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## Department for Legal Affairs



# HR DECISION IMPOSING THE LAW ON ATTORNEYS' PROFESSION OF THE FEDERATION OF BOSNIA AND HERZEGOVINA

**“Official Gazette of the Federation of Bosnia and Herzegovina”, 25/02**

**NOTE:**

- This Law has been adopted by FBH Parliament and published in the “Official Gazette of the Federation of Bosnia and Herzegovina”, 40/02.
- **Law on Changes and Amendments to the Law on Attorneys' Profession of the Federation of Bosnia and Herzegovina, published in the “Official Gazette of the Federation of Bosnia and Herzegovina”, 29/03 and 18/05, are not included in this translation.**
- **Law on Changes and Amendments to the Law on Attorney's Profession of the Federation of Bosnia and Herzegovina, published in the “Official Gazette of the Federation of Bosnia and Herzegovina”, 68/05, is not included in this translation.**

# **The High Representative's Decision Imposing the Law on Attorneys' Profession of the Federation of Bosnia and Herzegovina**

**May 23, 2002**

No. 165/02

**In the exercise** of the powers vested in me by Article V of Annex 10 (Agreement on Civilian Implementation of the Peace Settlement) to the General Framework Agreement for Peace in Bosnia and Herzegovina, according to which the High Representative is the final authority in theatre regarding interpretation of the said Agreement on the Civilian Implementation of the Peace Settlement; and considering in particular Article II.1. (d) of the last said Agreement, according to the terms of which the High Representative shall “Facilitate, as the High Representative judges necessary, the resolution of any difficulties arising in connection with civilian implementation”;

**Recalling** paragraph XI.2 of the Conclusions of the Peace Implementation Conference held in Bonn on 9 and 10 December 1997, in which the Peace Implementation Council welcomed the High Representative’s intention to use his final authority in theatre regarding interpretation of the Agreement on the Civilian Implementation of the Peace Settlement in order to facilitate the resolution of any difficulties as aforesaid “by making binding decisions, as he judges necessary” on certain issues including (under sub-paragraph (c) thereof) “measures to ensure implementation of the Peace Agreement throughout Bosnia and Herzegovina and its Entities”;

**Recalling further** paragraph 12.1 of the Declaration of the Peace Implementation Council which met in Madrid on 15 and 16 December 1998, which made clear that the Council considered that the establishment of the rule of law, in which all citizens had confidence, was a prerequisite for a lasting peace, and for a self-sustaining economy capable of attracting and retaining international and domestic investors;

**Mindful** of the United Nations Basic Principles on the Role of Lawyers, endorsed by the General Assembly of the United Nations in December 1990, which states that “[the] adequate protection of the human rights and fundamental freedoms to which all persons are entitled, be they economic, social and cultural, or civil and political, requires that all persons have effective access to legal services provided by an independent legal profession...[and that]...professional associations of lawyers have a vital role to play in upholding professional standards and ethics, protecting their members from persecution and improper restrictions and infringements, providing legal services to all in need of them, and cooperating with governmental and other institutions in furthering the ends of justice and public interest...”;

**Mindful further** of Council of Europe Committee of Ministers Recommendation Rec(2000)21 on the freedom of exercise of the profession of lawyer (Adopted by the Committee of Ministers on 25 October 2000)- *Principle I - General principles on the freedom of exercise of the profession of lawyer*, paragraph 1, which states that “[a]ll necessary measures should be taken to respect, protect and promote the freedom of exercise of the profession of lawyer without discrimination and without improper interference from the authorities or the public, in particular in the light of the relevant provisions of the European Convention on Human Rights.”

**Noting** that a truly independent and properly regulated legal profession is essential to ensure the rule of law in all criminal, civil and commercial matters and to guarantee the advancement of human rights and freedoms and reconciliation within Bosnia and Herzegovina;

**Recalling** the Memorandum of Understanding on Regulation of Legal Assistance between Institutions of the Federation of Bosnia and Herzegovina and the Republika Srpska, signed May 1998, which states that “...in the interest of unimpeded functioning of the legal practice in the entire territory of Bosnia and Herzegovina, both Entities commit themselves to harmonise their legislation concerning legal practice, in order to ensure that lawyers can register with any Bar Association in Bosnia and Herzegovina and will be eligible to exercise their duties in both Entities without further requirements.”

**Recognising** however that the laws on the legal profession currently in effect in the Republika Srpska and Federation of Bosnia and Herzegovina lack harmony on issues essential for the fair, proper and uniform regulation of the legal profession in Bosnia and Herzegovina;

**Acknowledging** the efforts of those within the domestic legal community who produced a draft law on the legal profession for the Federation of Bosnia and Herzegovina, as well as the efforts of the Federation Parliament towards its passage and the advice and assistance of the Council of Europe in respect of the laws on the legal profession;

Having considered and borne in mind all the aforesaid matters, I hereby issue the following

## **DECISION**

The Law on Attorneys' Profession of the Federation of Bosnia and Herzegovina, which is hereby attached as an integral part of this Decision, shall enter into force as a law of the Federation of Bosnia and Herzegovina, with effect from the date provided for in Article 74 thereof, on an interim basis until such time as the Parliament of the Federation of Bosnia and Herzegovina adopts this law in due form, without amendments and with no conditions attached.

This Decision shall enter into force immediately and the Decision, accompanied by the text of the Law, shall be published forthwith in the Official Gazette of the Federation of Bosnia and Herzegovina.

Sarajevo, 23 May 2002

Wolfgang Petritsch  
High Representative

# **Law on Attorneys' Profession of the Federation of Bosnia and Herzegovina**

## **I - BASIC PROVISIONS**

### **Article 1**

This Law regulates the organisation and status of attorneys who provide legal assistance to natural and legal persons in matters protecting their rights, obligations or legal interests.

