

REGULATIONS ON LAWYERS WHO ACT AS THE MANAGING AGENTS OF CO-OWNERS ASSOCIATIONS

Article 1

Lawyers may act as the managing agent for a co-owners association under Articles 577, 2 to 577, 14 the Belgian Civil Code, in accordance with the principles of dignity, honesty and discretion that underpin their profession.

Article 2

A lawyer who wishes to act as a managing agent must notify the chairman of his Bar Council and furnish proof of appropriate and special liability insurance.

A lawyer will remain subject to the disciplinary authority of the chairman of his Bar Council and the Bar Council itself with regard to his professional activities as a managing agent.

Article 3

In his relationship with the general meeting of co-owners, the management board and third parties with regard to the acts that he performs as a managing agent, and the instructions given to him, the lawyer must display the independence that is characteristic of his profession, and must reconcile this with the statutory powers granted to the management and administration organs of the co-owners association.

A lawyer acting as a managing agent should resign from his mandate if this independence proves to be inadequately guaranteed.

Article 4

A lawyer acting as a managing agent may stipulate that any liability with regard to the performance of his duties be limited to the amount of the special insurance that he must take out for his mandate.

Article 5

A lawyer acting as a managing agent may appear in principle before the courts as the association's representative in accordance with Article 577, 8 § 4 of the Belgian Civil Code.

However, he will then not be acting as a lawyer but as an agent under general law and must, if necessary, prove his mandate, including towards his colleagues.

He may not appear wearing his lawyer's robes and must avoid any risk of confusion between his special mandate and his authority to act in litigation.

He must preferably appoint a colleague to represent him in court.

At any rate, he may not act for or argue on behalf of the co-owners when he is or may be personally involved in the case.

This is the case particularly:

- if his personal liability as managing agent is at issue;
- if he was present at the negotiations, discussions or agreements relating to the co-ownership or prepared these himself, if he took minutes of meetings or decisions, or participated in deliberations on votes or decisions and the role that he played therein forms the subject of a dispute, or is discredited during the proceedings;
- if he may be called as a witness or gave advice to the co-owners in relation to the dispute.

In such a case, the lawyer must withdraw and have a colleague handle the proceedings further.

Article 6

A lawyer acting as a managing agent may not act for a party that is or becomes the opposing party of the co-owners association of which he is the managing agent.

After his mandate as managing agent has been terminated, he may likewise not act for or against the co-owners association or one or more of its members, when he may be confronted as part of performing his duties with a conflict of interests relating to his earlier mandate, or be possibly suspected of breaching his professional privilege.

This prohibition will also apply to lawyers who in any way have a permanent and apparent form of alliance with the lawyer acting as a managing agent, or who receive any remuneration from that lawyer, except if the clients were informed about the nature and scope of the cooperation or relationship between the lawyers and nevertheless express the wish for their interests to be defended by the lawyers to whom they turned for assistance.

Article 7

The lawyer acting as a managing agent must ensure that all handling of funds for the co-owners association, which he represents as managing agent, takes place via an account specially opened for that purpose, which will be separated from both his personal accounts and those of his firm, including the third-party accounts.

These special third-party accounts for the mandate as managing agent fall under the authority and control of the Bar Council in accordance with the regulations on third-party accounts of the General Meeting of the National Bar Council of 19 January 1989.

Approved at the general meeting of the Flemish Bar Council of 18.09.2002.

Notice given in accordance with Article 497 of the Belgian Judicial Code on 25.09.2002.

In force since 25.11.2002.