making and Calling Extraordinary Sessions of the General Assembly of the Georgian Bar Association *(29.12.2004 N 970)*
The Charter of the Georgian Bar Association shall set forth the procedure for decision-making and calling extraordinary sessions at the General Assembly of the Bar Association.

Article 26. The Executive Council of the Georgian Bar Association *(17.11.2009 N 2040)*
1. The Executive Council shall be the executive body of the Bar Association, which shall meet at least once a month.
2. It shall be mandatory for the Executive Council member to attend the Council session.
3. The Executive Council shall consist of 12 members, 11 of which shall be elected by the General Assembly of the Georgian Bar Association from the list of the Georgian Bar Association members for a term of 4 years, according to the procedure established under the Charter of the Association.
4. Chairman of the Georgian Bar Association shall be included in the Executive Council of the Georgian Bar Association ex officio.
5. Candidates who receive more votes than the other candidates, shall be considered as elected members of the Executive Council.
6. The Executive Council shall be authorized, if its session is attended by more than half of the Council members. Decisions shall be made by a simple majority of attending members, unless the present Law does not establish otherwise. The Chairman shall have a decisive vote in case of equal number of votes.
7. The Executive Council of the Georgian Bar Association shall:
a) Govern the Association collectively;
b) Approve by the list majority the budget of the Association;
c) Approve the regulations of the advocates' qualification commission;
d) Approve the procedure for conducting the activities of the advocates' training center;
e) Determine the curriculum for the mandatory continuous legal education of advocates and procedure for its implementation;
f) Approve the expenses of the Association for the next year;
g) Allocate funds for the needs of the Association, establish the amount of the business trip and other administrative costs;
h) Once a year make publicly available the report on undertaken activities;
i) Based on the available data, organize the drawing up of the integrated list of Association members pursuant to the procedure stipulated under the present Law, making amendments to it and its publication;
j) Coordinate written test examination of advocates over entire territory of Georgia, approve the procedure and curriculum of written test examination of the advocates, fix the date of conducting the written test examination;
k) Organize taking of the oath by the advocates;
l) Enforce the decisions of the General Assembly, Ethics commission, and the Audit Commission of the Georgian Bar Association;
m) Approve the personnel of the Association and determine the rates of salaries of the Chairman of the Association and other hired personnel;
n) Approve a sample card confirming the right to practice law and the order of an advocate;

o) Establish international relations and represent the Association in these relations;
p) Administer the personal cases of advocates and their interns;
q) Based on a bilateral request, discharge settlement functions in case of disputes between Association members or members and their clients;
r) Publish the information newsletter of advocates or other periodic publications;
s) In case of inability of the Chairman of the Association to discharge powers, elect from its composition the acting chairman for temporary discharge of the Chairman's powers;
t) Discharge all other powers that do not fall under the competence of other bodies of the Association under the present Law and the Charter of the Association.

Article 27. Chairman of the Bar Association
1. Chairman of the Bar Association shall be elected from the members of the Bar Association by the General Assembly of the Association for the term of 4 years, based on the preliminary written consent of the candidate. *(17.11.2009 N 2040)*
2. The Chairman of the Bar Association at the same time is the Chairman of the Executive Council and represents the Association.
3. The Chairman of the Bar Association shall be reimbursed for his/her work from the funds of the Association, and throughout the discharge of his/her powers, s/he shall be prohibited from pursuing the legal practice. *(17.11.2009 N 2040)*

Article 28. The Ethics Commission *(17.11.2009 N 2040)*
1. The Ethics Commission shall consist of 15 members, at least 12 of which shall be the advocates. Members of the Ethics Commission shall be elected by the
General Assembly of the Bar Association for the term of 4 years, pursuant to the procedure established under the Charter of the Association.
2. Candidates, who receive more votes than the other candidates, shall be considered as elected members of the Ethics Commission.
3. An advocate member of the Ethics Commission shall be a person who has attained 30 years of age, with the professional experience of not less than 5 years.
4. The Ethics Commission shall be independent and carry out its activities based on the norms of the present Law and professional ethics.
5. A member of the Ethics Commission can be re-elected only once.
6. The Ethics Commission shall elect from its composition, by the list majority and through a secret ballot the Chairman of the Commission for the term of 4 years, who at the same time shall be a member of the Bar Association.
7. The Ethics Commission shall verify the submitted information on the advocate, examine its validity, and decide on the disciplinary responsibility of an advocate.
8. Anonymous letters and notifications shall not be the ground for examining the disciplinary responsibility of an advocate.
9. The procedure for the disciplinary responsibility of the advocates and the disciplinary proceedings shall be determined under the Regulation approved by the General Assembly of the Georgian Bar Association.

Article 29. The Audit Commission *(17.11.2009 N 2040)*
1. The Audit Commission shall be set up to exercise control over the observance of the law and Charter of the Association by the Chairman of the Association, Executive Council, Executive Secretary, and persons appointed (approved) by them, as well as over the use of financial resources or other property pursuant to the objectives set under the Charter.
2. The Audit Commission shall consist of 5 members elected by the General Assembly of the Association, for the term of 4 years.

3. Candidates, who receive more votes than the other candidates, shall be considered as elected members of the Audit Commission.
4. The Commission itself shall elect the Chairman of the Audit Commission from the Commission members, for the term of 4 years.
5. To carry out the inspection of financial activities foreseen under Paragraph 1 of the present Article, the Audit Commission shall be obligated to select and invite on an annual basis and through the competition an independent auditor.

Article 30. Limitation of the Advocate‟s Membership in the Executive Council, Ethics Commission and Audit Commission
1. An advocate may not be elected as a member of the Executive Council, Ethics Commission or the Audit Commission, if s/he:
a) Has not fulfilled proprietary obligations imposed by a court decision;
b) Has been accused of criminal charges;
c) During last 3 years has been imposed a disciplinary sanction or his/her membership in the Association had been suspended. *(29.12.2004 N970)*
2. The Chairman of the Association and/or member of the Executive Council, Ethics Commission and the Audit Commission may be re-elected consecutively only twice.

Article 31. Termination of Authority of an Advocate as a Member of the Executive Council, Ethics Commission and Audit Commission
1. An advocate‟s authority as a member of the Executive Council, Ethics Commission or the Audit Commission shall be terminated:
a) Based on personal application;
b) In case of suspension of the right to practice law;
c) In case of expiration of authority, immediately upon the election of a new member; *(17.11.2009 N 2040)*
d) In case of termination of the membership in the Georgian Bar Association. *(29.12.2004 N 970)*
2. If an advocate‟s authority as a member of the Executive Council, Ethics Commission or the Audit Commission is terminated before his/her term has been expired, a new member shall be elected at the next General Assembly for the remaining period of authority. If a number of the members of the Executive Council, Ethics Commission or the Audit Commission proves to be less than a half, the General Assembly shall be called immediately to elect new members.

Chapter VII
Responsibility of an Advocate

Article 32. Grounds for Imposing Disciplinary Responsibility on an Advocate
1. Disciplinary responsibility shall be imposed on an advocate for:
a) Non-fulfillment of duties foreseen under Articles 5-9 of the present Law;
b) Violation of the code of professional ethics of advocates.
2. Disciplinary responsibility shall not be imposed on an advocate, if 5 years have expired from committing the disciplinary offence. *(17.11.2009 N 2040)*

Article 33. Commencement of Disciplinary Proceedings against an Advocate
The Ethics Commission of the Bar Association shall commence disciplinary proceedings against an advocate. The Ethics Commission shall make a decision on commencement or refusal to commence disciplinary proceedings against an advocate within 1 month from receiving the information.

Article 34. Types of Disciplinary Sanctions and Disciplinary Measures against an Advocate

1. The types of disciplinary sanctions against an advocate shall be:
a) Warning;
b) Deprivation of the right to practice law from 6 months to 3 years;
c) Termination of membership of the Georgian Bar Association; *(29.12.2004 N 970)*
2. The disciplinary measures against an advocate shall be:
a) Personal letter of reprimand;
b) Termination of the authority of a member of the Georgian Bar Association, the Executive Council, Ethics Commission and the Audit Commission. *(29.12.2004 N 970)*

Article 35. Procedure for Imposing Disciplinary Sanctions on an Advocate

1. The imposition of a disciplinary sanction on an advocate shall be heard at the session of the Ethics Commission collectively, with the composition of 3 Commission members, whereas a decision shall be made by a majority of votes. Deprivation of the right to practice law or termination of the membership of the Association shall be examined by the Ethics Commission with the composition of not less than 12 members. At least 10 votes of the Ethics Commission members are required to make a decision on these issues. The dissenting opinion shall be attached to the decision. *(17.11.2009 N 2040)*
2. Prior to making a decision by the Ethics Commission, an advocate shall be granted the opportunity to express his/her opinion in an oral or written form, request and present evidence, and fully exercise the right to protection. *(17.11.2009 N 2040)*
3. The sessions of the Ethics Commission shall be closed, and the decision shall be announced in public.
4. In case of failure of an advocate to appear at the session of the Ethics Commission, the examination of the issue shall be postponed for 10 days. The repeated failure of an advocate to appear on valid grounds shall not prevent the examination of the issue.
5. The decision of the Ethics Commission shall be grounded and delivered to an advocate in person within 5 days from its announcement, and in case of his/her failure to appear - sent within the same time period.
6. An advocate shall have the right to appeal the decision to the Supreme Court within 1 month from its delivery to him/her.

Article 351. Disciplinary Responsibility of an Advocate Appointed at State Expense *(29.12.2006 N 4332)*

In case of failure by an advocate assigned at state expense to appear in the court or discharge advocate's duties on valid grounds, the court shall be authorized to address the Georgian Bar Association with a request to apply disciplinary measures against him/her.

Article 36. Responsibility of an Advocate

An advocate shall be held liable for committing the legal offense according to the common procedure established by Georgian legislation.

Article 37. Stimulation of an Advocate

With the submission of the Executive Council of the Georgian Bar Association, the General Assembly of the Association may establish the forms and procedure for stimulating the advocates for a successful legal practice.

Chapter VIII

Legal Protection of an Advocate

Article 38. Legal Protection of an Advocate
1. An advocate shall exercise legal practice independently and interference therein shall be prohibited.
2. The advocates shall be equal before the law.
3. Questioning an advocate as a witness on a case, in which s/he has appeared as an advocate (counsel or representative) shall be prohibited.
4. An advocate shall not be held responsible for statements, which s/he has made in writing or verbally to the court or an administrative agency in the interests of a client.
5. Deleted. *(20.04.2005 N 1364)*
6. Any information received by an advocate from a client or other person seeking legal advice shall be confidential.
7. The eavesdropping and recording of conversations between an advocate and a client shall be prohibited, and the correspondence between them - inviolable.
8. Criminal proceedings administered against an advocate shall be examined by a district (city) court according to the jurisdiction. *(20.04.2005 N 1364)*

Chapter IX
Gown of an Advocate

Article 39. Gown of an Advocate
1. Based on the decision of the General Assembly of the Georgian Bar association, during the legal proceedings in the constitutional and common jurisdiction courts a special form of clothing - a gown - may be introduced for the advocates.
2. The General Assembly of the Georgian Bar Association shall approve the form of an advocate's gown, with the submission of the Executive Council.
Chapter X
Transitional and Final Provisions

Article 40. Bar Examination in a Transitional Period
1. Prior to setting up the Bar Association, the High Council of Justice of Georgia shall hold the bar examination. *(29.12.2004 N 970)*
2. Representatives of other unions of advocates and lawyers of Georgia (law firm, non-entrepreneurial (non-commercial) legal entity, etc.) shall constitute at least half of the advocates' qualification commission. *(14.12.2006 N 3980)*
3. With the submission of the High Council of Justice of Georgia, the President of Georgia shall approve the procedure for setting up the advocates' qualification commission, written test curriculum, and the procedure and timelines for holding the examination.
4. Persons, who have not passed the bar examination and have not received the bar examination certificates, shall be banned from exercising representative authority in the appellate and cassation courts, except for the employees of state agencies, local self-government bodies and organizations - in respect of cases of these agencies/bodies and organizations. *(29.12.2006 N 4332)*

Article 41. Membership of the Georgian Bar Association prior to Setting up the Bar Association *(29.12.2004 N 970)*
1. Prior to setting up the Bar Association, the candidates willing to become members of the Georgian Bar Association shall apply to the High Council of Justice of Georgia.

2. The High Council of Justice of Georgia shall draw up the list of persons having passed the bar examination.

Article 42. The First General Assembly of the Bar Association and the Bar Examination *(29.12.2004 N 970)*

1. After holding the first two bar examinations, but no later than 1 March 2005, the High Council of Justice of Georgia shall call the Founding Assembly of the Bar Association. The right to participate in the Founding Assembly shall be exercised by any person, who shall:
a) Express in writing the will to become a member of the Bar Association and respectively apply to the High Council of Justice of Georgia no later than 31 January 2005;
b) Meet the requirements set forth in Article 10 of the present Law.
2. Based on the submitted applications, the High Council of Justice shall compile and publish before 15 February 2005 the list of persons authorized to participate in the Founding Assembly. An applicant, who will not be placed on the list of participants of the Founding Assembly, shall have the right to appeal the decision of the High Council of Justice in the court within 5 days from its publication.
3. The Founding Assembly shall be authorized, if it is attended by more than half of persons exercising the authority to participate in the Founding Assembly and have vowed the oath of advocates according to the procedure established under the law. Except for the case set forth in Paragraph 10 of the present Article, decisions at the Founding Assembly shall be made by the majority of participating votes. The number of attendees shall be counted before each vote. *(25.11.2005 N 2155)*
4. The Secretary of the High Council of Justice shall open the Founding Assembly. The eldest attendee shall lead the Founding Assembly before the Chairman is elected.
5. The eldest attendee shall read the oath of an advocate. After reading the text, the attending participants shall say "I swear" and sign the text of the oath. Any person, who refuses to vow the oath on the basis of his/her ideology, shall write a statement.
6. The Founding Assembly shall elect the vote counting commission consisting of 11 members. The Chairman shall be elected by the Commission from its members. The vote counting commission shall enter the names of candidates for leading positions and members of bodies to be elected at the Founding Assembly in the bulletins and distribute them to the General Assembly members.
7. Any participant of the Founding Assembly shall be entitled to nominate the candidates for the positions of the Chairman of the Association, and membership in the Executive Council, Ethics Commission, and the Audit Commission.
8. One candidate can at the same time be nominated for the membership of the Executive Council, as well as the Ethics Commission and the Audit Commission.
9. All candidates nominated to the elective bodies shall publicly express their consent to run as candidates prior to casting the vote. If a person is nominated as candidate for membership in two or all three bodies simultaneously, s/he shall express the will and consent to be the candidate for membership in one of the bodies only, and accordingly his/her candidacy shall be entered in one bulletin only, prior to casting the vote.
10. A candidate, who receives the plurality of votes of the ballot participants, but not less than 35 votes, shall be considered as elected. A repeated vote shall be held between candidates having received equal votes, if their number exceeds the number of vacancies. If not enough members of governing bodies are elected as requested by law, a repeated vote shall be cast between candidates who received more votes, but less than 35 votes, until all members are elected. If more candidates than needed receive equal votes or candidates after one candidate with highest votes receive equal votes, a repeated vote shall be cast between all above-mentioned candidates. If after two rounds of vote candidates do not receive the minimal

number of votes to fill vacancies in governing bodies according to the law, new elections shall be held. (25.11.2005 N 2155)
11. The vote counting commission shall record the results of ballots in a form of a protocol signed by the Chairman of the Commission and all its members.
The Chairman of the vote counting commission shall announce the final results at the General Assembly.

Article 43. Registration of Legal Bureaus in a Transitional Period
1. From 1 February 2005, the common courts shall register legal bureaus established as commercial legal entities pursuant to the requirements of Paragraph 1 of Article 18 of the present Law.
2. The registration documents of legal bureaus established as commercial legal entities before 1 February 2005 shall be brought in compliance with the requirements set in Article 18 of the present Law before 1 June 2006. *(02.06.2003 N 2303)*

Article 44. Approval of the Code of Professional Ethics of Advocates
The Georgian Bar Association shall approve the code of professional ethics of advocates within 3 months from calling the first General Assembly.

Article 45. Normative Acts to be Invalidated and Adopted in connection with Enactment of the Present Law
1. The Regulation on the Georgian Soviet Socialist Republic Advocatura, approved by the 12 November 1980 Law of the Georgian SSR, shall be invalidated as from the entry of the Bar Association in effect pursuant to the procedure set forth under the present Law.
2. The laws of Georgia on Insurance of Professional Liability of Advocates and the Public (Treasury) Advocates shall be adopted before 1 June 2002.
3. Within 3 months from adopting the present Law, the Parliamentary Committee for Legal Affairs, Legality and Administrative Reforms shall draft together with a respective institution of the executive branch legislative proposals in respect of a special taxation regime of advocates.
4. Prior to the adoption of the Law of Georgia on the Public (Treasury) Advocates, public (treasury) services shall be rendered by the legal entity of public law - the office of public (treasury) advocate, which is established by the Ministry of Justice of Georgia pursuant to the Law of Georgia on Legal Entities of Public Law.

Article 46. Entry into Force of the Law
1. The present Law shall enter into legal force immediately upon its publication.
2. Article 9 and Sub-Paragraph „a“ of Paragraph 1 of Article 32 () of the present Law shall enter into legal force concurrently with the enactment of the Law of Georgia on Insuring Professional Liability of an Advocate.

President of Georgia Eduard Shevardnadze.
Tbilisi, - 19 –

20 June 2001.
N 976 - IIS

Georgian Bar Association

Code of Professional Ethics for Lawyers

Preamble

The Code of Professional Ethics for lawyers shall set the rules of professional ethics and conduct for lawyers.
The Code of Professional Ethics shall aim at setting the rules of conduct, compatible line with the standards of professional ethics, based on professional and moral responsibility to society and also at establishing the obligation of a lawyer to maintain professional dignity, respect the profession of a lawyer and make every effort to attain the high level of public confidence in the profession of lawyer.

Chapter I. Principles of lawyers' professional activities

Article 1. Basic principles of professional activities
When discharging his/her professional activities a lawyer shall be required to observe the following basic principles of professional ethics: independence, trust, confidentiality, priority of clients' interests, inadmissibility of conflicts of interest and collegiality.

Article 2. The principle of independence
When discharging his/her professional activities a lawyer shall be free from any pressure or any other influence from outside and shall abide only by the Georgian legislation, international law and the Code of Professional Ethics.

Article 3. The principle of confidence
The confidence of a client in a lawyer shall be based on lawyer's personal dignity, honesty, integrity, competence and impartiality. The lawyers shall be required not to act in such a manner as to prejudice client's confidence in them. The aforementioned features constitute the professional obligations of a lawyer.

Article 4. The principle of confidentiality
1. Any information that becomes known to a lawyer in the course of discharge of his/her professional activities shall be confidential.

2. The obligation of confidentiality shall not be limited in time. A lawyer shall be authorised to disclose the information about his/her client only under the consent of the latter or in exceptional cases, when it is necessary for the lawyer to protect himself/herself against charges or in cases directly envisaged by law.

3. A lawyer shall require the fulfilment of the same obligations from his/her partners, employees and the other persons invited thereby in the course of discharge of professional activities.

Article 5. The principle of priority of client's interest
A lawyer shall always be required to act in the best interests of the clients and give them higher priority as compared with his his/her personal or other persons' interests.

Article 6. The principle of inadmissibility of the conflict of interests
1. A lawyer shall not be authorised to give legal advice or represent two or more clients in the same case when there is a conflict of interests between the clients.

2. The lawyers working for one and the same legal bureau (office, agency, law firm etc) shall not be authorised to give legal advice or represent several persons (clients) in the same case when there is a conflict of interests amongst them or a substantial risk that such conflict may aris .

3. The inadmissibility of conflict of interests envisaged by Paragraphs 1 and 2 of Article 6 shall also apply to cases when a conflict of interest or a risk of it arises in the course of case proceedings.

4. A lawyer shall be required to cease all litigations related to the case when a conflict of interests arises between his/her clients in relation with the case concerned and whenever there is a risk of violation of the principles of confidence or confidentiality.

Article 7. Principle of Collegiality

In the course of discharge of professional activities, a lawyer shall be required to respect his/her colleagues and not to abuse their dignity.

Chapter II. Relationship of a lawyer with the other persons and institutions

Article 8. The relationships between a lawyer and a client

1. A lawyer shall launch his relationship with his/her client on the basis of a mutual agreement. If a lawyer could reasonably assume that he/she was concluding an agreement with a person authorized by the client, it is also considered to be an agreement, except for cases of mandatory (compulsory) defence.

2. A lawyer shall handle a case only under the instructions of the client, an authorized representative thereof or a competent person appointed by the relevant authority in the case of compulsory defence.

3. A lawyer shall not be authorises to give guarantees to the client concerning the outcomes of the case.

4. A lawyer shall not be entitled to cease to defend the client's interests without excusable grounds.

5. A lawyer shall be required to provide a qualified and bona fide advice to a client and represent him/her with due diligence.

6. A lawyer shall be required to inform a client on the progress of case proceedings entrusted thereon and the estimated costs of the litigation according to the procedure agreed with the client.

7. In order to avoid the risk of prejudicing a client, a lawyer shall not exercise the right to withdraw from the case when a client is in a situation, when it deems impossible for a him/her to able to seek for the legal assistance of another lawyer in due course.

8. The procedure of calculation and the rate of lawyer's fees shall be known to for a client in advance, be acceptable for her/him and depend on the complexity of the case, work load, duration of the proceedings, qualification, and in the case of property disputes – value and importance of the disputed subject (cost of claim).

9. In case of non-payment of lawyer's fees, the lawyer shall be authorised to withdraw from the case or decline it with due consideration of Paragraph 7 of this Chapter.

10. A lawyer shall not be authorized to pay fee, commission or any other compensation to a person for recommending him/her to a client.

11. A lawyer shall make every effort to solve the case at minimal cost for a client taking into account the circumstances of the case and he/she should advise the client to find the ways of amicable resolution of the case.

12. The lawyer shall be required to maintain detailed and accurate records of the costs of case proceeding, paid by the client.

13. Any money or assets entrusted to a lawyer shall be maintained separately from lawyer's personal funds or assets and be managed in good faith. The lawyer shall be required to forthwith provide the client with accounts on his/her request.

14. A lawyer shall defend the client's interests honourably and fearlessly regardless of his/her own interests or any consequences for himself/herself or any other person.

Article 9. Lawyers relationship with the court

1. A lawyer appearing before a Georgian or foreign court or tribunal shall be required to observe and respect the rules of conduct of the court/tribunal concerned.

2. A lawyer should not have contact or meet a judge in relation with a specific case without a prior agreement with the lawyer of the opposing party, except for cases, allowed by procedure law .

3. A lawyer should not present the knowingly false evidence to the court.

4. The rules regulating relationships between a lawyer and the courts shall also apply to his/her relationships with the arbitrage and any other persons exercising judicial or quasi-judicial functions.

Article 10. Relationships between lawyers

1. A lawyer shall be required to respect his/her colleagues.

2. The corporate spirit of the profession of a lawyer requires a relationship based on mutual trust and cooperation between the layers in order to avoid litigation and any actions that may prejudice their clients. However, it shall be inadmissible for professional interests to prevail over the interests of clients.

3. A lawyer shall not request or receive any fees, commission or any other compensation from other lawyers or any other person for recommending the other lawyer to a client or giving an advice to the latter.

4. If a lawyer is approached by a client having another lawyer, the former shall be required to inform his/her colleague about giving advice or launching rendering some other legal assistance.

Chapter III. Final Provisions

Article 11. Scope of the Code

1. The Code of Professional Ethics shall apply to lawyers. A lawyer shall be responsible for ethical behaviour of persons acting under his/her instructions or on his/her behalf.
2. The Code of Ethics shall come in force upon its approval by the General Meeting and it shall not have a retroactive effect.
3. Relationships, not regulated by this Code, shall be resolved on the basis of good faith and moral principles and traditions.

Regulation
On Disciplinary Proceedings against Lawyers

Chapter I
General Provisions

Article 1. Goal of the Regulation

This Regulation shall set forth the rules of disciplinary proceedings at the Ethics Commission of the Georgian Bar Association and the procedure of imposition of disciplinary responsibility on lawyers.

Article 2. Imposition of disciplinary sanctions

1. A lawyer shall be subject to disciplinary responsibility in cases and commensurate with the procedure, envisaged by the Law of Georgia on Bar and the Code of Ethics of Georgian Bar Association.
2. The disciplinary proceedings can be initiated against a member of the Georgian Bar Association or a person whose membership of the Georgian Bar Association has been suspended – for the action committed during his/her active membership of the Georgian Bar Association. In this case the imposition of disciplinary responsibility can be postponed for the period of suspension of the membership of the Georgian Bar Association.
3. Disciplinary proceedings may not be initiated against a lawyer if the statute of limitation envisaged by law has elapsed from the date of commission of a disciplinary violation before the date of filing a complaint with the Ethics Commission.
4. A lawyer can be charged for a disciplinary violation only with a single disciplinary sanction or a sanction together with one of the measures of disciplinary pressure.
5. Upon imposition of a disciplinary sanction on a lawyer the account should be taken of the gravity of disciplinary violation and incurred damages.

Article 3. The confidentiality of disciplinary proceedings and publicity of the decisions of the Ethics Commission

1. Disciplinary proceedings shall be confidential and the sessions of the Ethics Commission and it's Collegiums shall be closed.
2. The decisions of the Ethics Commission on the imposition of disciplinary sanctions or refusal to impose, as well as refusal to initiate disciplinary prosecution or discontinue the disciplinary case proceeding shall be public.
3. The Members of the Ethics Commission and the Georgian Bar Association Office personnel shall be required to keep confidential the information that became known to them during the disciplinary proceedings.

Chapter II
Structure of the Ethics Commission

Article 4. Disciplinary Collegiums

1. The Ethics Commission shall comprise five disciplinary collegiums. Each disciplinary collegium shall be comprised of three members of the Ethics Commission.
2. A disciplinary collegium shall be headed by the chairperson of the collegium who shall allocate cases amongst the members of the disciplinary collegium and call and preside at the collegium sessions.
3. The Chairperson of the Ethics Commission shall determine the composition of the collegiums and chairpersons of the collegiums for term of one year by his/her decision. When appointing the members of the disciplinary collegiums the Chairperson of the Commission shall take account of the representation of lawyers with different specializations in the disciplinary collegiums.
4. In the case of inability of a disciplinary collegium member to perform his/her duties due to illness, recusal or self recusal or other excusable reasons, the Chairperson of the Ethics Commission shall appoint an alternative member for the relevant term.
5. The sessions of the disciplinary collegium and all the other procedural actions shall be conducted collegially under the participation of all three collegium members.
6. A disciplinary collegium shall make decisions on behalf and in the name of the Ethics Commission.

Chapter III
Disciplinary Proceedings

Article 5. The stages of the Disciplinary Case Proceedings

1. The disciplinary case proceedings at the Ethics Commission of Georgian Bar Association shall be held in two stages: in processing collegium and hearing collegiums.
2. The processing collegium shall make decisions on the initiation or refusal to initiate disciplinary proceedings.
3. The disciplinary collegiums shall discharge the duties of the processing collegium in turn, for a term of one month, according to the number assigned to them.
4. In the case of refusal of the Processing Collegium to initiate disciplinary proceedings against a lawyer the disciplinary proceedings shall be discontinued.
5. In the case of initiation of disciplinary proceeding against a lawyer by the Processing Collegium the Chairperson of the Ethics Commission shall transfer the disciplinary case to the Hearing Collegiums.
6. The hearing collegiums shall receive cases in turn, according to numbers assigned to them, unless the Hearing Collegium has handled the case previously in the capacity of the Processing Collegium. In such a case the Chairperson of the Ethics Commission shall transfer the disciplinary case to next collegium in order.
7. The Hearing Collegium shall make a decision on the imposition of a disciplinary sanction, application of a disciplinary measure or on refusal to impose the disciplinary responsibility.

Article 6. Initiation of disciplinary proceedings

The grounds for the initiation of disciplinary proceedings shall be:

a) A complaint of a person, who believes that lawyer's behaviour violated his/her rights and interests, except for anonymous complaints;
b) A complaint of a lawyers regarding the commission of a disciplinary violation by another lawyer;

c) Application of a case processing authority regarding the commission of a disciplinary violation by a lawyer;
d) Notification of the Chairperson of the Georgian Bar Association, Executive Council, a member of the Ethics Commission, Audit Commission regarding the commission of a disciplinary violation by a lawyer.