### **Article 2**

The practice of law shall be an independent professional activity, which shall be organised and function in compliance with this Law and any regulations adopted pursuant to the Law.

The independence of the attorneys' profession shall be realised specifically through the:

- 1) Independent practice of providing legal assistance;
- 2) Right of a party to freely choose his/her attorney;
- 3) Organisation of attorneys into a bar association as an independent and self-governing organisation with mandatory membership;
- 4) Adoption of a Statute regulating the work of the Bar Association and its bodies;
- 5) Adoption of an Attorneys' Code of Ethics;
- 6) Determination of the right to practice law, or on a temporary ban or termination of the right to practice law;
- 7) Determination of the modes of cooperation with the Bar Association of the Republika Srpska, bar associations from foreign states, inter-state and international attorneys' associations; and
- 8) Determination of the modes of cooperation with other types of inter-state and international institutions, organisations and associations.

### **Article 3**

The practice of law includes among other activities:

- 1) Provision of legal advice;
- 2) Preparation of various submissions (claims, charges, complaints, applications, appeals, etc.);
- 3) Preparation of various documents (contracts, wills, etc.);
- 4) Representation of parties in all civil, administrative and other procedures before all courts of law, arbitrations, governmental bodies, and other legal entities;
- 5) Defence and representation in criminal proceedings, cases of economic violations (transgressions), minor offences, and other procedures in which the responsibility of natural and legal persons are being determined ; and
- 6) Provision of other forms of legal assistance to natural and legal persons in order to protect their rights and interests.

Attorneys as individuals shall perform the practice of law as a professional activity. For the purpose of performing activities belonging to their profession, attorneys shall be able to establish joint attorney offices and law firms.

### **Article 4**

An attorney shall not be allowed to perform activities that are incompatible with the reputation and independence of the attorneys' profession.

## **Article 5**

Attorneys shall be obliged to provide legal assistance conscientiously and professionally, in compliance with all applicable Constitutions, Laws and other regulations, as well as the Statute and other regulations of the Bar Association and their professional code of ethics.

As a general rule, an attorney shall be obliged to keep as a professional confidence everything entrusted to him/her by a client except where the duty is waived by the client either expressly or implicitly, which shall include, but not be limited to, when the client has made a disciplinary complaint against the attorney, when the attorney testifies in criminal proceedings in defence of himself/herself, when the attorney has a reasonable belief that a serious crime will be committed, and when the attorney must institute an action to recover fees and expenses due and owing from the client.

Other persons who are or were employed in an attorney's office, joint attorney office or law firm shall be equally obliged to keep the professional confidences described in the previous paragraph.

## **Article 6**

An attorney shall be independent in performing his or her work.

An attorney shall have the right and duty to undertake all actions that in his/her assessment are in the interest of the party to whom he/she is providing legal assistance, as long as these actions are within the framework of the law and within the limits of the authorisation given by the client.

## **Article 7**

Each party shall be entitled to the right of free choice of an attorney who is legally empowered to practice law in the Federation of Bosnia and Herzegovina pursuant to this Law.

Any attorney registered in the Register of Attorneys in the Federation of Bosnia and Herzegovina or the corresponding register in the Republika Srpska shall be able to represent and defend natural and legal persons before the courts, governmental bodies and all other organisations in the Federation of Bosnia and Herzegovina.

Citizens of another state, who in accordance with the law of that state fulfil the conditions for the right to practice law, shall be entitled to registration into the Register of Attorneys under condition of the existence of reciprocity with the state whose citizen he/she is.

In the cases of doubt about the existence of reciprocity, the Federation Ministry of Justice shall provide a binding opinion.

Nothing in this law shall prevent a citizen of a foreign state, who in accordance with the law of that state fulfil the conditions for the right to practice law, from providing legal advice regarding the law of that state.

## **Article 8**

Only attorneys and law trainees may provide legal assistance pursuant to the conditions determined by this Law unless provided for in other laws.

## **II – ORGANISATION OF ATTORNEYS IN ASSOCIATIONS**

### **Article 9**

All attorneys with the seats of their offices on the territory of the Federation shall be obliged to be a member of the Bar Association established under this Law as an independent self-governing organisation.

## **Article 10**

The Bar Association of the Federation of Bosnia-Herzegovina (hereinafter: the Bar Association) is hereby created.

The Bar Association of the Federation of Bosnia-Herzegovina shall be comprised of:

- 1) Sarajevo Branch Association (established in the territories of Sarajevo Canton and Bosansko-Podrinjski Canton);
- 2) Mostar Branch Association (established for the territories of the Hercegovacko-Neretvanski Canton, West-Herzegovina Canton and Canton 10);
- 3) Tuzla Branch Association (established for the territories of Tuzla Canton and Posavski Canton);
- 4) Zenica Branch Association (established for the territories of the Zenicko-Dobojski Canton and Central-Bosnia Canton); and
- 5) Bihac Branch Association (established for the territory of Unsko-Sanski Canton).

(hereinafter referred to as Branches)

The Bar Association and Branches listed in Paragraph 2 of this Article shall have the status of a legal person.

Attorneys shall be obliged to be a member of one of the Branches listed in Paragraph 2 of this Article, depending on the seat of their attorney's office. Thereby they shall automatically become a member of the Bar Association.

Law trainees shall be obliged to be a member of the Association of Law Trainees of the Bar Association.

