

CHARTER

of the Lawyers Rules of Conduct

Is adopted by the Conference of the Members of the Bar Association of the Republic of Azerbaijan on 28.12.2020.

Universal right of being the recipient of high quality legal aid as well as the right for representation by the legal representative from and forth the event of being arrested, detained, indicted by the authority are imprinted in the Article 61 of the Constitution of The Republic of Azerbaijan.

Conjoint to previously mentioned, legal duties and activities of the lawyers are reflected in the Law on Lawyers and Legal Practice of the Republic of Azerbaijan.

Considering the special importance of Lawyers' conduct in terms of fostering of the respect to the Rule of Law and elevation of the quality of the legal aid, standards of the professional conduct of the lawyers must correspond to the highest level of professional behaviour. In addition to the protection of the rights and freedoms of the persons embedded their trust in him, as well as being a legal counsel and conducting the legal counselling for the persons seeking his advice, implementing the instructions conveyed upon him the lawyer can only refuse to act faithfully, to the extend, permitted by law.

Compliance of lawyers with the professional conduct rules is an essential condition for the Rule of Law and the "Charter of the lawyers' rules of conduct" (hereinafter – Charter) is aiming for the fulfilment of this condition.

1. General Provisions

1.1. The rules of conduct reflected in this Charter are applicable to any person functioning as a lawyer.

1.2. Fulfilling the duty of acting in compliance with this Charter lawyers must adhere to the principles of rule of law, independence in decision making, protection of democratic values, humanism, transparency, efficient administration of justice, preservation of client confidentiality, protection of human rights, conscious human behaviour as a guidance in their daily functioning.

1.3. Being guided by the provisions of this Charter in his/her conduct within outside of his/her professional actions each and every lawyer must be loyal to the proper exercise of his/her profession. Acting outside of the realm of professional functioning, a lawyer must do nothing to damage the reputation of the profession.

1.4. This Charter aims to achieve the following:

1.4.1. Enhancement of the Lawyer's reputation and the trust towards it.

1.4.2. Enhancement of the efficiency of lawyers' functioning and entities.

1.4.3. Improvement of quality of legal aid provided for legal persons and individuals.

1.5. Conduct of the lawyers is regulated by the Law on Lawyers and Legal Practice of the Republic of Azerbaijan, other legislation regulating the function of lawyers, the Articles of Association of the Bar Association and this Charter.

2. Rules of conduct

2.1. The independence of the lawyer - A lawyer is independent and obedient exclusively to the rule of law. Being independent in the pursuit of professional duties is essential for a lawyer. A lawyer must avoid any action compromising his/her independence, as well as, prevailing the reputation of the profession over any other personal interest whatsoever.

2.2. Integrity of the lawyer – In line with fulfilment of his/her professional duties, a lawyer must avoid having false, threatening, intimidating behavior, subjecting of any actors into critical financial situation or any other sort of predicament, achieving of career or personal goals by any illegal means. A lawyer has a duty of acting in an efficient manner for the sake of statehood, the interest of person and public good. While acting under his/her duties a lawyer must embody a paragon of decency from the perspective of each and every person. A lawyer must not orally or in writing guide anyone by advice to breach the law, as well as, instigate any illegal action. In fulfilling his/her professional duties, a lawyer must not act by any means or tools contrary to the law in action and the Charter.

2.3. Professional competence and progression of personal liability – A lawyer carries the duty of functioning with high professional competence and in line with his/her rights and obligations bestowed upon him/her by the laws of the Republic of Azerbaijan. A lawyer must possess integrity in his/her conduct alongside with competence in his/her actions aiming for the enhancement of trust by the general public.

2.4. Loyalty - a lawyer must in no way compromise the repute of advocacy while performing his/her duties or acting in daily life Avoiding critique of other lawyers at public domain (with cases revealing illegality being exempt to the foregoing) alongside with any public judgment on the lawyer actions, a lawyer must comply with limitations imposed on him/her by the legislation.

