The Executive Board of MBA on its session held on April 19, 2003, in accordance with Articles 30-32 from the Law on Bar and Articles 26-31, 22, and 42 from the MBA's By-law, and with changes and amendments from its session held on May 30, 2003, has enacted the following

RULEBOOK
FOR DISCIPLINARY RESPONSIBILITY

1. GENERAL PROVISIONS

Article 1
In order to protect the respect of the bar as profession; conscious performing of attorneys activities; to protect citizens from eventual abuses; and to promote legal safety and rule of law, this Rulebook regulates the disciplinary responsibility of attorneys, attorney’s associates and attorney’s apprentices (members of MBA), jurisdiction of bodies, the procedure, breaches, disciplinary measures, and their enforcement and record.

2. DISCIPLINARY BODIES

Article 2
Disciplinary bodies of MBA are:
- Disciplinary prosecutor
- Disciplinary court
- Council of appeal

Disciplinary Prosecutor

Article 3
Disciplinary prosecutor is an autonomous and independent body who initiates and represents disciplinary accusations against an MBA member.
Disciplinary prosecutor is authorized to:
- overtake all the necessary measures directed towards prosecution and sanction of the disciplinary offenders in accordance with the provisions of this Rulebook and the Law;
- initiate, represent, withdrew and reject disciplinary accusation;
- appeal and initiate extraordinary remedy against the final decision of the Disciplinary court.
Article 4

The disciplinary prosecutor has 3 (three) deputies. Deputies of the Disciplinary prosecutor autonomously act in particular cases and are fully independent in their work and have the same authorities as the Disciplinary prosecutor.

Article 5

The Disciplinary prosecutor and deputies act upon submitted complaint or by self initiative, if there is a grounded suspicion that a disciplinary offence regulated with the Rulebook has occurred.

The disciplinary prosecutor or deputy investigates the findings and facts in the complaint, for which purpose cooperates with the submitter, legal entities and persons, state bodies and institutions, by requesting information or explanations, in order to build up a complete case.

The disciplinary prosecutor in the phase of collecting evidences is obliged to collect all evidences of the case, evidences against the suspect, as well as, evidences in favor of the suspect.

Article 6

Disciplinary accusation contains:
- data for the charged person;
- description of the offence;
- data on which the accusation is based.

Disciplinary Court

Article 7

The Disciplinary Court (hereinafter: Court) is autonomous and independent body to decide in first instance upon the disciplinary accusation filed by the Disciplinary prosecutor.

Article 8

The Disciplinary Court shall consist of three members from which one is its President.

The President shall manage the work of the Disciplinary Court.

The members of the Disciplinary Court have deputies and shall be substituted by them when absent.

In case when the President of the Court is absent, the member of the court appointed by the president shall manage the Court.

The President of the Disciplinary Court may require a deputy of a Court’s member to be present on the Court’s sessions if it can be expected absence of the Court’s member.
Article 9
The member of the Disciplinary Court is obliged to study the disciplinary accusation, and impartially, lawfully and justifiable act and decide upon it.

Council of Appeal

Article 10
The Council of Appeal is autonomous and independent body to decide upon appeals against decisions of the Disciplinary Court.

Article 11
The Council of Appeal shall consist of five members from which one is its President.
From the members of the Council of Appeal, with majority votes the President and his deputy shall be elected.
The members of the Council of Appeal have their deputies that act in case of their absence.
The President of the Council of Appeal, shall manage the work of the Council of Appeal, and shall be substituted by the member of the Council appointed by him, when absent.
The President of the Council of Appeal determines a member of the Council who will be a reporter for particular case.