Article 7. A Complaint

1. A complaint should be filed in writing. A complainant may use a complaint form approved by the Ethics Commission of the Georgian Bar Association;
2. A complaint should include:
   a) the name, address and contact data (telephone number, fax, e-mail) of the complainant;
   b) name, address and contact data of the complainant's representative, if there is such;
   c) name of the lawyer a complaint is filed against;
   d) the claim of an complainant;
   e) circumstances the claim is based on;
   f) list of documents attached to the complaint, if there are such. Also the information regarding the identity of witnesses if they are able to confirm the circumstances mentioned in the complaint;
   g) signature of a complainant or his/her representative.
3. A complaint may include the address and contact data (telephone number, fax, email) of the lawyer if they are known to the complainant.
4. An complainant shall be required to provide the Ethics Commission with all the evidences, certifying circumstances mentioned in the complaint.
5. A complaint should be accompanied with the document certifying the authorisation of the representative, prepared in accordance with the law, if the complaint is filed with the Ethics Commission by a representative.
6. A complaint and attached thereto documents should be presented to the Ethics Commission in 4 copies;

Article 8. Registration of a complaint

1. The office of the Ethics Commission shall be required to register a complaint on the date of its filing and attach the date and number of registration to it.
2. A complaint shall be transferred to the Chairperson of the Ethics Commission, and in case of his/her absence - to a duly authorised member of the Ethics Commission, who shall transfer the complaint to the disciplinary collegium discharging the duties of a Processing Collegium;

Article 9. Abandonment of a complaint

1. The proceedings shall be discontinued by the Ethics Commission and the complaint shall not be tried on merits, if:
   a) the complaint does not fall within the terms of reference of the Ethics Commission;
   b) the complaint is filed by an incapable person;
   c) the complaint is filed by a person who is not so authorised under Article 6 of this Regulation.
   d) the complaint is filed on behalf of the interested person by a person who is not so authorised;
   e) the Ethics Commission has the pending disciplinary case with the same parties on the same matter;
   f) there already exists a decision of the Ethics Commission on the same matter, with the same parties;

g) the complaint does not include the mandatory requisites set by this Regulation;

Article 10. Conduct of case proceedings through a representative

1. The parties shall be authorized to participate in the disciplinary proceedings through their representatives and also to enjoy the legal assistance of a lawyer.
2. The members of the Ethics Commission shall not be authorized to represent any of the parties in the disciplinary proceedings.

Article 11. Prohibition of participation in disciplinary proceedings

1. A member of the Ethics Commission shall not be authorised to participate in disciplinary proceedings, if:
   a) he/she is party to the disciplinary proceedings;
   b) he./she is a close relative of a party to the disciplinary proceedings or a representative thereof (for the purposes of this Regulation a close relatives shall mean a heir at law).
   c) he/she was a member of Processing Collegium, that reviewed the disciplinary case;
   d) he/she has contractual or personal relationship with a party to the case proceedings or a representative thereof;
   e) there are other circumstances, that may presumably obstruct impartial and fair hearing of the case;
2. A member of the Ethics Commission shall be required to self-recuse in the case of existence of any of the circumstances mentioned in Paragraph 1 of this Article;

Article 12. Recusal of a member of the ethics commission

1. A party to the disciplinary proceedings, who believes, that there are grounds under this document for recusal of a member of the Ethics Commission participating in disciplinary proceedings or the entire disciplinary collegiums, shall be authorized to make a written recusal before the decision is made by the Ethics Commission.
2. A party to the disciplinary proceedings shall be required to submit a statement on recusal within a period of 5 days, after the circumstances, providing grounds for recusal of a member of the Ethics Commission or a disciplinary collegiums, became known to him/her;
3. A statement on recusal or self-recusal of a member of the Ethics Commission shall be made by the Disciplinary Collegium without the participation of the members whose recusal or self recusal is on the agenda. The question of recusal of the whole disciplinary collegiums shall be discussed under the participation of all the members of the disciplinary collegiums. The decision shall be made by the majority of votes of the present members of the disciplinary collegiums. A statement on recusal or self recusal shall be satisfied if the circumstances mentioned in Paragraph 1 of Article 11 are proved.
4. In the case of satisfaction of a statement on recusal or self-recusal of a member of the Ethics Commission, the Chairperson of the disciplinary collegium shall postpone the case hearing and apply to the ethics Commission Chairperson regarding the appointment of an alternative member to the disciplinary collegium; and in case of recusal of the whole disciplinary collegium – regarding the transfer of the case to another disciplinary collegiums.

Article 13. Timelines of the disciplinary proceedings

1. The Processing Collegium shall be required to make a decision on a disciplinary case within a period of one month from the moment of receipt of a complaint.
2. The Hearing Collegium shall be required to make a decision on a disciplinary case within a period of three month after the decision on initiation of disciplinary prosecution was referred thereto.

Article 14. Provision of a complaint
Immediately after the referral of the complaint to the Disciplinary Collegiums, the copies of the complaint (application) and the attached documents shall be provided to a lawyer, against whom the complaint (application) is filed.

Article 15. Notification of the parties
1. A party shall be notified about the place and time of the session of a Disciplinary Collegium. The witnesses, experts and translators should also be summoned through sending out the notifications to them. If a party has a representative, the notice should be sent to the representative instead of the party concerned.
2. The parties and other participants of the disciplinary proceedings can be summoned by phone, e-mail, fax or other technical means of communication.
3. The notification shall be served to the parties or their representatives assuming that they have enough time to get prepared and appear before the Ethics Commission.
4. The notice shall be served to a lawyer to the address indicated by the complainant. When it deems impossible to contact the lawyer at that address, the notice shall be sent to the address specified in the official database of the Georgian Bar Association. In this case the notice shall be regarded as served even if the lawyer is not at that place or refuses to receive it.

Article 16. Rights of the Parties to the disciplinary proceedings
The parties to the disciplinary proceedings shall have equal rights to get familiarised with the case file and make copies, make recusals, present evidences, file motions with the Ethics Commission, give explanations to the Ethics Commission, present their opinions regarding all the issues that were raised during the disciplinary proceedings.

Article 17. Collection of evidences
1. The evidences shall be presented to the Ethics Commission by the parties.
2. A disciplinary collegium shall be authorized to request evidence based on the motion of the parties or on its own initiative if parties failed to obtain evidences and submit them to the Ethics Commission.
3. The Ethics Commission shall not take account of the evidences collected in violation of law.

Article 18. Expenses of the disciplinary proceedings
The expenses of the disciplinary proceedings shall be covered by the Ethics Commission of the Georgian Bar Association, except for the expenses related to the invitation of a lawyer, interpreter, experts and witnesses on the initiative of the parties, which expenses shall be covered by the initiator party.

Article 19. Decisions of the Ethics Commission
1. A decision of the Ethics Commission shall be composed of introduction, recitals, motivation and resolution.
2. The introduction of the decision shall specify: the time and place of the decision, the name of the decision-making authority and the composition of the disciplinary collegium, the date of filing the complaint and its registration number, parties, representatives, the alleged violation of the Code of Ethics by the lawyer.
3. The recitals of the decision shall shortly describe the claim of the complainant and the lawyer's position regarding the complaint.

4. The motivation part of the decision shall include the factual circumstances, evidences the decision of the Ethics Commission is based on, legal provisions, the Ethics Commission based its decision on.
5. The resolution part of the decision shall specify the conclusion of the Ethics Commission on the satisfaction or refusal to satisfy the complaint. In the case of satisfaction of a complaint, the type of disciplinary responsibility, also the reference to the terms and procedure of appeal of the decision should be provided.

Article 20. Sending copies of the decision to the parties

The copies of the decision of the Ethics Commission shall be sent to the parties within a period of 5 days after the delivery of the decision concerned.

Article 21. Suspension of the disciplinary proceedings

1. The disciplinary collegium shall be entitled to suspend the disciplinary proceedings if:
   a) some objective problems (illness of a lawyer, time required for the collection of evidences etc.) have occurred independently from the disciplinary collegium during the investigation upon the disciplinary case which problems made it impossible to continue the disciplinary proceedings;
   b) The disciplinary case materials evidence the elements of crime in the lawyer's behaviour. In this case the case materials shall be referred to relevant authority by decision of the disciplinary collegiums;
   c) The Ethics Commission is reviewing another case against the same lawyer the outcomes of which case may influence the decision of the disciplinary collegiums.
2. The disciplinary proceedings suspended under Paragraph 1 (a) of this Article, shall be renewed as soon as the grounds for suspension thereof are eliminated; and in the case of suspension of disciplinary proceedings under Paragraph (b) and (c) – upon delivery of the final decision by the competent authority.
3. The disciplinary collegium shall make a decision on the renewal of the disciplinary proceedings.
4. The period of suspension of disciplinary proceedings shall not be included into the timelines of disciplinary proceedings set by this Regulation;

Article 22. Discontinuation of disciplinary proceedings

The disciplinary collegium shall make a decision on the discontinuation of disciplinary proceedings when:

a) the statute of limitation envisaged by law has elapsed before the complaint was filed;
b) the lawyer, the complaint was filed against, is not longer a member of the Georgian Bar Association.

Article 23. Repeated commission of a disciplinary violation

1. The repeated commission of a disciplinary violation by the lawyer prior to the clearance of the disciplinary sanction, shall, as a rule, cause the imposition of more severe disciplinary sanction than it was imposed on a lawyer due to prior disciplinary violation.
2. The cleared disciplinary sanction shall not be taken into account if the lawyer repeatedly commits the disciplinary violation after the clearance of the disciplinary sanction.

Article 24. Clearance of a disciplinary sanction

1. A warning of a lawyer shall be considered cleared in six (6) months after the date of its imposition.

2. In the case of suspension of membership of the Georgian Bar Association the said disciplinary sanction shall be considered cleared after the expiry of one (1) year from the date of restoration of membership.

Article 25.Enforcement of the decision of the Ethics Commission

1. The decisions of the Ethics Commission shall come in force after the expiry of appeal timelines, or in the case of appeal of the decision by the lawyer, upon the entry of the court decision into force.
2. The Executive Board of the Georgian Bar Association shall be responsible for the enforcement of the Decisions of the Ethics commission;

Article 26. Keeping disciplinary cases

The disciplinary case materials shall be maintained by the Georgian Bar Association for a period of five (5) years from the date of making the decision.

Chapter IV
Characteristics of Disciplinary Proceedings at the Processing Collegium

Article 27. Authority of the Processing Collegium

During the disciplinary proceedings Processing Collegium shall:

a) study a complaint (application) and case materials attached thereto;
b) collect written explanations from the parties regarding the case circumstances;
c) review the motions presented by the parties during the disciplinary case proceedings;
d) study additional evidences presented by the parties or request the case-related evidences on its own initiative.
e) make a decision on the initiation or refusal to initiate disciplinary prosecution against a lawyer.

Article 28. Explanations of the parties

1. The Processing Collegium shall be is authorized to hear the parties separately and request explanations in writing regarding the circumstances known to them and pertinent to the case, also to question the parties regarding the foregoing.
2. The explanations made by the parties shall be included into the case file as evidence.
3. Based on the decision of the Processing Collegium the explanations can be received through the distance means of communication (phone, video and other technical means), in case it is possible to identify the person.
4. Failure of a party to appear at the session of the Processing Collegium or refusal of a party to give explanations shall not obstruct the hearing of the disciplinary case;

Article 29. Consolidation of disciplinary cases

The Processing Collegium shall be authorized to consolidate cases if processing collegium receives several complaints (applications) against one and the same lawyer, filed by one and the same party and make a common decision.

Article 30. Initiation of disciplinary proceedings or refusal to initiate disciplinary proceedings

1. The Processing Collegium shall initiate disciplinary prosecution against a lawyer if the verification of the circumstances of the case evidence the possibility of violation of professional obligations by a lawyer, envisaged by Article 5 – 9, 35^1 of the Law of Georgia on Bar and the provisions of the Code of Professional Ethics;

2. The Processing Collegium shall not initiate the disciplinary prosecution against a lawyer if the behaviour of a lawyer is not regarded as a disciplinary violation even if the circumstances of the case are proved.

Article 31. Decision of the disciplinary collegium

1. A decision of the processing collegiums shall be made in the name of the Ethics Commission by the majority of composition of the Processing Collegiums.
2. All members of the processing collegiums shall sign the decision. The dissenting opinion of a member of the Processing Collegiums shall be attached to the decision in writing.

Article 32. Discontinuation of Case Proceedings by the Processing Collegium

The Processing Collegium shall discontinue the case proceeding on the grounds envisaged by this Regulation, also in cases when complainant or a person who submitted the petition which became grounds for the initiation of disciplinary proceedings, denounces the complaint (petition).

Chapter V
Characteristics of the Disciplinary Proceedings at the Hearing Collegium

Article 33. Session of the Hearing Collegium

1. The parties to the disciplinary case proceedings, their representatives and interpreter shall be authorized to participate in the sessions of the hearing collegiums.
2. The Hearing Collegium shall resolve the case in a fair and impartial manner, based on adversarial and equality principles.
3. The Chairperson of the Hearing Collegium shall open the session, announce the composition of Hearing Collegium, the name of the secretary of the session and the disciplinary case under review.
4. The secretary of the session shall report the name of the appeared persons and also the information on non-appearance of any of the parties and serving notices thereto.
5. The Chairperson of the collegiums shall inform the parties about their right to recuse any of the members of the Ethics Commission or the whole Hearing Collegium, as well as right to file motions and present additional evidences and the right to have a lawyer.
6. The Hearing Collegium shall hear the explanations of the complainant and his/her answers to the questions of the Hearing Collegium, hear the explanations of the lawyer and his/her answers to the questions of the Collegium. Following that the parties shall be given the right to question each other.
7. After hearing the explanations of the parties, the Hearing Collegium shall be is authorized to review and check the evidences pertaining the arguable circumstances against the motion of a party or on its own initiative,
8. The Hearing Collegium shall be authorised to invite and question witnesses and experts for the clarification of the circumstances of the case, also to allow the parties to question each other.
9. If a question asked by a party is not adequate and does not serve the interest of investigating the circumstances of the case, the Hearing Collegium shall be authorized to reject the question on it own initiative or against a motion of the opponent party.
10. At the end of the session of the Hearing Collegium, the parties shall have the right to make summative speeches, the lawyer being the last to make a summative speech and after that the session of the collegium shall be closed by the Chairperson of the collegium;

Article 34. Postponement of a session of the Hearing Collegium

1. A session of the hearing collegiums shall be postponed for a period of 10 days if a lawyer against whom the disciplinary prosecution has been initiated, fails to appear at the session, or if during the session of the Hearing Collegium the parties file motions for the presentation of additional evidences, summoning witnesses or other procedural actions.
2. The repeated failure of a lawyer to appear at the session of the Hearing Collegium shall not obstruct the hearing of the case.

Article 35. Decision of the Hearing Collegium

1. A Decision of the hearing collegium shall be made by the majority of full composition of the Hearing Collegium.
2. All the members of the Hearing Collegium shall sign the decision. The dissenting opinion of a member of the hearing collegium shall be attached to the decision in writing;

Article 36 Referral of a disciplinary case to the Ethics Commission

A disciplinary case shall be referred to the Ethics Commission by decision of the Hearing Collegium if during the investigation upon the disciplinary case the Hearing Collegium decides that the lawyer may be subjected to the deprivation of the right to carry our lawyer's professional activities or striking off the list of the members of the Bar Association.

Article 37 The minutes of the Hearing Collegium session

1. The sessions of the Hearing Collegiums shall be documented in the minutes of the session, which minutes shall be signed by the Chairperson and secretary of the session.
2. The minutes should include:
   a) the year, month, day and place of the session of the Hearing Collegium;
   b) the beginning and end time of the session of the Hearing Collegium;
   c) the composition of the Hearing Collegium and the name of the secretary;
   d) the title and registration number of the disciplinary case, the date of the decision of the Processing Collegium;
   e) the names of the parties and other persons;
   f) explanatory statements of the parties and answers to the questions;
   g) the testimonies of the witness and data on the verification of the evidences;
   h) the content of the summative statements of the parties;
3. The parties shall be authorized to submit a motion on the inclusion of the circumstances essential for the case into the minutes.
4. The session can also be recorded by electronic means.
5. The minutes of the session shall be attached to the disciplinary case file.

Article 38. Private letter of advice

6. In the case of issuing a private letter of advice by the Hearing Collegium against a lawyer as a disciplinary measure, the private letter of advice shell contain the recommendations and advise on the measures that an advocate should take into account in order to eliminate problems related to the discharge of professional activities and avoid any violations in the future.
7. The content of the private letter of advice shall be confidential;

Chapter VI
The Characteristics of the Disciplinary Proceedings of the Ethics Commission

Article 39. The Authority of the Ethics Commission

1. The Ethics Commission shall review the disciplinary cases in cases envisaged by law and according to the procedure set forth for the disciplinary collegiums by Chapters III and V of this Regulation , with due consideration of the characteristics described in this Chapter;
2. When the case is heard by the Ethics Commission, the Chairperson of the Ethics Commission, or a person authorised thereby to this end, shall discharge the duties of the chairperson of the Hearing Collegium.
3. The Ethics Commission shall hear the disciplinary case under the participation of at least 12 members and the decision shall be made by at least 10 members. In this case the limitation set by Paragraph 1(c) of Article 11, regarding the participation of processing collegiums members, shall not apply.;
4. The Ethics Commission shall make a decision even when it decides the lawyer should be subjected to warning as a disciplinary sanction or to a measure of disciplinary pressure.

Chapter VII
Appeal Procedure

Article 40. Appeal of the Ethics Commission decisions

1. The decisions of the Processing collegium shall not be subject to appeal;
2. The decisions of the Hearing Collegiums of the Ethics Commission regarding the imposition of disciplinary measures on a lawyer shall be subject appeal within a period of 1 month after the decision is served to the lawyer according to the procedure established by law.

APPENDIX 6

Legal Acts of the Republic of Moldova
Law on Advocacy

N 1260-XV of 19.07.2002

Chapter I
GENERAL PROVISIONS

Article 1. The definition of advocacy

(1) Advocacy shall be carried out by qualified persons authorized by law to act on behalf of their clients, practise law, appear before courts or advise and represent their clients in legal matters.

(2) Advocacy shall be a free and independent activity autonomously organized, operated and managed in accordance with conditions set forth by the present law and the Advocacy Charter. Advocacy shall not be an entrepreneurial activity.

Article 2. The regulation of advocacy

The regulation of advocacy shall be done by means of:

a) establishing basic conditions and the procedure for providing legal assistance to individuals and legal entities in the Republic of Moldova;

b) establishing organizational forms of advocate's practice;

c) establishing types of legal assistance;

d) establishing guarantees for carrying out activities aimed at providing qualified legal assistance;

e) establishing the procedure for admission to the advocate's practice.

Article 3. Principles of advocacy

Advocacy shall be carried out on the basis of following principles:

a) ensuring the right to defense guaranteed by the Constitution ;

b) freedom and independence of advocacy;

c) democracy and collegiality in relationships between advocates;

d) voluntary membership in professional associations of advocates

e) ensuring lawfulness and humanity.

Article 4. The legal basis of advocacy

The legal basis for advocacy shall be the Constitution of the Republic of Moldova, the present Law, other laws which regulate advocacy, the Advocacy Charter, as well as international treaties to which the Republic of Moldova is a party.

Article 5. The right to qualified legal assistance

(1) Any person shall freely choose an advocate for receiving advice and the representation in legal matters.

(2) In accordance with the present law the state shall ensure access to qualified legal assistance for all persons.

(3) Individuals and legal entities shall have a right to resort, in accordance with the procedure established by law, to legal assistance of all advocates on the basis of a mutual agreement.

(4) In cases specified by law, qualified legal assistance shall be paid for from the state budget.

(5) Depending on financial circumstances of a person concerned, an advocate can provide to this person free legal assistance.

(6) Advocates of the Republic of Moldova shall discharge certain duties or exercise advocacy in other states if so is allowed by the legislation of the respective states.

Article 6. The exercise of advocacy by foreign advocates

(1) Foreign advocates may pursue advocates' activities in the territory of the Republic Moldova if they meet requirements set forth by the Law, with exception of the citizenship requirement.

(2) The activities by foreign advocates may be pursued in the territory of the Republic of Moldova if their advocate's status is confirmed by a home state and they are registered in a special Register of the Association of Advocates of Moldova.

(3) Foreign advocates may not represent individuals and entities before courts and public authorities but the international commercial arbitrage. When interests of a client require, as well as on request of the client, a foreign advocate may assist to a Moldovan advocate.

(4) A foreign advocate may pursue professional activities on the basis of an agreement being a member of an advocate's office or a united bureau of advocates.

(5) The Register of foreign advocates authorized to practise in the territory of the Republic of Moldova shall be published in the official web site of the Association of Advocates.

Article 7. Providing legal assistance guaranteed by state

Conditions, limits and the procedure for providing by advocates legal assistance guaranteed by state shall be established by the Law on Legal Assistance Guaranteed by State.

Article 8. Types of qualified legal assistance

(1) Advocates shall provide to individuals and legal entities following types of qualified legal assistance:

a) advise and give explanations and resolutions on legal issues, verbal and written information notes on the legislation;

b) draw up documents of legal nature;

c) represent clients' interests in courts;

d) represent clients' interests in legal matters in relationships with public authorities, notaries, bailiffs, as well as other individual and legal entities;

e) take part in criminal proceedings as defense lawyers or representatives of в victims, claimants, defendants and witnesses.

(2) Providing legal assistance specified in points c) and e) of the paragraph (1) to individuals and legal entities by a person who does not have the advocate's status shall be punishable if otherwise is not provided by law.

(3) Advocates shall provide to individuals and legal entities other legal assistance which is not prohibited by law on the basis of a one-time assignment, as well as on the basis of long-term agreements.

(4) In the process of providing legal assistance an advocate may certify copies of documents and extracts from them, verify signatures on documents necessary for providing legal assistance. An advocate may not commit such actions in his/her own interests, as well as interests of members of his/her family up to the fourth degree of consanguinity including cousins.

(5) Actions specified in paragraph (4) shall be attested by a signature and a seal of an advocate concerned with the indication of the date and making statement that a copy corresponds to an original.

Article9. Quality of legal assistance

Legal assistance provided by an advocate shall comply with best professional practices in the field of law, substantive and procedural rules and be based on professional and courteous behavior.

Chapter II
ADVOCATES

Article 10. Requirements for the exercise of advocacy

(1) Advocacy can be exercised by a person who is a citizen of the Republic of Moldova, has a full legal capacity, has a diploma of a licentiate of law or an equal document of education, has impeccable reputation and is admitted to the advocate's practice after having passed the qualification exam.

(2) Holders of the doctor's degree, as well as persons who have at least 10-year experience as a judge if they applied for the advocate's license within 6 months after their resignation, shall be exempted from the professional internship and the qualification exam. Those who after the resignation from the position of a judge or a prosecutor continued working in the field of law shall enjoy same privilege.

(3) A person who applied for the advocate's license cannot be considered as a person with impeccable reputation and his/her application shall be dismissed if this person:

a) was previously convicted for intentional serious, especially serious or extraordinary serious crime regardless whether his/her criminal record was expunged or not;

b) has non-expunged conviction for other crime;

c) was previously excluded from the Bar or was deprived of the license for providing legal assistance on compromising ground;

d) was fired from law enforcement bodies on compromising grounds or was dismissed from the position of a judge, notary, jurist or civil servant on compromising grounds;

e) pursue activities which are incompatible with requirements of the Code of Advocate's Ethics or his/her behavior does not meet these requirements;

f) violated basic human rights and freedoms which was established by a court decision.

(4) Paragraph (3) shall apply to advocates-interns.

(5) An advocate shall have a personal seal.

Article 11. Incompatible occupations

(1) Advocacy shall be incompatible with:

a) pursuing any paid activity with exception of academic, educational activities and the occupation of an arbitrator of a court of arbitrage;

b) entrepreneurial activity;

c)notary activity;

d) other activity which undermines prestige and independence of advocacy or rules of ethics.

(2) Providing legal assistance by an advocate in courts otherwise than on the basis of an agreement on legal assistance duly registered with an advocate's office or a united bureau of advocates, shall be prohibited. The exception shall include the representation of a spouse and relatives up to the fourth degree of consanguinity.

Article 12. The right to practise as an advocate

(1) In order to be admitted to practise as an advocate, a person who passed the qualification exam shall apply in writing to the Minister of Justice for the license to advocacy.

(2) Having received the license, an advocate shall be admitted to practise after he/she:

a) vows oath;

b) registers an organizational form of the advocate's practice in compliance with the procedure established by Article 32.

Article 14. The suspension of the advocate's practice

(1) The advocate's practice shall be suspended:

a) on written application of an advocates if there is a valid reason;

b) in case of the situation of incompatibility – for the period of the situation;

c) for the period of prohibition to exercise the advocate's activity by a court decision or a decision of a disciplinary body;

d) in case of a failure of an advocate to pay during six months a fixed fee to the budget of the Association of Advocates – until clearing the debt;

e) until he/she pays a fine in accordance with point c) of paragraph 1 of Article 57 of the Law.

(2) Within 10 days the license and the permit of an advocate whose practice was suspended shall be returned to the Council of the Association of Advocates where they shall be stored during the period of suspension.

(3) Within 10 days from the date of suspension, the Council of the Association of Advocates shall make a note in the List of Advocates and publish the information in the Official Monitor of Moldova.

Article 14. The termination of the advocate's practice

(1) The advocate's practice shall be terminated in the following cases:

a) refusal in writing to practise as an advocate;

b) annulment of the advocate's license in cases established by law;

c) decease of an advocate;

d) conviction by the final judgment for an action punishable under the criminal law and incompatible with rules of ethics provided for advocates.

(2) Within 10 days an advocate whose practice was terminated shall return to the Council of the Association of Advocates his/her license and advocate's permit.

(3) Within 10 days from the date of termination of the advocate's practice, the Council of the Association of Advocates shall make an entry in the List of Advocates and publish the information in the Official Monitor of Moldova.

Article 15. Advocate-intern

(1) A legally capable citizen of Moldova who obtained a diploma of a licentiate of law, has impeccable reputation, passed an internship examination and concluded an agreement on professional internship with an advocate may practise as an intern.

(2) An advocate-intern shall practise under the supervision of an advocate-mentor.

(3) An advocate-intern may provide paid legal assistance to clients in courts, appeal chambers and before public authorities.

(4) An advocate-intern shall be personally liable for the quality of provided legal assistance and shall be subject to the disciplinary liability established by the Chapter IX.

(5) An advocate-intern shall be subject to same tax regime which is applicable to advocates.

(6) An advocate-intern shall be obliged to:

a) pay for his/her internship;

b) complete the initial training. The duration of the initial training may not be shorter than 80 hours throughout the professional internship;

c) provide legal assistance on the basis of an agreement on legal assistance concluded in accordance with the procedure established by paragraph (1) of Article 60 and validated by an advocate-mentor;

d) keep files on legal assistance;

e) keep professional secrets.

(7) Personal files of advocates-interns shall be stored at the Council of Association of Advocates.

Article 16. Specialists

(1) For ensuring technical support in the course of providing legal assistance, a united bureau of advocates or an advocate's office may employ specialists who acquire knowledge in various fields.

(2) A person cannot be employed if there exist the circumstances set forth in paragraph (3) of Article 10.

(3) Specialists shall not have rights of advocates and shall not provide legal assistance on their own.

(4) An employed specialist shall keep professional secrets.

(5) Working conditions and the way of paying for the work of a specialist shall be set forth in an agreement.

Article 17. Permit

(1) Permits to advocates and advocates-interns shall be issued by the Council of the Association of Advocates.

(2) Templates of permits shall be approved by the Council of the Association of Advocates.

Chapter III
ADMISSION TO ADVOCACY

Article 18. Admission to the professional internship

(1) The admission to the professional internship shall be based on results of the exam with respect to principles of transparency and equality. The organization of the exam for admission to the internship shall be regulated by the Advocacy Charter.

(2) Only person who meet requirements set forth by law which regulate advocacy may sit the exam.

(3) The exam for admission to the internship shall be organized by the Commission for Licensing of Advocacy.

(4) Results of the exam for admission to the internship shall approved by a decision of the Commission for Licensing of Advocacy.

(5) A decision on admission to the professional internship shall be taken and communicated to the person concerned during 10 days from the date of the exam.

Article 19. The professional internship

(1) A person who passed the exam for admission to the internship shall complete the 18-month obligatory internship on the professional training during which he/she has the status of an advocate-intern.

(2) Conditions of the completion of the professional internship, rights and duties of an advocate-intern, an advocate-mentor, as well as rights and duties of a collegium of advocates towards advocates-interns shall be regulated by the Advocacy Charter.

(3) The professional internship shall be completed on the basis of an agreement concluded between an advocate-intern and an advocate-mentor and registered with the Council of the Association of Advocates.

(4) An advocate-mentor should possess premises sufficiently large in order to ensure the professional internship, should have at least 5-year experience as an advocate and impeccable reputation. An advocate-mentor may not supervise more than 2 advocates-interns simultaneously.

(5) The professional internship shall be suspended during the period of the army service, due to unavailability of an advocate-intern for valid reasons, or in case if the termination of mentoring not due to the fault of an advocate-intern. The period of the previously completed internship shall be included in the professional internship.

(6) Upon completion of the professional internship, an advocate-intern shall sit the qualification exam. If 3 years passed from the moment of the completion of the professional internship, an advocate-intern may sit the qualification exam only under the condition of doing the 3-month internship.

Article 20. The admission to the advocate's practice

(1) In order to be admitted to the advocate's practice an advocate-intern shall sit before the Commission for Licensing of Advocacy the qualification exam.

(2) A person who failed to pass the qualification exam can be allowed to sit the exam again 6 month after the previous exam. An advocate-intern who failed twice to pass the qualification exam shall be admitted to the advocate's practice in accordance with conditions set forth in Articles 18 and 19.

(3) The organization of the qualification exam shall be regulated by the Advocacy Charter.

(4) Results of the qualification exam shall be approved by a decision of the Commission for Licensing of Advocacy.

