

## **REGULATIONS ON TRAINEESHIP**

### **CHAPTER 1: GENERAL ORGANISATION OF THE TRAINEESHIP**

#### Article 1

In addition to his application to register on the list of trainee lawyers, the candidate trainee lawyer must provide the secretariat of the Bar Council with the following documents:

- a) his diploma, stating the date on which the oath was taken in accordance with Article 429 of the Belgian Judicial Code;
- b) an original copy of the training contract, which he has entered into in accordance with the provisions of Chapter 3 of these regulations and which the Board of the Bar Council, after receiving a favourable opinion by the training commission, determines complies with the minimum guarantees of these regulations;
- c) a statement signed by him mentioning any applications for registration that he has previously addressed to either national or foreign bars and the outcome of those applications;
- d) a statement signed by him mentioning the profession that he currently practices.

The candidate trainee lawyer must furthermore confirm in writing to the chairman of the Bar Council that he has never received a court sentence or criminal conviction and that no administrative sanctions or disciplinary measures have ever been taken against him. If this is the case, he must provide the chairman of the Bar Council with further information, if the chairman so requests.

The candidate trainee lawyer must provide the chairman of the Bar Council with a written statement relating to criminal or disciplinary investigations that are pending against him.

#### Article 2

The Board of the Bar Council determines the date of registration on the list of trainee lawyers.

The traineeship lasts three years, subject to the provisions of Article 435 of the Belgian Judicial Code and Article 3 of these regulations.

#### Article 3

3.1. A suspension is the temporary exemption from the obligations of the traineeship.

During a suspension the trainee lawyer remains a lawyer. He remains subject to the ethical obligations that are imposed on lawyers, including the financial obligations towards the Bar Council. The Board of the Bar Council may grant a full or partial exemption from the bar contribution.

The suspension of the traineeship does not terminate the training contract. Only the mutual obligations of the principal and trainee lawyer are suspended for the period of the suspension.

3.2. An interruption is the temporary omission from the list of trainee lawyers.

During an interruption, the trainee lawyer loses the status of lawyer.

An interruption terminates the training contract.

3.3.

The traineeship may be suspended or interrupted for a period of up to one year. This period may be extended on justified grounds.

The trainee lawyer must address his application for the suspension or interruption of the traineeship, or the extension of the suspension or interruption, to the chairman of the Bar Council. The Board of the Bar Council will rule on the application, after receiving advice from the training commission.

The trainee lawyer must report to the chairman of the Bar Council that he is resuming his traineeship no longer than one month before the expiry of the current suspension or interruption.

If a trainee lawyer resumes his traineeship after an interruption, he must file a new training contract. The training commission will provide advice in this regard.

If the trainee lawyer does not make application to resume his traineeship, the chairman of the Bar Council will summons the trainee lawyer. If the trainee lawyer does not adhere to this request, he will be summoned before the Board of the Bar Council to decide on his possible omission from the list of trainee lawyers. This omission involves the forfeiture of the earnings of the traineeship.

After the suspension or interruption, the traineeship is continued

- while retaining the earnings of the previously performed traineeship,
- while retaining the registration position on the list of trainee lawyers,
- without the period of suspension or interruption counting as traineeship.

#### Article 4

The trainee lawyer may complete an equivalent traineeship at a national or foreign bar or with other legal professions with which the Flemish Bar Council or the Board of the Bar Council have entered into agreements. This equivalent traineeship may not last longer than one year.

This equivalent traineeship cannot be completed until after the trainee lawyer has obtained a certificate of competency referred to in the Regulations on Professional Training.

The trainee lawyer must address his application to carry out an equivalent traineeship to the chairman of the Bar Council. The application must be motivated. The Board of the Bar Council will decide on the application, after receiving advice from the training commission.

At the end of the equivalent traineeship, the trainee lawyer must prepare a report in which he comprehensively details the work that he performed during that period. The content of this report must be confirmed by his foreign principal, the competent authority of the foreign bar, or the other legal professional practitioner who acts as his principal.

The trainee lawyer must submit this report to the chairman of the Bar Council. He must confirm in writing to the chairman of the Bar Council that his equivalent traineeship has ended. In the absence hereof, he will be summoned by the chairman of the Bar Council.

On the basis of the report, the Board of the Bar Council will determine whether that traineeship qualifies fully or partially as an equivalent traineeship. If this is not the case, the Board of the Bar Council will impose an extension of the traineeship for the disqualified period.

#### Article 5

At the end of the traineeship, the trainee lawyer must make written application to the chairman of the Bar Council to be registered on the lawyers' roll.

The application for registration on the lawyers' roll will be decided by the Board of the Bar Council, after receiving advice from the training commission and after the following reports have been submitted:

- the final report of the principal,
- the report of the chairman of the Legal Aid Office.

The trainee lawyer may examine the file with these reports at the chairman of the Bar Council.

