

**B 1 RULES OF PROPER PROFESSIONAL CONDUCT FOR
ADVOCATES
(9.6.1972)**

INTRODUCTION

According to § 5 paragraph 1 of the Advocates Act, an advocate shall honestly and conscientiously fulfil the tasks entrusted to him, and shall at all times observe the rules of *proper professional conduct for advocates*.

Certain basic principles of proper professional conduct for advocates have been stated in the Act. Thus § 5 paragraph 3 of the Advocates Act contains a provision on the separation of clients' funds and other assets, while paragraph 2 of the same section contains an enjoiner against the practice of advocacy in a company except with another advocate, unless the Board of the Bar Association grants a permit based upon specific grounds. A provision on the obligation of confidentiality is included in § 5 c of the Advocates Act. An advocate is self-evidently enjoined from being party to any illegal activity, and he may not in any way promote actions against the rule of good faith. In accordance with the requirements of proper professional conduct for advocates, the by-laws of the Finnish Bar Association require that an advocate maintain proper accounts and catalogues of assignments he has accepted and measures he has taken (§ 39). The by-laws furthermore require, as demanded by proper professional conduct, that an advocate have a separate place of business, an office (§ 40 paragraph 1). The by-laws moreover declare that the Finnish Bar Association may ratify guidelines for its members (§ 17) by which guidelines members of the Bar Association are obligated to abide. (§ 38 paragraph 1). (Amended 30.1.1998).

The requirements of proper professional conduct for advocates are made evident in the codified legal provisions and statutes and, above all, in the decisions of the governing and executive bodies of the Finnish Bar Association. Many statements made and disciplinary decisions taken by the Board of the Bar Association contain opinions on questions pertaining to the content of proper professional conduct. The governing bodies of the Finnish Bar Association have also approved certain statements in principle and rules to be applied e.g. to advertising and relations with clients and colleagues.

However, these sources of proper professional conduct for advocates do not constitute a comprehensive entity.

As every advocate is obligated to abide by the rules of proper professional conduct, and the Board of the Bar Association must be able to supervise adherence thereto, it is important that at least the major guidelines governing the practice of advocacy be easily available. Advocates who have only started their practice are in particular need of easy access to and understanding of the demands made of them as members of the national Bar Association. Accordingly, the Board of the Finnish Bar Association has decided to take measures to codify the currently existing and valid rules of proper professional conduct; the rules set out hereafter are the result of that undertaking. However, they are not an exhaustive compendium of all rules governing the practice of advocacy. Therefore *everything not specifically prohibited in the rules cannot automatically be considered permissible*.

General rules

§ 1 An advocate is obligated, within the limits of the law and the rules of proper professional conduct, to pursue his client's interests to the best of his ability.

An advocate shall fulfil tasks entrusted to him without letting his conduct be influenced by considerations of his own advantage, by inconvenience caused by the matter or awkward circumstances related thereto, by consideration of the social status, nationality, race, gender, political or religious beliefs of the parties involved, or by other similar circumstances.

§ 2 An advocate shall conscientiously and honestly fulfil all tasks entrusted to him.

An advocate's conduct shall be correct and to the point. He shall at all times, both in pursuit of his assignments and elsewhere, refrain from conduct that might be considered demeaning to the Bar or likely to decrease public trust therein.

Law firm and organisation of an advocate's practice

Law firm

§ 3 The business name of a law firm shall be truthful and it shall reflect the dignity of the Bar. The business name, which may not be misleading, shall

contain the word “asianajotoimisto” or a derivative thereof. The business name of a law firm may not include the name of an advocate employed therein who has been dismissed from the Bar Association.

An advocate shall ensure that his office organisation is in good order. He shall carefully supervise and monitor the work of his staff and take particular care to ensure that his associates also abide by the rules of proper professional conduct.

An advocate shall ensure that the accounts of the office are kept and the clients’ funds are managed in accordance with law or other relevant provisions.

An advocate may not allow third parties access to any documents, correspondence or other materials pertaining to the law firm's clientele.

Obligation to respond to correspondence

§ 4 An advocate is obligated to respond without delay to all letters and other inquiries received in his practice.

If a letter cannot be answered immediately, receipt of the letter should be acknowledged in writing with assurances that a reply will be forthcoming as soon as possible.

Letters should, whenever possible, be answered in the language used therein. An advocate who has declared his services to be available in a foreign language shall be obligated to use said language in his correspondence whenever necessary.

Advertising and announcements

§ 5 All communications from an advocate shall be proper and without reproach with respect both to content and form.

Separate provisions apply to advertising and announcements.

Remuneration for obtaining assignments

§ 6 An advocate may not give nor promise to anyone part of his fee or other remuneration for obtaining or procuring assignments.