(5) The decision on admission to the advocate's practice shall be adopted and communicated to the person concerned within 10 days from the date of the exam.

Article 21. Documents necessary for the admission to the advocate's practice

(1) In order to be admitted to the professional internship an applicant shall submit to the Commission for Licensing of Advocacy following documents:

a) an application for admission to the exam for theinternship;

b) a copy of an identity document;

c) a copy of a diploma of a licentiate of law;

d) a copy of a job record book if there is such;

e) a certificate on the criminal record;

f) a medical certificate;

g) a statement of an advocate who agreed to be a mentor.

(2) In order to be admitted to the qualification exam an advocate-intern shall submit to the Commission for Licensing of Advocacy following documents:

a) an application for admission to the qualification exam;

b) a declaration on refraining during the professional internship from incompatible activities specified in Article 11;

c) a statement given under oath with an enclosed reputation questionnaire;

d) an activity report drawn up by an advocate-intern in accordance with requirements established by the Advocacy Charter;

e) an opinion on personal qualities given by an advocate-mentor;

f) the permit of an advocate-intern.

(3) In order to receive the license to the advocate's practice, persons specified in paragraph (2) of Article 10 shall submit to the Commission for Licensing of Advocacy documents specified in points b)–f) of paragraph (1) of the present Article, as well as following documents:

a) a statement given under oath with an enclosed reputation questionnaire;

b) a letter of motivation;

c) a copy of a diploma of the doctor of law if there is such.

(4) The submission of documents containing incorrect information may be a ground for the refusal to admit to the advocate's practice.

Chapter IV
LICENSING OF THE ADVOCATE'S PRACTICE

Article 22. Issuing of the license

(1) The license to practise as an advocate shall be the only document which confirms the advocate's status.

(2) The license to practise as an advocate shall be issued by the Ministry of Justice within 10 days from the date of submission of an application.

(3) The license to practise as an advocate shall be issued for an unlimited duration and be valid in the entire territory of Moldova.

(4) A refusal to issue the license to practise as an advocate may be appealed against to the administrative court.

(5) Issuing of the license to practise as an advocate shall cost 450 leus which should be paid on a bank account of the Ministry of Justice in one of banks of Moldova.

Article 23. The content of the license

(1) The license to the advocate's practice shall contain:

a) the name of the body which issued the license;

b) the serial number of the form;

c) the statement indicating the practicing of an advocate;

d) the surname and name of an advocate;

e) the identity number;

f) the registration number and the date of issuing of the license;

g)the signature of the Minister of Justice validated by a seal.

(2) The form of the license shall be a document of strict accountability.

(3) A template of the license shall be approved by the Ministry of Justice.

Article 24. The Register of licenses

(1) The Register of issued licenses to the advocate's practice shall be kept by the Ministry of Justice.

(2) The Register shall contain following information:

a) the surname and name of an advocate;

b) the identity number;

c) the date of the decision of the Commission for Licensing of Advocacy that the qualification exam is passed;

d) the registration number of the license;

e) the date of issuing of the license;

f) the signature of an advocate that he/she received the license.

Article 25. The annulment of the license to practise as an advocate

(1) The license to practise as an advocate shall be annulled on following grounds:

a) a repeated failure of an advocate to carry out his/her duties during one year if earlier a measure of disciplinary liability was applied to him/her;

b) continuing the advocate's practice after the latter was suspended or a failure to return to the Association of Advocates the license and the permit by an advocate whose practice was suspended;

c) a repeated violation by an advocate of conditions to provide legal aid guaranteed by state;

d) a repeatedly unjustified refusal to provide legal aid guaranteed by state on request by a territory office of the National Council for Legal Aid Guaranteed by State;

e) the establishment of facts which confirm unlawfulness of the obtaining of the license by an advocate;

f) a serious violation of the Code of Ethics of Advocates;

g) entering into force of a court decision convicting of an advocate;

h) loss of the citizenship of Moldova after an advocate obtained his/her license;

i) a serious violation of conditions of an agreement on providing legal assistance;

j) a failure to indicate in an agreement on providing of legal assistance a sum of fees received from a client or indicating an incorrect sum.

(2) The license to practise as an advocate shall be annulled by the Ministry of Justice on the basis of a decision of the Commission for Ethics and Discipline. In cases specified by point b) of paragraph 1, the license to practise as an advocate shall be annulled by the Ministry of Justice on proposal of the National Council for Legal Aid Guaranteed by State and after having consulted the Commission for Ethics and Discipline.

(3) A decision to annul the license to the advocate's practice may be appealed against to the administrative court.

Article 26. Oath of advocate

(1) An advocate shall vow the following oath: "I, advocate (surname, name), swear to enhance the protection of rights, freedoms and lawful interests of a man, carry our advocate's duties diligently and honestly, keep professional secrets and do not compromise the professional reputation of an advocate."

(2) The text of oath shall be signed by an advocate.

Article 27. The personal file of an advocate

The personal file of an advocate shall be kept at the Council of the Association of Advocates. The personal shall include a copy of the license to the advocate's practice, the text of oath and copies of decisions of the Commission for Licensing of Advocacy and the Commission for Ethics and Discipline.

Article 28. The List of Advocates entitled to practise as advocates

(1) Within 10 day after the admission to the advocate's practice according to Article 12 of the Law, the Council of the Association of Advocates shall include an advocate in the List of Advocates entitled to practise.

(2) Every year no later than 25 December, the Council of the Association of Advocates shall publish in the Official Monitor of Moldova the List of Advocates entitled to practise as

advocates. The List should also be published on the official web site of the Association of Advocates. A copy of the List should simultaneously be forwarded to the Ministry of Justice.

(3) An advocate whose practice is terminated shall be excluded by the Council of the Association of Advocates from the List of Advocates entitled to practise as advocates.

Chapter V
ORGANISATIONAL FORMS OF ADVOCATE'S PRACTICE

Article 29. Organizational forms

(1) The advocate's practice can be exercised on personal choice of an advocate in one of following forms:

a) an advocate's office;

b) a united bureau of advocates.

(2) An advocate may be a founder of only one advocate's office or one united bureau of advocates.

(3) The name of an advocate's office shall include the surname and name of an advocate. A united bureau of advocates can have its own name.

(4) The dissolution of an advocate's office or a united bureau of advocates shall be done in accordance with the civil law.

(5) An advocate's office and a united bureau of advocates shall keep a register of agreements on providing legal assistance which were concluded by advocates and advocates-interns with their clients.

(6) An individual advocate's office or a united bureau of advocates shall operate on same legal and economic conditions and cannot be discriminated on financial, tax or other grounds.

Article 30. An advocate's office

(1) An advocate's office shall be operated by one advocate (its founder).

(2) An advocate's office' shall operate and act as an individual person.

Article 31. A united bureau of advocates

(1) A united bureau of advocates shall be set up by two or more advocates (founders of the bureau). The advocates shall pursue their professional activity independently.

(2) A united bureau of advocates shall be considered a legal entity.

(3) A united bureau of advocates shall have a bank account and a seal.

(4) Relationships between advocates of a united bureau of advocates shall be regulated by an agreement.

(5) A united bureau of advocates shall be led by an advocate elected by members of the bureau.

Article 32. The registration of the organizational forms

(1) Advocate's offices and united bureaus of advocates shall be registered by the Ministry of Justice within 1 month from the date of submission of:

a) an application for registration;

b) a declaration of setting up of an advocate's office or a united bureau of advocates. A template of the declaration shall be approved by the Ministry of Justice;

c) copies of licenses to the advocate's practice;

d) copies of documents indicating the address of an advocate's office or a united bureau of advocates;

e) contact details (telephone number, e-mail and post address);

f) confirmation of the notification of a collegium of advocates to become registered.

(2) The registration of an advocate's office and a united bureau of advocates shall be made by including them in a register which is kept by the Ministry of Justice. In case of changing of the number of advocates, name or address, the new information shall be included in the register.

(3) An advocate's office and a united bureau of advocates shall be provided with an extract from the register which is considered as a document for tax authorities, as well as for the fabrication of a seal and opening a bank account.

(4) The refusal to register an advocate's office or a united bureau of may be appealed against to the administrative court.

(5) An advocate shall be entitled to change an organizational form of the advocate's practice in accordance with the procedure established by law.

Chapter VI
ASSOCIATIONS OF ADVOCATES

Article 33. Associations of advocates

(1) For the purpose of the protection of rights and interests and in accordance with the legislation on non-profit organizations, advocates can voluntarily set up local, central and international professional associations on the basis of the individual or collective membership. These associations shall be duly registered.

(2) Associations of advocates specified in paragraph 1 can provide financial support to its members and their families.

(3) Central and international associations of advocates can have their regional offices.

Chapter VII
BODIES OF ADVOCATES' SELF-GOVERNANCE

Article 34. The organization and operation of bodies of advocates' self-governance

(1) Bodies of advocates' self-governance shall be organized and operate in accordance with the principle of independence within the authority established by the Law and the present Law.

(2) The election of the governing organs shall be made by a secret ballot.

(3) Collective organs of governance shall take decisions by a open ballot. Meeting and voting shall be professional secret.

Article 35. The Association of Advocates

(1) The Association of Advocates shall be a body of the advocates' self-governance which unites all advocates included in the List of Advocates; its whereabouts shall be municipality Chisinau.

(2) The Association of Advocates shall be a legal entity, shall have its own property and budget. The property of the Association of Advocates can be used in accordance with conditions laid down by law and with the purpose of receiving profit.

(3) The budget of the Association of Advocates shall be made up of:

a) contributions of advocates;

b) fees for the examination on admission to the internship and the qualification examination;

c) fees for the professional internship;

d) fines paid by advocates as a measure of the disciplinary liability;

e) other payments not prohibited by law.

(4) The use of the collected means shall be checked once in four years by an independent audit.

(5) The governing organs of the Association of Advocates shall be:

a) the Congress;

b) the Council of the Association of Advocates;

c) the Chairman of the Association of Advocates;

d) the Secretary-General of the Association of Advocates.

(6) The Association of Advocates forms following bodies:

a) the Commission for the Licensing of the advocate's practice;

b) the Commission for Ethics and Discipline;

c) the Audit Commission;

d) the Secretariat.

Article 36. The Congress

(1) The Congress shall be the highest organ of the Association of Advocates. It shall be made up of advocates delegated by each collegium of advocates according to the standard of representation established by the Charter of the Advocate's Profession, and members of the Council of the Association of Advocates.

(2) A regular session of the Congress shall be called by the Council of the Association of Advocates once in a year. The convocation of the Congress should be made no later than 1 month before the set date by means of the publication in the Official Monitor of Moldova of the notification of the collegiums of advocates with the simultaneous publication on the Internet of an agenda and materials which will be discussed.

(3) Collegiums of advocates shall elect delegates no later than 10 days before the opening of the Congress.

(4) In case of emergency situations and within 10 days from the date of their occurrence, 1/3 of members of collegiums of advocates or the Council of the Association of Advocates on its own motion can call an extraordinary session Congress.

(5) The Congress shall be qualified to take decisions if attended by 2/3 of its members. The Congress shall take decision by majority votes of the attending members. Decisions of the Congress may be appealed against in accordance with the procedure established by law.

Article 37. The competence of the Congress

The Congress shall:

a) elect and dismiss the Chairman of the Association of Advocates and members of the Commission for Ethics and Discipline;

b) develop proposals aimed at the improvement of the legislation;

c) approve and amend the Code of the Advocate's Ethics and the Advocacy Charter;

d) approve the annual budget of the Association of Advocates and a report on its implementation;

e) fix a sum of contributions made by advocates to the budget of the Association of Advocates;

f) fix a sum of fees for the exam for admission to the internship and the qualification exam, a sum of fees for the competition of the internship and a sum of fees for consideration of applications for admission to the advocate's practice;

g) hear and approve annual activity reports of the Council, the Secretary-General and commissions of the Association of Advocates;

h) take decisions on relationships between collegiums of advocates;

i) take decisions on Association of Advocates' activities specified by the Law.

Article 38. The Council of the Association of Advocates

(1) The Council of the Association of Advocates shall be a competent body which represents advocates of the country and facilitates the continuous work of the Association of Advocates;

(2) The Council of the Association of Advocates shall comprise of the Chairman of the Association of Advocates, deans of collegiums of advocates and advocates delegated by collegiums of advocates in accordance with the standard of representation established by the Advocacy Charter.

(3) The term of office of a member of the Council of the Association of Advocates shall be 4 years. In case of earlier termination of office of one of the members, his/ her successor shall carry out the duties until the end of the term of office.

(4) The Council of the Association of Advocates shall be called once in a month. The convocation shall be made no later than 15 days before the meeting by the notification in writing of the members of the Council with the simultaneous publication of an agenda and relevant materials on the official web site of the Council of the Association of Advocates.

(5) In case of emergency situations and within 5 days from the date of their occurrence, 1/3 of members of the Council of the Association of Advocates or the Chairman of the Association of Advocates on his/ her motion can call an extraordinary session Congress.

(6) The Council of the Association of Advocates shall take decisions by majority of votes. Decisions of the Council of the Association of Advocates can be appealed against by the procedure established by law.

Article 39. The competence of the Council of the Association of Advocates

The Council of the Association of Advocates shall:

a) ensure the implementation of Congress's decisions;

b) solve issues concerning advocates' activities between sessions of the Congress except those which fall within the Congress's competence;

b^1) provide access to state secrets to advocates and adopt decisions on giving such access in accordance with the Law on State Secrets № 245-XVI of 27 November 2008;

c) keep the List of Advocates entitled to the advocate's practice;

d) take decisions on issues concerning the professional training of advocates; approve a program of the initial training for advocates-interns and a program of the continuous training of advocates; approve a list of institutions which provide the professional training;

e) develop recommendations on relationships between collegiums of advocates;

f) ensure a uniform manner of the exam for admission to the internship and the qualification exam;

g) register agreements on the completion of the professional internship;

h) solve conflicts and disputes as regards the completion of the professional internship;

i) approve and publish best practices for advocates and instruments for providing legal service of high quality;

j) approve uniform templates of advocates' seals and requisites of documents depending on a organizational form of the advocate's practice;

k) appoint advocates to the National Council for Legal Aid Guaranteed by State;

l) draw up an annual activity report and submit for the Congress's approval;

m) approve contracts on sums exceeding 50 000 leus concluded by the Secretary-General of the Association of Advocates;

n) approve the organogram of the Secretariat;

o) carry out other functions envisaged by the Law or vested by the Congress.

Article 40. The Chairman of the Association of Advocates

(1) The Chairman of the Association of Advocates shall be elected for 2 years from those advocates who have 5-year professional experience. One person cannot be elected for more than two terms in succession.

(2) The Chairman of the Association of Advocates shall:

a) represent the Association of Advocates in relationships with individuals and legal entities in the country and abroad;

b) lead meeting of the Council of the Association of Advocates;

c) sign decisions of the Council of the Association of Advocates;

d) follow relationships between the Association of Advocates and collegium of advocates, as well as relationships between collegiums of advocates and united bureaus of advocates and advocate's offices;

e) afford assistance to collegiums of advocates in relationships with central and regional authorities;

f) ensure appropriate conditions for the advocates' work in courts, bodies of criminal prosecution and public authorities.

(3) In the absence of the Chairman of the Association of Advocates or on the latter's request, his/her duties shall be carried out by a deputy appointed by the Chairman from the members of the Council of the Association of Advocates.

Article 41. The Secretary-General of the Association of Advocates

1) The Secretary-General shall ensure organizational, administrative, financial and economic activities of the Association of Advocates.

(2) The Secretary-General shall be employed by the Council of the Association of Advocates on the basis of a competition for 5-year term with a possibility of one-time extension for the same term.

(3) In order to be appointed to the position of the Secretary-General an applicant should have a higher education in the field of economics or law and a 5-year professional experience.

(4) The organization of a competition for the position of the Secretary-General shall be regulated by the Advocacy Charter.

(5) The Secretary-General shall:

a) be responsible for financial and economic aspects of the governance of the Association of Advocates;

b) conclude agreements and contracts in the name of the Association of Advocates;

c) manage the budget of the Association of Advocates;

d) organize the development, justification and presentation to the Congress of a draft of the annual budget of the Association of Advocates;

e) present to the Congress an annual report on the budget implementation of the Association of Advocates;

f) take part without a voting right in sessions of the Congress and meetings of the Council of the Association of Advocates;

g) after having consulted with the Council of the Association of Advocates, prepare a draft agenda and materials for the Congress and the Council of the Association of Advocates;

h) hire and manage staff members of the Secretariat;

i) organize the record keeping of the immovable and other property of the Association of Advocates;

j) on instruction of the Congress and the Council of the Association of Advocates carry out other duties.

(6) The work of the Secretary-General shall be paid. The salary shall be established by the Council of the Association of Advocates.

(7) During the term of office the Secretary-General may not pursue other paid activities with exception of the academic and educational practice.

Article 42. Commissions of the Association of Advocates

(1) The activity of commissions of the Association of Advocates shall be organized by their chairmen who should be elected by members of the commissions at their first meetings. The members of the commissions of the Association of Advocates shall be elected or appointed for 4-year term.

(2) Meetings of the commissions of the Associations of Advocates shall be held when necessary and in any event once in a month.

(3) The commissions of the Associations of Advocates shall decide on the nature of meetings (opened or closed).

(4) Representatives of advocate's offices and united bureaus of advocates, as well as other persons, can be invited to attend meetings of the commissions of the Associations of Advocates.

(5) Decisions of the commissions of the Associations of Advocates shall be taken by the majority of votes and shall be binding for all advocates. The commissions of the Associations of Advocates shall publish adopted decisions on the official web site of the Associations of Advocates on the Internet.

Article 43. The Commission for Licensing of Advocacy

(1) The Commission for Licensing of Advocacy shall comprise of 11 members elected on the basis of a competition. 8 members shall be advocates who have at least 5-year professional experience and 3 members shall be active academics.

(2) The competition for the position of a member of the Commission for Licensing of Advocacy shall be organized by a special commission appointed for this purpose by the Council of the Associations of Advocates. The organization of the competition shall be regulated by the Advocacy Charter.

(3) The Commission for Licensing of Advocacy shall:

a) take decisions on admission to the exam;

b) organize the exam for admission to the internship and the qualification exam;

c) approve results of the exam for admission to the internship and take decision on admission to the professional internship;

d) approve results of the qualification exam and take decision on admission to the advocate's practice.

(4) Decisions of the Commission for Licensing of Advocacy as regards the procedure of the organized exam may be appealed against to the administrative court. Given qualifications cannot be appealed against.

Article 44. The Commission for Ethics and Dicsipline

(1) The Commission for Ethics and Discipline shall comprise of 11 advocates with 6 members elected by the Congress from those advocates who have at least 5-year professional experience and 5 members delegated by collegiums advocates.

(2) The Commission for Ethics and Discipline shall:

a) consider complaints against advocates and advocates-interns;

b) examine cases of violations of discipline and professional ethics by advocates and advocates-interns;

c) open disciplinary proceedings against advocates and advocates-interns;

d) take decisions in disciplinary cases;

e) approve a template of the statement of oath and reputation questionnaire.

(3) Members of the Commission for Ethics and Discipline shall be obliged to keep professional secrets and refrain from disclosing information which became known in the course of disciplinary proceedings.

Article 45. The Audit Commission

(1) The Audit Commission shall comprise of 5 advocates who have at least 5-year professional experience delegated by collegiums advocates.

(2) The Audit Commission shall exercise control over financial and economic activity of the Associations of Advocates and shall be accountable to the Congress.

Article 46. The Secretariat

The Secretariat shall be set up in order to help the organs of the advocates' self-governance to exercise their functions. Conditions of the recruitment and duties of staff members shall be set forth in the Advocacy Charter.

Article 47. The collegium of advocates

(1) The collegium of advocates shall be set up and operate in accordance with the present Law and only under the auspices of the Association of Advocates. Setting up and functioning of the collegiums of advocates outside the authority of the Association of Advocates and the registration of documents of such collegium of advocates shall be null and void.

(2) The collegium of advocates shall carry out its activities in a county of the Appeal Chamber. The collegium of advocates shall comprise of all advocates of the respective county.

(3) The whereabouts of the collegium of advocates shall be a settlement where the Appeal Chamber is situated.

(4) Governing organs of the collegium of advocates shall be:

a) a general meeting;

b) a dean.

Article 48. The General Meeting

(1) The general meeting shall comprise of all advocates included in the list of the collegium of advocates of the respective county.

(2) The general meeting shall be called by a dean once in a year. The convocation of the general meeting shall be done no later than 1 month before the set date by the notification in writing, as well as the putting an agenda on display in the premises of the collegium.

(3) In case of emergency situations and within 10 days from the date of their occurrence, 1/3 of members of the collegium of advocates or the dean on his/ her motion can call an extraordinary session general meeting.

(4) The general meeting shall be qualified to take decisions if attended by the majority of its members.

(5) In the absence of the quorum the dean, no later than within 10 days, shall set the date of a new meeting. When the general meeting is called in such manner shall be qualified to take decisions if attended by 1/3 of the members of the collegium of advocates.

(6) The general meeting shall take decision by majority votes of the attending members. Decisions of the general meeting may be appealed against in accordance with the procedure established by law.

Article 49. The competence of the general meeting

The general meeting shall:

a) elect and dismiss the dean and deputies of the dean of the collegiums of advocates;

b) elect delegates of the collegium of advocates to represent the latter in the Congress, the Council of the Association of Advocates, the Commission for Ethics and Discipline and the Audit Commission;

c) carry out other functions which are specified by law or fall within its competence.

Article 50. The dean

(1) The dean shall be elected for 2-year term of office with a possibility of re-election for another 2-year term.

(2) The dean shall:

a) having consulted with organs of the Association of Advocates organize the practice of advocates of a county;

b) represent the collegium of advocates in relationships with individuals and legal entities in the country and abroad;

c) call and lead the general meeting;

d) execute decisions of the Congress, to the Council of the Association of Advocates and the general meeting;

e) publish the List of Members of the collegium of advocates in the official web site of the Association of Advocates and put it on display in the premises of the collegium every year no later than 25 December;

f) address an enquiry to the Commission for Ethics and Discipline as regards the organization of professional, disciplinary and deontological control of the advocate's practice;

g) carry out other functions which are specified by law or fall within his/her competence.

(3) In the absence of the dean or in case of his/her unavailability, his/her duties shall be carried out by the deputy.

Chapter VIII
GUARANTEES OF THE ADVOCATE'S PRACTICE. RIGHTS AND DUTIES OF AN ADVOCATE

Article 51. Independence of an advocate

In the course of exercising his/her activities, an advocate shall be independent and be subject only to law, the Advocacy Charter and the Code of the Advocate's Ethics. An advocate shall be free to choose his/her position and shall not be required to discuss it with anybody except his/her client.

Article 52. Guarantees of independence

(1) The interference in the professional activity shall be prohibited. The state shall ensure the exercise and protection of the freedom of the advocate's practice without discrimination and without undue interference by state authorities or public.

(2) A search of the home or a working office of an advocate, means of transport, a seizure of his/her possessions and documents, an inspection and seizure of his/her correspondence, wiretapping shall be admissible only on the basis of a court decision.

(3) An advocate cannot be subjected to a personal search while he/she carries out professional duties, except in case of an obvious offense.

(4) In case of arrest of an advocate, or opening of criminal proceedings against an advocate, an authority which took these measures shall notify the Ministry of Justice and the Council of the Association of Advocates within for 6 hours from the moment of arrest or opening of criminal case.

(5) Insulting of an advocate, slander, threats against him/her, violence against an advocate while he/she carries out professional duties, or in connection with their exercise shall entail liability established by law.

(6) An advocate cannot be questioned on the subject of his/her relationships with a person to whom he/she afford, or afforded earlier, legal assistance.

(7) Courts and the criminal justice system shall provide an advocate with a place for carrying out professional duties in their premises.

(8) No public authority may directly or indirectly influence on an agreement between an advocate and a client.

Article 53. Rights of advocates

(1) An advocate shall have the right to:

a) represent legitimate interests of clients before courts, law enforcement bodies, public authorities and in other organizations;

b) to study all materials in relating to a client's case and make notes and copies from the moment of the conclusion of an agreement;

c) independently collect, fix and submit information concerning circumstances of a case;

d) make enquiries, ask reviews and copies of documents necessary for providing legal assistance from courts, law enforcement bodies, public authorities and other organizations which are obliged to serve the requested documents;

e) with the consent of a client, ask conclusions of experts for resolving issues which arise in connection with providing legal assistance and require special knowledge in various fields of activity;

f) submit to competent authorities, as well as mass media, applications and requests; in compliance with the procedure established by law submit complaints on actions and decisions which violate rights of a client, as well as the right of an advocate to practise.

(2) A failure of officials to comply with requirements specified in point d) of paragraph (1) shall entail a liability established by law.

(3) In order to provide legal assistance to an arrested, detained or convicted person an advocate, at the any stage of criminal proceedings, shall be afforded appropriate conditions for confidential meetings and consultations without limitations on their duration and number.

(4) Officials of bodies which are responsible for the exercise of control over arrested, detained or convicted persons shall be obliged to ensure unhindered access of an advocate to these persons on the basis of an agreement on providing legal assistance.

(5) A failure to comply with requirements specified in points (3) and (4) shall be considered a violation of the right to defense and shall entail a liability established by law.

(6) An application of an advocate on the subject of a violation of requirements specified in points (3) and (4) shall be examined by a court.

(7) An advocate can have a specialization in certain fields of law and practise in accordance with this specialization.

(8) As to the organs of the advocates' self-governance, an advocate shall:

a) elect and be elected to organs of the advocates' self-governance in accordance with the present law;

b) submit for consideration of the organs of the advocates' self-governance applications concerning issues of the activity of these organs, make proposals on its improvement and take part in their examination;

c) participate directly in meetings of the organs of the advocates' self-governance devoted to discussions of his/her activities and actions;

d) receive from the organs of the advocates' self-governance methodological and juridical support which is necessary for the advocate's practice.

Article 54. Duties of an advocate

(1) An advocate shall be obliged to:

a) promote free access to justice and a fair trial within a reasonable time;

b) provide legal assistance in accordance with an agreement concluded with a client or a territory office of the National Council for Legal Aid Guaranteed by State;

c) provide legal aid requested by territory offices of the National Council for Legal Aid Guaranteed by State;

d) use in professional activities all means and methods permitted by law for the defense of rights and legitimate interests of his/her client;

e) keep records on providing legal assistance in a manner prescribed by the Advocacy Charter;

f) keep a register of acts attested in accordance with paragraph (4) of Article 8. The form and content of the register shall be approved by the Council of the Association of Advocates;

g) possess premises necessary for providing legal assistance;

h) within 10 days notify the Ministry of Justice and the Council of the Association of Advocates about the change of contact details, address of an advocate's office or a united bureau of advocates;

i) every year undertake at least 40 hours of the continuous professional training in accordance with a schedule approved by the Council of the Association of Advocates and provide a respective report;

j) within 5 days after the expiry of the term for a payment submit to the Council of the Association of Advocates confirmation of the payment of a fine;

k) comply with requirements of the Code of Advocate's Ethics and the Advocacy Charter.

(2) An advocate may not provide legal assistance to a person if:

a) he/she provides or previously provide legal assistance, in connection to the case at issue, to persons whose interests contradict to interests of the person at issue;

b) he/she previously participated in the case at issue in the capacity of a judge, a prosecutor, an investigator, an expert, a specialist, an interpreter, a witness or an attesting witness;

c) a family member, a relative or a cousin of an advocate participated in the investigation or the adjudication.

(3) An advocate shall not have a right to act contrary to legitimate interest of a client, to take a legal position which was not agreed with by a client (with exception of cases of pleading guilty), to refuse without a valid reason to continue defending of a suspect, accused or convicted person.

(4) An advocate shall not have a right to acknowledge guilt of his/her client if the latter declines it. Pleading guilty by a client shall not preclude an advocate from challenging this statement and requesting for acquittal.

(5) An advocate shall not take part in proceedings without having studied materials of the case.

(6) As to the organs of the advocates' self-governance, an advocate shall:

a) participate in the work of the Congress and the general meeting;

b) make timely payments to the budget of the Association of Advocates;

c) carry certain tasks given by the organs of the advocates' self-governance if it does not have a negative impact on his/her professional activity.

Article 55. Professional secrets

(1) An advocate may not disclose confidential information which he/she received in connection with providing legal assistance, as well as to share with third parties documents relating to discharging, of his/her duties, without the consent of a client.

(2) The obligaton to keep professional secrets shall not have time limitations.

Chapter IX
DISCIPLINARY LIABILITY OF ADVOCATES

Article 56. Disciplinary liability

(1) Advocates shall be subject to disciplinary liability for actions which violate provisions of the present Law, the Code of Advocate's Ethics and other legal acts which regulate the advocate's practice.

(2) Complaints on actions of advocates, as well as received information concerning disciplinary offences committed by an advocate in the course of discharging of professional duties, shall be examined by the Commission for Ethics and Discipline which in case of sufficient grounds shall order an appropriate inspection. Inspections shall be carried out by members of the Commission or be commissioned to a collegium of advocates.

(3) The Commission for Ethics and Discipline shall request from an advocate in respect of who a disciplinary case was opened submissions in writing, documents and other materials necessary for taking an objective decision.

(4) In case of the establishment of a violation, the Chairman of the Commission for Ethics and Discipline shall submit materials in respect of the advocate concerned for the examination by the Commission.