3. DISCIPLINARY BREACHES

Article 12
Serious disciplinary breaches of attorney’s profession are being considered:
1. Nonperformance and obvious negligent performance of legal assistance and public authorizations if it is done by:
   • Providing legal assistance or refusing to provide legal assistance in pursuing public authorization against the law, jeopardizing the interests of the client by full responsibility of the attorney;
   • Performance of the legal assistance and pursuing of public authorizations for the same case in which the attorney was appeared as a judge; Public Prosecutor; State Attorney; or as a civil servant;
   • Preparation of the bilateral legal acts in one party’s interest;
   • Performance of legal assistance to a client, when in previous case has been representative of the other party, for a legal matter occurring from the same case;
   • Performance of the legal assistance and pursuing public authorization for both parties at the same time;
   • Cooperation with fake-attorneys and persons who illegally conduct legal work;
Shall not be considered for a disciplinary breach the refusal to provide legal assistance if there are justified reasons such as: conflict of interests, engagement in other cases because of which is not in condition to provide appropriate legal assistance, refusal to provide legal assistance because the client has not fulfilled its obligations regarding the procedural costs and the attorney’s fee, no cooperation by the client and no respect for the attorney, other circumstances in full responsibility of the client.

2. Non performance according to the authorization or not undertaking the activities obligatory for protection of the client’s rights, if done by:
   - No undertaking the activities that it is obliged to undertake and acting opposite to the authorization given by the client by which resulted with damage to the client.

3. Breach of the obligation for keeping secret if done by:
   - Reveal a secret confided by the party without her/his permission, except in cases determined by Law;
   - Abusing the information against the party that has already confided or make it accessible.

Article 13
For other breaches is considered the following:
- Requests and agrees lower representation and legal assistance fees contrary to the amount determined with the Attorney’s Tariff of MBA;
- If sanction is proclaimed for performed crime of “Insult” and the crime is being conducted against colleagues, judges, representatives of state bodies, in performing the attorney’s profession;
- Upon written request does not give back the files provided despite the fact that the party has paid the remuneration and expenses;
- If does not report the persons that illegally provide legal assistance to the MBA;
- Within the work acts contrary to the provisions in the Law against money laundering;
- Does not inform for the change in the office’s or law firm address;
- Does not act in accordance to the decisions of the MBA bodies;
- Does not correspond to the obligation for professional development regulated with the Law on BAR and other MBA’s acts;
- Does not wear robe when acting before the court;
- Advertises contrary to the Codex of professional attorney’s ethics and searches for a client in contemptible manner;

The advertising shall not be considered contrary to the Codex and this Rulebook if the attorney’s general data are being published on Internet WEB site and public newspapers (media) such as: name, address, telephone, area of
work, without releasing costs and services, as well as personal and professional qualities.

Attorney’s associates and attorney’s apprentices will be held responsible for the breaches of Article 12 and 13 of this Rulebook conducted while being trained for self performance of attorney’s profession or while performing attorney’s work authorized by the attorney. For breaches of the attorney’s profession the attorney's associate and apprentice shall be responsible before the MBA’s bodies upon filed accusation, as in accordance with the Rulebook.

4. DISCIPLINARY MEASURES

Article 14

Disciplinary measures are:
- Public warning
- Fine in amount of ten times of the annual fee
- Temporary termination of the right of the performance of legal profession in period up to 1 year.

For the breaches of the Article 12 and 13 of this Rulebook, can be imposed a disciplinary measure of public warning or a fine in amount of ten times of the annual fee, and for the breaches of the Article 12 par.1 item 2 and 6 and par.3 item 1 and Article 13 par.1 item 1,3,4,5,7 and 9 can be imposed disciplinary measure of a temporary termination of the right of the performance of legal profession in a period from six months up to 1 year.

The fine is always determined in the full amount of the annual fee.

4.1. TEMPORARY INJUNCTION OF THE PERFORMANCE OF THE LEGAL PROFESSION (SUSPENSION)

Article 15

After initiation of disciplinary procedure the attorney can be temporarily prohibited from performance of attorney’s profession.

The Disciplinary Court on the request of the Disciplinary Prosecutor shall bring a decision for temporary injunction from performance of attorney’s profession.