The provisions of paragraph 1 do not apply to the sharing of fees between an advocate and his partners, associates or employees, nor does it prevent inclusion of the value of the clientele in cases of transfer of a law firm or part thereof to another advocate.

Correspondents' discounts have been determined in the schedule of fees.

Experts' fees

- § 7 When an advocate, on behalf of his client, retains an expert to do research or to render an opinion and does not want to become personally liable for the expert's fee and costs, he shall inform the expert upon retaining him that the expert shall invoice his fee and costs to the client.

Partners and associates

- § 8 An advocate may not:
- 1 hire an associate on condition that the person extends credit, gives a guarantee or undertakes any similar obligation;
 - 2 when concluding a partnership agreement or co-operation agreement with another advocate or when hiring an associate or other staff, agree on a non-competition clause which can be regarded either temporally or geographically as unduly onerous for the other party;
 - 3 permit an associate in his employ to practice law on his own account;
 - 4 allow a person not legally trained to appear in court in order to conduct assignments undertaken by the advocate, unless special circumstances so require.

Use of stationery and other printed matter

- § 9 An advocate may not permit third parties to use stationery, invoicing forms, envelopes, document forms or other printed matter bearing the advocate's name or his business name.

Listening to and recording of conversations

§ 10 An advocate may not contribute to a person's confidential statements made over the telephone or in other discussions being listened to by a third party, tape-recorded or recorded by other means without that person's knowledge.

Recordings given to an advocate that have been made without the knowledge of the party involved may only be used by the advocate or offered by him as evidence for compelling reasons.

Acceptance and refusal of and withdrawal from assignments

§ 11 An advocate is entitled freely to decide whether he accepts an assignment, unless he is obligated to carry out the assignment on legal grounds or in accordance with an earlier promise given by him.

If an advocate is unwilling to accept an assignment offered to him, he shall inform the potential client thereof forthwith. He is not obligated to give any reason for declining the assignment.

§ 12 If particular circumstances exist that may be considered to affect the advocate's ability to safeguard the potential client's interests free from all other influence, an advocate who being aware of such circumstances nevertheless contemplates accepting the assignment shall inform the potential client of the circumstances without delay.

§ 13 An advocate is obligated to decline an offered assignment if he or his associate or an advocate who is his employer or partner or with whom he otherwise shares offices represents, in the matter in question or in another matter related to the matter in question, personal or financial interests that are in conflict with the interest of the potential client, or if the advocate or one of his aforementioned colleagues has previously been consulted by the opposing party or has otherwise assisted the opposing party in the same matter or another matter of such a kind that information obtained thereby might be of significance when carrying out the offered assignment.

Moreover, an advocate must decline an offered assignment if any circumstances exist which obviously prevent the advocate free from all other influence or with all expediency and vigour asserting the interests of the potential client.

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- § 14 The provisions of § 13 notwithstanding, an advocate may assist two or more persons in matters concerning agreements when all parties request his assistance. In such a case the advocate must observe in equal measure the interests of all the clients. If a dispute in the matter arises between the clients at a later date, the advocate may not assist any of them in the dispute.
- § 15 An advocate is obligated to withdraw from an assignment if, subsequent to his acceptance of the assignment, he becomes aware of circumstances that in accordance with the provisions of § 13 would have prevented him from accepting the assignment.
- Moreover, an advocate is obligated to withdraw from an assignment:
- 1 if the advocate, due to lawful excuse or similar circumstance, becomes prevented from carrying out the assignment;
 - 2 if the client requests the advocate to act in defiance of the law or in violation of proper professional conduct and, although this is pointed out to him, insists on his request;
 - 3 if the client destroys or falsifies evidence, acts deceitfully or provides information that to the best of the advocate's knowledge is incorrect, and refuses to correct such information.
- § 16 An advocate may not withdraw from an assignment without the consent of his client unless he is obligated to withdraw or there are other, particular reasons for withdrawal. Such reasons may exist if:
- 1 the client is unreasonably burdensome or bothersome to the advocate and cannot be persuaded to mend his ways;
 - 2 the client instructs the advocate, in handling the matter, to act in a manner that is obviously futile or against the client's best interests, and although this is pointed out to him, insists on the instructions;
 - 3 the client in essential respects acts against the advice of the advocate or otherwise makes it clear that he has lost confidence in the advocate;
 - 4 the client, although having been reminded, fails to make advance payments that the advocate is entitled to demand by reason of the assignment.
- § 17 Upon withdrawal from an assignment an advocate shall, inasmuch as possible, refrain from taking any measures that may harm the client's interests. He shall also provide the client with a reasonable period of time to retain other counsel.

An advocate shall inform his client of his reasons for withdrawal from an assignment and, at the client's request, also confirm in writing his withdrawal and state the reasons thereto.

With respect to withdrawal as trial counsel in court proceedings, the provisions of Chapter 15, § 11 of the Code of Judicial Procedure shall apply.