(5) The examination of the materials concerning a disciplinary offence by the Commission for Ethics and Discipline shall be considered as disciplinary proceedings.

(6) The Commission for Ethics and Discipline shall take one of following decisions:

a) to apply a disciplinary measure;

b) to carry out an additional inspection;

c) to announce the absence of a violation on the part of an advocate.

(7) A decision of the Commission for Ethics and Discipline shall be published.

(8) An advocate in respect of who disciplinary proceeding were opened shall have a right to attend a meeting when an issue of his/her disciplinary liability is being examined and give submissions directly to the Commission for Ethics and Discipline.

Article 57. Measure of the disciplinary liability

(1) Measure of the disciplinary liability shall be:

a) warning;

b) reprimand;

c) fine in the amount from 1000 to 3000 leus which shall be paid to the budget of the Association of Advocates. The payment of a fine shall be done within 30 days from the date of the adoption of a decision on an application of such disciplinary measure as fine;

d) suspension of the advocate's practice (on grounds established by points c) and d) of paragraph (1) of Article 13);

e) annulment of the license to the advocate's practice (on grounds established paragraph (1) of Article 25).

(2) When applying a disciplinary measure, the severity of an offence, circumstances of its commitment, the activity of an advocate and his/her behavior shall be taken into account.

(3) A decision of the Commission for Ethics and Discipline on application of a disciplinary measure can be appealed against to the administrative court.

Article 58. Statute of limitations

(1) Disciplinary proceedings shall not be opened, and if opened they shall be terminated, when from the date of commitment by an advocate of an offence passed one year. The period of his/her temporary inability, leave and the period of the disciplinary proceedings shall not be take into account.

(2) A disciplinary measure shall be applied within 2 months from the date of detecting of an offence without taking into account periods of temporary inability and leave.

Article 59. Expungement of a disciplinary record

(1) If an advocate who was held disciplinarily liable does not commit a new offence during one year from the date of the application of a disciplinary measure, it shall be considered that he/she was not held liable.

(2) The Commission for Ethics and Discipline shall be entitled to expunge a disciplinary record before the expiration of one year on its own motion, on request of an advocate or on request of a collegium of advocates or a united bureau of advocates.

Chapter X
THE ORGANISATION OF AND PAYMENT FOR THE ADVOCATE'S PRACTICE. INSURANCE AND TAXES

Article 60. The organization of the advocate's practice

(1) An advocate shall provide legal assistance on the basis of an agreement on legal assistance concluded with a client in writing.

(2) The authority of an advocate shall be confirmed by an order. The form of an order shall be a document of a strict accountability. The content, form and the manner of use shall be regulated by the Government.

(3) An advocate shall have a right to leave, social security benefits and state pension.

(4) Awarding of and paying of social security benefits and state pensions to advocates shall be made in accordance with the law.

(5) Advocates shall be entitled to set up in accordance with law foundations for meeting their social needs (pension, insurance foundation etc).

(6) The period of the advocate's practice shall be included in their job record.

Article 61. Civil liability insurance

(1) For the purpose to compensate material damage caused in the course of discharging of professional duties, an advocate shall be entitled to conclude in accordance with law a contract of civil liability insurance.

(2) The minimal sum of insurance for one year of activity shall be established by the Council of the Association of Advocates.

Article 62. The uniform of advocates

(1) An advocate shall be obliged to appear before judicial authorities wearing a gown.

(2) A model of a gown shall be approved by the Council of the Association of Advocates.

(3) Wearing a gown outside a court house shall be prohibited except occasions when an advocate is commissioned by a collegium of advocates to represent the advocate's profession at events which require wearing of such uniform.

Article 63. Payments for the advocate's activity

(1) The advocate's activity shall be paid for from fees received from individuals and legal entities.

(2) A sum of a fee shall be defined by agreement of parties and cannot be changed by a public authority or a court.

(3) The state shall afford to advocates payments for providing legal aid in accordance with the Law on Legal Aid Guaranteed by State.

(4) Costs incurred by a client in connection with receiving advocate's legal assistance in the course of ensuring the defense of client's rights and legitimate interests in criminal, civil, administrative cases shall be compensated by other party to the case in full and proportionally to upheld (dismissed) claims.

(5) Costs incurred by an advocate in connection with providing legal assistance in organs of criminal investigation and courts in criminal, civil, administrative cases shall be considered simultaneously with a decision on the substance of the case without a preliminary procedure.

Article 64. The ban on advertising

(1) An advocate shall be prohibited to use for the attraction of clients, either in person or through another person, means which are incompatible with prestige of the profession.

(2) An advocate shall be prohibited to use advertising or publicity means resorting to methods specified in paragraph (1).

(3) The Association of Advocates shall examine occasions and the extent of informing of public by an advocate about his/her activity.

Article 65. Relationships between advocates and public authorities

(1) The state shall guarantee to advocates a possibility to exercise of the professional activity and create appropriate conditions.

(2) The Ministry of Justice within it competence shall:

a) assist to advocates and organs of their self-governance in the process of exercising of their activities;

b) assist in improving the qualification of advocates;

c) on request of an advocate and a united bureau of advocates shall afford the methodological support;

d) issue licenses to the advocate's practice and keep the advocates' register;

e) register advocate's offices and united bureaus of advocates and keep the respective register;

f) approve documents specified by the present Law.

(3) The organs of local public self-governance:

a) shall assist to advocates' bureaus in providing with appropriate premises;

b) if there is a need shall grant to advocates' bureaus and associations of advocates privileges, in particular in the sense of the rent for premises;

c) take other measures aimed at providing a free access to qualified legal assistance and with this purpose cooperate with organs of the advocates' self-governance.

Association of Advocates of the Republic of Moldova

Advocacy Charter
29 January 2011

Chapter 1
GENERAL PROVOISIONS

Article 1. The definition of advocacy

(1) Advocacy shall be a free and independent activity with autonomously organized, operated and managed in accordance with conditions set forth by the Law on Advocates № 1260-XV of 19.07.2002 (hereafter Law) and the present Charter.

(2) The purpose of advocacy shall be the implementation and protection of rights, freedoms and legitimate interests of individuals and entities.

(3) Advocates shall be qualified persons authorized by the Law to act on behalf of their clients, practise law, appear before courts, law enforcement bodies and public authorities, or to advise clients and represent them in legal matters.

Article 2. The regulation of advocacy

(1) The legal basis of advocacy shall be the Constitution of the Republic of Moldova, Law on Advocates and other laws governing advocacy, as well as international treaties in which the Republic of Moldova is a party.

(2) Conditions of the organization of advocacy, limits and guarantees of providing legal aid and the procedure for the admission to practise as an advocate shall be strictly regulated by the Law and the Advocacy Charter.

Article 3. Principles of advocacy

(1) Advocacy shall be practiced on the basis of the following key principles:

a) principle of lawfulness;

b) principle of freedom;

c) principle of independence;

d) principle of humanism;

e) principle of confidentiality;

f) principle of ensuring the right to defense guaranteed by the Constitution;

g) principle of democracy and collegiality in relationships between advocates;

h) principle of a voluntary membership in professional associations of advocates.

(2) The principles define the status, as well as guarantee the professional activity of advocates.

Article 5. Practicing of advocacy by foreign advocates

(1) Foreign advocates may pursue advocate's activities in the territory of the Republic of Moldova if they meet requirements set forth by the Law, with exception of the citizenship requirement.

(2) Foreign advocates may pursue the professional activities in the territory of the Republic of Moldova if their advocate's status is confirmed by a home state and is registered in a special Register of the Association of Advocates of Moldova.

(3) Foreign advocates may not represent individuals and entities before courts and public authorities but the international commercial arbitrage. When interests of a client require, as well as on request of the client, a foreign advocate may assist to a Moldovan advocate.

(4) A foreign advocate may pursue professional activities being a member of an advocate's office or a united bureau of advocates on the basis of an agreement. In administrative and criminal matters a foreign advocate shall be assisted by a Moldovan advocate.

(5) The Register of foreign advocates authorized to practise in the territory of the Republic of Moldova shall be published in the official web site of the Association of Advocates.

Article 7. Consequences of concluding an agreement on legal assistance

If an advocate undertakes to provide legal assistance and the representation of a client in proceedings, he/she shall assume duties established by the Law, the present Charter and a particular agreement and carry out responsibilities for consequences followed from discharging the duties.

Article 8. Providing legal aid guaranteed by state

(1) Legal aid guaranteed by state shall be provided in accordance with the procedure established by the Law.

(2) An advocate commissioned to ensure defense guaranteed by state shall exercise rights and duties provided for by the legislation and the Advocacy Charter and shall carry out these duties in interests of his/her client.

(3) Providing legal aid guaranteed by state in cases specified by the Law shall be organized only by territorial offices of the National Council for Legal Aid Guaranteed by State (subparagraph c) of paragraph (2) of Article 14; Articles 26 and 27 of the Law on Legal Aid Guaranteed by State).

(4) Duties of an advocate who was appointed to provide legal aid guaranteed by state shall cease at the moment when an advocate of own choosing is appointed. A dismissed advocate shall be entitled to receive a fee for his/her assistance provided until the moment of the dismissal

(5) An advocate who provides legal aid guaranteed by the state shall be entitled to receive a fee in the amount which is specified in accordance with rates established by the National Council for Legal Aid Guaranteed by State and which commensurate with the nature and complexity of a case.

Article 9. Types of qualified legal assistance

(1) Assistance to a client and representation of a client shall include all actions permitted by the Law, as well as methods and transactions necessary to protect and defend interests of a client.

(2) In the process of providing assistance, an advocate may certify copies of documents and extract from them, verify signatures on documents which are necessary for providing assistance. An advocate may not commit such actions in his/her own interests, as well as interests of members of his/her family up to the fourth degree of consanguinity including cousins.

(3) Pursuing any activity assigned to the advocate’s profession by a person who does not have the advocate’s status shall be prohibited under threat of the punishment prescribed by law.

Article 10. Quality of legal assistance

(1) Legal assistance provided by an advocate shall comply with best professional practices in the field of law, substantive and procedural rules and be subject to professional ethics.

(2) Providing legal assistance to a client and his/her representation requires appropriate professional diligence and thorough preparation of cases according to the nature of the case and expertise available.

Chapter II
ADVOCATES

Article 11. Professional training of advocates

(1) Advocates shall constantly enhance their knowledge and improve their professional training.

(2) Bodies of advocate's profession and their subordinate agencies shall be obliged to provide conditions necessary for the continuous training of advocates. This obligation shall concern in particular the development and application of professional ethics and professional standards in this area.

(3) For the purpose of meeting the requirement of ensuring the continuous training based on high legal culture and thorough preparation for the exercise of activities which fall within public interest, the continuous training shall be organized by the Association of Advocates, collegiums of advocates and organizational forms of advocate's practice.

(4) The continuous training shall be organized in following forms:

a) activities coordinated and carried out under the auspice of the Association of Advocates;

b) participation in programs, seminars, meetings, conferences, congresses and other events of such kind organized with the purpose of enhancing knowledge and development of methods of carrying out of advocate's activities;

c) training on-line;

d) preparation and publication of notes, articles, essays, studies devoted to legal matters;

e) special events organized by the Association of Advocates and collegiums of advocates in educational institutions;

f) activities organized together with educational institutions or institutions of professional training in fields relating to the advocacy;

g) any other actions recognized by bodies of the advocate's profession.

(5) The exercise of control of the continuous training shall fall within the responsibility of the Association of Advocates and shall be carried out in accordance with regulations adopted by the Congress of Advocates and the Council of the Association of Advocates.

(6) For the purpose of ensuring a consistent and uniform implementation of the continuous training at the national level, the Council of the Association of Advocates, on the basis of Congress of Advocates' resolutions, shall prepare an annual program of the evaluation and systematic monitoring of the continuous training of advocates, paying attention to the cooperation between collegiums of advocates. Bodies of the advocate's profession shall regularly check the level of the continuous training of each advocate.

Article 12. Conflicts between advocates

(1) Conflicts between advocates which relate to professional matters shall be subject to review by a collegium of advocates, the Ethics Commission or the Council of the Association of Advocates.

(2) A person concerned shall submit an application on the nature of a conflict to the dean of a collegium or lodge an application with the Ethics Commission or the Council of the Association of Advocates.

(3) The content of an application shall be communicated to a defendant who should be invited to give his/her written explanations.

(4) Differences arising between advocates regarding the exercise of the profession shall be resolved on the basis of mutual agreement. Having failed to resolve a dispute by

mutual agreement, advocates may ask, in a manner prescribed by the present Charter, to intervene either the dean of a collegium, or the Council of the Association of Advocates, or the Chairman of the Association of Advocates.

(5) If a dispute cannot be resolved by mutual agreement an advocate may apply to a court.

(6) Any advocate disputing with another advocate shall inform the dean of a collegium who shall resolve the dispute in a manner prescribed by the Law and the present Charter.

(7) The dean of a collegium shall be informed of disputes between advocates and magistrates or between advocates and other public authorities. The dean shall take appropriate measures and notify the Chairman of the Council of Association of Advocates or the Association of Advocates.

(8) If a dispute between advocates of different bureaus cannot be resolved by deans of respective collegiums, they shall apply to the Chairman of the Council of Association of Advocates or the Association of Advocates.

Article 13. Incompatible occupations

(1) In order to be admitted to advocacy a person may not be in a situation of incompatibility specified by the Law.

(2) Advocacy is incompatible with:

a) pursuing any paid activity with exception of academic, educational activities and the occupation of an arbitrator of a court of arbitrage;

b) entrepreneurial activity;

c) notary activity;

d) other activity which undermines prestige and independence of advocacy or rules of ethics.

(3) The Council of the Association of Advocates shall on its own motion check and consider cases of incompatibility specified by the Law.

(4)An advocate who happened to be in a situation of incompatibility shall inform in writing the Council of an advocates' bureau; a failure to report the situation of incompatibility shall be considered a serious disciplinary offence resulting in an appropriate disciplinary measure.

(5) The exercise of advocacy after the situation of incompatibility occurred shall be considered illegal.

Article 14. The right to practise advocacy

(1) The right to exercise advocate's activity shall be granted by giving a license to a person who passed the qualification exam, registered an organizational form of advocacy and vowed oath.

(2) A person who failed to meet the requirements of paragraph (1) of the present Article may not be included in the List of Advocates eligible to practise as an advocate.

Article 15. The suspension of the advocate's practice

(1) The advocate's practice may be suspended by the Council of the Association of Advocates in following cases:

a) on a written application of an advocates if there is a valid reason;

b) in case of incompatibility - for the period of the situation;

c) for the period of the prohibition to exercise such activity by a court decision or a decision of a disciplinary body;

d) in case of a failure of an advocate to pay during six months a fixed fee to the budget of the Association of Advocates – until clearing the debt;

e) until he/she pays a fine in accordance with paragraph 1 of section 1 of Article 57 of the Law;

f) in other cases specified by the Law.

(2) Within 10 days the license and the permit of an advocate whose practice was suspended shall be returned to the Council of the Association of Advocates where they shall be stored during the period of suspension. An advocate whose practice is suspended shall pay a membership fee during the period of suspension.

(3) Within 10 days from the date of suspension, the Council of the Association of Advocates shall make a note in the List of Advocates and publish the information in the Official Monitor of Moldova.

Article 16. The termination of the advocate's practice

(1) The advocate's practice shall be terminated in following cases:

a) refusal in writing to practise as an advocate;

b) annulment of the advocate's license in cases established by law;

c) conviction by the final judgment for an action punishable under criminal law and incompatible with rules of ethics provided for advocates;

d) decease of an advocate.

(2) Within 10 days an advocate whose practice was terminated shall return to the Council of the Association of Advocates his/her license and advocate's permit; a failure to rerun the permit shall be considered a disciplinary offence.

(3) The termination of the advocate's practice shall be confirmed by a decision of the Council of the Association of Advocates and the Ethics and Disciplinary Commission. As a result of termination of the advocate's practice, the advocate concerned shall be excluded from the List of Advocates entitled to practise.

(4) Within 10 days from the date of termination of the advocate's practice, the Council of the Association of Advocates shall make an entry in the List of Advocates and publish the information in the Official Monitor of Moldova and on the web site of the Association of Advocates.

(5) An advocate who decided to stop practicing by refusal shall submit his/her application and shall terminate agreements with his/her clients who he/she cannot provide with assistance. The advocate shall submit to the dean of a collegium the list of unfinished cases.

Article 17. Advocate-intern

(1) A legally capable citizen of the Republic of Moldova who obtained a diploma of a licentiate of law, passed the exam on admission to the internship and concluded a contract on professional internship with an advocate may practise as an intern.

(2) Persons indicated in paragraph 3 of Article 10 of the Law may not become internes.

(3) An advocate-intern may provide paid legal assistance to clients in courts, appeal chambers and before public authorities, with exception of criminal cases and cases concerning offences.

(4) The work of an advocate-intern shall be paid for in accordance with rules established for advocates and only after having received the permit of an advocate-intern.

(5) An advocate-intern shall be subject to the same principles which regulate activities of an advocate.

(6) An advocate-intern shall be subject to the same tax regime which is applicable to advocates.

Article 18. Duties of an advocate-intern

(1) An advocate-intern shall be obliged to:

a) pay for his/her internship;

b) complete the initial training. The duration of the initial training may not be shorter than 80 hours throughout the professional internship;

c) provide a client with legal assistance on the basis of an agreement on legal assistance concluded in accordance with the established procedure and validated by an advocate-mentor;

d) keep professional secrets.

(2) An advocate-intern shall be obliged to study:

a) national and international rules concerning the advocate's practice;

b) existing criminal, civil, administrative, labour, family, financial, procedural and other legislation;

c) judgments of the Supreme Judicial Chamber and the European Court of Human Rights;

d) judicial practice in various fields of law.

(3) An advocate-intern shall abide the Constitution, international treaties to which Moldova is a party, the Law, the Code of Advocate's Ethics and the present Charter.

(4) An advocate-intern shall have an individual plan of the internship with enclosed drafts and copies of documents and shall follow instructions of an advocate-mentor.

(5) An advocate-intern shall keep case files in which he/she participated and provided legal assistance.

(6) An advocate-intern shall be subject to the disciplinary liability in case of committing breaches of provisions of the Law, the Code of Advocate's Ethics, provisions of the present Charter and provisions of other laws which regulate the advocate's practice.

(7) An advocate-intern shall carry personal responsibility for the quality of provided legal assistance and shall be disciplinary liable in accordance with the procedure set forth in Chapter IX of the present Charter.

(8) An agreement on professional internship may be annulled in case of committing by an advocate-intern of serious offences, in particular:

a) a failure to fulfill duties of an advocate-intern;

b) a failure to comply with the individual plan of the internship;

c) a failure to comply with instructions of an advocate-mentor;

d) a disclosure of professional secrets;

e) a violation of requirements of the present Charter.

Article 19. Specialists

(1) For ensuring technical support in the course of providing legal assistance, a united bureau of advocates or an advocate's office may hire specialists who acquire knowledge in various fields.

(2) Specialists shall not have rights of advocates and shall not provide legal assistance on their own.

(3) An employed specialist shall keep professional secrets.

(4) Working conditions and a manner of paying for the work of a specialist shall be set forth in an agreement.

Article 20. The permit

(1) Permits shall be issued by the Council of the Association of Advocates, signed by the Chairman of the Association of Advocates and sealed with a stamp of the Association.

The permit shall confirm the status of an advocate-intern or a member of the Association of Advocates.

(2) Templates of permits shall be approved by the Council of the Association of Advocates.

Chapter III
ADMISSION TO ADVOCACY

Article 21. The admission to the exam for the professional internship

(1) A legally capable citizen of Moldova who obtained a diploma of a licentiate of law and is not incompatible in the sense of requirements provided for the advocate's practice may be admitted to sit the exam on admission to the professional internship.

(2) An application for the admission to sit an exam for the professional internship shall be submitted to the Commission for Licensing of Advocacy of the Association of Advocates of Moldova. Following documents shall be enclosed:

a) a copy of an identity document;

b) a copy of a diploma of a licentiate of law;

c) a copy of a job record book if there is such;

d) a certificate confirming the absence of criminal record;

e) a medical certificate;

f) a declaration that an applicant undertakes to refrain as of the moment of the admission to the professional internship from pursuing activities which are prohibited by the Law for being incompatible with the advocate's practice;

g) a receipt confirming the payment for the admission to sit the internship examination ;

h) a statement of an advocate willing to be a mentor.

(3) The Commission for Licensing of Advocacy shall organize the exam for the admission to the professional internship in the periods from March to May (spring session) and from September to November (autumn session). If there is a need the Commission for Licensing may organize the exam in other periods. Meetings of the Commission for Licensing shall be qualified if no less than 2/3 of its members attend.

(4) The Commission for Licensing shall take a decision on the admission to the professional internship and communicate it to a candidate concerned together with an invitation to sit the exam.

Article 22. The organization of the exam for admission to the professional internship

(1) After having received documents, the Secretary of the Commission for Licensing shall verify them and register a candidate in a special register.

(2) Documents submitted by a candidate shall be kept in a file which should be given a number in the register of candidates.

(3) The exam for admission to the professional internship shall consist of a test of 400 questions taken from 1000 questions published on the official web site of the Association of Advocates. The test shall be the same for all candidates sitting the examination. The test can be done either in writing or in an electronic form.

(4) If the test is to be done in writing, candidates shall receive pens. Before starting the test, candidates shall fill in examination cards in which they write their surname, name and date and put a signature.

(5) For each question there shall be three possible answers and a candidate shall choose by ticking the one which he/she considers correct. A candidate may not change the

selection of the answer after having marked one option. In case of making marks in front of several possible answers, all answers shall be considered wrong.

(6) The test should be done within 3 astronomic hours. The Chairman of the Commission shall be obliged to announce the time of the end of the exam and make a warning 15 minutes before the time expires.

(7) After having completed the work, or after the time for answering the test expired, a candidate shall hand over his/her paper to the Secretary of the Commission for its registration. The paper shall be considered handed over after the Secretary of the Commission verified its state and the candidate put his/her signature in a bulletin.

(8) It is considered that a candidate passed the test if he/she answered correctly on no less than 350 questions.

(9) After the end of the exam and receiving all candidates' papers, the Secretary of the Commission shall encode the papers according to examination cards. The code shall be indicated on the papers and in the examination cards. Later, the examination cards shall be separated from the papers and shall be kept until checking the tests in a sealed envelope with the Secretary of the Commission.

Article 23. Admission to the professional internship

(1) A candidate who answered correctly on 350 out of 400 questions of the test shall be considered to be admitted to the professional internship.

(2) Within 10 days from the date of the exam, the Commission for Licensing shall adopt a decision on admission to the professional internship and notify a candidate.

(3) After having passed the exam for admission to the professional internship a candidate shall obtain the status of an advocate-intern and shall be issued with the permit of an advocate-intern.

(4) A decision by which Commission for Licensing refuses to admit to the professional internship may be appealed against to the administrative court.

Article 24. The professional internship

(1) After having being admitted to the professional internship, an advocate-interne shall present to the Council of the Association of Advocates a contract concluded between him/her and a advocate-mentor for its registration, as well as receipt confirming a payment for the internship.

(2) The duration of the professional internship shall be 18 months. The internship shall be obligatory in cases specified by the Law.

(3) The professional internship shall be suspended for a period of military service, due to unavailability of an advocate-intern for valid reasons, or in the event of the termination of the professional internship which occurred not due to his/her fault. The period of the uncompleted internship may be included in the period of the following internship if from the date of the uncompleted internship passed less than 18 months.

(4) The internship shall be suspended if an advocate-intern undertakes activities incompatible with the advocate’s practice.

(5) The suspension of the professional internship shall be approved by the Council of the Association of Advocates which makes a decision taking into account circumstances justifying the suspension and the extension of the uncompleted internship.

(6) The internship may be terminated earlier on request of an advocate-intern or on motion of the Council of the Association of Advocates in cases set out in the Law and pursuant a decision of the Commission on Ethics and Discipline of the Association of Advocates.

(7) If there passed three years from the moment of the completion of the professional internship an advocate-intern may sit the qualification exam if he/she undergoes the professional internship the duration of which should be at least three months.

Article 25. Rights and duties of an advocate-mentor towards an advocate-intern

(1) The professional training of an advocate-intern shall be carried out by an advocate-mentor on the basis of a concluded agreement.

(2) The professional training of an advocate-intern shall be provided by advocates who possess qualities established by the Law: at least 5 years of experience in the advocate's practice, impeccable reputation, professionalism, a private office or a united bureau of advocates, appropriate facilities; and meet certain requirements specified in a resolution of the Council of the Association of Advocates.

(3) An advocate may not be a mentor for more than 2 advocates-internes simultaneously.

(4) An advocate-mentor shall:

a) prepare an individual plan of the internship;

b) coordinate and control the internship;

c) create an appropriate environment and help to the fulfillment of the plan of the individual professional internship;

d) contribute to the professional development;

e) assist to an advocate-intern if latter takes part in the court proceedings.

(5) In the end of the professional internship an advocate-mentor shall make an objective appraisal and either recommend or to refuse to recommend for the sitting of the qualification exam.

Article 26. Rights and duties of the Council of the Association of Advocates towards an advocate-intern

(1) the Council of the Association of Advocates shall ensure a uniform nature of the internship and the qualification exam.

(2) the Council of the Association of Advocates shall register contracts of the completion of professional internships.

(3) the Council of the Association of Advocates shall consider disputes and conflicts concerning the professional internship and provide conditions for the completion of the initial training.

Article 27. The organization of the qualification exam

(1) In order to be admitted to the qualification exam an advocate-intern shall submit to the Commission for Licensing of Advocacy following documents:

a) an application for admission to the qualification exam;

b) a declaration on refraining from incompatible activities prohibited by Law during the professional internship;

c) a statement given under oath with an enclosed reputation questionnaire filled in by the Commission on Licensing;

d) a report on activities;

e) an opinion on personal qualities given by an advocate-mentor;

f) the permit of an advocate-intern.

(2) The Commission shall consider an application for admission only if all the documents required by the Law are submitted.

(3) A candidate shall be admitted to sit the qualification exam only if he/she meets requirements specified by the Law and the present Charter.

(4) Candidates shall be admitted to sit the qualification exam in the order of entries in the Register of candidates. In case of not being admitted, a candidate concerned may request an extract from a decision of the Commission for Licensing. The extract should be served on within 72 hours.

(5) The date and time of the qualification exam shall be set by the Commission for Licensing, published on the official we site of the Council of the Association of Advocates and communicated to candidates no later than 10 days before the exam.

(6) The entrance to the examination room shall be allowed according to lists approved by the Commission and identity documents of candidates. After the verification of the identity, a candidate shall keep his/her ID on table until the end of the exam. The presence of each candidate shall be noted in the list.

(7) Candidates may not leave the examination room during the exam.

(8) Access to the examination room during the exam shall be allowed to members of the Commission, the Secretary of the Commission, the Chairman of the Council of the Association of Advocates, members of the Council of the Association of Advocates who were authorized to be present at the exam and inform the Council of the Association of Advocates of the examination process.

(9) Breach of discipline or committing fraud or attempted fraud by a candidate shall be punished by the elimination from the competition. There shall be made a note in a record whereas a paper of such candidate shall be annulled with a label "fraud".

(10) The list of subjects which will form the basis of examination questions shall be drawn up and selected by members of the Commission and published on the official web site of the Association of Advocates.

(11) Changes to the list of the subjects for the qualification exam may be done no later than 30 days before holding the exam.

(12) The qualification exam shall consist of two rounds:

a) the first round – a written test;

b) the second round – an oral test.

(13) The admission of candidates to each of round of the qualification exam shall be made on the basis of decisions of the Commission for Licensing which can be appealed against to the Commission for Licensing within 72 hours from the moment of the announcement of results. In case of establishing of a violation of the examination procedure, the Commission for Licensing shall take measures in order to remedy rights of a candidate.

(14) Marks for the qualification examination may not be appealed against.

(15) Minutes of meetings, decisions of the Commission for Licensing, candidates' papers and documents shall be kept at the Association of Advocates.

a) THE FIRST ROUND – WTITTEN TEST

(1) The purpose of the written test shall be the determination of the level of knowledge and practical skills in the presentation of theoretical knowledge in the field of law; the test shall include practical exercises from the judicial practice selected by the Commission.

(2) The test shall include the analysis of 3 practical exercises made in writing.

(3) After the distribution of sheets, each of them shall be numerated in the upper right corner by Arabic numerals inscribed in a circle. Use of other sheets or pens except those distributed during the qualification exam by the Secretary of the Commission shall be strictly forbidden.

(4) An answer shall be filled in accurately on both sides of the sheet. Only recognized abbreviations shall be allowed.

(5) Before starting the answering, a candidate shall first fill in an examination card. A template of the examination card shall be approved by the Commission.

(6) Candidates shall be obliged to write examination questions on the first page of their paper. Answers shall be written starting from the first question. An answer to each following question shall be written in a new page.

(7) After the completion of the written phase of the qualification exam and collecting papers of all candidates, the Secretary of the Commission shall encode the papers according to the examination cards. A code shall be indicated both on the paper and the examination card. Later, the examination cards shall be separated from the papers and be kept by the Secretary of the Commission until the moment of evaluation of papers by the members of the Commission.

(8) The members of the Commission shall begin the evaluation of the papers only after they were encoded by the Secretary of the Commission.