The temporary injunction from performance of attorney’s profession can last no longer than 30 days, and if reasons exist for prolongation, the Disciplinary Court may decide to prolong it until the competition of the first instance procedure.

The temporary injunction of the performance of the legal profession can be brought in case of:
- Neutralization of his/her influences to the witnesses;
- Neutralization in making obstacles in collecting written evidences;
- Neutralization to influence the procedure;
• If there is a suspicion and conditions that the disciplinary offence can be repeated.

The temporary injunction from performance of attorney’s profession expires before the time period from the par. 3 of this Article if the reasons for its impose has cased to exist, for which the Disciplinary Court decides.

Against the decision from par. 2 of this Article appeal can be filled to the Appeal Council within 3 days from the day of delivery.

The Appeal Council is obliged to decide upon the appeal within 8 days from the day of delivery.

5. OBSOLETENESS

Article 16
The disciplinary procedure shall not be initiated after four years from the day of the disciplinary breach.

If the disciplinary breach is being committed with a crime, the disciplinary procedure shall not be initiated after 1 year from the final court decision.

Article 17
The imposed disciplinary measure may be enforced within 1 year from the day when the decision became valid.

6. DISCIPLINARY PROCEDURE

Preliminary procedure

Article 18
The charge for disciplinary breach shall be submitted to the Prosecutor within 5 days from the day of its arrival to the MBA headquarters.

Disciplinary prosecutor or deputy shall conduct preliminary procedure after he/she receives the charge, by scrutinizing the facts for which purpose he/she cooperates with the submitter, legal and physical persons, state bodies and institutions searching for data or explanations and all in purpose of forming a thorough case.

Disciplinary prosecutor or deputy shall initiate the procedure based on personal findings, media information or information acquired elsewhere for the existence of basic suspicion for disciplinary breach conducted.

Disciplinary prosecutor in the phase of collecting evidences shall collect all the evidences for the case that are against as well as in favor of the accused.
Article 19

Preliminary procedure shall not last more than 90 days from the day when the Prosecutor was provided with the charge.

The term within par.1 can be prolonged on a request of the prosecutor 30 days at most if there are justified reasons existing.

The decision for prolongation of the term is brought by the Disciplinary court.

If the court does not accept the request for prolongation of the term from par.1 the Disciplinary prosecutor shall act upon the charge within 90 days.

Article 20

After the preliminary procedure has been accomplished the Disciplinary prosecutor shall file disciplinary accusation if determined that basic suspicion exists for carried out disciplinary breach, or shall conclude refusal of the charge if determined that such breach has not happened.

Procedure flow

Article 21

The disciplinary accusation with all the evidences shall be submitted to the Disciplinary Court.

The Disciplinary Court shall maintain register for all disciplinary accusations.

The register shall contain information on the: accused, breach, imposed measure, decision of the Council of Appeal and decision of the Supreme Court.

Article 22

The President of the Disciplinary Court delivers copy of the disciplinary accusation accompanied by all written evidences to the accused, with note that the accused can answer within 8 days from the day of delivery.

The accused can have an attorney for the defense.

Article 23

After the term in Article 22 expires the President of the Disciplinary Court shall summon a session.

Disciplinary prosecutor, accused, witnesses, and other persons proposed to participate shall be invited at the summoned session.

The invitation must contain information to whom is delivered, what role have the invitee in the procedure, day, month, and time of the session of the Disciplinary court as well as its place.

The invitation, disciplinary accusation, decisions of the court and all other motions are submitted to the address of the attorney as registered in the MBA.

The writes shall be submitted by post.
If the sent writes are returned and not delivered for some reason, shall be mailed again to the same attorney’s address. Information for performed delivery shall be sent also to the home address of the attorney, as registered in the MBA, and as such the delivery is considered to be properly performed.