2.5. Public trust – a lawyer must increase and enhance the reputation of the profession. A lawyer is under the duty of liquidation of the damages resulting from his/her misconduct, in addition to the obligation of taking an action aiming the restitution of the trust in eyes of the public. Lawyers must not distort the truth in his/her speeches and correspondence.

2.6. Confidentiality - it is a lawyer's obligation to keep confidential the information obtained in the course of legal aid he/she delivers. Timespan on confidentiality of matters is not limited by any point. A lawyer must demand confidentiality from the parties involved in the deliverance of legal aid. A lawyer must not use the information obtained in connection with his/her professional activity for purposes not related to his/her legal assistance.

2.7. Respect towards the law, freedom and legal interests, dignity, honor and business reputation - A lawyer's activity must serve for the rights, freedoms and representation of legal interests, as well as, the defense of a person. Lawyers must abstain from any actions (or omissions) which may violate rights, freedoms and legal interests and damage the dignity, honor and business reputation of individuals. A lawyer must behave in a respectful manner towards the business reputation of legal entities and avoid any action (or omission) which may damage their business reputation or violate their legal interests.

2.8. Ethical behaviour – A Lawyer must be ethical, decent, considerate and patient towards all persons he/she is contacting with both performing his /her duties and in daily life.

2.9. Objectivity – Functioning as a professional lawyer must not discriminate or create and assist in creation of advantages and disadvantages, based on race, ethnicity, creed, linguistics, gender, origins, personal wealth, carrier, authority, morals of a person, political party membership, trade union membership or membership in a community.

2.10. Forbiddance of the favouring and privilege creation of material and non-material nature – In performance of his/her duties it is strictly forbidden for a lawyer to obtain any material or non-material benefit, as well as, creating of any advantages for oneself.

2.11. Public and political activity - public and political activities, as well as membership in any political party or community must not undermine the belief in his/her non-biased nature of his/her actions.

2.12. Lawyer’s promotion of his professional profile – A lawyer can promulgate on his/her professional profile only in accordance with the rules set in this Charter. Any promulgation in a lawyers profile must not have any trace of advertising of anyway.

A lawyer can share information about his/her activities through the mediums of quarterly publications, guides, information bulletins, radio, television and social networks. A lawyer must not create a prospective image of positive outcome of the case by referring to any preliminary investigation, judiciary proceedings and other cases in the course of provision of legal aid. Information provided by a lawyer for the purpose of self-promulgation must be objective, truthful, clear and comprehensible in addition to being non-misleading for the potential seekers of his legal aid. Any materials in a lawyer’s promulgation must be issued in a way not harming the reputation of the advocacy or Bar Association. A lawyer must inform the Disciplinary Commission of the Lawyers and take an immediate steps to stop the activities for his/her promulgation in case the promulgation is made in a path contradicting to the rules stated in this Charter. This provision of the Charter is also applicable to the actions for promulgation of lawyer’s entities.

2.13. Publicity – Without any prejudice to the principles of confidentiality, as well as, other professional principles, a lawyer is obliged to truthfully inform the public about the nature of the legal aid he/she is providing. A lawyer must not disclose information obtained in connection with his/her legal assistance the dissemination of which is prohibited by law, information obtained in closed court proceedings, as well as, information that constitutes lawyer-client privilege. A lawyer must not publicly disclose the facts and documents consent for disclosure of which was not given by the person to whom the legal aid is provided, as well as, the information which might harm the values, order of a democratic society, and state security. Additionally, the information confidentiality of which is essential for the protection of interests of underage persons and family life of the parties must not be publicly disclosed by a lawyer. Alongside with avoidance of dissemination of insulting statements and libel; a lawyer must abstain by any means from the actions and public statements made though media or social networks or in any public domain damaging the reputation of advocacy, as well as, statements creating false and misleading public perception on decisions undertaken by the Bar Association. Lawyers must avoid dissemination via social networks or media or any public domain of false and defamatory information in relation to the state, non-state actors and their authorized representatives; in addition to this lawyers must abstain from using non-ethical language and acting in an inappropriate way against the actors mentioned.