## **Article 11**

The Bar Association shall represent attorneys and law trainees and carry out the following functions:

- 1) To develop and improve the practice of law,
- 2) To ensure the professional autonomy of attorneys,
- 3) To make decisions regarding acquiring the right to practice law and to perform the activities of a law trainee,
- 4) To initiate proceedings and determine disciplinary liability for violations of the rules of professional conduct,
- 5) To protect the rights and interests of attorneys, joint attorney offices, law firms and law trainees,
- 6) To organise and provide advanced professional training for attorneys and to supervise the professional training of law trainees,
- 7) To co-operate with legislative, judicial and executive authorities throughout Bosnia and Herzegovina,
- 8) To mediate disputes between attorneys and their clients,
- 9) To co-operate with state and international organisations, institutions and associations, and
- 10) To co-operate with the Bar Association of the Republika Srpska and bar associations from foreign states regional associations of attorneys and international bar associations.

The Bar Association shall represent all attorneys of the Federation of Bosnia and Herzegovina before the federal bodies and institutions and the federal organs of the Bar Association shall perform all activities not determined by this Law as activities of the Branches.

The seat of the Bar Association shall be in Sarajevo.

## **Article 12**

The Bar Association shall have the following bodies:

- (1) Assembly;
- (2) Administrative Board;

- (3) President and Vice-President;
- (4) Supervisory Board;
- (5) Disciplinary Court and Disciplinary Prosecutor;
- (6) Board of Examination from Article 18, paragraph 2, item 7 of this Law; and
- (7) Other bodies anticipated by the Statute of the Bar Association.

The mandate of the bodies of the Bar Association shall be 4 years.

The mandate of the President and Vice-President may not be entrusted to the same person for a second time in continuity. This shall not prevent the Vice-President from becoming President upon the expiration of his/her mandate for Vice-President.

The Bar Association Assembly shall adopt the Statute of the Bar Association (hereinafter: the Statute), the Attorneys' Code of Ethics (hereinafter: the Code of Ethics), and the Book of Disciplinary Regulations.

### **Article 13**

The Bar Association Assembly is composed of representatives of the Branches and a representative of the Association of Law Trainees.

Each Branch Assembly shall elect one representative for each ten of its members to represent it in the Bar Association Assembly. The Association of Law Trainees shall delegate one representative to the Bar Association Assembly.

Assembly sessions may be electoral, regular or extraordinary.

The regular Assembly is held once a year. The electoral Assembly is held once every four years to elect the President and Vice-President of the Bar Association, part of the members of Administrative Board, the members of the Disciplinary Court, and the Disciplinary Prosecutor. Extraordinary assemblies are held when necessary. They may be called by the Administrative Board or upon request by one-third of delegates in the Assembly.

More than half of the delegates must be present in order for the Assembly to qualify for work and decision-making. If there is no such majority, the beginning of the session shall be postponed for an hour, after which time the Assembly may convene and make decisions if more than one-third of the delegates are present. Decisions of the Assembly shall be valid if more than half of the delegates present vote for them.

When the Assembly adopts the Statute and the Code of Ethics, the decision is only valid if it has the votes of more than half of the delegates of each individual Branch.

If these documents cannot be initially adopted due to an insufficient number of Assembly delegates voting for them, the Administrative Board shall adopt temporary documents. That decision shall be valid if a majority of Administrative Board members vote for it. In the period of six months after adoption of temporary documents, the Administrative Board must convene the Assembly and propose adoption of these documents. The temporary documents shall remain in force until the adoption of permanent documents by the Assembly.

All General Acts of the Bar Association shall be published in the Official Gazette of the Federation of Bosnia and Herzegovina.

### **Article 14**

The Bar Association shall be represented by its President.

The Administrative Board of the Bar Association shall have eleven members. The President of the Bar Association shall also be a member of the Administrative Board by virtue of his position. Each of the

Branches shall appoint one member to the Administrative Board, and the remaining five members shall be elected at the electoral Assembly.

The details about the competencies, convening, organisation and work of the Assembly, Administrative Board and the President shall be determined in the Statute.

The Book of Disciplinary Regulations shall determine the particulars about the work and competencies of the Disciplinary Court and Disciplinary Prosecutor, including regulations for initiating disciplinary proceedings against attorneys and law trainees, conducting those disciplinary proceedings, making final decisions on disciplinary liability and sanctions, and executing sanctions.

### **Article 15**

The Branches shall be competent to act in the areas specified by this Law.

The Branches shall have the following bodies: Assembly, Executive Board, President, Vice-President, Supervisory Board, Disciplinary Court, Disciplinary Prosecutor, as well as other bodies specified in the Statute of each Branch. The Assembly of each Branch shall adopt a Statute determining its organisation and activities, which must be consistent with the provisions of this Law and the General Acts of the Bar Association.

### **Article 16**

The Code of Ethics shall regulate overall principles to be adhered to by attorneys and by law trainees in performing their professional activities. The Code of Ethics shall particularly regulate the following issues among others:

1. General, professional and basic tasks such as:
  - a) Conscientiousness,
  - b) Preservation of independence,
  - c) Discretion and professional confidentiality,
  - d) Banning representation in cases where conflicts of interest exist, and
  - e) Care in handling other persons' property and assets.
2. Special tasks of the profession in relation to public information.
3. Special tasks of the profession:
  - a) In relation to receiving and completing authorisations from clients, and
  - b) In relation to giving counsel to parties with low income.
4. Special tasks of the profession in relation to the courts of law and other bodies such as:
  - a) Professional behaviour before Courts or other bodies,
  - b) The duties related to the use of files given for inspection and the knowledge acquired from them, and
  - c) The duties when submitting files.
5. Special tasks of the profession regarding holding and accounting for client funds, agreeing upon and calculation of an attorney's fees and effecting their collection.
6. Special tasks of the profession towards the Bar Association and with regard to professional behaviour towards other members of the Bar Association, duties related to professional cooperation, duties related to employing attorneys, as well as education and employment of other associates.
7. Special tasks of the profession in international legal transactions.