Article 24
The sessions of the Disciplinary Court are public, and the public can be expelled only in extraordinary cases. The public can be expelled only if it is due to protection of secret data which will be exposed in the case and the disciplinary court must decide upon expelling of the public on request of the accused or by its findings.

Article 25
Disciplinary prosecutor, accused, witnesses, and other persons proposed to participate shall be invited at the summoned session.

Article 26
Before start of the session the President determines whether all invited persons are present. The session will not be hold if the Disciplinary prosecutor or accused were not invited properly. The President shall open the session and shall give word to disciplinary prosecutor who presents the disciplinary accusation. Immediately after the presentation of the disciplinary accusation the accused takes the word when being asked if wants to give a statement in his/her defense or will defend with silence. The accused shall present his/her defense by answer and rebuttal of the accusation arguments and by proposing witnesses and evidences.

Article 27
After the given defense evidences are presented. The evidences are presented in the order they were proposed and the court by its founding or by request of the parties can change the order of the evidences. The witnesses leave the court room before the beginning of the session and are invited to be heard. Before the witness is heard his/her personal data are being taken and he/she has been reminded for the obligation to tell the truth and only what he/she is familiar with. The witness statement is in free form. After the completion of the witness statement, the party that proposed the witness questions him/her first, then the opposite party, and finally the Disciplinary court. The written evidences are presented by reading the content of the writs.
Article 28

Until the procedure for evidences is finished the parties can propose new evidences by stating which evidences are proposed and which grounds the evidences support.

The court decides whether proposed evidence will be admitted.

Article 29

After all evidences are presented and admitted the procedure for evidences is finished and the closing statements follow.

The disciplinary prosecutors first gives the closing statement, and after him the accused.

The disciplinary prosecutor can change the accusation until the procedure for presentation of evidences is being closed.

Article 30

By giving the closing statement of the accused the procedure is closed.

Decisions of the Disciplinary court

Article 31

Disciplinary court shall decide with majority votes.

Special minutes are being taken for the voting process which is signed by all the members.

Member who voted against the decision can give separate opinion in a written form.

The Disciplinary Court can convict the accused person guilty; exonerate it of accusation or reject the accusation.

When conditions for obsolesce exists the Disciplinary court shall stop the procedure with a decision.

Article 32

Convicting decision is consisted of: description of the breach, material determination of the breach, pronounced disciplinary measure, explanation and legal remedy.

Acquittal decision is consisted of: description of the action and material determination, explanation and legal remedy.

Article 33

The Disciplinary Court brings trial decisions by which it orders the parties to undertake trial activities in a determined time frame.
7. APPEAL PROCEDURE

Article 34
The unsatisfied party has the right to submit an appeal to the Appeal Council, against the decision of the Disciplinary Court, in 15 days from the day of the receiving.

Article 35
After the appeal is received, the Appeal Council inquires whether the appeal is on time and whether it is submitted by an authorized plaintiff.

Article 36
The President of the Appeal Council appoints one of the members of the Council as spokesperson, in order to present the case to the Appeal Council.

Article 37
The Appeal council holds sessions without the presence of the parties.
Public session of the Appeal council is held on the request of the parties or by the decision of the Appeal council.
On the public session the party explains the basis of the appeal whereas the other party has a right to reply on the basis of appeal.
For the public session the same provisions applicable as for the Disciplinary Court will apply.

Article 38
The Disciplinary Council shall decide with majority of votes.
Special minutes are taken for the voting, signed by all members.
A member that voted opposite of the decision can file a separate opinion in writing.

Article 39
The Appeal Council can approve, reject or refuse the appeal.
Appeal will be rejected if the council finds it is submitted by an unauthorized person.
Appeal will be refused as groundless if the bases of the appeal are not accepted.
Appeal will be approved and the first instance decision changed if the factual situation is correctly determined but the material law is incorrectly applied, or the council has determined different factual situation on the public session.