Relationship between advocate and client

Faithfulness and loyalty

§ 18 An advocate shall be faithful and loyal to his client.

§ 19 In addition to the legal provisions concerning the obligation to confidentiality, an advocate is furthermore obligated to observe confidentiality with respect to everything that, by virtue of the client relationship, he has learned concerning his client and the client's circumstances

An advocate shall impose the same obligation of confidentiality on his office staff and supervise adherence thereto.

§ 20 An advocate shall refrain from any business transactions with his client not related to his advocacy practice.

An advocate may grant a guarantee on behalf of his client in conjunction with the enforcement of a judgement unless the guarantee obviously exceeds the advocate's risk carrying capacity.

§ 21 An advocate shall apprise his client in a suitable manner of matters pertaining to the fulfilment of the assignment. Replies to any inquiries related thereto shall be given without delay and in a fitting manner.

An advocate shall inform his client immediately of decisions handed down by authorities concerning a matter being handled by the advocate.

Unless prevented by the urgency of the matter or by other weighty reasons, an advocate shall submit for the client's consideration and decision all important measures concerning the client's interests, such as the acceptance of settlement terms.

Performance of assignments

§ 22 All assignments shall be carried out with care, accuracy and due promptness, with regard to the need to avoid unnecessary expense to the client.

Legal advice given by an advocate shall be based on proper studying of the facts of the assignment.

Charging of fees

§ 23 An advocate's fee shall be reasonable and in accordance with the ratified grounds for fees.

If a client objects to an invoice the advocate shall inform his client of the means of submitting the dispute over fees to arbitration by the Board of the Bar Association.

§ 24 An advocate's invoice shall be drawn for payment by the client.

Whenever feasible, every attempt should be made to collect from the opposing party all costs incurred by the client in the matter.

An advocate shall at trial demand that the opposing party be obligated to reimburse his client for litigation expenses and supply a necessary account of such costs, unless special reasons exist for not making such a demand.

§ 25 Whenever a client may be entitled to cost-free legal proceedings or remuneration through a legal expenses insurance policy, an advocate shall inform his client of such a possibility.

§ 26 When the client is entitled to cost-free legal proceedings the advocate may not accept from his client or from any other person, in fees or as remuneration, any sum over and above the remuneration payable to him from public funds in accordance with the law concerning cost-free legal proceedings.

When an advocate's invoice presented to an insurance company has been paid on the basis of a legal expenses insurance policy, the advocate may not demand of his client any payment over and above the portion that the client is liable to pay as a deductible according to the terms of the policy.

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§ 27 An advocate is entitled to demand that his client make advance payments to meet his disbursements on his client's behalf.

The advocate is furthermore entitled to demand of his client a reasonable advance payment on his fee when an agreement to that effect has been concluded upon acceptance of the assignment or when it can otherwise be considered appropriate in light of the circumstances.

§ 28 Measures carried out in the assignment shall be itemised as necessary in the advocate's invoice, and specific mention shall be made of disbursements incurred in the assignment.

Obligation to render account

§ 29 When an assignment in which the advocate has obtained in his possession his client's funds has been completed or otherwise has come to an end, final accounts shall be submitted without delay.

Final accounts shall be rendered by providing the client with a written statement of account that shall be dated to the date of its giving.

The statement of account shall be explicit, and all accumulated funds and costs incurred in an assignment shall be itemised with sufficient clarity and transparency.

The provisions of rules relating to holding and accounting for client's funds shall otherwise apply to the administration of clients' funds and the rendering of accounts on advance payments.

§ 30 If the statement of account shows a balance in favour of the client, the balance shown shall be paid to the client without delay.

An advocate may not make his payment conditional on the client's prior approval of the accounts.

§ 31 An advocate may not by agreement or reservation disclaim his obligation to render account.

Delivery of documents to client

§ 32 When the assignment has been completed or otherwise has come to an end, documents belonging to the client shall be delivered to him without delay, except when the advocate is legally entitled to retain possession of the documents as surety for his claim.

An advocate may not invoke his right of retention if the invocation of that right would be obviously unreasonable.

Relationship between advocate and opposing party

§ 33 An advocate may not seek to promote his client's cause by undue pressure on the opposing party.

Prohibited measures under this rule include the following:

- 1 undue reports to police or prosecuting authorities or other authorities, as well as threats to make such undue reports;
- 2 threats to spread defamatory information about the opposing party in the press, radio, television or other media, and
- 3 uncalled-for approaches to third parties such as the opposing party's relatives and intimates, employers, supervisors and colleagues at work or an organisation of which the opposing party is a member, as well as threats to make such uncalled-for approaches.

§ 34 Prior to taking legal action an advocate shall notify the opposing party of his client's demands and give the opposing party both reasonable time to consider the claims and an opportunity to reach an amicable settlement.