### **Article 17**

The Federation Ministry of Justice shall monitor the work of the attorneys and the Bar Association from the point of view of implementation of this Law and propose measures for improvement of the attorney profession.

Within the competence specified in the previous paragraph, the Federation Ministry of Justice, taking into account the independence of the attorney profession, may request the Bar Association to submit relevant reports and data.

## **III – CONDITIONS NECESSARY FOR PERFORMING THE PRACTICE OF LAW**

### **Article 18**

The right of registration in the Register of Attorneys of the Bar Association (hereinafter: the Register of Attorneys) shall be given to applicants that fulfil the following conditions unless specified otherwise in this law:

1. To be a citizen of Bosnia-Herzegovina;
2. To be a graduate of one of the law faculties in Bosnia-Herzegovina, or of any law faculty in the Socialist Federal Republic of Yugoslavia prior to 22 May 1992; in the case of graduating from a law school in another country, the candidate shall fulfil this obligation by validation of the diploma by the competent Federation administrative body;
3. To have passed the bar examination in Bosnia-Herzegovina or in the Socialist Federal Republic of Yugoslavia prior to 22 May 1992; in the case of passing the bar examination in another state, the candidate shall fulfil this condition after recognition of such bar examination by the competent Ministry in the Federation of Bosnia and Herzegovina.
4. To have had, after the bar exam, at least two years of working experience on legal matters at a law firm, or a court, or a prosecutor's office, or on legal matters in administrative organs or other organs of the government or legal entities.
5. Not to have been convicted to a prison term for criminal deeds against the state and its security or for criminal deeds against humanity, international law, official or other responsibilities or for other criminal acts committed for gain, self-interest or other base motives, unless five years have elapsed from the served, pardoned or statutorily limited punishment.
6. Not to be otherwise employed. Registration in the Register of Attorneys shall be considered as a termination of the employment relation, except for employment in law firms.
7. To show satisfactory knowledge to the Board of Examination on a test referring to the content of the Law on Legal Profession, Statute, Attorneys' Code of Ethics and other documents of the Bar Association.
8. To be worthy to perform the practice of law. Previous behaviour and actions must indicate that the person will conscientiously perform the practice of law.

### **Article 19**

The right to perform the practice of law shall be acquired at the moment of registration in the Register of Attorneys kept by the federal organ of the Bar Association and after the giving of the solemn declaration. The Register of Attorneys is a public book. No other government body is competent to issue an approval for performing the activities specified in Article 3 of this Law as a basic or complementary profession unless otherwise specified by law.

No one fulfilling the legal requirements for performing the practice of law may be denied the right of registration in the Register of Attorneys due to his/her national, ethnic, religious, or political background or sex.

The application for registration in the Register of Attorneys shall be submitted to the relevant Branch. Within thirty days, the pertinent Branch authorities shall determine whether the application fulfils the requirements foreseen by this Law and make a decision on the entry of the candidate in the Register of Attorneys held by the federal organ of the Bar Association. If the pertinent Branch authorities reject the application, the applicant may lodge a complaint with the federal organ of the Bar Association within fifteen days.

The pertinent Branch authorities shall forward immediately the decision about registration from the previous paragraph to the pertinent federal organ of the Bar Association that is obliged, on its own part, to verify the conditions for registration within thirty days. If it is determined that all requirements are fulfilled, the entry shall be made in the central Register of Attorneys. If it is determined that the requirements are not fulfilled, the application shall be rejected, the decision of the Branch shall be annulled and the case shall be returned to the pertinent Branch authorities.

It is possible to take legal action against the final decision of the Bar Association regarding application for registration in the Register of Attorneys in the form of an administrative dispute before the Supreme Court of the Federation of Bosnia and Herzegovina.

#### **IV – RIGHTS AND DUTIES OF ATTORNEYS**

##### **1. Rights and duties of attorneys in representing of parties**

###### **Article 20**

Attorneys only are authorised to provide legal assistance as specified in Article 3 of this Law, unless provided for in this or other laws.

An attorney who has a licence for performing the practice of law from an association of attorneys of a foreign state may in individual cases represent and defend before courts and state bodies in the Federation of Bosnia and Herzegovina upon approval by the Federation Ministry of Justice after consultation with the Bar Association.

###### **Article 21**

In representing a client, an attorney may be replaced by another attorney or by a law trainee working in his/her attorney's office according to the conditions foreseen by the law, unless the client explicitly opposes it.

An attorney shall determine who may replace him/her in the attorney's absence.

###### **Article 22**

An attorney shall decide independently whether to accept a request to advise, represent or defend a client.

An attorney shall refuse representation:

- 1) if he/she represented the opposite party in the same case or in any other related matters,
- 2) if the opposite party was represented by an attorney employed in the same attorney's office or law firm,
- 3) if he/she or another member or employee of his/her office or firm was working as a law trainee with the attorney who is representing the opposite party,
- 4) if with regard to the same case, he/she or another member or employee of his/her office or firm was

acting as a judge, prosecutor, authorised official of the Ministry of Internal Affairs or as an official in an administrative body,

- 5) if he/she or another member or employee of his/her office or firm had dealt with the same legal matter in another professional manner.
- 6) if he/she or another member or employee of his/her office or firm has a personal interest that is, or may be, in collision with the client's interest, and
- 7) in other cases prescribed by the law or the General Acts of the Bar Association.

In the cases described in items 2, 3, 5 and 7 of the preceding paragraph, an attorney may accept the representation if the client, having been fully informed of all the relevant circumstances, agrees to authorise the attorney to represent him/her, as long as the representation does not violate any of the General Acts of the Bar Association.

An attorney may only refuse to provide legal assistance in cases where a court or state body appointed him/her pursuant to the law in situations prescribed by the law or General Acts of the Bar Association.