Article 40
Decisions of the Appeal Council are final.
An administrative dispute can be filed against the decision of the Appeal council.
8. MINUTES

Article 41
The Disciplinary court maintains the register of disciplinary accusations. The register contains data for the: accused, breach, imposed measure, decision of the Appeal council and the decision in the administrative dispute. The Disciplinary court and the Appeal council take the minutes at the sessions. The minute’s taker takes the minutes being appointed for each session separately. The minute’s taker cannot be a member of the Disciplinary court or the Appeal council.

Article 42
At the end of the session the parties, the President of the Disciplinary court i.e. the President of the Appeal council and the minute’s taker sign the minutes. The original minutes is being kept in the file.

9. EXTRAORDINARY LEGAL REMEDY
9.1. REPETITION OF THE PROCEDURE

Article 43
At the request of the party the legally ended procedure shall be repeated if there are new facts or new evidences which individually of in relation to the previous ones are enough for bringing different decision, and the party did not have opportunity to submit those evidences or facts in the procedure. The Disciplinary Court decides upon the request for repeating the procedure. During the repeating of the procedure provisions from this Rulebook will apply. Repeating of the procedure can be requested within 30 days from the day when the party acquired the new evidence or acknowledged about the new fact.

10. RECORDS AND ENFORCEMENT OF THE DISCIPLINARY MEASURES

Article 44
The Disciplinary prosecutor, the Disciplinary court and the Appeal council maintain registers. The Disciplinary prosecutor maintains a register for received requests and initiated disciplinary accusations.
The register is consisted of: the ordinal number, a date of receiving, information about the plaintiff, information about accused person, description of the breach, information about filed disciplinary accusation, decision on the disciplinary accusation, information about the appeal, decision upon the appeal, and information about the decision upon administrative dispute.

The Disciplinary court and the Appeal council maintain register for received cases and the proceedings upon.

The Disciplinary court and the Appeal council maintain register consisted of: ordinal number, date of receiving, information about accused person, description of the breach and its normative selection, first level decision, second level decision, information on the complaint for initiating administrative dispute, and the decision upon the administrative dispute.

**Article 45**

Disciplinary court enforces the final decisions trough the administrative service of MBA.

Decision for the imposed measure “temporary suspension from performance of attorney’s profession” is enforced by the Committee for fining in the Attorney’s register.

Copy of the final decisions for imposed disciplinary measure is attached to the file of the attorney, the associate and the trainee-in law.

The disciplinary measures, a public warning is enforced with its advertise in the newsletter “Informer” of MBA and the Official gazette of RM.

**Article 46**

Fine shall be enforced with payment to the account of MBA within 30 days after the decision has been received.

If the fine is not paid within the time frame determined by the decision, the fine in amount of annual fee will be enforced in method of taking off the license issued by the MBA in period of 3 months.

The decision determining the fine will also identify the method of enforcement of the fine with taking off the license if the fine is not paid in certain time frame.

The disciplinary measure termination of performing legal profession is enforcing by temporary termination of the license for the time of the measure imposed, for which all the courts on the territory of RM shall be informed.

The final decisions for passed disciplinary measures are published in the newsletter of the MBA and the Official gazette of RM.

**Article 47**

Collected fines shall be used in reimbursement of expenses from the disciplinary procedures and for legal education of the attorneys.

**11. TRANSITIVE AND FINAL PROVISIONS**
Article 48

On the day of entry into force of this Rulebook the Rulebook for disciplinary responsibility and disciplinary procedure of the attorney, associates and trainees from 19.04. 1993 and changes from 30.05.2003, 28.10.2004 and 19.02.2005 shall be considered null and void.

Article 49

All initiated charges and requests that by the enforcement of this Rulebook shall not be completed, shall continue in accordance with the provisions of this Rulebook.

Article 50

This Book of Rules comes into force on the day of adopting by the Managing Board of the MBA.

MACEDONIAN BAR ASSOCIATION
President of the Managing Board