(9) Each of three questions shall be evaluated on the basis of the 10-point system from 1 to 10.

(10) Each member of the Commission shall write marks for a paper in an examination card.

(11) Based on the evaluations of each member of the Commission who checked a paper, the average score of each candidate shall be calculated.

(12) The average score for a paper shall be calculated on the basis of marks given by every member of the Commission to each answer in the paper.

(13) A candidate who scored at least 8 points which is recognized by the Congress of Advocates as a mark confirming the compliance with minimum eligibility criteria shall be considered passed the qualification exam.

b) THE SECOND ROUND – ORAL TEST

(1) Candidates who passed the written exam shall be admitted to the second round.

(2) The second round shall be organized no later than 15 days after the written exam.

(3) The purpose of the exam shall be the determination of skills of the presentation, argumentation, as well as the determination of the level of analysis, identification, commenting and interpretation of personal views in respect of three case studies from the judicial practice selected by lot. The candidate shall draw lots in the presence of the members of the Commission.

(4) Each candidate shall be given 60 minutes for the preparation of his/ her answer. A verbal answer shall be recorded by audio or video equipment. The records shall be kept during 6 months at the Association of Advocates of Moldova.

(5) Each of practical exercises shall be evaluated on the basis of the 10-point system from 1 to 10.

(6) The average score for the oral test shall be calculated on the basis of the average mark for each of 3 practical exercises given by each member of the Commission.

(7) A candidate shall be considered successful if he/she scored at least 8 points.

(8) The final decision of the Commission for Licensing of Advocacy shall be forwarded within 10 days from the date of its adoption to the Ministry of Justice for the issuing of a license.

(9) A candidate who failed to pass the exam may be admitted to sit it again no earlier than 6 months after the previous examination.

Article 28. The admission to the advocate's practice

(1) Based on results of the exam, the Commission for Licensing takes a decision on admission to the advocate's practice. The Chairman of the Commission shall announce results of the exam and a list of candidates admitted to the advocate's practice. The Secretary of the Commission draws up minutes of the Commission's meeting. The minutes should be prepared within 3 days, signed by the Chairman of the Commission and the Secretary.

(2) All cases of admission to the practice without having sitting the examination shall be considered by the Commission for Licensing on an individual basis.

(3) Within 10 days from the date of the exam, a decision to admit to the advocate's practice shall be published on the website of the Association of Advocates and communicated to a person who passed the qualification exam.

(4) The submission of documents containing incorrect information may be a ground for the refusal to admit to the advocate's practice.

Chapter IV
LICENSING OF THE ADVOCATE'S PRACTICE

Article 29. Issuing of the license

(1) The license to practice as an advocate issued by the Ministry of Justice in accordance with the Law shall be the only document which confirms the admission to the advocate's practice and the advocate's status.

(2) The license to practice as an advocate shall be issued by the Ministry of Justice within 10 days from the date of the submission of an application.

(3) The license to practice as an advocate shall be issued for an unlimited duration and be valid in the entire territory of Moldova.

(4) A refusal to issue the license to practice as an advocate may be appealed against to the administrative court.

(5) Issuing of the license to practice as an advocate shall cost 450 leus which should be paid on a bank account of the Ministry of Justice in one of banks of Moldova.

Article 30. The annulment of the license to practice as an advocate

(1) The license to practice as an advocate shall be annulled on following grounds set forth by the Law (Article 25):

a) a repeated failure of an advocate to carry out his/her duties during one year if earlier a measure of disciplinary liability was applied to him/her;

b) continuing the advocate's practice after the latter was suspended or a failure to return to the Association of Advocates the license and the permit by an advocate whose practice was suspended;

c) a repeated violation by an advocate of conditions to provide legal aid guaranteed by state;

d) a repeatedly unjustified refusal to provide legal aid guaranteed by state on request by a territory office of the National Council for Legal Aid Guaranteed by State;

e) the establishment of facts which confirm unlawfulness of obtaining the license by an advocate;

f) a serious violation of the Code of Ethics of Advocates;

g) entering into force of a court decision convicting of an advocate;

h) loss of the citizenship of Moldova after an advocate obtained his/her license;

i) a serious violation of conditions of an agreement on providing legal assistance;

j) a failure to indicate in an agreement on providing of legal assistance a sum of fees received from a client or indicating an incorrect sum.

(2) The license to practice as an advocate shall be annulled by the Ministry of Justice on the basis of a decision of the Commission for Ethics and Discipline. In cases specified by point d) of paragraph 1 of Article 25 of the Law (a repeatedly unjustified refusal to provide legal aid guaranteed by state on request by a territory office of the National Council for Legal Aid Guaranteed by State), the license to practice as an advocate shall be annulled by the Ministry of Justice on proposal of the National Council for Legal Aid Guaranteed by State and after having consulted the Commission for Ethics and Discipline.

(3) A decision to annul the license to the advocate's practice may be appealed against to the administrative court.

(4) The license and the permit of an advocate whose practice was annulled shall be returned to the Council of Advocates within 10 days.

(5) Within 10 days from the date of suspension or annulment of the advocate's practice, the Council of Advocates shall make a note in the List of Advocates entitled to practice as advocates and publish the information in the Official Monitor of Moldova.

Article 31. Oath of advocate

(1) An advocate shall vow following oath: "I, advocate (surname, name), swear to enhance the protection of rights, freedoms and legitimate interests of a man, carry our advocate's duties diligently and honestly, keep professional secrets and do not compromise professional reputation of an advocate."

(2) Vowing oath shall be obligatory for all persons starting the advocate's practice. The text of oath shall be signed by an advocate, vowed before the Council of the Association of Advocates after receiving the license and be kept in the personal file of an advocate.

Article 32. The personal file of an advocate

(1) The personal file in respect of each person who was granted the advocate's status shall be collected and kept at the Council of the Association of Advocates.

(2) The personal file shall include:

a) a copy of the license to the advocate's practice;

b) a copy of the advocate's permit;

c) the text of the signed by an advocate;

d) a copy of a decision and an extract from the Ministry of Justice's Register about the registration of an advocate's office/united bureau of advocates;

e) an extract from minutes of a united bureau of advocates concerning the becoming a member of the bureau;

f) a copy of a decision of the Ministry of Justice on re-registration of an advocate's office/united bureau of advocates (in connection with the change of address, contact details, admitting new members);

g) a copy of a decision of the Commission for Licensing of the advocate's practice;

h) a copy of a decision of the Commission for Ethics and Discipline;

i) information on awards of an advocate;

j) information on disciplinary measures;

k) copies of decisions on suspension of the advocate's practice;

l) contact details (numbers of landline, mobile telephone, address, e-mail).

(3) The period of the storage of the personal file of an advocate shall be 75 years.

Article 33. The List of Advocates entitled to practice as advocates

(1) Every year no later than 25 December, the Council of the Association of Advocates shall publish in the Official Monitor of Moldova the List of Advocates entitled to practice as advocates. The List should also be published on the official web site of the

Association of Advocates. A copy of the List should simultaneously be forwarded to the Ministry of Justice.

(2) Within 10 day after admission to the advocate's practice according to Article 12 of the Law, the Council of the Association of Advocates shall include an advocate in the List of Advocates entitled to practice.

(3) An advocate whose practice is terminated shall be excluded by the Council of the Association of Advocates from the List of Advocates entitled to practice as advocates.

(4) A dean of a collegium of advocates shall inform the Council of the Association of Advocates of all cases when legal assistance was provided by persons who are not included in the List of Advocates entitled to practice as advocates.

(5) The Council of the Association of Advocates Совет Союза shall inform competent authorities of persons who provide legal assistance unlawfully.

Chapter V
ORGANISATIONAL FORMS OF ADVOCATE'S PRACTICE

Article 34. Organizational forms

(1) The advocate's practice may be exercised only in one of the forms envisaged by the Law on choice of an advocate: an individual advocate's office or a united bureau of advocates. Both forms shall be registered by the Ministry of Justice within 1 month from the date of submission of documents specified by the Law (Article 32).

(2) An advocate may be a founder of only one advocate's office or one united bureau of advocates.

(3) An advocate may change an organizational form of the practice in accordance with the Law.

(4) Organizational forms of the advocate's practice shall comply with following principles:

a) common property for the exercise of the professional activity;

b) an obligation to inform a collegium of advocates in writing of setting up or changing an organizational form of the advocate's practice;

c) personalization by choosing a name in accordance with provisions of the Law and the present Charter;

(5) One advocate may be a member only one collegium of advocates and cannot practice within several organizational forms in the same time.

(6) An advocate's office or a united bureau of advocates shall operate on same legal and economic conditions and cannot be discriminated on financial, tax or other.

Article 35. An advocate's office

(1) An advocate's office shall be operated by one advocate – its founder.

(2) An advocate's office shall operate and act as an individual person.

(3) The only professional activity which can be pursued by a founder of an advocate's office shall be the advocate's practice.

(4) An advocate who sets up an advocate's office may not have the status of an advocate of a united bureau of advocates or a specialist in advocacy.

(5) A founder of an advocate's office can hire specialists and technical assistants.

(6) An advocate's office shall have a bank account and a seal.

(7) An advocate's office shall be named as for example: "The advocate's office of Petru Petresku".

(8) The dissolution of an advocate's office shall be made in accordance with the civil legislation.

(9) An advocate's office shall keep a register of agreements on providing legal assistance which were concluded between a founder and advocates-interns.

Article 36. A united bureau of advocates

(1) A united bureau of advocates shall be set up by two or more advocates (founders of the bureau) who pursue their professional activity independently. They cannot pursue other professional activities.

(2) A united bureau of advocates shall be considered a legal entity and shall be named (for example: "The United Bureau of Advocates "Certitudine"), shall have a bank account and a seal.

(3) The dissolution of a united bureau of advocates shall be made in accordance with the civil legislation.

(4) A united bureau of advocates shall keep a register of agreements on providing legal assistance which were concluded between founders and advocates-interns.

(5) Relationships between advocates of a united bureau of advocates shall be regulated by an agreement.

(6) A united bureau of advocates shall be led by an advocate elected by members of the bureau.

(7) The head of a united bureau of advocates can hire specialists and technical assistants.

Article 37. The registration of the organizational forms

(1) The registration of an advocate's office and a united bureau of advocates shall be made by fixing them in a register which is kept by the Ministry of Justice.

(2) An application for re-registration, change, transformation, re-organization, taking-over, dissolution or liquidation shall be submitted to the Ministry of Justice. The application shall be obligatory complemented by copies of all justification documents. All changes shall be reflected in the register.

(3) An advocate's office and a united bureau of advocates shall be provided with an extract from the register which is considered as a document for tax authorities, as well as for the fabrication of a seal and opening a bank account.

(4) Documents for the registration of any organizational form of the advocate's practice shall be registered by the Ministry of Justice within 1 month from the date of their submission:

a) an application for registration;

b) a declaration of setting up of an advocate's office or a united bureau of advocates. The template of the declaration shall be approved by the Ministry of Justice;

c) copies of licenses to the advocate's practice;

d) copies of documents indicating the address of an advocate's office or a united bureau of advocates;

e) contact details (telephone number, e-mail and post address);

f) confirmation of the notification of a collegium of advocates to become registered.

(5) The application for registration may be declined in case of a failure to comply with requirements of the Law and the Advocacy Charter.

(6) The application for practising together with an advocate whose right to practice is suspended shall be considered in accordance with relevant provisions of the Law and the present Charter.

(7) The refusal to register an advocate's office or a united bureau of may be appealed against to the administrative court.

Chapter VI
ASSOCIATIONS OF ADVOCATES

Article 38. Associations of advocates

(1) In accordance with the legislation on non-profit organizations advocates can voluntarily set up local, central and international professional associations on the basis of individual or collective membership. These associations shall be duly registered.

(2) Local, central and international professional associations of advocates can provide financial support to its members and their families.

(3) Central and international associations of advocates can have their regional offices.

Chapter VII
BODIES OF ADVOCATES' SELF-GOVERNANCE

Article 39. The organization and operation of bodies of advocates' self-governance

(1) Bodies of advocates' self-governance shall be organized and operate in accordance with the principle of independence within the authority given by the Law and the present Charter.

(2) Continuous tasks of the bodies of advocates' self-governance shall be the implementation of the right to defense, a due organization of access to the advocate's practice, the initial professional training of advocates, the strict compliance with rules of the professional ethics and discipline.

(3) An unlawful appropriation and use of names "Collegium of Advocates" "League of Advocate", "Association of Advocates" (in any variation) by an individual or a legal entity shall be prohibited, regardless the nature of a pursued activity, under threat of a legal penalty for the unlawful use of a name of a legal entity which was set up in accordance with law and in public interest.

(4) The election of the governing organs shall be made by a secret ballot.

(5) Collective organs of governance shall take decisions by an open ballot. Meeting and voting shall be professional secret.

Article 40. The Association of Advocates

(1) The Association of Advocates shall be a legal entity, a body of the advocates' self-governance which unites all advocates included in the List of Advocates. It shall have its own property and an autonomous organizational form. The whereabouts of the Association of Advocates shall be municipality Chisinau.

(2) All collegiums of advocates of the Republic of Moldova which were set up in accordance with the Law shall be ex officio members of the Association of Advocates of Moldova. No collegium may operate without being a member of the Association of Advocates of Moldova.

(3) The property of the Association of Advocates can be used in accordance with conditions laid down by the Law and with a purpose of receiving profit.

(4) The budget of the Association of Advocates shall be made up of:

a) contributions of advocates;

b) fees for the examination for admission to the internship and the qualification examination;

c) fees for the professional internship;

d) fines paid by advocates as a measure of the disciplinary liability;

e) other payments not prohibited by law.

(5) The use of the collected means shall be checked once in four years by an independent audit.

(6) Governing organs of the Association of Advocates shall be:

a) the Congress;

b) the Council of the Association of Advocates;

c) the Chairman of the Association of Advocates;

d) the Secretary-General of the Association of Advocates.

(7) The Association of Advocates shall form following bodies:

a) the Commission for Licensing of Advocacy;

b) the Commission for Ethics and Discipline;

c) the Audit Commission;

d) the Secretariat.

(8) Advocates who have 5-year continuous experience in the advocate's practice may be included in the governing organs and commissions.

Article 41. The Congress

(1) The Congress is the highest organ of the Association of Advocates. It shall be made up of advocates delegated by each collegium of advocates according to the standard of representation established by the Advocacy Charter, and members of the Council of the Association of Advocates.

(2) The standard of representation at the Congress shall be 1:5 (1 delegate from 5 advocates).

(3) Members Council of the Association of Advocates shall be ex officio members of the Congress.

(4) A regular session of the Congress shall be called by the Council of the Association of Advocates once in a year. The convocation of the Congress should be made no later than 1 month before the set date by means of the publication in the Official Monitor of Moldova of the notification of the collegiums of advocates with the simultaneous publication on the official web site of the Association of Advocates of an agenda and materials which will be discussed.

(5) Collegiums of advocates shall elect delegates no later than 10 days before the opening of the Congress. The date and venue, as well as an agenda shall be indicated.

(6) In case of emergency situations and within 10 days from the date of their occurrence, 1/3 of members of collegiums of advocates or the Council of the Association of Advocates on its own motion can call an extraordinary session Congress.

(7) The Congress shall be qualified to take decisions if attended by 2/3 of its members. The Congress shall take decision by majority votes of the attending members. Decisions of the Congress may be appealed against in accordance with the procedure established by law.

(8) Advocates who were not delegated but are willing to attend a Congress's session can participate in its work, without a voting right however, if the Congress does not elect the governing organs.

(9) The Congress shall be led by the Chairman of the Association of Advocates and the Presidium of the Congress which comprises of deans of collegiums of advocates.

(10) The Congress shall elect the Secretariat made up of 3 members. They draft minutes indicating:

a) manner of the convocation of the Congress, a regular or extraordinary nature of the session;

b) year, month, day, time and venue of the Congress's session;

c) number of the attending members;

d) composition of the Presidium of the Congress;

e) agenda approved by the Congress;

f) speeches;

g) adopted decisions and resolutions;

h) all events organized by the Congress.

(11) Decisions and resolutions shall be taken by open ballot.

(12) The Congress shall elect a commission which should count votes. It should consist of at least 5 delegates who were not nominated to the governing organs.

(13) Voting by a secret ballot shall be made by dropping ballot papers in sealed boxes.

(14) In a ballot paper shall be indicated: surname, name of a candidate and a position to which he/she is nominated.

(15) Voting "for" shall be made by leaving unchecked the surname and name of a chosen person; voting "against" shall be made by crossing the surname and name of a suggested person.

(16) Ballot papers which do not carry a control stamp, as well as ballot papers in which the number of elected candidates is bigger than the numbers of the positions shall be considered invalid.

(17) Decisions of the Congress shall be final and binding for all organs of the Association and all advocates.

(18) Decisions of the Congress shall be published in special mass media: the magazine "Avocatul poporului" and on the official web site of the Association of Advocates.

(19) Decisions of the Congress may be appealed against to the administrative court.

Article 42. The competence of the Congress

The Congress shall:

a) elect and dismiss the Chairman of the Association of Advocates and members of the Commission for Ethics and Discipline;

b) develop proposals aimed at the improvement of the legislation;

c) approve and amend the Code of the Advocate's Ethics and the Advocacy Charter;

d) approve the annual budget of the Association of Advocates and a report on its implementation;

e) fix a sum of contributions made by advocates to the budget of the Association of Advocates;

f) fix a sum of fees for the exam for admission to the internship and the qualification exam, a sum of fees for the completion of the internship and a sum of fees for consideration of applications for admission to the advocate's practice;

g) hear and approve annual activity reports of the Council, the Secretary-General and the commissions of the Association of Advocates;

h) take decisions on relationships between collegiums of advocates;

i) take decisions on Association of Advocates' activities specified by the Law.

Article 43. The Council of the Association of Advocates

(1) The Council of the Association of Advocates shall be a competent body which represents advocates of the country and facilitates the continuous work of the Association of Advocates;

(2) The Council of the Association of Advocates shall comprise of the Chairman of the Association of Advocates, deans of collegiums of advocates, and advocates who have at least 5-year professional experience and were delegated by collegiums of advocates in accordance with the standard of representation 1:200 (1 delegate for 200 advocates).

(3) The term of office of a member of the Council of the Association of Advocates shall be 4 years. In case of earlier termination of office of one of the members, his/ her successor shall carry out duties until the end of the term of office.

(4) The Council of the Association of Advocates shall be called once in a month. The convocation shall be made no later than 15 days before the meeting by the notification in writing of members of the Council with the simultaneous publication of an agenda and materials which will be discussed on the official web site of the Council of the Association of Advocates. The course of meetings shall be recorded in minutes which should be signed by the Chairman and the Secretary. Advocates and members of the Association's organs may consult the minutes.

(5) In case of emergency situations and within 5 days from the date of their occurrence, 1/3 of members of the Council of the Association of Advocates or the Chairman of the Association of Advocates on his/her motion can call an extraordinary session Congress.

(6) The Council of the Association of Advocates shall take decisions by majority of votes.

(7) The Council of the Association of Advocates shall:

a) ensure the implementation of Congress's decisions;

b) solve issues concerning advocates' activities between sessions of the Congress except those which fall within the Congress's competence;

c) keep the List of Advocates entitled to the advocate's practice;

d) take decisions on issues concerning the professional training of advocates; approve the program of the initial training for advocates-interns and the program of the continuous training of advocates; approve the list of institutions which provide the professional training;

e) develop recommendations on relationships between collegiums of advocates;

f) ensure a uniform manner of the exam for admission to the internship and the qualification exam;

g) register agreements on completion of the professional internship;

h) solve conflicts and disputes as regards the completion of the professional internship;

i) approve and publish best practices for advocates and instruments for providing legal service of high quality;

j) approve uniform templates of advocates' seals and requisites of documents, depending on an organizational form of the advocate's practice;

k) appoint advocates to the National Council for Legal Aid Guaranteed by State;

l) draw up the annual activity report and submit for the Congress's approval;

m) approve contracts on sums exceeding 50 000 leus concluded by the Secretary-General of the Association of Advocates;

n) approve the organogram of the Secretariat;

o) carry out other functions envisaged by the Law or vested by the Congress.

(8) Meetings of the Council of the Association of Advocates shall be led by the Chairman of the Association of Advocates.

(9) As regards lawfulness and reasonableness of decisions of a dean, the latter shall not vote when the Council of the Association of Advocates takes its decision on this issue. Persons concerned may be invited to make their submissions.

(10) Reasoned decisions of the Council of the Association of Advocates shall be adopted within 30 days from the date of an application and shall be published within 15 days from the date of their adoption.

(11) Lawfulness of decisions of the Council of the Association of Advocates may be questioned before the court following the procedure established by law and within 15 days from their communication.

(12) Decisions of the Council of the Association of Advocates shall be binding.

(13) Appeals against decisions of the Council of the Association of Advocates may be brought before the Congress or the administrative court.

Article 44. The Chairman of the Association of Advocates

(1) The Chairman of the Association of Advocates shall be elected for 2 years from those advocates who have 5-year professional experience. One person cannot be elected for more than two terms in succession.

(2) The Chairman of the Association of Advocates shall:

a) represent the Association of Advocates in relationships with individuals and legal entities in the country and abroad;

b) lead meeting of the Council of the Association of Advocates;

c) sign decisions of the Council of the Association of Advocates;

d) follow relationships between the Association of Advocates and collegiums of advocates, as well as relationships between collegiums of advocates and united bureaus of advocates and advocate's offices;

e) afford assistance to collegiums of advocates in relationships with central and regional authorities;

f) ensure appropriate conditions for the advocates' work in courts, bodies of criminal prosecution and public authorities.

(3) In the absence of the Chairman of the Association of Advocates or on the latter's request, his/her duties shall be carried out by a deputy appointed by the Chairman from members of the Council of the Association of Advocates;

(4) The Chairman of the Association of Advocates shall mediate in disputes between organizational forms of the advocate's practice.

Article 45. The Secretary-General of the Association of Advocates

(1) The Secretary-General shall ensure organizational, administrative, financial and economic activities of the Association of Advocates.

(2) The Secretary-General shall be employed by the Council of the Association of Advocates on the basis of a competition for 5-year term with a possibility of one-time extension for the same term.

(3) In order to be appointed to the position of the Secretary-General an applicant should have a higher education in the field of economics or law and 5-year professional experience.

(4) A competition for the position of the Secretary-General shall be as follows:

a) the Council of the Association of Advocates announces a competition for the position of the Secretary-General of the Association of Advocates one month before the date of the competition and publishes conditions of the competition on the official web site of the Association of Advocates;

b) persons who are willing to take over this position shall submit the following documents:

• a copy of the identity document;
• a copy of the diploma of the licentiate in the field of economics or law;
• a copy of the job record book;
• a certificate on criminal record;
• a medical certificate;
• an application for participation in the competition;
• a statement under the oath with an enclosed reputation questionnaire;

c) 10^{th} day before the date of the competition shall be the deadline for the submission of documents;

d) a decision on a successful candidate for the position of the Secretary-General shall be taken by asecret ballot during a regular meeting of the Council of the Association of Advocates.

(5) The Secretary-General shall:

a) be responsible for financial and economic aspects of the governance of the Association of Advocates;

b) conclude agreements and contracts in the name of the Association of Advocates;

c) manage the financial and economic activity of the Association of Advocates;

d) organize the development, justification and presentation to the Congress of a draft of the annual budget of the Association of Advocates;

e) present to the Congress an annual report on the budget implementation of the Association of Advocates;

f) take part without a voting right in sessions of the Congress and meetings of the Council of the Association of Advocates;

g) after having consulted with the Council of the Association of Advocates, develop a draft agenda and prepare materials for the Congress and the Council of the Association of Advocates;

h) hire and manage staff members of the Secretariat;

i) organize the record keeping of the immovable and other property of the Association of Advocates;

j) organize the record keeping of payments and present quarterly reports;

k) on instruction of the Congress and the Council of the Association of Advocates carry out other duties.

(6) The work of the Secretary-General shall be paid. The salary is established by the Council of the Association of Advocates.

(7) During the term of office the Secretary-General may not pursue other paid activities with exception of the academic and educational practice.

Article 46. The commissions of the Association of Advocates

(1) The activity of the commissions of the Association of Advocates shall be organized by their chairmen who should be elected by members of the commissions at their first meetings. Members of the commissions of the Association of Advocates shall be elected for 4-year term and shall be advocates with 5-year professional experience.

(2) Meetings of the commissions of the Associations of Advocates shall be held when necessary and in any event once in a month.

(3) The commissions of the Associations of Advocates shall decide on the nature of meetings (opened or closed).

(4) Representatives of advocate's offices and united bureaus of advocates can be invited to attend meetings of the commissions of the Associations of Advocates.

(5) Decisions of the commissions of the Associations of Advocates shall be taken by the majority of votes and shall be binding for all advocates. The commissions of the Associations of Advocates shall publish adopted decisions on the official web site of the Associations of Advocates and in mass media.

Article 47. The Commission for Licensing of Advocacy

(1) The Commission for Licensing of Advocacy shall comprise of 11 members elected on the basis of a competition. 8 members shall be advocates who have at least 5-year professional experience and 3 members shall be active academics who have at least 5-year professional experience.

(2) The organization of a competition for the position of a member of the Commission for the Licensing of the Advocacy shall be as follows:

a) The Council of the Associations of Advocates announces a competition for the position of a member of the Commission for Licensing of the Advocacy.

b) The Council of the Associations of Advocates appoints a special commission who will be in charge of the organization of the competition for the position of a member of the Commission for Licensing of Advocacy.

c) The text of the announcement shall be published on the official web site of the Associations of Advocates 1 month before the competition.

d) Those willing to become a member of the Commission for Licensing of Advocacy shall submit following documents to the special commission:

• an application for participation in the competition;

• a certificate indicating the length of professional experience;

• a certificate indicating the length of academic experience.

e) 10^{th} days before the date of the competition shall be the deadline for the submission of documents.

(3) The special commission shall take a decision on successful candidates to the positions of the members of the Commission for Licensing of Advocacy by an open ballot by majority of votes.

(4) Candidates who received the highest number of votes in the descending order shall be considered successful.

(5) In case of equality of votes the candidates shall be chosen by lot.

(6) Elected candidates shall become full pledged members of the Commission for Licensing of Advocacy.

(7) The special commission shall forward to the Association of Advocates a decision on elected members of the Commission for Licensing of Advocacy.

(8) The Commission for Licensing of Advocacy shall:

a) take decisions on admission to the exam;

b) organize the exam for admission to the internship and the qualification exam;

c) approve results of the exam for admission to the internship and take decision on admission to the professional internship;

d) approve results of the qualification exam and take decision on admission to the advocate's practice.

(9) The Commission for Licensing shall take decisions on the registration of advocates-interns for the qualification exam on the basis of the evaluation of the professional training.

(10) Decisions of the Commission for Licensing of Advocacy as regards the procedure of the organized exam may be appealed against to the administrative court. Given qualifications cannot be appealed against.

(11) Costs for the functioning of the Commission for Licensing of Advocacy shall be borne by the Council of the Association of Advocates.

APPENDIX 7

Legal Acts of Ukraine

Law of Ukraine on Advocacy

1 February 1993

Article 1. The Bar of Ukraine and its Objectives

The Bar of Ukraine is a voluntary professional public association called upon, pursuant to the Constitution of Ukraine, to promote defence of rights and freedoms, to represent lawful interests of citizens of Ukraine, foreign citizens, stateless persons, legal entities and to render them other legal assistance.

Article 2. An Advocate

Any person, who has higher legal education certified by a diploma of Ukraine or a diploma of another state in conformity with international treaties of Ukraine, work experience in the sphere of law of not less than two years, a command of the state language, who has passed qualifying examinations, has received a certificate entitling him/her to engage in advocacy in Ukraine and has taken the Oath of an Advocate of Ukraine, can be an advocate.

[Part one of Article 2 in the wording of Law No 355-V of 16.11.2006]

An advocate shall not work in a court, prosecution office, as a state notary, in bodies of internal affairs, security service, state administration. A person who has a criminal record shall not be an advocate.

[Part two of Article 2 as amended by Law No 614-VI of 01.10.2008]

Article 3. Legal Regulation of Advocacy

The advocacy is regulated by the Constitution of Ukraine, this Law, other legislative acts of Ukraine and statutes of advocates' associations.

Article 4. Principles and Organisational Forms of the Bar

The Bar of Ukraine exercises its activity on the principles of the rule of law, independence, democracy, humanism and confidentiality.

An advocate has the right to engage in advocacy on his/her own, open his/her own advocate's bureau, practice in partnership with other advocates in colleges, law firms, offices and other advocates' associations, acting in compliance with this Law and advocates' associations statutes.

Advocates' associations act on the principles of voluntariness, self-government, collective decision-making and transparency. Advocates' associations shall be registered pursuant to the procedure determined by law. Advocates' associations acquire status of legal entity from the moment of their state registration under the law. Data of state registration join in the Single

state register of legal entities and physical persons − businessmen by bringing of corresponding record in the order set by a law for state registration of legal entities.

[Part three of Article 4 in the wording of Law No 2555-VI of 23.09.2010]

The procedure for the establishment, activity, reorganisation and liquidation of advocates' associations, their structure, staff, functions, the procedure for spending their funds, rights and duties of the managing bodies, the procedure for their election and other issues pertaining to their activity shall be regulated by the statute of the respective association.