The Code of Ethics may list other reasons enabling an attorney to refuse his/her legal services to a party.

### **Article 23**

An attorney shall be obliged to cancel an authorisation for representation for the same reasons specified in Paragraph 2, items (1) – (7) of Article 22 of this Law.

An attorney is obliged to continue providing legal assistance after cancelling representation, for whatever reason, if it is necessary to avoid some damage to the client by doing so if the client has not appointed another representative or has not explicitly opposed undertaking the actions. However, such obligation cannot exist longer than thirty days after cancellation.

An attorney shall not be obliged to act pursuant to the provisions of Paragraph 2 of this Article should the client revoke authorisation. However, the attorney shall be required to inform the client in writing at the time of the cancellation of all relevant deadlines and court dates pending in the case.

### **Article 24**

Attorneys shall be obliged to regularly inform their clients on the progress of their cases.

After the completed representation and upon request of the client, an attorney is obliged to hand over to the client all portions of the legal file developed during the representation.

An attorney is obliged to keep records and files for a minimum of five years after the legally binding end of the procedure in which he represented the client. In the case of real estate matters this period shall be ten years.

### **Article 25**

On each submission or document, an attorney shall visibly mark that he/she has made said submission or document by using a letterhead or a seal, and by personally signing it.

### **Article 26**

An attorney must not be held criminally or civilly responsible for statements made in the course of providing legal assistance in a procedure before a court of law or other bodies.

### **Article 27**

Courts shall inform the Bar Association without delay about any measure of detention ordered against an

attorney or law trainee.

### **Article 28**

The competent court may issue an order for searching an attorney's office or his/her archive in cases as regulated by the relevant law on criminal procedure. The search may be performed only with regard to the documents and files specifically mentioned in the search order.

The Branch in whose territory the attorney's office is seated must be informed about the search. The search may be performed only if the authorised and properly informed representative of the Branch is also present during the search.

In performing the search, the secrecy of documents and files that may be detrimental to the attorney's clients must not be violated.

Evidence obtained in a manner contrary to the provisions of this Article shall not be admissible in court in any procedure against an attorney or his/her clients.

### **Article 29**

Requirements for permissible advertising of an attorney, attorney's office, joint attorney office or law firm shall be regulated in the Statute.

### **Article 30**

It shall be compulsory for attorneys, joint attorney offices and law firms to acquire liability insurance to protect clients from damage that may occur during the carrying out of their profession. The minimum amount of such insurance and types of damage to be covered shall be specified in the General Acts of the Bar Association.

The Bar Association may arrange to insure its membership from liability for damage that may occur during the carrying out of their profession.

## **2. Attorneys' fees and compensations**

### **Tariff on Fees for Attorney Services**

### **Article 31**

The Tariff on Fees for Attorney Services (hereinafter: Tariff) shall define the fees for work and expenses in practising law and the application and coming into effect of the Tariff.

The Assembly of the Bar Association shall propose the Tariff, which must be approved by the Federation Ministry of Justice after consultation with other pertinent ministries.

The Tariff shall be published in the Official Gazette of the Federation of Bosnia and Herzegovina.

An attorney shall have the right to request and receive a fee for his/her work and compensation of expenses pertaining to the work in accordance with the Tariff.

In cases where courts or other institutions make decisions on the fee amount or decisions on the costs of proceeding for legal services performed by attorneys, said decisions shall be made in accordance with the Tariff regulations that were valid at the time that the services were rendered.

### **Article 32**

Attorneys shall be banned from using client's funds otherwise than in accordance with the client's instructions or with the client's express permission.

Attorneys shall be obliged to keep accounting records for their client's funds separate from those concerning other funds.

An attorney shall be entitled to compensate his/her expenses and fees which are due and owing from the cash deposited by the client in his/her office, or from the money received on behalf of the client pursuant to the regulations set out in the General Acts of the Bar Association.

An attorney shall have a lien on the money he/she receives on behalf of the party in order to ensure payment of his/her fees and expenses.

### **3. Attorneys' offices**

#### **Article 33**

An attorney may have only one attorney's office on the territory of the Federation of Bosnia and Herzegovina.

The attorney shall register the seat of his/her office in the Branch that covers the location where his/her seat is.

If an attorney moves the seat of his/her office to the territory of another Branch, the attorney is obliged to advise the Branch in which he/she has been registered and to report his/her new seat to the Branch in whose territory his/her new office is going to be located.

The Branch in whose territory the new office is situated shall be obliged to immediately inform the pertinent federal organs of the Bar Association about the change of seat.

#### **Article 34**

Several attorneys may have a joint attorney office. Such an arrangement shall be based on a written contract.

The contract from Paragraph 1 of this Article shall be submitted to the Branch in whose territory the seat of the office will be located and the Branch shall determine if the contract is in compliance with this Law, the Statute, the Code of Ethics and any other Bar Association documents. If approved, the joint attorney office shall be entered into any list or register of joint attorney offices kept by the Branch.

The joint attorney office shall start its work following the approval and entry into the relevant listing or register by the Branch. The Branch shall then duly inform the pertinent federal organs of the Bar Association regarding the same.

#### **Article 35**

Personal responsibility and guarantees shall remain individual even in the case of establishing a joint attorney office.

### **4. Law firms**

#### **Article 36**

A law firm shall be founded in accordance with law, and in a legal form which requires unlimited joint and several liability of all founders and members of the firm.

The work of the law firm shall be limited to the practice of law.

Only attorneys may be founders or members of law firms.

Performing the practice of law within the law firm may be entrusted only to members of the law firm, attorneys employed at the law firm or law trainees at the law firm.

The rights, obligations and responsibilities foreseen by this Law for attorneys in practising law shall also pertain to attorneys employed in law firms.

