

REGULATIONS ON THE RULES OF COLLEGIALLY RELATING TO LEGAL PROCEEDINGS

Article 1

With due observance of the law and rules of ethics, a lawyer is always obliged to represent his client's interests as well as possible and must even place his client's interests above his own or those of other lawyers.

A lawyer must represent his client's interests with respect for the rights of defence. He must respect the refutable nature of proceedings and not act in a misleading manner.

In order to promote the fair and proper administration of justice, a lawyer has a duty of loyalty and collegiality.

The rules of collegiality encourage the relationship of trust among lawyers in the client's interest and further aim to prevent unnecessary proceedings and any conduct of such a nature that it may harm the reputation of the profession.

Article 2

If defended proceedings follow prior contact between lawyers, the lawyer must inform his colleague that proceedings are being initiated, unless this notice infringes the client's lawful interests.

Article 3

A lawyer may take all unilateral judicial and extrajudicial protective measures and initiate all proceedings on the basis of an ex parte application without prior notice to the lawyer of the opposing party.

Article 4

In defended proceedings, a lawyer may never make unilateral contact with a judge, arbitrator or expert and may not provide them, inter alia, with any letters, documents, papers or statements of case without simultaneously submitting these to opposing counsel or the opposing party, if that party is not represented by a lawyer.

Article 5

The submission of documents among lawyers takes place by agreement and without formalities. Submission by way of filing the documents at the court registry may only take place when this is

necessitated by the nature of the documents. In that case, the lawyer must also provide opposing counsel with an inventory of his documents and at least a copy of the documents that may be copied.

Article 6

A lawyer must have no direct contact regarding a specific case with a party whom he knows is represented in that case by another lawyer, unless that lawyer gives his express consent and on condition that this lawyer is kept informed. In accordance with the law, a lawyer may obtain information to which his client is entitled directly from the authorities, even if those authorities are a party to the case.

Article 7

A lawyer must organise his work so as to avoid any needless postponement of the case and any unnecessary travelling or wasted time for his colleague.

A lawyer who causes unnecessary travelling or wasted time for opposing counsel, without justified or unforeseeable reason, is in breach of his duty of collegiality.

Article 8

A lawyer who requests that the case be referred to the cause-list or a postponement at the introductory hearing must notify opposing counsel thereof in due time and in the most efficient way possible.

A lawyer who wishes to request a postponement for a case that has already been set down for a hearing must notify the court thereof in due time and in the most efficient way possible and, where applicable, the public prosecution service, his opposing counsel and the opposing party who appears in person.

Article 9

A lawyer who determines that a colleague involved in a case is absent from a scheduled hearing must do all that is possible to reach him and make alternative arrangements before allowing the case to continue, if necessary, in his absence.

The case may only proceed in the absence of the lawyer if opposing counsel had informed the absent lawyer beforehand in writing of the hearing date and of his intention to proceed with the case at any rate.

Article 10

Before serving and proceeding to enforce a legal decision, a lawyer must invite opposing counsel to voluntary enforcement and/or a waiver of remedies and grant him a reasonable period for this purpose.

Immediate service and/or enforcement may however take place in the case of urgency or necessity arising from law or the ruling itself.

[The lawyer must always give the other lawyers involved notice of the fact that he is giving instructions for a legal decision to be served, and must do so no later than at the same time as this instruction.]¹

Article 11

A lawyer who applies a legal remedy must give notice thereof at the earliest possible opportunity and no later than simultaneously to the lawyers involved in the case.

Article 12

A lawyer who engages a colleague assumes responsibility for the payment of the fees and disbursements owed to this lawyer for the instructions with which he is entrusted, unless he has informed that lawyer in writing beforehand that these fees and disbursements must be charged directly to the client. If he no longer wishes to assume responsibility for the payment of future services, he must notify his colleague thereof in writing.

Article 13

[A lawyer may not in his capacity as a lawyer institute any claim, lay a criminal charge or take any protective legal measures against a colleague without giving prior notice to the chairman of his Bar Council. The lawyer must add the draft initiating instrument or charge to this notice.

A lawyer who wishes to represent a party who has already laid a charge or instituted a claim against a lawyer without being represented must notify the chairman of his Bar Council before proceeding further with the case.

The lawyer may not institute or continue with the aforementioned proceedings before a period of one month has elapsed since the notice, other than in a case of reasoned urgency.

This notification requirement is not required for claims against a lawyer in his capacity as a judicial agent, unless his liability is at risk.]²

Article 14

¹ Amended by the Regulation of the Flemish Bar Council of 18 June 2008.

² The original Article 13 was declared void by a Court of Cassation ruling of 20 February 2009. The new Article 13 was inserted by means of the Regulation of 22 April 2009 to replace Article 13 of the Regulation of 31 January 2007 on the rules of collegiality relating to legal proceedings, was published in the Belgian Official Journal of 29.04.2009 and which will enter into force on 29.07.2009.

A lawyer who institutes a claim on behalf of a client against another lawyer and the lawyer concerned must advise the respective chairmen of their Bar Councils of the ruling and the mandatory enforcement thereof.

Article 15

In accordance with Articles 496 and 507 of the Belgian Judicial Code, these regulations replace the following regulations of the Belgian National Bar Council:

- regulations of 15 January 1981, 3 December 1992, 28 January 1993, 30 June 1994 and 2 March 1995 on court-issued summonses – application of Articles 730§2B, 747§2, 748§2, 751, 753, 803 and 804 of the Belgian Judicial Code;
- regulations of 7 December 1989 on prior notice of service, the application of a legal remedy, the execution of judicial documents and the enforcement of decisions;
- regulations of 28 January 1988 and 3 December 1992 on issues of postponement and referral to the cause-list;
- regulations of 7 January 1971 on the financial liability of lawyers;
- regulations of 13 March 1973 and 21 April 1977 on the permission granted to a lawyer to summons a member of another bar.

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