

REGULATIONS ON THE PROCEDURE ACCORDING TO THE ADMINISTRATION OF JUSTICE IN DISCIPLINARY CASES THAT APPLIES TO THE BOARD OF THE BAR COUNCIL

Article 432 of the Belgian Judicial Code determines that the Board of the Bar Council is the master of the lawyers' roll, the list of lawyers who practise their profession under the professional title of another EU Member State and/or the list of trainee lawyers;

Article 437 of the Belgian Judicial Code determines that the Board of the Bar Council, which on grounds of incompatibility officially omits a lawyer from the lawyers' roll, the list of lawyers who practice their profession under the professional title of another EU Member State, or the list of trainee lawyers, must do so "according to the administration of justice in disciplinary cases";

Article 435 of the Belgian Judicial Code determines that any trainee lawyer who does not prove within five years of his registration on the list of trainee lawyers, by the latest, that he has fulfilled all the obligations laid down by the bar, may be omitted from the list, but does not set out the procedure according to which this must be done;

Under Article *432bis* of the Belgian Judicial Code, a person who requests registration or is the subject of omission may appeal against the decision of the Board of the Bar Council at the disciplinary appeal tribunal;

Articles 508/5, § 1 and 508/7 of the Belgian Judicial Code provide for an appeal procedure at the disciplinary appeal tribunal against the refusal of the Board of the Bar Council to register a lawyer on the list of primary and secondary (pro Deo) legal assistance providers, but do not set out which procedure that Board must follow when it refuses that registration;

Articles 508/5, § 4 and 508/8 of the Belgian Judicial Code determine that the striking of a lawyer from the list of primary and/or secondary (pro Deo) legal assistance providers by the Board of the Bar Council takes place "according to the procedure for the disciplinary tribunal";

It is appropriate to have all the aforementioned decisions of the Board of the Bar Council in the aforementioned articles of the Belgian Judicial Code come into effect "according to the administration of justice in disciplinary cases";

Given that since the Act of 21 June 2006 no administration of justice in disciplinary cases exists any longer for the Board of the Bar Council, it is appropriate to establish in regulations a uniform procedure "according to the administration of justice in disciplinary cases".

Article 1

The Board of the Bar Council will follow the procedure established in these regulations in the following cases:

1.1.

When the chairman or the Board of the Bar Council determines that there may be reasons to refuse the registration or re-registration of somebody on the lawyers' roll, the list of lawyers who practise their profession under the professional title of another EU Member State, or the list of trainee lawyers under Articles 432 or 472, §1 of the Belgian Judicial Code;

1.2.

When the chairman or the Board of the Bar Council determines that there may be reasons to omit a lawyer, who has not requested such omission himself, under Articles 432, 435 (last sub-article) or 437 of the Belgian Judicial Code, from the lawyers' roll, from the list of lawyers who practise their profession under the professional title of another EU Member State or from the list of trainee lawyers;

1.3.

When the chairman or the Board of the Bar Council determines that there may be reasons not to include a lawyer, who has requested such inclusion, on the list of lawyers who wish to perform services as part of the primary legal assistance referred to in Article 508/5, §1 of the Belgian Judicial Code;

1.4.

When the chairman or the Board of the Bar Council determines that there may be reasons to strike a lawyer, in accordance with Article 508/5, §4 of the Belgian Judicial Code, from the list of lawyers who wish to perform services as part of primary legal assistance;

1.5.

When the chairman or the Board of the Bar Council determines that there may be reasons not to include a lawyer, who has requested such inclusion, on the list of lawyers who wish to perform services as part of the secondary (pro Deo) legal assistance referred to in Article 508/7, §1 of the Belgian Judicial Code;

1.6.

When the chairman or the Board of the Bar Council determines that there may be reasons to strike a lawyer, in accordance with Article 508/8 of the Belgian Judicial Code, from the list of lawyers who wish to perform services as part of secondary (pro Deo) legal assistance.

Article 2

The chairman of the Bar Council will summons the person involved before the Board of the Bar Council to a hearing that he schedules. Notice of the hearing must take place by registered post at least 15 days before the hearing date. The notice letter must state the purpose of the hearing and, if applicable, also the reasons that led to the initiation of the proceedings.

Article 3

The person involved will be granted an audience at the Board of the Bar Council hearing. He may arrange to be assisted and represented by a lawyer. The Board of the Bar Council may always order him to appear in person.

Article 4

If the person involved has been validly summonsed according to Article 2 and does not appear in person or arrange to be represented by a lawyer, the case may be dealt with in his absence.

Article 5

The Board of the Bar Council will deal with the case in a public hearing, subject to the exceptions listed in Article 459 of the Belgian Judicial Code.

Article 6

The Board of the Bar Council will decide in a substantiated ruling.

Article 7

The secretary of the Board of the Bar Council will give notice of the decision to the person involved within eight days of the ruling by registered letter. This notice will set out the legal remedies.

Article 8

The person involved may file an objection to a ruling made in default of his appearance by means of a registered letter sent to the secretary of the Board of the Bar Council, within 15 days of notice of the ruling.

A late objection will be declared inadmissible, unless the Board of the Bar Council excuses the objector for the delay, which decision is exclusively at the Board's discretion and not appealable.

The secretary of the Board of the Bar Council will summons the person involved to appear before the Board of the Bar Council in the manner referred to in Article 2. If he fails to appear again, the Board of the Bar Council will deliver its ruling as though the matter is defended.

Article 9

An appeal may be lodged in accordance with Article 432*bis* of the Belgian Judicial Code against the decisions referred to in Articles 1.1, 1.2, 1.3 and 1.5 of these regulations.

An appeal may be lodged in accordance with Article 463 of the Belgian Judicial Code against the decisions referred to in Articles 1.4 and 1.6 of these regulations.

The secretary of the disciplinary appeal tribunal will inform the secretary of the Board of the Bar Council concerned immediately upon receipt of the appeal. The secretary of the Board of the Bar Council will immediately forward the inventoried file to the secretary of the disciplinary appeal tribunal.

Article 10

Unless the ruling of the Board of the Bar Council provides otherwise, an admissible objection and appeal will have a suspensory effect and the omission from the lawyers' roll, from the list of lawyers that practise their profession under the professional title of another EU Member State, or from the list of trainee lawyers, or the striking from the list of lawyers that wish to perform services as part of primary or secondary (pro Deo) legal assistance will be effective from the date following the expiry of the periods of objection or appeal.

Article 11

These regulations apply to every application for registration, re-registration or inclusion, as referred to in Articles 1.1, 1.3 and 1.5 of these regulations, that is made after the entry into force of these regulations.

These regulations apply to every procedure for omission or striking from a roll or list, as referred to in Articles 1.2, 1.4 and 1.6 of these regulations, that is initiated after the entry into force of these regulations.

Approved at the general meeting of the Flemish Bar Council of 21.11.2007.
Published in the Belgian Official Journal on 04.12.2007.
Entry into force on 04.03.2008.