#### **Article 37**

The written contract or decision on creation of a law firm shall determine the rights and obligations of firm members, as well as the remaining firm members in a situation where other members of the firm pass away or leave the firm.

#### **Article 38**

All documents of the law firm must not, in principle, bring into question the independence of attorneys that are providing legal assistance.

#### **Article 39**

The Bar Association shall give prior provisional approval for the creation of a law firm. The Bar Association shall consider whether the foundation contract is in compliance with the Law, Statute, Code of Ethics and any Branch documents. Without such approval, the firm cannot be registered in the Bar Association's Register of Law Firms (hereinafter: the Register of Law Firms).

The law firm must inform the pertinent federal organs of the Bar Association on its registration in the register of legal entities within the period of eight days upon receipt of the registration notice.

The federal organs of the Bar Association must register new law firms in the Register of Law Firms within eight days from receiving the notice mentioned in the previous paragraph.

#### **Article 40**

Prior to the registration in the Register of Law Firms, the law firm and its attorneys cannot provide legal assistance under the auspices of the law firm.

#### **Article 41**

If the appropriate organ of the Bar Association determines that activities of a law firm, contracts made between the law firm and members/employees of the firm, and/or conditions under which attorneys perform their duties violate regulations stipulated by the Law, Statute, Code of Ethics, or any Branch documents, the activities of said law firm may be forbidden and the law firm deleted from the Register of Law Firms upon legal validity of the decision.

The aforementioned decision may also be made if the law firm does not perform the practice of law for longer than three months in continuity, if it is established that the law firm performs other activities outside of the legal profession, or if disciplinary measures were imposed against the founder of the law firm or for the attorneys employed with the law firm, which result in severe damage for the reputation of the legal profession due to the actions and business operations of the law firm.

In the procedure for the removal of a law firm from the Register of Law Firms, the provisions of this Law and the General Acts of the Bar Association that regulate the disciplinary sanction of removal from the Register of Attorneys shall be applied accordingly.

The decision by which a law firm is forbidden to perform its duties is an administrative document and an administrative dispute may be raised on the matter.

The Bar Association may issue an order by which all activities of the law firm shall be suspended until the decision from the paragraphs 1 and 2 of this Article comes into force. Appeal against such decision shall not postpone the enforcement of the decision.

Upon adoption of a decision from the previous paragraphs of this Article, the Bar Association shall immediately notify the competent Registry of legal entities on deletion from the Register of Law Firms of that law firm.

A law firm shall stop working on the day of removal from the Register of Law Firms.

The Bar Association shall take all reasonable steps to protect the interests of the law firm's clients in the event that the activities of a law firm are ordered to cease pursuant to this Article.

#### **Article 42**

A founder of, member of, or attorney employed at a law firm that was removed from the Register of Law Firms, to whom the measure of removal from the Register of Attorneys was not declared, may continue performing the practice of law.

#### **Article 43**

All attorneys in law firms shall be responsible for legal assistance provided to a client according to the general rules on liability.

#### **Article 44**

As for professional confidences, disciplinary responsibility and relations toward the Bar Association and its Branches and institutions, all attorneys in law firms have the same rights and responsibilities as attorneys that have private offices.

#### **Article 45**

Attorneys, joint attorney offices and law firms may conclude contracts on employment with persons that perform administrative, technical, financial and other functions, and law firms may also conclude contracts with attorneys.

The provisions of the law regulating employment, as well as the provisions of any relevant collective agreement, shall be applied in relation to the rights and obligations of the persons employed with attorneys, joint attorney offices and law firms that have not been regulated through a contract on employment.

The services listed in Paragraph 1 of this Article may also be performed by persons who have concluded a temporary service contract with an attorney, joint attorney office or law firm.

### **V – TERMINATION OF THE RIGHT TO PRACTICE LAW AND THE TEMPORARY BAN ON PERFORMING ATTORNEYS' ACTIVITIES**

#### **Article 46**

An attorney's right to practice law terminates:

- 1) If he/she loses the citizenship of Bosnia-Herzegovina– from the date of the legal validity of the decision determining the loss of citizenship;

- 2) If he/she loses working ability – from the date of legal validity of the decision about deprivation of the working ability;
- 3) If the attorney dies- from the date of attorney's death;
- 4) If the attorney becomes permanently ill and hence unable to practice law – from the date of legal validity of the decision made by the competent health care institution;
- 5) If a security measure banning his/her performing professional activities was pronounced – from the date of the legal validity of the court decision or other competent body;
- 6) If on the basis of a pronounced disciplinary punishment he/she has lost the right to practice law – from the date of legal validity of the decision regarding the loss of right to perform his/her activity as an attorney;
- 7) Upon his/her own waiver of the right to practice law- from the date of the legal validity of the decision;
- 8) If for more than six months he/she fails to practice law without any justified reasons- from the day of establishing the fact that he/she failed to practice law;
- 9) If he/she enters an employment relationship, except with a law firm – from the day of establishing such employment;
- 10) If he/she was convicted for a criminal act punishable by an unconditional sentence to imprisonment longer than six months or convicted for any criminal act that makes him/her unsuitable and unworthy of practising law – from the date of legal validity of the court decision.

In cases from Paragraph 1, Items 8 and 9 of this Article, the attorney's right to practice law terminates with the date of receiving the final decision of the competent body of the Bar Association Branch.

#### **Article 47**

An attorney shall be temporarily banned from practising law if he/she has been confined to detention or if he/she has begun serving a prison sentence of up to six months.