Advocates and advocates' associations open current and deposit accounts in banks in the territory of Ukraine and in conformity with the procedure provided for by the legislation in force – also in foreign banks, they shall have a stamp and seal with their name.

[Part five of Article 4 as amended by Law No 2921-III of 10.01.2002, by Law No 2555-VI of 23.09.2010]

Article 5. Types of Advocates' Activity

Advocates give legal advice and provide elucidation on legal issues, verbal and written surveys of legislation, draft applications, complaints and other documents of legal nature, certify copies of documents in the cases they undertake proceedings of; act as representatives before courts, other state authorities, citizens and legal entities; render legal assistance to enterprises, institutions and organisations, provide legal support for entrepreneurial and foreign economic activity of citizens and legal entities, fulfil their duties in compliance with the criminal procedure legislation in the process of inquiry and pre-trial investigation.

An advocate may also render legal assistance of other types provided for by the legislation.

Article 6. Advocate's Professional Rights

In the exercise of their professional activity, advocates shall be entitled to:

- represent and defend rights and interests of citizens and legal entities as authorised by their power of attorney in all bodies, enterprises, institutions and organisations that are competent to resolve relevant issues;

- collect information on the facts that may be used as evidence in civil, commercial and criminal cases and cases of administrative offences, in particular:

- demand and obtain documents or copies thereof from enterprises, institutions, organisations, associations and from citizens – upon their consent;

- be apprised, at enterprises, institutions and organisations, of the documents and materials required for the fulfilment of their mission, save for those the confidentiality of which shall be protected by law;

- obtain experts' written opinions on the issues that require their expertise, examine citizens

[Indent six of Article 6 as amended by Law No 1130-IV of 11.07.2003];

- apply scientific and technical means pursuant to the legislation in force;

- present petitions and complaints to officials and obtain their written motivated responses to the petitions and complaints pursuant to law;

- be present during examination of their petitions and complaints at meetings of collegial bodies and give explanations as to the merits of the petitions and complaints;

- perform other actions provided for by the legislation.

Article 7. Advocate's Duties

In the exercise of his/her professional duties an advocate is obliged to undeviatingly comply with the requirements of the legislation in force, apply all the remedies provided for by law for the protection of lawful interests of citizens and legal entities and has no right to exercise his/her authority to the detriment of the person in the interests thereof he/she accepted the power of attorney. Neither has he/she the right to withdraw from the defence of a suspect, accused or defendant he/she has committed himself/herself to defend.

An advocate has no right to accept a power of attorney authorising him/her to render legal assistance in cases where he/she is rendering assistance or used to render legal assistance to persons whose interests conflict with the interests of the person who applied with a request to undertake proceedings in the case or where he/she participated in the case as an investigator, inquirer, prosecutor, judge, secretary of the court hearing, expert, specialist, victim's representative, civil plaintiff, civil respondent, witness, interpreter, in cases where he/she is a relative of the inquirer, investigator, prosecutor, any member of the court, victim, civil plaintiff and also in other cases provided for by Article 61 of the Criminal Procedure Code of Ukraine.

[Part two of Article 7 in the wording of Law No 1130-IV of 11.07.2003]

Article 8. Advocate's Assistant

An advocate may have an assistant or several assistants from among persons having higher legal education. The terms of assistant's work are determined by a contract between the advocate (advocates' association) and the advocate's assistant in conformity with the labour legislation.

Advocate's assistant may fulfil assignments in the cases the advocate undertook proceedings of, save for those within the procedural competence of the latter.

Persons designated in part two of Article 2 of this Law shall not be advocate's assistants.

Article 9. Advocate's Confidentiality

An advocate shall be obliged to keep advocate's confidentiality. The issues concerning which a citizen or a legal entity resorted to the advocate, the essence of their consultations, advice, elucidation and other information received by an advocate in the fulfilment of his/her professional duties shall constitute the subject matter of advocate's confidentiality.

The data of pre-trial investigation that became known to an advocate in view of the fulfilment of his/her professional duties may be disclosed solely with the permission of an investigator or prosecutor. Advocates guilty of disclosing data of pre-trial investigation shall bear liability in conformity with the effective legislation.

Advocates, advocates' assistants, officials of advocates' associations shall be prohibited from disclosing information that constitutes the subject matter of advocate's confidentiality and from using it in their own interests or in the interests of third parties.

Article 10. Guarantees of Advocates' Activity

Advocate's professional rights, honour and dignity shall be protected by law. Any interference into advocate's activity, demanding that an advocate, his/her assistant, officials and technical personnel of advocates' associations disclose information constituting advocates' confidentiality shall be prohibited. They shall not be interrogated as witnesses with regard to these issues.

Documents pertaining to advocate's fulfilment of his/her assignments shall not be subject to examination, disclosure or seizure without his/her consent. Tapping of advocates' telephone lines in view of operative search activity shall be prohibited unless authorised by the Prosecutor General of Ukraine, his/her deputies, prosecutors of the Republic of Crimea, oblasts, the city of Kyiv.

No submission shall be lodged by the body of inquiry, investigator, prosecutor as well as a special ruling of the court with regard to the advocate's legal stand in a case.

Advocates shall be guaranteed the rights equal to those of other parties to proceedings.

A criminal case against an advocate may be initiated solely by the Prosecutor General of Ukraine, his/her Deputies, prosecutors of the Republic of Crimea, oblasts, the city of Kyiv. An advocate shall not be brought to criminal, material and other liability or threatened with its application in view of rendering legal assistance to citizens and organisations in accordance with law.

Article 11. Social Rights of an Advocate and his/her Assistant

An advocate and his/her assistant enjoy the right to a leave and to mandatory state social insurance.

Insurance premium to the mandatory state social insurance fund shall be paid by an advocate and his/her assistant in conformity with law.

An advocate and his/her assistant have a right to any kind of financial support and social services granted by the mandatory state social insurance according to the law.

[Article 11 in the wording of Law No 3108-IV of 17.11.2005]

Article 12. Work Remuneration for an Advocate and his/her Assistant

Payment for the advocate's work shall be effected on the basis of a contract between a citizen or a legal entity and the advocates' association or the advocate.

In the event of an advocate's participation in a criminal case by appointment where an indigent citizen is exempted from payment for legal assistance, payment for the advocate's work shall be effected at the expense of the State pursuant to the procedure established by the Cabinet of Ministers of Ukraine. The procedure for an advocate's appointment for rendering legal assistance to citizens shall be determined by the criminal procedural legislation.

In the event of pre-term rescission of a contract, payment for advocate's work shall be effected for the actually performed work. In the event of improper execution of the assignment of a citizen or legal entity that concluded a contract with an advocate or advocates' association, the paid sum shall be returned to them fully or partially and where a dispute arises – on the basis of a court judgment.

The procedure for payment for advocate's assistant's work shall be determined by a contract between him/her and the advocate or the advocates' association. The salary of an advocate's assistant shall not be lower than the minimal wages determined by the State.

Article 13. Qualification Disciplinary Commissions of the Bar and their Authority

In order to determine the level of professional knowledge of the persons who intend to be engaged in advocacy and to resolve issues of advocates' disciplinary liability, in the Republic of Crimea, oblasts, cities of Kyiv and Sevastopol, qualification disciplinary commissions of the Bar shall be established for the term of three years. These commissions shall be composed of two chambers – certification and disciplinary ones.

The Council of Ministers of the Republic of Crimea, oblast, Kyiv and Sevastopol city councils of people's deputies shall be entrusted with the formation of qualification-disciplinary commissions of the Bar and organisational provision of their activity.

The certification chamber shall be composed of 11 members, including four advocates, four judges, representatives of the Council of Ministers of the Republic of Crimea, oblast, Kyiv and Sevastopol city councils of people's deputies, Department of Justice of the Council of Ministers of the Republic of Crimea, oblast, Kyiv and Sevastopol city state administrations, branch office of the Union of Advocates of Ukraine – one from each.

The decision on the issuance of the certificate entitling to engage in advocacy or on the refusal to issue the certificate shall be made by voting by show of hands by majority vote out of the total number of the chamber members. A person who failed qualification examinations has the right to take them again in a year.

The disciplinary chamber shall be composed of nine members, including five advocates, two judges, representatives of the Department of Justice of the Council of Ministers of the Republic of Crimea, oblast, Kyiv and Sevastopol city state administrations, branch office of the Union of Advocates of Ukraine – one from each.
The decision to bring an advocate to disciplinary liability shall be made by voting by show of hands by two-thirds majority out of the total number of the chamber members.
Legal scholars and people's deputies may participate in the work of a disciplinary commission with the right of a deliberative vote.

Decisions on the refusal to issue a certificate entitling to engage in advocacy or on bringing an advocate to disciplinary liability may be appealed against before the Higher Qualification Commission of the Bar.

The procedure for the organisation and activity of a qualification disciplinary commission is determined by the Regulations thereon which shall be approved by the President of Ukraine.

Article 14. Higher Qualification Commission of the Bar

The Higher Qualification Commission of the Bar examines complaints against decisions of qualification disciplinary commissions. It has the right to annul or modify decisions of qualification disciplinary commissions.

The Higher Qualification Commission of the Bar is affiliated to the Cabinet of Ministers of Ukraine. The Higher Qualification Commission of the Bar is composed of one representative from each qualification disciplinary commission of the Bar, from the Supreme Court of Ukraine, Ministry of Justice of Ukraine, and the Union of Advocates of Ukraine – one from each.

The activity of the Higher Qualification Commission of the Bar is governed by the Regulations thereon, which shall be approved by the President of Ukraine.

Article 15. Oath of an Advocate of Ukraine

When the certificate entitling a person to practice as an advocate is issued by the qualification disciplinary commission, the person receiving the certificate shall take the following Oath of an Advocate of Ukraine:

OATH
of an Advocate of Ukraine

"I, _____ , undertaking advocate's obligations, solemnly swear:

in my professional activities, to act in strict compliance with the legislation of Ukraine, international acts on human rights and freedoms, rules of advocate's ethics; honour the undertaken commitments with high civil responsibility; be always fair and principled; scrupulous and considerate to people, strictly abide by advocate's confidentiality; always and everywhere adhere to high standards of advocate's profession and swear allegiance to the Oath."

Advocate

_____ (surname, initials)

"____" _____ 19____

Article 16. Advocate's Disciplinary Liability

For a failure to comply with the requirements of this Law, other legislative acts of Ukraine regulating advocacy, or breach of the Oath of an Advocate of Ukraine, the disciplinary chamber of the qualification disciplinary commission may impose the following disciplinary penalties:

- warning;
- suspension of the validity of the certificate entitling to practice as an advocate for a period of up to one year;

- nullification of the certificate entitling to practice as an advocate.

A decision on the imposition of a disciplinary penalty may be appealed against before the Higher Qualification Disciplinary Commission of the Bar or before a court of law.

Issues of disciplinary liability of an advocate who is a member of advocates' association are regulated by the statute of a respective association as well.

Article 17. Termination of Advocate's Activity

Advocate's activity may be terminated by a decision of a qualification disciplinary commission of the Bar and the certificate that was issued – nullified in the cases of:

advocate's conviction for the commission of a crime − after the entry into legal force of the judgment of conviction;

the finding of the court on his/her diminished capacity or incompetence;

[Inent four of Article 17 has been deleted according to Law No 355-V (355-16) of 16.11.2006]

flagrant violation of the requirements of this Law and other legislative acts of Ukraine regulating advocacy, the Oath of an Advocate of Ukraine.

Article 18. Relations of the Bar and the Ministry of Justice of Ukraine, Local Bodies of State Administration

The Ministry of Justice of Ukraine:

ensures the necessary funding for advocates' work remuneration in the event of advocate's participation in a criminal case by appointment and where citizens are exempted from payment for legal assistance;

generalises administrative data on advocacy;

[Indent three of part one of Article 18 in the wording of Law No 3047-III (3047-14) of 07.02.2002]

promotes taking action aimed at enhancing advocates' professional level.

Local bodies of state administration, within the limits of their competence, promote resolving social issues of advocates and advocates' associations, lease them premises suitable for work, establish benefits in regard to paying rent for the use of premises, etc.

Article 19. Advocates' Unions and Associations

Advocates and advocates' associations may establish regional, national and international unions and associations.

Advocates' unions and associations represent advocates' interests in state authorities and citizens' associations, protect advocates' social and professional rights, accomplish methodological and publishing work, promote enhancing advocates' professional level, may establish special funds, and shall act in conformity with their statutes.

RULES OF ADVOCATES ETHICS
Approved by Supreme Qualifying Commission of the Bar
1 October, 1999

PREAMBLE

Article 59 of the Ukrainian Constitution declares that the most important social function of the Bar is to secure the right to defence against accusations and to the legal assistance in proceedings in a court of law and other state authorities.

The role of a single independent professional defence institution designed to defend rights and freedoms and represent legal interests of an individual before state authorities, based on the principles of rule of law, independence, democracy, humanism and confidentiality enshrined in the Law of Ukraine 'On the Bar', is performed by the Bar in a system of complex legal relations. In his professional activities, an advocate has sometimes contradicting responsibilities before the following:

clients;

courts of law and other state authorities;

the Bar on the whole and individual advocates; and

society on the whole.

The critical importance of the Bar's functions requires that advocates should follow high ethical standards of conduct; at the same time the specific and comprehensive nature of responsibilities assumed by the Bar calls for balancing the advocate's concern with the interests of an individual client and the interests of the society on the whole, observation of the principles of legality and rule of law.

In order to successfully achieve the goal of self-regulation of advocates' professional conduct at that high level, characterized by a complex interplay of advocate's various responsibilities, their priorities and actual implementation in situations, where such responsibilities conflict, and to find such a way of their implementation, which will best correspond to the Bar's mission and status, rules of advocate's professional ethics must be established to be the advocate's guidelines in choosing proper options of professional conduct.

Developing special deontological requirements and rules within the Bar and advocate's compliance with these requirements and rules is viewed by the advocates' community as a necessary and fundamental precondition of proper function of the Bar and performance of its important social role in a democratic society.

The Law of Ukraine 'On the Bar' prescribes compliance with the rules of advocate's ethics as one of the basic responsibilities assumed by an advocate in his Oath of the Ukrainian Advocate.
Considering the above, these Rules were developed with a view to establishing unified traditions and experience of the Ukrainian Bar in the light of interpretation of advocate's ethics and general deontological rules and standards accepted in international advocates' community.
The Rules are designed to serve as a system of guidelines for Ukrainian lawyers, providing for a balanced and practical coordination of their numerous professional rights and responsibilities in accordance with the status, main objectives and principles of the Bar, which are defined by the Ukrainian Constitution, the Law of Ukraine 'On the Bar' and other Ukrainian legislation, and they also should secure a single system of criteria for evaluation of ethical aspects of advocate's conduct in disciplinary proceedings undertaken by the qualification and disciplinary commissions of the Bar, when complaints are lodged against advocate's actions that breach the advocate's oath through violation of the rules of advocate's ethics.

CHAPTER I. GENERAL PROVISIONS

Article 1. Relationship Between the Rules of Advocate's Ethics and Current Legislation on the Bar

Provisions of the present Code do not revoke nor do they supersede the provisions of legislation in force on the Bar, but they supplement and specify them.

Article 2. The Scope of the Rules of Advocate's Ethics with Regard to the Object Matter, Persons Concerned and Time

(1) These Rules shall extend to all types of an advocate's professional activity as well as, in its relevant part, to his other activities (actions) which may come into conflict with his professional responsibilities or undermine the prestige of the legal profession.
(2) These Rules shall extend to members of bodies of the Bar and assistant advocates in the part which can relate to their activity.
(3) These Rules shall extend to relations arising after its adoption.

Article 3. Interpretation of the Rules

The right of official interpretation of these Rules belongs exclusively to the High Qualification Commission of the Bar established under the Cabinet of Ministers of Ukraine.

Article 4. Definitions

The terms applied in these Rules shall have the following meaning:
Client - a person whose rights and freedoms are protected by an advocate or whose legitimate interests he represents, or to whom he directly renders legal assistance in other forms foreseen under legislation in force.
Contract - an agreement in which one party - an individually practicing advocate or a unit of advocates undertakes the assignment of another party - the client (or his representative) on providing the client legal assistance of a type agreed upon by them in the interests of the client on terms foreseen under the agreement, while the other party (the client or his

representative) undertakes to pay a fee for the advocate's actions (Option: activity) on rendering legal assistance and, when need be, the actual expenses related to the handling of a case.
The agreement can also provide for other terms of rendering legal assistance.
Fee - remuneration for the performance by an advocate of work on rendering legal assistance as provided for by a contract to this effect; the fee does not include the funds contributed by the client (his representative) for covering the actual expenses related to the performance of the agreement.
Court - any body representing the judiciary in conformity with legislation in force.
Other bodies - any bodies of the legislature or the executive, bodies of the procurator's office, local self-government, management bodies of institutions, organizations, enterprises and their associations. governing bodies of citizens' associations.
Other persons - any legal entities, citizens, stateless persons.

CHAPTER II BASIC PRINCIPLES OF ADVOCATE'S ETHICS

Article 5. Independence

(1) As a necessary condition for the proper pursuance of an advocate's activities, the specific nature of the aims and purposes of advocacy requires a maximum independence of the advocate in exercising his professional rights and duties, which implies his freedom from any external pressure and interference in his activity, by state bodies included, as well as from the influence of his personal interests.
(2) In order to observe the given principle in his professional activity, an advocate shall be bound to resist any attempts of infringement upon his independence, be courageous and principled in the performance of his professional duties, and in asserting his rights and their effective exercise for the benefit of clients.
(3) In his activity, an advocate shall be bound to avoid compromises infringing upon his independence in order to please the court, other authorities, third parties or the client, if such compromises are at variance with the legitimate interests of the client and hinder in properly rendering him legal assistance.
(4) An advocate may not engage in any activity, public activity included, which might put him in a position of legal, material or moral dependence on other persons, and of submission to the instructions or rules, which might come into conflict with the provisions of legislation in force on advocacy and the rules of these Rules, or by any other means hinder the free and independent performance of his professional duties.
(5) An advocate may not share his fees received from a client with other persons except for the heirs of a deceased advocate whose partially performed assignment he accepted or an advocate who performed this assignment before.
(6) While performing the assignment of the client, an advocate may not be guided by the instructions of third parties in relation to the substance of forms, methods, sequence and time of exercising his professional rights and duties, if they contradict his own understanding of the optimal variant of performing the assignment.

Article 6. Observing Legality

(1) In his professional activity, an advocate shall be bound to comply strictly with the current Ukrainian legislation, to promote me assertion of the principles of rule of law. to implement in practice the principles of rule of law and legality, and. apply all his knowledge and professional skill for the proper defense of the legitimate rights and interests of citizens and legal entities.

(2) An advocate may not advice his client on how to facilitate the commission of offenses or otherwise intentionally assist in the commission of offenses by his client or other persons.
(3) In his private life, an advocate is required to abide by law and neither commit offenses himself, nor intentionally assist others in committing them.

Article 7. Predominance of Clients' Interests

(1) Within the scope of compliance with the principles of legality an advocate, while pursuing his profession, shall be bound to proceed from the priority importance of the client's interests before his owoi interests, the interests of his colleagues, partners, fellow employees, legal representatives of clients or their guardians, custodians and other persons, as well as before any other considerations.
(2) An advocate shall respect the client's freedom of choice of an advocate who will render him legal assistance, and shall not impede the exercise of this freedom neither before accepting the assignment, nor in the process of its fulfilment.

Article 8. Inadmissibility of Representation of Clients With Conflicting Interests

An advocate may not simultaneously represent two or more clients whose interests are mutually conflicting or if there is a high degree of probability that they might come into conflict.

Article 9. Confidentiality

(1) The observance of the principle of confidentiality is a necessary and most important precondition underlying the confidential relations between advocate and client, without which proper rendering of legal assistance is impossible. Therefore, keeping confidential any information an advocate receives from a client as well as about a client or third parties in the process of pursuing his professional activities shall be the advocate's right in relations with other subjects of the law who might demand disclosure of such information and his obligation in relation to the client or those persons whom this information concerns.
(2) The effect of the principle of confidentially shall not be limited in time.
(3) Confidentiality of certain information secured by the rules of the present Article can be revoked only by persons interested in its observance (or heirs of this physical person or successors of a legal entity) in writing or any other recorded form.
(4) An advocate shall not be responsible for violating the said principle in cases v/hen he is questioned by legally established procedure as a witness in a criminal case in relation to circumstances that go beyond the bounds of the definition of the substance of an advocate's secret as stipulated by legislation in force, although they are subject to confidentiality of information stipulated in these Rules.
(5) In all other circumstances, the advocate, when determining the scope of information, to which his duty of confidentiality extends, must proceed from these Rules.
(6) Disclosure of information constituting an advocate's secret is prohibited under any circumstances, including unlawful attempts of the bodies of inquiry, preliminary investigation and a court of law to question an advocate in relation to the circumstances constituting an advocate's secret.
(7) An advocate (unit of advocates) shall be bound to ensure the understanding and observance of the principle of confidentiality by his assistants and technical personnel.

(8) An advocate (unit of advocates) shall be bound to ensure such conditions for the storage of documents given him by the client, files and other material at his disposal that contain confidential information as reasonably exclude access to them by unauthorized persons.

Article 10. Competence and Conscientiousness

(1) Given the public importance and complexity of an advocate's professional duties, a high level of professional training is demanded of him as well as fundamental knowledge of legislation in force, the practice of its application, and the mastering of the tactics, methods and techniques of advocacy and oratory.
(2) An advocate shall be bound to render legal assistance to clients competently and conscientiously, which infers knowledge of respective provisions of the law and necessary experience of their application, thoroughness in allowing for all circumstances related to the assignment and the possible legal consequences of its performance, as well as thorough preparation for the proper fulfilment of assignments.
(3) Regardless of his preferential specialization, if such specialization exists, an advocate shall be bound to maintain a proper level of knowledge on questions on which by virtue of the law he is bound to render legal assistance by assignment of investigation bodies .-r a court of law, as well as provide it free of charge.
(4) An advocate shall be bound to work constantly on improving his knowledge and professional skill and have a sufficient command of information on changes in legislation in force.
(5) An advocate must ensure a reasonably necessary level of competence of his assistants, technical personnel and the like whom he engages for the performance of individual jobs related to the fulfilment of the assignment.

Article 11. Honesty and Decency

Both in his professional activity and private life, an advocate must be honest and decent; he may not resort to deception, threats, psychological pressure, bribery, nor abuse difficult material or personal circumstances of other persons, nor other unlawful means to achieve his professional or personal ends; he shall respect the rights, legitimate interests, honor, dignity, reputation and feelings of persons with whom he deals in various relations.

Article 12. Respect for the Legal Profession

(1) In all his activity an advocate must manifest respect of the legal profession, its essence and public importance, and promote the maintenance and enhancement of its prestige.
(2) The said principle shall be subject to observance by an advocate in all spheres of his professional or public activities and publications, etc.
(3) An advocate shall be bound to fulfil the decisions made by elected bodies of the Bar within the scope of their competence, without prejudice to criticism of the latter and appeal against them in a manner prescribed by law.
(4) An advocate shall neither act in ways restricting the right to defence, professional rights of advocates or independence of the legal profession, nor impair its prestige.

Article 13. Standards of Conduct

In his professional activity and private life an advocate should attend to the prestige of his advocate's title and maintain a high standard of conduct, be dignified, reserved, tactful, self-controlled and self-possessed, as well as have proper appearance.

Article 14 Restricted Advertising of Advocate's Activities

(1) An individually practicing advocate as well as a unit of advocates have the right to advertise their professional activity with the observance of legislation in force and the rules of these Rules.
(2) Advertising is permitted in the form of announcements, press releases and other advertising information in periodical press, directories, information bulletins and other publications, as well as broadcasted on radio and television.
An advocate may not offer his services directly to a definite client either personally or through intermediaries.
(3) Advertised announcements or any other advertising material on the professional activity of an advocate (unit of advocates):
1. must contain advocate's first and last name (name of the unit of advocates); address at which legal assistance can be provided by the said advocate (unit of advocates); telephone number; general information on the field of law, in which the advocate (unit of advocates) specializes, or the information that legal assistance can be rendered in all fields of law; registration number, date and place of issue of certificate on the right to engage in an advocate's activities.
2. may contain:
- information on what educational establishments an advocate (members of the unit of advocates) graduated from, where he subsequently improved his professional skills, scientific and other titles the advocate holds, his decorations, scientific papers, academic merits and professional achievements, membership in societies, associations and other non-governmental organizations of advocates, and participation in the work of their bodies;
- information about the work record of an advocate in legal profession (with mandatory detailed indication of length of service in the capacity of advocate);
- indication of the foreign languages which the advocate commands;
3. may not contain:
- characteristics assessing the advocate's qualities;
- opinions of other person about the work of an advocate;
- comparisons with other advocates and criticism of such;
- statements on the probability of successful fulfillment of assignments and other statements evoking unreal hopes in clients;
- instructions which might create the impression that the activity of precisely this advocate is characterized by features or indicators inherent, in actual fact, to the legal profession as such.
(4) Advertising material on the activity of an advocate (unit of advocates) must be unbiased, precise, clear, understandable, must not contain hints, ambiguities, or in any other way misguide potential clients, and must correspond to reasonable esthetical requirements.
(5) Advertising material on the activity of law societies, in which are indicated the names of advocates and other employees of the society, must contain the precise status of each of these persons: whether they are advocates, advocate's assistants, lawyer (without the status of an advocate) or a member of the staff (director, manager, secretary, translator, etc.).
(6) Advocates (management of a unit of advocates) shall bear personal responsibility for the trustworthiness of the advertising material about them (unit of advocates) as well as for its conformity with legislation in force and these Rules.

If an advocate (unit of advocates) finds that his activity was advertised without his knowledge and in contravention of the above requirements, he is required to take all reasonable steps to refute and correct this information and inform the regional qualification and disciplinary commission.
(7) All the above-mentioned rules about the advertising material of advocates extend not only directly to advertisement announcements, but also to announcements on the recruitment of staff and the like.

CHAPTER III RELATIONS OF ADVOCATES AND CLIENTS

Article 15. Grounds for Rendering Legal Assistance by an Advocate

An advocate provides legal assistance in accordance with the current legislation on the types of advocate's activities based on the legal assistance contract with the client or on appointment by the person who conducts inquiry, investigator or a court under the procedure prescribed by the Ukrainian legislation on the criminal procedure.

Article 16. Form of the Legal Assistance Contract

(1) Where legal assistance is provided as consultations and explanations on legal issues, reference information on the legislation, or as drafting certain legal documents, the contract may be concluded in a simple written form (an entry in a journal, etc.), or verbal form where the legal assistance is provided free of charge.
(2) For other types of legal assistance, the contract may be concluded verbally only where the written contract is impossible because the client needs urgent legal assistance. In these cases, the contract should be made in writing subsequently.
(3) In all other cases, the client's assignment for an advocate to provide legal assistance to him should be made in the form of a written legal assistance contract.

Article 17. General Requirements as to the Contents of the Legal Assistance Contract

(1) A legal assistance contract should contain main conditions under which an advocate accepts his client's assignment and which should be expressly and explicitly defined.
(2) A legal assistance contract should in any case include the following:
a) first name, last name, patronymic and address of the physical person or the name and address of the legal entity which concludes the contract (client);
b) the same information for the person in whose interests the contract is made (client), if the contract is made not by the client himself;
c) first name, last name, patronymic and address of the advocate (or the name of the unit of advocates) which will provide the legal assistance;
d) substance of the assignment: what kind of legal assistance must be provided under the contract and where.
e) the fee, the manner of fee estimation (fixed amount, hourly payment) and the way of payment (advance, upon the result, etc.);
f) amount, methods of calculation and payment of actual expenses related to performance of the assignment;
g) signatures of persons who enter into the contract.
(3) The contract should not include any provisions that do not conform with the current legislation and these Rules. In particular, the contract should not include provisions on the

waiver or restriction of the client's right to recover damages resulting from improper performance of accepted assignment by the advocate.

Article 18. Persons from Whom an Advocate May Accept Assignments to Provide Legal Assistance. Obtaining Client's Actual Consent to Have Legal Assistance of an Advocate

(1) An advocate may accept assignments on legal assistance only directly from a client or his representative authorized to conclude a contract with the advocate, or from the legal representative of a minor or incapable client, or a body (official) authorized to appoint a defense counsel in criminal proceedings in conformity with the Code of Criminal Procedure of Ukraine.
(2) In all cases when assignment may be accepted not directly from the client but from his representative, the advocate is required to obtain the confirmation of the client's consent to have this advocate's legal assistance, if the representative has no authority to choose an advocate at his own discretion without the client's consent.

Article 19. Information to Secure the Free Choice of an Advocate by a Client
Before signing a contract, an advocate must inform the client on his areas of specialization, if any, and on the client's request also inform him about the advocate's work record, experience in handling definite categories of cases and circumstances that may result in a conflict of interests.