If the circumstances are such that a delay in taking measures could lead to a loss of rights or other damage to the client or if there are other special reasons, the advocate may without prior notification take such measures as the client's interest in the particular case may require.

§ 35 An advocate may not condition his granting of a reprieve of payment or other performance requested by the opposing party upon the opposing party's assuming liability for costs which cannot reasonably be imposed upon him.

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§ 36 An advocate may not in court or before another authority present evidence of circumstances which are derogatory to the opposing party, or make statements that are offensive or disparaging to the opposing party, unless the evidence or statements are necessary for the proceedings or otherwise required for a due protection of the client's interests.

An advocate shall also in other respects refrain from measures or statements that may be unnecessarily offensive or provocative to the opposing party.

§ 37 An advocate may not mislead the opposing party by giving information as to facts or law which he knows to be untrue.

§ 38 An advocate who represents or assists a client in negotiations with an opposing party who does not have counsel or a legal adviser shall, whenever warranted by the circumstances, draw the opposing party's attention to the fact that his assignment does not include the protection of the interests of the opposing party, and advise the opposing party to retain counsel or seek the advice of his advocate.

§ 39 An advocate may not, without the consent of the opposing party, at trial invoke a proposal for settlement made by that party.

Relationship between advocate and the court

§ 40 An advocate shall show the court all respect due to its judicial power.

An advocate may not attempt to influence a judge's ruling through improper measures, nor may he prior to judgement improperly seek publicity in an attempt to foster sentiment favourable to his client's interests. (1999)

When appealing a ruling, an advocate may not use disparaging language about the court that handed down said ruling, nor may he in public or otherwise subject the workings or rulings of the court to inappropriate criticism.

§ 41 An advocate shall carefully study the matter entrusted to him and pursue the matter conscientiously and expediently, taking into account the provisions of the Code of Judicial Procedure and all other legal provisions.

If a matter that has already been instituted in court is settled, the advocate shall immediately inform the court of such settlement. The advocate shall

likewise inform the court of all other circumstances that may have a bearing on the proceedings.

- § 42 Unless special reasons therefore exist, an advocate is not obligated to verify the correctness of information given to him by his client. An advocate may not in proceedings before a court give information that he knows not to be true or contest information that he knows to be true.

An advocate may not be party to the suppression or misrepresentation of evidence. However, an advocate is not obligated – nor entitled against his client’s wishes – to present or adduce evidence or to supply information that is disadvantageous to his client unless he becomes so obligated under the rules concerning testimony or discovery of documents.

- § 43 An advocate may not attempt to exert undue influence on a witness.

Regardless of whether a witness has been produced by the opposing party, an advocate may in advance make contact with the witness in order to discover what information the witness is able to provide.

An advocate may not give information derogatory to the witness or make statements that are offensive or disparaging to the witness, unless such information or statements are necessary for the proceedings or otherwise for a due protection of the client’s interests.

- § 44 The rules set out above concerning the duties of an advocate towards the court also apply in relevant parts to an advocate’s relations with other authorities.

Relationship between advocate and colleagues

- § 45 An advocate shall act fairly and courteously towards his colleagues. However, professional courtesy cannot justify actions or omissions that may harm the interests of the advocate’s client.

- § 46 If the opposing party has retained an advocate, negotiations in the matter shall be carried on with the advocate and communications in the matter shall be addressed to him. It is not permitted to approach the opposing party in person, bypassing his advocate, unless measures are required which must be taken against the opposing party in person or unless the opposing party’s advocate through absence, neglect to respond to correspondence or other similar circumstances necessitates a direct approach to the opposing party. In

such a case the opposing party's advocate shall be informed that he has been bypassed.

Payments to the opposing party shall be made through his advocate, provided that said advocate proves that he is authorised to receive such payments.

§ 47 When an advocate retains a colleague on his client's behalf, the advocate shall, unless otherwise provided, be liable for the colleague's fees and costs.

§ 48 Criticism of colleagues shall be objective and moderate.

An advocate may not by undue threats of reports or legal action against the opposing party's advocate attempt to coerce the advocate to take action or to abstain from action.

§ 49 An advocate may take on a case previously conducted by another advocate even if the client is in default on payment of the invoice of the advocate previously retained by him.

When a matter is transferred from one advocate to another, the advocate is not obligated to contribute to the client making payment on his outstanding debt to the previous advocate.

Obligations of an advocate to the Bar Association

§ 50 When the Board of the Bar Association or its working committee or the General Secretary or representative of the Bar request of an advocate information or an explanation in order to carry out functions provided for in the Advocates Act, the advocate shall supply them within the time allowed thereto.

An advocate shall respond openly and truthfully to questions put to him concerning matters set out in the Advocates Act and the by-laws of the Bar Association.