An attorney may be temporarily banned from practising law if a criminal procedure has been initiated against him/her for an act which makes him/her unsuitable and unworthy of performing the attorneys' profession; if a disciplinary procedure has been started for a serious violation of duty; if the criminal or disciplinary procedure cannot be successfully carried out without a temporary ban on his/her performing the attorney's activities; or if during performance of the practice of law on more than three occasions, or two occasions in continuity, a violation of professional duty or the reputation of legal profession was committed, regardless of the seriousness of the individual violation.

The exact time period for which an attorney shall be banned from practising law must be determined within the Decision on temporary banning.

#### **Article 48**

The pertinent Branch shall initially bring the decision about termination of the right to practice law and the pertinent federal organs of the Bar Association shall verify this decision in the same way and according to the same procedure that is foreseen for registration in the Register of Attorneys.

If the pertinent Branch does not make the decision from the previous paragraph although it is familiar with the conditions requiring termination of the attorney's activity, the relevant federal organ of the Bar Association is authorised to directly make the decision about the termination of the attorney's activities and about deleting an attorney from the Register of Attorneys.

The body specified in the Statute of the Branch shall make decisions about the temporary ban on practising law. An attorney is entitled to lodge a complaint with the pertinent federal organ of the Bar Association within fifteen days from the receipt of the first instance decision.

It is possible to take legal action against the final decision of the Bar Association on termination of the right to practice law and temporary bans in the form of an administrative dispute before the Supreme Court of the Federation of Bosnia and Herzegovina.

The Bar Association shall take all reasonable steps to protect the interests of an attorney's clients in the event that an order for termination of the right to practice law or temporary ban on the right to practice law is issued pursuant to this Article.

#### **Article 49**

Any authority that has done the following is obliged to inform the Bar Association within eight days:

- 1) instituted criminal or minor offence proceedings against an attorney or law trainee;
- 2) passed a decision about the professional capability of an attorney or law trainee or revoked his/her citizenship; or
- 3) established the loss of general health capability.

### **VI – LAW TRAINEES**

#### **Article 50**

Law trainees shall be prepared for the independent performance of the attorneys' profession and for acquiring knowledge necessary for passing the bar examination by working in an attorney's office, joint attorney office or law firm.

Each law trainee shall have an attorney-principle, who is listed in the Register of Attorneys and has been performing the practice of law for a period longer than five years.

#### **Article 51**

The status of law trainee is acquired by registration in the Register of Law Trainees of the Bar Association (hereinafter: the Register of Law Trainees) in accordance with the procedure that is foreseen for the Register of Attorneys. The right of registration shall be granted to applicants fulfilling the following requirements:

1. To be a citizen of Bosnia and Herzegovina;
2. To have graduated from a law faculty on the territory of Bosnia and Herzegovina or of any law faculty in the Socialist Federal Republic of Yugoslavia prior to 22 May 1992, in the case of graduating in a foreign country the conditions stipulated in Article 18, paragraph 1 Item 3 of this law apply;
3. To have proof that he/she will establish employment with an attorney who fulfils the requirements from the Article 50, paragraph 2 of this Law.

#### **Article 52**

Law trainees establish labour relations and have the same rights and duties as trainees employed in judicial and administrative bodies.

The provisions of this Law regarding the procedure for registration in the Register of Attorneys, the rights and duties of attorneys, keeping professional confidences, and temporary or permanent ban on the right to practice law shall apply to law trainees as well.

### **Article 53**

A law trainee shall be deleted from the Register of Law Trainees upon:

- 1) the cessation of the contract on employment,
- 2) the request of the law trainee,
- 3) the declaration of a disciplinary measure banning the performance of the activities of a law trainee,
- 4) the death of the law trainee,
- 5) he/she not having performed the activities of a law trainee for a continuous period longer than sixty days without justified reason,
- 6) he/she failing to pass the bar examination within two years after he/she first fulfils the conditions for taking the examination, or
- 7) he/she failing to register in the Register of Attorneys two years after passing the bar examination.

### **Article 54**

Law trainees shall be obliged to be a member of the Association of Law Trainees established by the Bar Association.

The Association of Law Trainees participates in the work of the bodies of the Bar Association as well as the Branches with the rights and obligations as determined by this Law and the applicable Statutes.

### **Article 55**

Upon request of the attorney-principle and law trainee, the appropriate body of the Bar Association may, if the request is properly justified, allow extension of the duration of the status of law trainee for one additional year.

## **VII - DISCIPLINARY RESPONSIBILITY OF ATTORNEYS AND LAW TRAINEES**

### **Article 56**

Attorneys, joint attorney offices, law firms, and law trainees shall be responsible for the conscientious performance of their legal practice and the preservation of the reputation of the legal profession.

Any behaviour in contravention of the obligations defined by this Law and General Acts of the Bar Association shall be understood as a violation of the obligation under paragraph 1 of this Article.

### **Article 57**

The Statute of the Bar Association shall define the serious and less serious violations of duty of attorneys and law trainees in performing their professional activities as well as injuries to the reputation of the legal profession and shall specify the disciplinary sanctions.

The Statute and the Book of Disciplinary Regulations of the Bar Association shall specify the bodies that will initiate disciplinary actions, carry out disciplinary procedures and the manner of conducting such disciplinary procedures.

The Bar Association Assembly shall appoint the disciplinary bodies of the Bar Association.

Members of disciplinary bodies must be members of the Bar Association with at least ten years of post-bar examination legal experience.

A request for initiating disciplinary proceedings against an attorney can be filed by anyone, without specific formality, with the Branch Disciplinary Prosecutor.

The Branch Disciplinary Prosecutor must review every complaint to determine whether the complaint, after a careful and close examination, reveals a sufficient prima facie case for the commission of a disciplinary violation by an attorney to justify it being forwarded to the Disciplinary Court. If the Branch Disciplinary Prosecutor finds that a complaint reveals a sufficient prima facie case for the commission of a disciplinary violation by an attorney, he/she must refer the matter to the Disciplinary Court for adjudication.