Article 20. Compliance with the Principles of Competence and Good Faith During Acceptance of Assignment by an Advocate from the Client

(1) When accepting an assignment on legal assistance an advocate must weigh his possibilities on its fulfilment and shall be bound to refuse accepting the assignment if there are reasonably sufficient grounds to presume that, as applied to the given assignment, the Rules regulating the principle of competence cannot be observed.
(2) If for the achievement of the level of competence necessary for the proper fulfilment of the assignment an advocate needs special preparation, which exceeds the limits (bounds) of usual preparation for a case and demands considerable time owing to the advocate's lack of special knowledge of legislation applicable in the given case or experience in handling the respective category of cases, he shall be bound to warn the client about the need of such preparation before entering into a contract with him.
(3) An advocate may not accept an assignment on legal assistance, if owing to his busyness he cannot ensure a reasonably required conscientiousness of fulfilling the assignment as well as thoroughness of preparation and promptness of its execution, except for cases when refusal of acceptance of the assignment may, in a definite situation, essentially infringe on the legitimate rights and interests of the client or when the client agrees to the period offered him for the performance of the assignment, if the delay objectively does not essentially effect the possibility of a proper performance of the assignment. In any case, before concluding a contract with the client, an advocate shall be bound to warn the client about the difficulties and possible negative consequences which the busyness of the given advocate may have on the outcome of the assignment.
(4) Before signing a contract on rendering legal assistance the advocate must with the greatest possible thoroughness study all the circumstances that are known to the client which might effect the determination of the presence of a legal position in the case and its substance, as well as request and study the documents the client has at his disposal.

(5) An advocate shall not accept assignments to perform any actions going beyond his professional rights and responsibilities.

Article 21. Informing the Client about the Legal Grounds for the Case

(1) If upon complying with the requirements set forth in Article 20 of these Rules, an advocate develops the opinion that there are actual and legal grounds for the performance of the given assignment, he must state it impartially and objectively to the client. informing him at least in general outline what time and what amount of work will be needed for the performance of the given assignment and what will be the legal consequences of achieving the legal results desired by the client for the essential interests of the client.
(2) If legal grounds for performing the assignment do exist, but so does an unfavourable practice of applying respective provisions of the law (from the viewpoint of the hypothetical result desired by the client), an advocate shall be bound to inform the client.
(3) If an advocate becomes convinced that there are no actual and legal grounds for performing an assignment, he shall be bound to inform the client about it and agree with him on a change in the substance of the assignment and adjust it to that hypothetical result which might be achieved in conformity with legislation in force, or else refuse to accept the assignment.
(4) An advocate must inform the client about the possible result of performance of the assignment, based on the law and practice of its application. Furthermore, he must not give assurances and guarantees to the client as to the actual outcome of performance of the assignment, directly or indirectly facilitate shaping his groundless hopes, as well as directly or indirectly create in the client the impression that the advocate can have an influence on such an outcome by other means apart from the diligent performance by him of his professional duties.

Article 22. Compliance with the Principle of Legality During Acceptance of Assignment from the Client

(1) An advocate shall be prohibited from accepting an assignment if the result desired by the client conflicts with the law.
(2) If the client insists on using illegal methods to perform the assignment, the advocate must inform the client on their inadmissibility and advise him of possible legal ways of achieving the same or similar results. If, nonetheless, an advocate fails to make the client agree to change the substance of the assignment, the advocate shall be bound to refuse to make a contract with him.

Article 23. Compliance with the Principle of Inadmissibility of Representation of Clients with Conflicting Interests During Acceptance of Assignment from the Client

(1) An advocate shall not be entitled to accept an assignment from a client if there is an objective conflict of interests between that client and another client with whom the advocate (unit of advocates) is bound by a contract on rendering legal assistance, or if there are reasonable grounds to presume that the logical development of interests of an advocate's new and former client will lead to a conflict of interests.
Limitations prescribed by paragraph 1 of this Article can be excluded in a concrete case upon a written consent of both (all those) clients whose interests are (or may be) conflicting.
(2) An advocate may not accept an assignment, the performance of which might knowingly to him come into conflict with his personal interests, the interests of his relatives or the unit of

advocates of which he is a member, or which might come into conflict with his professional or other responsibilities, including his party and religious convictions.
Acceptance of assignments under such circumstances is possible only on the condition of the client being informed about the possible conflict of interests, as well as on the condition that an advocate is convinced that he can nonetheless retain his independence and objectivity of opinions and deeds and that he can fulfil all other professional and ethical requirements during the performance of the given assignment.
(3) In any case, an advocate may not accept an assignment, the subject matter of which is of direct interest to either him personally or to his close relative (or his partner, assistant, member of the staff, another member of a unit of advocates in which the advocate holds membership), if there is a conflict between the interests of the client and the said persons.
(4) An advocate who is a relative of another advocate (father, mother, son, brother or sister, spouse) may not accept assignments from a client whose interests, knowingly to the advocate, conflict with the interests of the client represented by that other advocate, except for cases when both clients give their consent to this after each has been advised by his advocate about the situation that has developed.

Article 24. Ethical Principles Related to Accepting an Assignment for Mediation Between Clients

An advocate may act as an intermediary between clients on the condition that:
1. there is no conflict between the interests of clients and the probability of such a conflict arising is negligible;
2. an advocate explains to each of his clients the possible consequences of his role as an intermediary that may arise from simultaneous representation of their interests, including the advantages and risks this might entail, the essence of legal and ethical standards regulating relations between a client and advocate, and receive consent of each of the clients for their simultaneous representation;
3. an advocate has sufficient grounds to presume that the result of simultaneous representation of the clients will properly accord with the interests of each, and even if the advocate fails to achieve the results as an intermediary, the interests and opportunities of each of the client in the subsequent defence of his interests will not suffer as a result of the advocate simultaneously representing their interests;
4. an advocate has sufficient grounds to believe that he can retain impartiality during the simultaneous representation of the interests of clients and discharge his professional duties in relation to each of them in conformity, with the aw and requirements of these Rules.

Article 25. Compliance with the Principle of Confidentiality During Acceptance of Assignment from the Client

(1) An advocate may not accept assignments which may entail disclosure of information, confidentiality of which is protected by these Rules, except for the cases when a person interested in confidentiality gives his written consent on condition that his interests will not be objectively impaired.
(2) In case of refusal to accept an assignment an advocate shall be bound to keep confidential the information which was communicated to him by the client in the course of negotiations on accepting the assignment or which he became aware of in this connection.
Article 26. Compliance with the Principle of Confidentiality and Limitations Related to the Conflict of Interests During Acceptance of Assignment by Units of Advocates

(1) Articles 23 and 25 of these Rules relating to limitations on acceptance of assignments due to a conflict of interests and limitations resulting from the principle of confidentiality shall apply to relations arising from contracts made both with an advocate himself and with a unit of advocates.
(2) No advocate, who is a member of a unit of advocates, may accept an assignment of a client, if advocates, members of this unit of advocates, are not allowed to do so in accordance with Articles 23 and 25 of these Rules.
(3) Articles 23 and 25 of these Rules, insofar as they relate to units of advocates, shall apply to members of advocates' units which share the same premises, use technical services of the same personnel and the same office equipment, and have regular contacts in their professional activities due to specific technical organization of work in these units.

Article 27. Respect for the Rights of Other Advocates During Acceptance of Assignment from the Client

(1) Before concluding a contract with a client an advocate must find out from him whether or not he is bound 'by effective agreement with another advocate (units of advocates) on the performance of an assignment identical or overlapping in subject or substance and what are the reasons for the client's intent to waive further legal assistance by this other advocate (units of advocates).
(2) If these reasons are related to misunderstanding or the client's failure to understand the objective characteristics of his assignment, an advocate must offer appropriate clarifications to the client.
(3) If the client insists on substituting the advocate performing the assignment, an advocate must accept the assignment after the contract with the other advocate (unit of advocates) has been terminated.
(4) It is inadmissible to induce the client directly or indirectly to substitute an advocate, if there are no objective grounds to presume that subsequent legal assistance to the client by another advocate may infringe on his interests.

Article 28. Principles of Acceptance of Assignment from a Client by Several Advocates
(1) It shall be possible for several advocates to accept simultaneously an assignment by the wish of a client on the basis of distributed functions (or parts of the assignment) agreed upon between them. In this case the contract must clearly define the duties, scope of powers and limits of responsibility to the client by each of the advocates.
(2) It shall be prohibited to induce the client to conclude contracts with several advocates (resulting in increased fees), if incompetence is the underlying reason of the impossibility of performance of the assignment by one of them.
(3) If a legal assistance contract is made with a unit of advocates as a whole, the decision on appointment of a certain advocate or several advocates to perform the assignment or on substituting an advocate or advocates (where it complies with the law) shall be made at the discretion of the unit of advocates, unless the contract provides for a different procedure for substitution of the advocate.
Option: In paragraph 3, add the words (with a prior notification of the client) after the words "at the discretion of the unit of advocates".

Article 29. Compliance with the Principle of Legality During Performance of Client's Assignment

When performing the client's assignment, in no case an advocate shall use any unlawful or unethical means in particular, induce witnesses to give knowingly false evidence, put pressure on the opposite party, or witnesses (threats, blackmail, etc.), use personal contacts to influence the judgment of a court of law or any other authority before which he represents the client's interests, use information which was obtained from a previous client but is protected by law as confidential, or resort to other means which do not conform with current legislation or these Rules.

Article 30. Respect for the Client's Right to Choose the Advocate, Who Should Provide Legal Assistance, During Performance of the Assignment

(1) An advocate shall not refer his assignment on the whole or in its relatively independent parts to other persons without his client's consent; other persons may be involved in certain subsidiary actions related to performance of the assignment, but the advocate shall be responsible before the client for such actions of these persons.
(2) Other advocates may be involved in joint performance of an assignment on conditions defined in Article 28 of these Rules.

Article 31. Informing the Client on the Progress of His Assignment

An advocate must inform the client with reasonable regularity about the progress of the assignment and timely respond to the client's inquiries about the status of his case. The information must be communicated to the client in a scope that is sufficient for him to adopt motivated decisions on the substance of his assignment.

Article 32. Compliance with the Principle of Good Faith During Performance of Client's Assignment

(1) An advocate must dedicate a due attention to each of his assignments, which is reasonably necessary for their successful performance, irrespective of the amount of the agreed fees.
(2) An advocate is required to apply all reasonably necessary and available legal mans of effective legal assistance during performance of his client's assignment.
(3) An advocate shall be bound to be energetic in gathering proof for the matter assigned to him, and be scrupulous and insistent in using legally permitted methods for obtaining such proof.
(4) An advocate must strive to perform the assignment promptly, observing all other requirements prescribed by the law and the rules of these Rules as to an advocate's proper discharge of his professional duties.

Article 33. Advocate's Fees

(1) A fee determined by a contract shall be the only permissible form of an advocate's remuneration for providing legal assistance to a client.
(2) A fee charged by an advocate for rendering legal assistance must be legal by form and procedure for payment (depositing), reasonably justified in amount.
(3) The factors, which must be taken into consideration when determining a justified amount of the fee, include the following:
1. amount of time and work needed for the proper performance of the assignment;
the degree of complexity and novelty of legal questions pertaining to the given assignment;
the need of experience for the assignment's successful completion;

2. the probability that the acceptance of the given assignment may hinder the advocate from accepting other assignments or considerably hamper their performance in the usual time regime;
3. necessity for business trips;
4. importance of the assignment for the client;
5. role of the advocate in achieving the hypothetical result desired by the client;
6. achievement of a positive outcome desired by the client following from the result of a qualitative performance of the assignment;
7. special or additional requirements of the client as to the time of performance of the assignment;
8. nature and duration of professional relations with the client;
9. professional experience, scientific and theoretical skills, reputation, and marked professional abilities of the advocate.
(4) None of the factors set forth in paragraph 3 of these Article have a self-sufficing significance; they are to be taken into account in their interrelation respective 10 the circumstances of each definite case.
(5) A fee shall be considered as undoubtedly overcharged, if in the process of negotiating its amount with the client:
(5) The amount of the fee and procedure for its payment shall be clearly determined in the contract.
(6) The principles of fee calculation (fixed amount, hourly charge, a premium for successful outcome of the case, etc) shall be agreed by the advocate and the client and recorded in me contract.
(7) The contract may provide for further changes of the fee determined as fixed due to a substantial increase or decrease of assistance that has to be provided, and for consequences of the failure to reach agreement on this matter.

Article 34. Payment for Actual Expenses Related to Performance of Assignment

(1) Apart from the fee, an advocate has the right to charge the client a sum that is necessary to cover the actual expenses related to the performance of the assignment, if the contract provides for client's obligation to cover these expenses.
(2) The legal assistance contract shall specify the types of future actual expenses related to the performance of the assignment (payment for expert opinions requested by the advocate, transport, typing, copying and other technical services, translation and notary certification of documents, telephone calls, etc.); the procedure of their coverage (advance, payment for provided services at a specified time, etc.); and may specify their amount.
(3) If the need to bear or increase expenses has arisen after the conclusion of the contract, an advocate must immediately inform the client about it and obtain his consent to cover expenses not agreed in advance.

Article 35. Persons from Whom an Advocate May Accept the Fee and Payment for Actual Expenses Related to Performance of Assignment

An advocate may not receive a fee or payment for actual expenses related to The performance of the assignment from anybody else but the client (or any person who made a legal assistance contract in the client's interests under Article 18 of these Rules), except for the cases when:
1. the client insists on it;

2. the acceptance of payment from another person under definite circumstances cannot effect the advocate's independence in rendering the client legal assistance and will not entail the breach of advocate's responsibilities prescribed by the current legislation and these Rules.

Article 36. Collecting the Fee. Collecting the Remainder Fee.

(1) The advocate's right to collect in full the fee deposited by the client arises only when the advocate completes the performance of the assignment; at the same time an advocate shall be entitled to collect the fee in part as he performs the assignment, if otherwise not foreseen under the legal assistance contract.
(2) The advocate's right to receipt a fee that has not been deposited (or of the remainder of the fee) shall not depend on the result of performance of the assignment, unless the legal assistance contract provides for other conditions.

Article 37. Relations with Regard to the Fee in Case of Contract Termination

In case of premature termination of a contract on rendering legal assistance:
1. on the initiative of the client, if the underlying reason of termination of a contract is an advocate's improper performance of the contract in breach of the law and these Rules, or in case of advocate's actual refusal to perform the assignment (except the cases when the law and these Rules provide for unilateral termination of the contract by the advocate), an advocate may not claim a fee and must immediately return to the client the actually deposited fee;
2. on the initiative of the client in other cases, as well as on the reciprocal initiative of the advocate and the client or on the initiative of the advocate while observing the terms provided for by these Rules, the advocate shall be entitled to charge a fee in the part corresponding to the amount of work actually performed or collect a corresponding part. of the fee actually deposited by the client, unless the contract provides for other solutions.

Article 38. Certain Aspects of Property Relations Arising if the Contract is Concluded with Another Advocate

(1) The amount of the fee provided for in a contract on rendering legal assistance is binding only for the advocate (unit of advocates) who concluded this contract, but it shall not prevent another advocate from accepting the given assignment (as a whole or in part) after the termination of the contract to determine anew the amount of the fee following from the criteria defined in Article 33.3 of these Rules.
(2) An advocate who continues performing the assignment accepted by another advocate (unit of advocates):
1. by virtue of renewal of the contract on rendering legal assistance, must to the best of his possibilities facilitate the receipt of the fee due to the other advocate for the amount of work he has actually performed;
2. in case of the death of another advocate (dissolution of the unit of advocates), he must facilitate the receipt of the amount to the heirs of the deceased (successors of the unit).

Article 39. Ethical Limitations on Property Contracts Between an Advocate and His Client

An advocate, who is handling a client's assignment, may not conclude with that client any deals on property, except for contracts specifying methods for ensuring the client's obligations

on paying the legal fee and covering actual expenses related to the performance of the assignment.

Article 40. Unilateral Termination of a Legal Assistance Contract by the Client

(1) A client may at any time and by any reasons terminate a contract with an advocate unilaterally.
(2) An advocate may not put pressure on the client in order to hinder him in the exercise of this right.
(3) At the same time an advocate, who has learned about the intention of the client to terminate the contract, must explain to the client the possible consequences of this move for the prospects of the subsequent performance of the assignment, find out the reasons behind the client's initiative to terminate the contract, and if they are connected with a lapse or occasioned by removable shortcomings in the representation of the client by the advocate, explain to the client and discuss with him the possibility of retaining the contract, if this objectively meets the interests of the client.

Article 41. Unilateral Termination of a Legal Assistance Contract by the Advocate

(1) An advocate may prematurely (before the completion of the performance of the assignment) terminate a contract with the client, given the totality of the following conditions:
1. the client agrees to terminate the contract, being informed about the possible consequences of this for the future performance of his assignment;
2. the client has a real possibility to turn to another advocate.
3. current legislation does not provide that this type of legal assistance contract cannot be terminated.
(2) Notwithstanding the conditions foreseen under paragraph 1.1 and 1.2 of this Article, an advocate may terminate a contract with a client under one of the following circumstances:
1. the client is committing unlawful acts that are related to the essence of the assignment and does not cease doing so in spite of the advocate's explanations;
2. the client uses the legal assistance rendered him for facilitating the commission of an offense;
3. in spite of the advocate's explanations the client insists on achieving the result which, owing to new and newly revealed circumstances, is believed by the advocate to be objectively unattainable;
4. the client grossly breaks the obligations he has undertaken according to the agreement;
5. the proper performance of the assignment becomes impossible owing to the client's actions committed in spite of the advocate's advice;
6. the client commits actions which denigrate the honor, dignity and professional reputation of the advocate;
7. the client refuses to cover actual expenses in cases determined by Article 34.3 of these Rules, if these expenses are necessary for further performance of the assignment;
8. the physical or psychological condition of the advocate objectively renders him incapable of further performing the assignment properly; in this case the advocate shall be bound to take all possible measures accessible to him to avert the infringement upon the legitimate rights of the client and ensure their further representation by another advocate;
9. in other cases provided for by these Rules.
(3) In all cases involving termination of the contract on the advocate's initiative, he is required to notify the client of this termination, explain the reasons of the termination, make sure that

these reasons cannot be eliminated both objectively and subjectively due to the client's position, and take reasonably necessary steps to secure legitimate interests of the client.

Article 42. Termination of a Legal Assistance Contract upon the Mutual Consent of Advocate and Client

A legal assistance contract can be terminated at any time upon the mutual consent of the advocate and the client, provided the latter is aware of the possible consequences of the agreement's termination for the prospects of the performance of his assignment.

Article 43. Termination of a Legal Assistance Contract Due to a Conflict of Interests of Clients or Impossibility to Comply with the Principle of Confidentiality

(1) In case, when in the process of performing the client's assignment an advocate learns of the existence of a conflict between the interests of the latter and other clients as well as other persons mentioned in Articles 23 and 25 of these Rules, he must terminate the agreement with the client (one of the clients), unless a written consent is received from the client (clients or persons interested in maintaining the information confidential) for further representation of his (their) interests by this advocate or for disclosure of confidential information.
(2) When determining with whom of the clients the agreement should be terminated in cases foreseen by Article 23.1, an advocate must proceed from the comparison of the possibilities of each of them in fuming to another advocate, the importance of the rights and interests underlying the substance of the assignment, the time that is needed to complete each of the assignments, and the amount of damage that might be caused to each of the clients owing to the termination of the agreement on rendering legal assistance.

Article 44. Advocate's Responsibilities with Regard to the Termination of Contract

When terminating a contract (irrespective of the reasons), the advocate shall be bound:
1. to return to the client the documents received from him and the documents issued to the advocate in the course of performing the assignment, as well as the property given to the client by the advocate for storage and the unexpended funds intended for covering the expenses related to the performance of the assignment;
2. to inform the client on the performed work and pass on to the client the copies of procedural documents drawn up by the advocate in the course of performing the assignment.
This rule does not extend to cases of an advocate terminating a contract owing to the gross violation by the client of the obligations he undertook under the contract, in particular in case of refusal to pay or actual non-payment of the fees in the whole amount.

Article 45. Termination of a Legal Assistance Contract by a Unit of Advocates

If a unit of advocates is party to the contract with a client on rendering legal assistance and circumstances pertaining to the advocate who has been instructed by such unit of advocates to render legal assistance to that client arise to become the reason for terminating a contract, the unit of advocates must use their best efforts -to replace the advocate by consent of the client provided requirements of these Rules can be observed.

Article 46. Ethical Aspects of Advocate's Relations with Incapable (Partially Capable) Clients

(1) Client's incapability (limited or partial capability) or his actually limited capability to evaluate adequately the reality shall not be the reason justifying the non-performance (improper performance) of advocate's responsibilities with regard to this client.
(2) If owing to age, psychological illness and other objective reasons the client has a reduced ability to make well-considered decisions related to the substance of the assignment, an advocate must nonetheless use his best efforts to maintain with him normal relations which meet the requirements of these Rules.
(3) If a client by legally established procedure has been recognized as incapable (partially capable) and a guardian (custodian) has been appointed to him or the client is a minor and his interests accordingly are represented by a legal representative (guardian, custodian) who knowingly to the advocate acts to the detriment of the legitimate interests of the minor (ward), an advocate must:
1. refuse to accept (or, accordingly, continue performing) the assignment which might entail infringement upon the interests of the minor (ward);
2. take all measures accessible to him for the protection of the legitimate interests of the client;
3. inform the authorities for guardianship of the said actions of the guardian (custodian) of the incapable (partially incapable) client or legal representatives (guardians) of the minor.

Article 47. Ethical Aspects of Advocate's Relations with a Legal Entity as His Client

(1) In the relations on rendering legal assistance to a legal entity as a client, when determining the holder of the client's rights and responsibilities and appropriate procedure for performance of his own responsibilities, an advocate must proceed from the following:
1. for the purposes of coordination with the client, as prescribed by the legislation
and these Rules (specifying the contents of the assignment, obtaining permissions to disclose confidential information, giving explanations on the legal situation in the case, informing on the progress of the assignment, etc.), the client shall be represented by a duly authorized person who executed the legal assistance contract on behalf of the legal entity, or any other person (persons) specified in the contract.
2. the holder of the rights and responsibilities, which are protected or represented by the advocate, is the legal person itself; therefore, if actions related to the subject matter of the assignment made by the person (persons) specified in the paragraph 1 of this Article or other persons, who have employment (membership or other similar) relations with the legal person as the client, are unlawful or objectively prejudice the client's interests and make it impossible to perform effectively the assignment, the advocate should take reasonably necessary and available measures to reduce adverse effects of such actions, in particular, appeal against them to the chief manager of the legal entity (or a body superior to him).
(2) If despite the steps taken by the advocate, the chief manager of the legal person (or a body superior to him) supports the above actions (omissions) detrimental to the interests of the legal entity, the advocate may terminate the legal assistance contract unilaterally.

Article 48. Specific Aspects of Applying the Rules on the Conflict of Interests in Relations with a Legal Entity as a Client

(1) The provisions of these Rules, which regulate an advocate's conduct in situations of conflict of interests, shall fully apply to the relations rising during the provision of legal assistance to the client.
(2) If it becomes clear through the contacts with officials and other employees of the legal entity as the client, which are related to the provision of legal assistance to this client, that the

conflict of interests is rising, the advocate should expressly notify that he represents a client - legal entity and explain his responsibilities related to the conflict of interests.
(3) During the period of the legal assistance contract with the legal entity as the client, the advocate should not make legal assistance contracts with persons who have employment. civil or other relations with the client, where this can come into conflict with the client's interest.
(4) In a situation of a conflict of interests described in Article 23.1 Article 25.1 of these Rules, an advocate may accept an assignment from an official or any other employee of the legal entity, who has found himself in the conflict of interests with the latter or whose assignment may entail the disclosure of information on the legal entity, if, in accordance with the above provisions, a duly authorized persons gives a consent on behalf of the legal entity, provided that this authorized person is not the one in whose favor the consent is requested.

Article 49. Specific Aspects of Performance of Assignment Related to Mediation Between the Clients

(1) If an advocate acts as a mediator between the clients, he must coordinate decisions with each of them and duly inform each of them about all circumstances and considerations necessary for rational decisions on the substance of the assignment.
(2) Advocate must discontinue his intermediary actions and terminate respective contracts with each of the clients, who are simultaneously represented by him, if at least one of them demands this, or where circumstances arise, under which it is impossible to observe the conditions prescribed by Article 24.1 of these Rules.
(3) If an advocate's intermediary actions have not brought any results desirable for the clients, he shall not represent the interests of any of these clients in matters related to the substance of mediation.

Article 50. Ethical Aspects of Defence by Appointment

(1) Defence by appointment of bodies of preliminary investigation and a court of law in cases foreseen by the current legislation on the criminal procedure is an important professional duty of an advocate: Unjustified refusal to undertake defence in such cases shall be inadmissible.
(2) The refusal shall be considered as justified only in cases:
1. when an advocate, due to a temporary physical condition, cannot fully discharge his professional functions;
2. when by objective reasons an advocate lacks the proper skills to render legal aid in a definite case which is especially difficult;
3. when rendering legal aid to a specific person and for definite reasons, it is impossible to observe the requirements of these Rules which regulate the conflict of interests or the confidentiality of information;
4. when acceptance of defence by appointment due to definite objective reasons can entail infringement upon the rights and legitimate interests of other clients of an advocate with whom he is bound by a prior contract on rendering legal assistance;
5. when the share of advocate's workload by appointment in his total workload is obviously excessive and puts him in a difficult financial situation.
(3) Where the defence is performed on appointment under the procedure prescribed by the Criminal Procedure Code of Ukraine and compensated in accordance with the current legislation, a legal assistance contract may be concluded with the client, at any stage of legal assistance, which provides for payment of fees by the client.
(4) In these cases, an advocate shall not induce the client to make a contract by way of deceit, threats or other means which do not conform with the current legislation and these Rules.

Advocate who defended the client during the pre-trial investigation on the basis of the contract or an appointment, can not refuse to accept the appointment to defend this client in the trial court.

Article 51. Ethical Aspects of Legal Aid to Poor Citizens

(1) An advocate must always take into consideration in his professional activities that the advocate's profession is not only a source of his profits but also is of significant social importance and is one of the major guarantees of the proper protection of rights and freedoms of citizens, and requires dedication to the objectives of this profession, generosity and humanity from its representatives. Therefore, an advocate should provide partially paid or free legal aid in cases prescribed by law.
(2) An advocate's unjustified refusal or evasion of rendering free legal aid in cases directly provided for by the law is inadmissible. Such refusal shall be considered as justified only in cases similar to those foreseen under Article 50.2 of these Rules.
(3) An advocate must also try to find a possibility to provide partially paid or free legal aid to poor citizens in other cases which are not prescribed by law, being guided by the reasonable balance of this work and the fully paid one.
(4) If a person, who has a known right to a free legal aid in accordance with the law, applies to an advocate, the advocate should explain this right to this person. In these cases, the advocate is not allowed to offer false information on the rights of this person or wilfully conceal it or seek payment for the provided legal assistance.
(5) However, if the client, being informed of his rights, still wants to pay the fee, or any other persons would like to do so for him, the advocate may accept the payment, provided that other rules of advocate's ethics are not breached by this.
(6) If advertising material on the activity of an advocate (unit of advocates) indicates that certain types of legal assistance or assistance to specific categories of citizens will be provided free of charge, an advocate shall strictly comply with the terms of the advertising material and cannot refuse to provide free legal aid in cases directly mentioned in the advertising material. In the same manner shall the advocate (unit of advocates) observe the instructions included in the advertising material on decreased rates for legal assistance.

Article 52. Advocate's Compliance with the Principle of Good Faith During Defence on Assignment and Free Legal Aid

An advocate shall be equally diligent in performing accepted assignments both when contracts provide for a full fee and when the legal aid is compensated by the state at fixed rates or is provided free of charge in accordance with the law or the contract made between the advocate and the client.

CHAPTER VI. RELATIONS BETWEEN ADVOCATES

Article 64. General Ethical Principles of Relations Between Advocates

Relations between advocates must be built on the basis of corporate spirit, respect for one another as representatives of the legal profession, mutual observance of professional rules, and compliance with all the basic principles of an advocate's ethic defined by these Rules.

Article 65. Certain Ethical Aspects of Relations Between Advocates

In his relations with another advocate, an advocate may not:
1. make statements humiliating his honor and dignity or causing damage to his professional reputation, or tactless and disrespectful expressions;
2. spread deliberately false information about him;
3. attempt to induce a client of another advocate to terminate the agreement on rendering legal assistance;
4. have contact with a client of another advocate with regard to his own assignment without consent of that advocate;
5. attempt to induce a person, who has come to another advocate in an unit of advocates, to conclude a contract on rendering legal assistance;
6. intentionally delude him as to a case, in trial of which they both take part, in relation to time and place of the hearings; the results of consideration by various judicial instances of individual stages of the case; availability of proof (and intentions to provide it) which in reality do not exist; the intentions of his client pertaining to the subject of the litigation and ways of handling the case: terms of a proposed settlement.

Article 66. Acceptable Forms of Advocate's Response to Unlawful or Unethical Actions of Another Advocate

Acceptable forms of advocate's response to unlawful or unethical actions of another advocate, which have damaged or may damage the interests of the advocate, his client, unit of advocates, elected bodies of the Bar or the Bar itself, shall include petitions (applications, complaints) to the disciplinary authorities of the Bar, and other forms of protecting the rights and legal interests of a person, prescribed by the current legislation of Ukraine.

Article 67. Certain Aspects of Compliance with the Principles of Mutual Respect Between Advocates

(1) An advocate should avoid the disclosure of information disparaging another advocate in mass media (or in any other way), unless his own legal interests, interests of his client or the Ukrainian Bar require to do so.
(2) An advocate must not discuss with his client or the client of another advocate the circumstances pertaining to the personal life of the latter, his financial status, origin, national identity, and other circumstances which affect another advocate but are irrelevant to the substance of the assignment.