2.14. Incompatibility with Lawyers profession – for the fulfilment of his duties in an independent manner and for the efficient administration of justice a lawyer must avoid the occupation, which is incompatible with abovementioned goals.

3. Lawyer's attitude towards the applicants for his/her aid.

3.1. Lawyer is acting based on agreement or on the basis of state funds as is indicated in the law.

3.2. Minimization or withdrawal of the instructions, as well as withdrawal of them by the person seeking a legal aid based on the agreement cannot be obstructed or impeded, as well as protested by the lawyer.

3.3. A lawyer must establish the identity of the person instructing or applying for his/her help, as well as, the powers of a person representing a legal personality.

3.4. A lawyer must advice and represent a person applying for his/her help diligently and in good faith. A lawyer must periodically inform the person he/she is aiding on the progress of the case.

3.5. Mutual relationships formed between a lawyer and the represented person by him/her must be based on trust stemming from evidently transparent and just nature of those relationships.

3.6. A lawyer must not claim or receive any service fees or any other form of reward form the lawyer recommended by him to applicant for the purpose of positive resolution of the case.

3.7. A lawyer must not pay any service fee or any other form of reward to any person in return of being recommended for the provision of legal aid by that person.

3.8. A lawyer must not represent different applicants for one matter in case where conflict of interest arises between them on issue contested.

3.9. A lawyer must refuse acting for the applicant on the matter where the conflict of the interest arises due to his/her current or previous representations of person who has a conflicting interest with person being represented.

3.10. A lawyer must make an endeavor of provision of legal aid in the most efficient and beneficial way, as well as, informing the person about the possible alternatives for the solution of the matter at any stage of the progression of matter in question.

3.11. A lawyer must inform the applicant for his/her aid in more efficient ways of benefiting from the legal aid by diverse means.

4. Lawyers' relationships with the court and other authorities

4.1. A lawyer who appears in the courts, preliminary investigation and prosecution authorities, as well as, other state authorities for the fulfilment of his/her professional duties must comply with rules of conduct of established for authorities in question.

4.2. A lawyer must always act due process for a fair conduct of proceedings.

4.3. Providing legal aid for the applicant in honourable and dignifying manner with no regards to his own interest a lawyer must protect the interest of the represented person and act with due respect and considerations towards the courts, preliminary investigation and prosecution authorities, as well as other state authorities.

4.4. A lawyer must never provide a false and misleading information to courts, preliminary investigation and prosecution authorities, as well as other state authorities at any time.

4.5. A lawyer must attend the scheduled court hearings and the procedure actions of investigative and persecutory character in line with avoidance of non-mitigating absence from the procedures causing unreasonable delay of them.

4.6. A lawyer must inform the priory relevant authorities in regards to mitigating circumstance explaining the absence of lawyer from the scheduled hearing in court, investigative procedures undertaken by investigative or prosecution authorities.

4.7. A lawyer must be wearing a special uniform while appearing in the judicial hearing.

5. Relationships between lawyers

5.1. Without any prejudice towards the interests of the represented person relationships based in trust and cooperation between the lawyers are of a great importance for the profession. Such a statement can never be considered as foundation for positioning of the interest of a person applied for assistance over the interests of advocacy.

5.2. Personal and family life, ethnicity, origins and financial situation of the colleague never must be a subject of discussion between a lawyer and person whose interests he/she represents.

5.3. A lawyer must treat his/her colleagues with respect and avoid any acts or rude behaviour that may degrade their dignity and honour.

6. Professional competence and liability of lawyers

6.1. A lawyer must pursue improvement of professional knowledge and skills at all times.

6.2. A lawyer must permanently take steps for the improvement of knowledge and skills of his/her assistant.

6.3. Aiming for professional competence improvement, as well as, enhancement of his/her professionalism, a lawyer must periodically attend tutorials, seminars, conferences and other similar events held for purpose of professional development.

6.4. Breach of the rules of conduct established by this Charter is a ground for disciplinary action.