

REGULATIONS ON LAWYERS AND THE MEDIA

Article 1: General

- 1.1. With due observance of the regulations on advertising, a lawyer may under all circumstances, including in public meetings and in the media, make public use of his title and his right to freedom of expression.
- 1.2. In this regard, he must respect the principles of dignity, honesty and discretion that underpin his profession.
- 1.3. He must be aware of his special role as a lawyer, through which he occupies a central position in the administration of justice.
- 1.4. He must additionally ensure that he does not come across as a party or witness, or give the impression that he speaks on behalf of third parties by whom he is not authorised, and particularly not for the administration of the Bar Council.
- 1.5. He must ensure that his actions do not in any way impair the rules of collegiality.
- 1.6. A lawyer must ensure that he always provides the correct information and explains this information in a composed manner.
- 1.7. He must ensure that his cooperation with the written press is made subject to seeing the text before it is published and must endeavour to reach the same arrangement with regard to the other media.
- 1.8. A lawyer may not give interviews while wearing his robe. He may likewise not give interviews in a court building, other than in a specially designated press room.
- 1.9. A lawyer is responsible for the statements that he makes to the media. He must bear in mind that he does not enjoy the immunity in this regard that is attached to his court work.

Article 2: Acting as a Commentator

2. Subject to the rules described in Article 1, a lawyer may, with regard to cases in which he and/or his firm's partners are not or have not been involved, and with regard to social events and issues, provide information, commentary and clarification concerning the relevant legal principles involved both in public and to the media.

Article 3: Acting as Counsel

- 3.1. A lawyer must ensure that he observes professional privilege and the confidentiality of his statements with regard to cases in which he acts or has acted as counsel.
- 3.2. He must ensure that he has the permission of his client to make public statements.
- 3.3. Such statements must always be based on a concern for the client's interests and in achieving a fair and just outcome in the case.
- 3.4. A lawyer must ensure the observance of the presumption of innocence, the rights of defence of the accused, the victim and third parties, their privacy and dignity and the rules of the profession, including those of Article 1 of these regulations.
- 3.5. The lawyer's intervention must also evidence concern for the justified interests of third parties, who must not be treated in an unnecessarily offensive manner, and must do using means that are not covert or anonymous and which are lawfully permitted.
- 3.6. A lawyer must refrain from conducting the trial by media and avoid all commentary, from the time the case is put forward for consideration until the judgment, unless a reaction is necessary, specifically for adhering to the 'equality of arms' principle, following statements in the media by the public prosecution service, the judge responsible for briefing the press or third parties.
- 3.7. A lawyer must, where possible, consult the chairman of the Bar Council in advance, in order to obtain his point of view and follow his guidelines, and at any rate consult the chairman beforehand when he must name a predecessor or successor or must comment about his actions in the case.
- 3.8. If lawyers from different bars are involved in the issues covered in this article, mutual consultation will take place at the initiative of any of their Bar Council chairmen. The chairman of the Bar Council of the place where the case is being heard will be entitled to make the decision, regardless of the number of lawyers involved and the respective bars to which they belong.

Commentary

- 1.3. These concepts are a reference to the grounds for the ruling of the ECHR in the matter of *Nikula v. Finland* of 21 March 2002.
- 1.6. A lawyer must lend weight to the practice of only providing correct information by also checking the accuracy of his information in advance, to the extent possible, by all achievable means.

1.9. Reference to Articles 444, 445 and 761 of the Belgian Judicial Code, as read together with Article 452 of the Belgian Criminal Code.

3.2 It appears mandatory, already just from the perspective of proving this consent, to have it recorded in writing.

3.4. Reference to Article 57, introductory part of the Belgian Criminal Procedure Code.

Approved at the general meeting of the Flemish Bar Council of 04.06.2003.

Notice given in accordance with Article 497 of the Belgian Judicial Code on 11.06.2003.

In force since 12.08.2003.