Article 68. Restricted Advertising of Advocate's Activities in Connection with the Principle of Corporate Spirit

An advocate may not engage in publicity against another advocate (unit of advocates) or use this method when advertising his own activity.

Article 69. A Property Aspect in Relations Between Advocates When One of Them Recommends Another to the Client

An advocate has no right to demand or accept the compensation from another advocate for recommending him to a client.

CHAPTER VII. OBSERVANCE OF STANDARDS OF ADVOCATE'S ETHICS IN ADVOCATE'S PUBLIC AND ACADEMIC ACTIVITIES OR PUBLICATIONS

Article 70. Balance of Advocate's Professional Responsibilities and His Public, Academic and Other Interests

(1) An advocate must remember that he should observe his professional responsibilities, in particular those which follow from the rules of advocate's ethics, in his public and academic activities and publications.
(2) In case of a conflict between advocate's professional responsibilities prescribed by law, the rules of advocate's ethics and his obligations before particular clients, which arise from legal assistance contracts, on the one hand, and his obligations relating to his membership in a certain non-governmental organization, party, scientific society, etc., on the other hand, this advocate shall not breach his professional responsibilities.

Article 71. Compliance with the Principle of Confidentiality in Advocate's Public, and Academic Activities or Publications

In public and academic activities or publications, an advocate may not use any information, the confidentiality of which is protected by the rules of these Rules, without the consent of the person interested in keeping such information confidential.

Article 72. Compliance with the Principle of Respect to the Legal Profession in Advocate's Publications

In his publications, an advocate must not disseminate information which does not reflect the real state of affairs or is false, or derogatory to the honor, dignity and business reputation of other advocates or the prestige of the Bar; and his reasonable criticisms with regard to such persons or the Bar should be presented in a concrete form.

CHAPTER VIII. THE ROLE OF UNITS OF ADVOCATES IN ENSURING OBSERVANCE OF THE RULES OF ADVOCATE'S ETHICS

Article 73. The Rules of Advocate's Ethics Apply to Activities of Units of Advocates
These Rules of Advocate's Ethics shall be binding on units of advocates to the same extend as on individual advocates.

Article 74. Responsibilities of Units of Advocates in Ensuring Observance of the Rules of Advocate's Ethics

If a unit of advocates is a party to a legal assistance contract, it shall be bound to ensure that a candidate advocate charged with the performance of the assignment (or individual jobs of an assignment) meets the requirements toward an advocate's competence that stem from the nature of the assignment, as well as that other rules of these Rules pertaining to the conclusion of contracts on rendering legal assistance and their execution and termination are complied with.

Article 75. Role of Advocates in Securing the Compliance with the Rule of Advocate's Ethics by Units of Advocates

Every advocate who is a member of a unit of advocates shall make reasonable efforts to ensure that the unit takes measures securing the compliance with these Rules by all advocates and staff of that unit.

Article 76. Balance Between Professional Responsibilities of Advocates Who Arc Members of Units of Advocates and Their Responsibilities Related to Their Membership in These Units

For an advocate who is a member of a unit of advocates, his professional responsibilities to clients, which rise from the current legislation, the Rules of Advocate's Ethics and legal assistance contracts shall prevail over his obligation .to fulfil instructions of the management bodies of his unit of advocates.

CHAPTER IX. RESPONSIBILITY FOR THE BREACH OF RULES OF ADVOCATE'S ETHICS

Article 77. Legal Consequences of a Breach of the Rules of Advocate's Ethics

A breach of the rules of advocate's ethics by an advocate may entail disciplinary measures applied to him in the manner prescribed by the current legislation on the Bar.

Article 78. Advocate's Responsibility for a Breach of the Rules of Advocate's Ethics by Advocate's Assistant

An advocate may be brought to disciplinary responsibility for a breach of the rules of advocate's ethics by his assistant if the advocate:
1. did not ensure that the latter is familiarized with these Rules;
2. did not properly control the actions of his assistant involved in certain work related to the performance of an assignment defined in a legal assistance contract made between the advocate and his client;
3. facilitated the violation of the Rules of Advocate's Ethics by his assistant through his instructions, advice or personal example.

Article 79. Responsibility of the Management of a Unit Advocates for the Failure to Secure the Conditions for Compliance with the Rules of Advocate's Ethics

An advocate, who is a manager of a unit of advocates (advocates who are members of a board of a unit of advocates) may be brought to disciplinary responsibility for the failure to comply with the requirements of Article 74 of these Rules as well as for his decisions which entail a breach of the Rules of Advocate's Ethics.

Article 80. General Principles of Disciplinary Responsibility for the Breach of the Rules of Advocate's Ethics

(1) When applying disciplinary penalties for the breach of the rules of advocate's ethics, the disciplinary bodies of the Bar shall be guided by the general principles of legal responsibility, in particular, they should apply the measures of disciplinary responsibility only for proved violations.
(2) Presumption of innocence shall apply in matters of disciplinary responsibility of advocates.

Article 81. The Role of Regional Disciplinary Bodies of the Bar in Explanation of the Rules of Advocate's Ethics

(1) When in particular situation an advocate finds it difficult to choose the way of conduct which corresponds to the Rules in particular circumstances, he may apply to an appropriate regional disciplinary body of the Bar for explanations.
(2) Advocate's actions which comply with the explanations of the regional disciplinary body of the Bar shall not be imputed to him or entail any disciplinary penalty.
(4) If a client, who has made a legal assistance contract with an advocate, makes a contract with any other advocate without the consent of the former advocate, this advocate-as well as another advocate, if the client has failed to notify him of the previous contract-shall have the right to terminate the contract unilaterally. unless the advocate's refusal to proceed performing his professional functions with respect to the client is inadmissible under the current law.

Approved by
the Decree of the President of Ukraine
of 5 May 1993 N 155/93

REGULATION
On qualification and disciplinary commission of the bar

I. General provisions

1. This Regulation determines in accordance with the Law of Ukraine “On the Bar” the organisation and operation of the qualification and disciplinary commission of the Bar (hereafter − qualification and disciplinary commission).

2. Qualification and disciplinary commission shall be created in the Autonomous Republic of Crimea, the regions, and the cities of Kyiv and Sevastopol.
The authority of the qualification and disciplinary commission shall last three years from the date the first meeting of the commission.

3. The main objective of the qualification and disciplinary commission shall be determination of professional qualification of the persons seeking the status of an advocate and resolution of issues of disciplinary responsibility of advocates.

4. In its activity the qualification and disciplinary commission shall by governed by the Constitution of Ukraine, the laws of Ukraine, the acts of the High Qualification and Disciplinary Commission of the Bar adopted within the limits of its competence and this Regulation.

5. Councils of Ministers of the Autonomous Republic of Crimea, the regional, Kyiv and Sevastopol city rada shall be in charge of the formation and organisational support of the qualification and disciplinary commissions.
Qualification and disciplinary commission shall acquire its authority upon its formation in full.

6. Qualification and disciplinary commission is a legal person, has its stamp and seal with its full name.

II. Composition of qualification and disciplinary commission and the procedure of its formation

7. Qualification and disciplinary commission shall be made up of two chambers - an attestation chamber and a disciplinary chamber.
Qualification and disciplinary commission shall be headed by the president elected by secret ballot by simple majority of votes of the total number the commission members on alternative basis from the members of the chambers at the first meeting of the commission which shall be convened within 15 days from the date of its creation.
Presidents of the chambers are *ex officio* deputies of the president of the qualification and disciplinary commission.
President and the commission and presidents of the chambers cannot be elected for those positions for more than two terms consecutively.

8. The attestation chamber of the qualification and disciplinary commission shall be composed of eleven members. It shall consist of 4 advocates, 4 judges, one representative of the Council of Ministers of the Autonomous Republic of Crimea, the regional, Kyiv and Sevastopol city rada, the Chief Department of Justice of the Ministry of Justice of Ukraine in Autonomous Republic of Crimea, the regional, Kyiv and Sevastopol departments of justice and the department of the Union of Advocates of Ukraine.

9. The disciplinary chamber of the qualifications and disciplinary commission of the bar shall be composed of nine members. It shall consist of 5 advocates, 2 judges, one representative from the Chief Department of Justice of the Ministry of Justice of Ukraine in Autonomous Republic of Crimea, the regional, Kyiv and Sevastopol departments of justice and the department of the Union of Advocates of Ukraine respectively.

10. The chamber of the qualification and disciplinary commission shall be headed by the president elected by secret ballot by the majority of votes of the total number of members of the chamber on alternative basis and unimpeded nomination of candidates from members of the chamber at its first meeting.
The President of the Chamber has two deputies elected in the same manner as the president

11. The members of the qualification and disciplinary commission – advocates shall be elected by the general meeting (conference) advocates of the Autonomous Republic of Crimea, the regions, the cities of Kyiv and Sevastopol.

Representatives of the department of the Union of Advocates of Ukraine to the chambers shall be elected by the meeting of the department of the Union.
Members of the chambers – advocates and representatives of the Union of Advocates of Ukraine shall be elected by secret ballot on alternative basis and unimpeded nomination of

candidates. The candidate who received more than half of the votes of those who took part in the election (conference) shall be deemed to have been elected.

Members of the chambers – judges shall be elected by the Council of Judges of Ukraine.

Representative of the regional, Kyiv and Sevastopol city rada as a member of the attestation chamber shall be elected by the relevant rada. The representative of the Council of Ministers of the Autonomous Republic of Crimea shall be appointed by the Council of Ministers of the Autonomous Republic of Crimea.

Members of the chambers – representatives of the Chief Department of Justice of the Ministry of Justice of Ukraine in Autonomous Republic of Crimea, the regional, Kyiv and Sevastopol departments of justice shall be appointed by the head of the relevant department of justice.

12. A secretary elected at the first meeting of the chamber from its members shall be in charge of documentation management of the qualification and disciplinary commission, recording and storage of cases.

13. In case of early retirement the president, deputy president, secretary, chamber member of the qualification and disciplinary commission shall be elected (appointed) in accordance with this Regulation.
13-1. Qualification and disciplinary commission:

- issues license to carry out advocate's activity;
- takes an Oath of an advocate of Ukraine;
- terminates in accordance with this Regulation advocate's activity, annuls the license to carry out advocate's activity and the decision of the attestation chamber to issue such license;
- exercises control over observance by advocates of obligations following from the Oath of an advocate of Ukraine, the legislation of Ukraine and the Rules on Advocates' Ethics;
- determines the reasons and conditions encouraging advocates to commit disciplinary offences , render low-quality legal assistance and develops recommendations concerning the measures on elimination of those reasons and conditions;
- decides on the improvement of professional qualification of advocates and organises their implementation;
- elects representatives to the High Qualification and Disciplinary Commission of the Bar.

In case of serious violation by an advocate of the requirements of the Law of Ukraine "On the Bar", other legislation and the Oath of an advocate of Ukraine the qualification and disciplinary commission takes a decision about the termination of the advocate's activity and annulment of the license to carry of advocate's activity on the basis of the decision of its disciplinary chamber to impose the relevant disciplinary sanction. In case the commission does not agree with the chamber's decision it can quash such decision and return the case for fresh examination to the disciplinary chamber with the restoration of the term for examination of the case or to take a decision to discontinue the disciplinary proceedings.

III. Powers of the qualification and disciplinary commission, its chambers and organisation of their work

14. The attestation chamber of the qualification and disciplinary commission:
- examines the applications of persons seeking the advocate's status;
- admits persons or refuses their admission to qualification exams;
- conducts qualification exams;
- takes the decision to grant or refuse license to carry out advocate's activity.

15. The disciplinary chamber of the qualifications and disciplinary commission:

- examines complaints of citizens, special decisions of courts and judges, decisions, motions of investigatory bodies, the president of the qualifications and disciplinary commission and its members, applications of advocates' associations, enterprises, institutions and organizations about the actions of advocates;
- resolves issues of bringing an advocate to disciplinary liability, examines cases initiated in that respect, takes a decision to impose a disciplinary sanction or to refuse to hold the advocate disciplinary responsible;
- summarises disciplinary jurisprudence of the chamber and advocates' associations on a yearly basis.

15-1. The qualification and disciplinary commission exercises its powers at the meetings, which shall be convened and conducted in accordance with the rules established for the chambers' meetings by the president of the qualification and disciplinary commission (his/her deputy) taking into account the number of members of both chambers and applying the rules about the quorum, the procedure of taking decisions, etc.

16. First meeting of the qualification and disciplinary commission shall be convened within 15 days from the formation of the commission's composition.

17. The president, deputy president or one of the members of the chamber assigned by the president arranges for the preparation of the chamber's meeting. President of the Chamber decides on time and place of conducting the chamber's meeting and notifies about it the persons concerned by the agenda and other persons who are obliged to take part in the meeting not later than 10 days before it.

18. Qualification and disciplinary commission and its chambers are entitled to request and receive free of charge the information required for the performance of their functions from courts, investigatory bodies, institutions of justice, prosecutor's office, internal affairs bodies, other executive authorities, advocates' associations, advocates, enterprises, institutions, organizations and citizens (on their consent).

Bodies and officials shall reply to the qualification and disciplinary commission within 10 days of the receipt of its request.

18-1. Qualification and disciplinary commission requests on a yearly basis reports about the quality of the provision of legal assistance from advocates' associations composed in the course of inspections conducted by the associations and in necessary cases can check their veracity.
The checks can be carried out on the commission's initiative or on the motion of one of its chambers and also upon the receipt by the qualification and disciplinary commission (or its

chamber) of complaints (special decisions, motions and decisions) about the violations committed by the advocate of the advocates' association (advocate carrying out private practice), or about the low quality of legal assistance rendered by such advocate.
In the course of conducting the checks members of the qualification and disciplinary commission enjoy powers referred to in item 18 of this Regulation and have the right to request explanations from advocates and members of the governing bodies of advocates' associations on the issues to be resolved during the check.
The results of the check shall be examined at the meeting of the qualification and disciplinary commission and shall be used in the planning of measures on the improvement of professional qualification of advocates, ensuring the observance of the Rules on Advocates' Ethics by advocates, elimination of reasons and conditions impeding the performance by advocates of functions entrusted to the bar.
The president of the qualification and disciplinary commission can on the basis of the check reports file a motion to the disciplinary chamber of the commission to bring the advocate to disciplinary responsibility or to impose an obligation on him to improve professional qualification.

19. The chamber's meeting shall be deemed competent if not less than two thirds of its members are present.

20. Chambers shall convene as may be required from time to time without prejudice to the requirement of observance of the terms of examination of applications and cases established by this Regulation.
(paragraph two of item 20 was excluded pursuant to the Decree of the President *N 1240/99 of 30.09.99*)
Common meetings of chambers can be conducted in case of need.

21. The president of the chamber conducts the meeting and in case of his/her absence – the deputy or one of the members of the chamber elected to that purpose by the decision of the chamber.
All member of the chamber enjoy equal rights.
Legal scholars and people's deputies with advisory vote can take part in the meeting of the chamber or the qualification and disciplinary commission.

22. Before the commencement of examination of an application or a case the person who filed the application or a person whose case is being examined has the right to challenge the member of the chamber if he/she considers that the member of the chamber or his/her relatives are interested in the results of the examination or doubt his/her neutrality for other reasons.
The issue about the challenge filed shall be resolved by other members of the chamber present at the meeting without participation of the member challenged by open ballot by simple majority. In case of equal votes the member of the chamber shall be deemed withdrawn. The member of the chamber challenged can provide explanations with regard to the challenge.

23. Examination of issues on the agenda of the chamber's meeting starts with the report of the president of the chamber, deputy president or one of the members of the chamber which carried out preliminary consideration of the materials submitted. Afterwards the chamber interviews persons invited to the meeting and studies the necessary documents and materials.

The minutes of the chamber's meeting shall be taken and signed by the president and the secretary of the chamber

24. Decision of the attestation chamber to issue license to carry out advocate's activity or to refuse the license shall be taken by open ballot by simple majority of votes of the total number of members of the chamber.
Decision of the disciplinary chamber to bring the advocate to disciplinary responsibility shall be taken by open ballot by two thirds of the votes of the total number of members of the chamber.
The decision shall be delivered in written form with indication of reasons and shall be signed by the president and members of the chamber who took part in the meeting.
A member of the chamber can individually or together with other members of the chamber to present his/her separate opinion concerning the chamber's decision. The separate opinion shall be attached to the disciplinary case. In case the decision in the case with separate opinion is not appealed against the case shall be sent to the President of the High Qualification Commission of the Bar.

A copy of the chamber's decision shall be sent (or handed in) to the person in respect of whom the issue was resolved and also to the body or the person on whose motion (application, complaint, decision, ruling) the case was examined.

26. Decision to refuse admission to qualification exams, to annul the decision of the attestation chamber in accordance with item 32 of this Regulation or decision to refuse the license to carry out advocate's activity can be appealed against within one month to the High Qualification Commission of the Bar and the decision to impose a disciplinary sanction on the advocate and the decision to terminate advocate's activity and to annul the license to carry out advocate's activity – within three months to the High Qualification Commission of the Bar or to a court.

The complaint about the decisions or actions of the qualification and disciplinary commission (or one of the chambers) shall be lodged to the commission (or its chamber) which passed it and shall be sent by such commission (or its chamber) to the High Qualification Commission of the Bar or court within seven days.

IV. Examination of applications for license to carry out advocate's activity

29. A person intending to carry out advocate's activity shall file an application to the attestation chamber of the qualification and disciplinary commission, notarized copy of the university diploma on higher legal education, the document confirming professional experience of working as a lawyer or assistant advocate of not less than two years and a document about the place of work and the position at the time of filing the application.

The attestation chamber can in case of need request other documents to resolve the issue of whether to grant or refuse admission to qualification exams.

The attestation chamber considers the documents submitted within one month of their receipt.

Based on the results of the application and documents referred to in paragraph one of this item the attestation chamber takes the decision:

- to admit the applicant to qualification exams;
- to request additional documents;
- to refuse admission to qualification exams.

30. Qualification exams include questions in the areas of law, Rule of advocates' ethics, history of the bar, legislation of the bar written in the test papers, questions from the members of the commission and also the performance of practical tasks and drafting of legal documents in accordance with the Program of qualification exams.
A person who failed qualification exams can take repeated exams in one year.

31. Based on the results of qualification exams the attestation chamber takes the decision:

- to issue license to carry out advocate's activity;
- to refuse license to carry our advocate's activity.

32. On the basis of the decision of the attestation chamber the qualification and disciplinary commission issues within one month from the date of such decision license to carry out advocate's activity in the form attached to the person who has successfully passed qualification exams if no obstacles related to incompatibility exist.
Upon receipt of the license the person who received it takes an Oath of an advocate of Ukraine.
If the persons within the term referred to does not receive the license and does not take the Oath of an advocate of Ukraine the decision on issuance of the license by the qualification and disciplinary commission shall be annulled according to the established procedure.

V. Examination of cases about disciplinary responsibility of an advocate and termination of advocate's activity

33. The right to initiate disciplinary proceedings belongs to the president of the chamber and in case of his/her absence – to the deputy president who conducts preliminary consideration of the information relating to grounds for bringing the advocate to disciplinary responsibility, informs the advocate about it and requests a written explanation from the advocate.

34. Disciplinary sanction can be imposed on the advocate directly after the discovery of offence but no later than one month after the discovery excluding the time of the advocate's temporary inability to work and him/her being on vacation.
Disciplinary sanction cannot be imposed after the expiry of six months from the moment it was committed.

35. The case about disciplinary responsibility of an advocate shall be examined within one month from the moment of institution of disciplinary proceedings.

36. The following disciplinary sanctions can be imposed on the advocate for violation of the requirements of the Law of Ukraine "On the Bar", other legislation of Ukraine regulating the activity of the bar and the Oath of an advocate of Ukraine by the decision of the qualification and disciplinary commission:

- admonition;

- suspension of the license to carry out advocate's activity for the period not exceeding one year;
- annulment of the license to carry out advocate's activity.

The disciplinary chamber can discontinue the disciplinary proceedings if in the course of examination of the case it decides that the complaint (application, decision, ruling) is unfounded and there exist no grounds for bringing the advocate to disciplinary responsibility or the imposition of disciplinary sanction for the offence committed by the advocate is unreasonable or that the actions committed go beyond the disciplinary responsibility of advocates.

37. Before the commencement of the examination of the case if necessary a member of the disciplinary chamber assigned by the president conducts an additional revision of the grounds for bringing the advocate to disciplinary responsibility. In the course of additional revision additional documents and materials can by requested.

38. Participation of the advocate against whom the disciplinary proceedings are initiated in the examination of the disciplinary case is mandatory. Repeated failure of the advocate to appear without a good reason does not preclude the examination of the case in the advocate's absence.

During the hearing the advocate whose disciplinary responsibility is being considered can file motions and provide additional explanations at any time. At the discretion of the disciplinary chamber other persons whether invited by the advocate or the chamber can be interviewed, documents read out and other materials of the case file and newly submitted s materials studied.

The decision shall be taken in the absence of the advocate against whom the disciplinary proceedings are initiated.

39. In case the advocate is not subjected to new disciplinary sanction within one year from the date of the imposition of the disciplinary sanction he/she shall be considered as not having been subjected to disciplinary responsibility.

The Disciplinary chamber can upon expiry of not less than six months from the date of the imposition of the sanction to remove it early in case of irreproachable behaviour of the advocate and scrupulous exercise by him/her of professional duties.

40. Qualification and disciplinary commission can take the decision to terminate advocate's activity and to annul the license in cases of:

- conviction of the advocate for the commission of the crime – after the entry into force of the conviction;
- restriction by the court of the advocate's capacity or the court declaring him/her incapacitated;
- the loss of the citizenship if Ukraine;
- serious violation of the violation of the requirements of the Law of Ukraine "On the Bar", other legislation of Ukraine regulating the activity of the bar and the Oath of an advocate of Ukraine.

Approved by
The Decree of the President of Ukraine

of 5 May 1993 N 155/93

REGULATION
On the High Qualification Commission of the Bar

1. This Regulation determines in accordance with the Law of Ukraine "On the Bar" the organisation and operation of the High Qualification Commission of the Bar.
2. The High Qualification Commission of the Bar shall be created within the framework of the Cabinet of Ministers of Ukraine.
The authority of the qualification and disciplinary commission shall last three years from the date the first meeting of the commission.

3. The main objective of the High Qualification Commission of the Bar shall be examination of complaints about the decisions of the qualification and disciplinary commissions of the bar in the Autonomous Republic of Crimea, the regions, and the cities of Kyiv and Sevastopol.

5. The High Qualification Commission of the Bar consists of one representative from every qualification and disciplinary commission of the bar, the Supreme Court of Ukraine, the Ministry of Justice of Ukraine and the Union of advocates of Ukraine.

6. Representatives of the qualification and disciplinary commissions of the bar in the High Qualification Commission of the Bar shall be elected by secret ballot on alternative basis and unimpeded nomination of candidates from the members of the qualification and disciplinary commissions. The candidate who received more than half of the votes of the members of the qualification and disciplinary commission shall be deemed elected.
The representative of the Supreme Court of Ukraine in the High Qualification Commission of the Bar shall be elected by the Plenary Session of the Supreme Court of Ukraine and the representative of the Union of advocates of Ukraine – by the board of the Union.
The representative of the Ministry of Justice of Ukraine shall be appointed by the Minister of Justice of Ukraine.

7. The High Qualification Commission of the Bar shall be headed by the President elected by secret ballot on alternative basis and unimpeded nomination of candidates from the members of the commission at its first meeting.
The President of the Commission shall have a deputy elected in the same manner as the president.

9. In case of early retirement the president, deputy president, secretary, chamber member of the High Qualification and Disciplinary Commission shall be elected (appointed) in accordance with this Regulation.

10. The High Qualification Commission of the Bar shall:
a) examine complaints:
about the decisions of qualification and disciplinary commissions of the bar or their chambers about:
- the refusal of admission to qualification exams;
- the refusal to issue license to carry out advocate's activity;

- the annulment of the decision of the attestation chamber to issue license to carry out advocate's activity;
- the imposition of disciplinary sanction on the advocate;
- termination of advocate's activity and annulment of the license to carry out advocate's activity;

about the actions of qualification and disciplinary commissions of the bar, of their chambers or chamber members, performed in breach of the legislation in force;

b) develop and approve the program and procedure of passing qualification exams by persons who expressed an intention to carry out advocate's activity, the procedure of issuance and annulment of license to carry out advocate's activity;

c) exercise control over the activity of qualification and disciplinary commissions of the bar, analyse the practice of application by them of the Law of Ukraine "On the Bar", the Regulation on qualification and disciplinary commission of the bar, the acts adopted by the High Qualification Commission of the Bar, develop and implement measures to improve the functioning of such commissions;

d) approve the Rules on Advocates' Ethics;

e) determine the procedure of exercising control over the observance by advocates of obligations following from the Oath of an advocate of Ukraine, the legislation of Ukraine, the Rules on Advocates' Ethics, procedure of organisation and conduct of the checks envisaged by item 18-1 of Regulation on qualification and disciplinary commission of the bar;

f) approve the Regulation on the Uniform Register of Advocates of Ukraine, compile, keep and publish such Register;

g) approve the model order used by an advocate to confirm his/her authority to represent or defend the client;

h) produce according the accepted model the letterheads of license to carry out advocate's activity;

i) determine the procedure and forms of improving professional qualification of advocates and coordinate the work of qualification and disciplinary commissions on those issues;

j) take measure to eliminate the violations of the requirements on incompatibility of advocate's activity with other types of work and the reasons and conditions which encouraged the commission of other violations of the legislation.

10-1. The High Qualification Commission of the Bar within the limits of its powers adopts and approves regulations, recommendations, clarifications and decisions binding upon qualification and disciplinary commissions of the bar, advocates and advocates' associations covered by them.

16. Before the commencement of the examination of the case by the High Qualification Commission the person who filed the complaint can challenge the member of the commission if he/she considers that the member or his/her relatives are interested in the results of the examination or doubt his/her neutrality for other reasons.

The issue about the challenge filed shall be resolved by other members of the commission without participation of the member challenged by open ballot by simple majority. In case of equal votes the member of the commission shall be deemed withdrawn. The member of the commission challenged can provide explanations with regard to the challenge.

A member of the High Qualification Commission who took part in the examination of the application or the case and the adoption of the decision by the qualification and disciplinary commission cannot participate in the examination of the case if such decision is challenged.

17. The High Qualification Commission is entitled to:

- invite to the meeting of the commission the persons who filed the complaint about the decision of the qualification and disciplinary commission of the bar, the representatives of advocates' associations, enterprises, institutions, organisations and officials;
- request and receive free of charge information necessary for the performance of its powers from courts, investigatory bodies, institutions of justice, prosecutor's office, police, other executive authorities and local self-governing authorities, advocates' associations, advocates, enterprises, institutions, organizations and citizens (on their consent).

- check the appropriate use by qualification and disciplinary commissions of the bar of the funds and the quality of the performance by the commissions of functions they are entrusted with.

Bodies and officials shall reply to the High Qualification Commission within 10 days of the receipt of its request.

18. Complaints about the decisions of the qualification and disciplinary commissions of the bar shall be examined within one month from the date of their receipt.
In case of complicated circumstances connected to the complaint or the need to conduct additional check thereof the President of the High Qualification Commission of the Bar can extend the term of examination of the complaint until three months having notified the person who filed the complaint in writing.

19. Examination of complaint at the meeting of the High Qualification Commission of the Bar starts with the report of the president of the commission, deputy president or one of the members of the commission who carried out preliminary consideration of the complaint. Afterwards the commission interviews persons invited to the meeting and studies the necessary documents and materials.
The minutes of the chamber's meeting shall be taken and signed by the president and the secretary of the commission.

20. Based on the examination of the case the High Qualification Commission of the Bar shall take the following decision:

- to uphold the decision of the chamber or the qualification and disciplinary commission of the bar and reject the complaint;
- to modify the decision;
- to quash the decision and remit the case to the qualification and disciplinary commission for fresh examination or to discontinue the examination or to adopt the new decision.

Decision of the High Qualification Commission of the Bar shall be final.

21. Decision of the High Qualification Commission of the Bar shall be taken by secret ballot by simple majority of votes of the total number of members of the commission.

The decision shall be delivered in written form with indication of reasons and shall be signed by the person who presided at the meeting.
A member of the commission can individually or together with other members of the commission express separate opinion in respect of the commission's decision. The separate opinion shall be attached to the case file.

23. The decision of the commission shall be handed in to the person in whose regard it was taken within three days.

23-1. Complaints about the actions of qualification and disciplinary commissions of the bar, their chambers and chamber members, committed in breach of the requirements of the legislation shall be examined by the High Qualification Commission of the Bar according to the procedure established by this Regulation for examination of complaints against the decisions of the above-mentioned commissions or their chambers.
Based on the results of examination of those complaints the High Qualification Commission of the Bar shall adopt the decision:

- to take measures to eliminate the violations of legislation in the activity of the qualification and disciplinary commission of the bar, its chambers or chambers' members and the reasons and conditions which encouraged the commission of such violations;
- to file a motion to the body which elected or appointed the member of the chamber who seriously violated the legislation in the performance of the functions of the commission about his/her early withdrawal.