## CHAPTER 2: CONDITIONS FOR ACTING AS PRINCIPAL

### Article 6

Every lawyer who has been registered on the Bar Council's lawyers' roll or the EU list for at least seven years may act as a principal. The Board of the Bar Council may deviate from this requirement in individual cases.

After receiving advice from the training commission, the Board of the Bar Council will prepare a list of principals. Candidate principals must address an application for this purpose to the Board of the Bar Council. The Board of the Bar Council may only refuse to include a lawyer on the list of principals after having summoned the lawyer to be heard according to the Regulations on the Procedure according to the Administration of Justice in Disciplinary Cases that apply to the Board of the Bar Council.

A principal may train three trainee lawyers at any given time. The Board of the Bar Council may deviate from this limitation in individual cases if the principal demonstrates on the basis of objective and verifiable factors that quality training can be guaranteed for each trainee lawyer.

### Article 7

When the Board of the Bar Council determines that a principal no longer complies with ethical obligations or his specific obligations as a principal, it may remove that principal from the list after having summoned him to be heard according to the Regulations on the Procedure according to the Administration of Justice in Disciplinary Cases that apply to the Board of the Bar Council.

## CHAPTER 3: THE TRAINING CONTRACT

### Article 8

The principal and candidate trainee lawyer will enter into a training contract. Where appropriate, the legal entity or partnership of which the principal is a member must be a party to the training contract.

This contract, as well as any amendments or additions must be submitted to the secretariat of the Bar Council, as referred to in Article 1.

## Article 9

Any party may terminate the training contract in writing, with due observance of a reasonable notice period, before the end of the traineeship.

Notice of termination of the contract must be given to the training commission at the same time. The training commission will then monitor the transfer to a new principal.

All provisions of the contract will remain in force during the notice period.

In the event of termination of the training contract, the parties may decide to waive the notice period by mutual agreement.

## CHAPTER 4: DUTIES OF THE PRINCIPAL

### Article 10

The principal must ensure that the trainee lawyer performs his activities whilst duly observing ethical rules and that knowledge and practical skills are imparted to the trainee lawyer. The principal shall, where necessary, be available to assist and give the trainee lawyer guidelines.

At the end of the traineeship the principal must file a final report with the training commission.

### Article 11

The principal must give his trainee lawyer the time needed to fulfil his traineeship obligations.

### Article 12

The principal and trainee lawyer will determine the trainee lawyer's remuneration by mutual agreement. The minimum monthly salary for a full-time trainee lawyer is €1,200 for the first traineeship year and €1,700 as from the second traineeship year.

The general meeting of the Flemish Bar Council may adjust the minimum salaries in June of each year, to take effect from the following judicial year.

Taking into account the trainee lawyer's reduced availability for the principal, the minimum salaries, as referred to in sub-articles 1 and 2 of this article, may be deviated from on a pro-rata basis in the training contract or in later amendments or additions. In assessing the reduced

availability, the performance of duties imposed by the chairman of the Bar Council or as part of legal assistance may not be taken into account.

The principal and trainee lawyer may agree that the trainee lawyer pays a fee for the use of the premises, infrastructure or other office costs. This fee may never affect the remuneration referred to in sub-articles 1 and 2 of this article.

## CHAPTER 5: DUTIES OF THE TRAINEE LAWYER

### Article 13

The trainee lawyer must attend to the cases entrusted to him by his principal with the necessary diligence and care. He is obliged to refuse a case that he believes in good conscience not to be just and fair.

He must follow the professional training for trainee lawyers as organised by the administration of the Bar Council.

He must perform the duties imposed on him by the chairman of the Bar Council or as part of legal assistance.

The trainee lawyer must furnish a final report to the training commission at the end of his traineeship on how the traineeship was completed.

## CHAPTER 6: THE TRAINING COMMISSION

### Article 14

Every Bar Council of lawyers entrusts the supervision of the traineeship to a training commission that is made up of at least:

- a chairman designated by the Board of the Bar Council,
- a member designated by the Legal Aid Office, and
- a member designated by the trainee lawyers.

## Article 15

The training commission:

- provides advice on the training contract that is concluded between the principal and the trainee lawyer,
- provides advice on applications for the suspension or interruption of the traineeship or the extension thereof by the trainee lawyer,
- provides advice on the new training contract that is concluded after an interruption of the traineeship,
- provides advice on carrying out an equivalent traineeship,
- provides advice on the inclusion of the trainee lawyer on the Bar Council's lawyers' roll,
- provides advice on the inclusion of a candidate principal on the list of principals,
- takes cognisance of the early termination of a training contract,
- monitors the transfer to a new principal in the event of such early termination,
- takes cognisance of and reviews the traineeship reports prepared by the principal and the trainee lawyer,
- monitors the observance of the obligations of the trainee lawyer and the principal,
- mediates in disputes between the trainee lawyer and the principal,
- provides advice to the chairman and the Board of the Bar Council on any problem that arises in relation to the traineeship.

Approved at the general meeting of the Flemish Bar Council of 7 May 2008.

Published in the Belgian Official Journal on 28 May 2008.

Entry into force on 28 August 2008.