

The 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,

20 June 2001.
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