The Federation Ministry of Justice and the federal organ Disciplinary Prosecutor may also initiate disciplinary proceedings against an attorney with the Disciplinary Court, which shall be prosecuted by the Branch Disciplinary Prosecutor.

Any disciplinary procedures determined in any general acts of the Bar Association shall include the right to be notified of the allegations and evidence supporting the violation; the right to a fair hearing; the right to appear at any hearing and defend against the allegations with legal counsel of the parties' choice; and the right to appeal any adverse orders by the disciplinary bodies of the Bar Association to a competent Court.

All disciplinary procedures must be fair and transparent and any disciplinary measures imposed must be governed by the principle of proportionality.

Before pronouncing the sanctions for a disciplinary offence, the following aspects shall be taken into consideration by the disciplinary bodies:

- (1) the severity of the disciplinary offence committed and its consequences;
- (2) the degree of responsibility;
- (3) the circumstances under which the disciplinary offence was committed;
- (4) the previous work and behaviour of the offender;
- (5) any other circumstances that may affect the decision on the severity and type of disciplinary sanction; and
- (6) that the disciplinary sanction of removal from the Registers shall only be used in cases where a serious disciplinary offence is found and the severity of the offence makes it clear that the offender is unsuitable to continue practising law or performing the activities of a law trainee.

#### **Article 58**

A serious violation of the duty of conscientious performance of the practice of law and preservation of the reputation of the legal profession shall be considered to be any major violation of professional duties, the reputation of the legal profession, the Code of Ethics, and shall especially include the following:

- 1) patent unconscientious performance of the legal profession by an attorney or law trainee;
- 2) performing activities incompatible with the reputation and independence of the legal profession;
- 3) violation of keeping professional confidences; or
- 4) requesting a fee that exceeds the one prescribed by tariff or agreed to by contract.

Minor violations of duty of the conscientious performance of the practice of law and preservation of the reputation of the legal profession shall include all the violations that do not contain elements of a serious violation of the conscientious performance of the practice of law and preservation of the reputation of the legal profession.

#### **Article 59**

In the procedure for establishing a violation of obligation of an attorney or law trainee, the following disciplinary measures may be imposed:

- 1) for minor violations of obligation:
  - a) private warning;

- b) public warning, and/or
  - c) a fine which shall not exceed 2,000KM for attorneys and 1,000KM for Law Trainees.
- 2) for serious violations of obligation:
- a) a fine which shall not exceed 10,000KM for attorneys and 5,000KM for law trainees;
  - b) ban on the right to practice of law or perform the activities of a law trainee from six months up to five years, and/or
  - c) removal from the Register of Attorneys and Law Trainees during the period of the ban on the right to practice of law or perform the activities of a law trainee.

### **Article 60**

The first instance disciplinary procedure shall take place before the Disciplinary Court of the competent Branch.

The Disciplinary Prosecutor of the federal organ of the Bar Association may always take over the prosecution of a case before the Disciplinary Courts of the Branches and may initiate proceedings as well.

Within fifteen days, a complaint may be lodged to the Disciplinary Court of the federal organ of the Bar Association regarding a first instance decision that determined disciplinary responsibility.

Against an adverse final decision of the Disciplinary Court of the federal organ that specifies a disciplinary measure against an attorney or law trainee, an administrative dispute may be instituted before the Supreme Court of the Federation of Bosnia and Herzegovina.

Branches must file regular written reports to the pertinent federal organ of the Bar Association on the number of requests to initiate disciplinary proceedings, the number of cases initiated at the Branch Disciplinary Court and the outcomes of all such procedures.

### **Article 61**

A final decision on a fine made by the competent disciplinary body of the Bar Association shall have the power of an enforceable order and the Statute shall regulate the manner of collection.

### **Article 62**

Disciplinary proceedings arising from the violation of duty and reputation of the legal profession against an attorney, joint attorney office, law firm or law trainee cannot be instituted after the passage of the following time limits:

- 1) two years from the commission of a minor violation of duty, and
- 2) four years from commission of a serious violation of duty.

When the violation has a character of a criminal act, the limitation period for instituting disciplinary proceedings shall run in accordance with the provisions of the relevant Criminal Code.

### **Article 63**

The limitation period for execution of disciplinary measures shall expire after the passage of two years from the date of validity of the decision by which the disciplinary measure was imposed.

### **Article 64**

The limitation period shall be interrupted by any action undertaken for instituting disciplinary proceedings or the procedure for execution of a disciplinary measure.

The limitation period shall resume after every single interruption, however, in no case shall the limitation period ever extend beyond a time period equal to two times the time period prescribed by this Law as the limitation period for bringing disciplinary proceedings or executing a disciplinary measure.

## **VIII – FINANCING OF THE BAR ASSOCIATION**

### **Article 65**

The Bar Association and its Branches shall be financed exclusively from their own means, i.e.

- 1) Regular membership fees,
- 2) Charges for registration in the Register of Attorneys, and
- 3) Other sources such as fines, contributions and the like.

Funds provided by government bodies and institutions cannot be used for financing the Bar Association if these funds could in any possible way jeopardise the principle of independence of the attorneys' profession.

### **Article 66**

The Administrative Board of the Bar Association shall determine the amount of the charge for registration in the Registers, as well as the part of the membership fee that is necessary for financing the federal organs of the Bar Association.

The Branches shall determine the amount of membership fees for their members. This amount shall include the amount determined by the federal organs of the Bar Association to be necessary for their financing.

### **Article 67**

The funds that will enable financing of the federal organs of the Bar Association shall be determined in the Bar Association's annual budget. Each Branch shall co-finance the federal organs of the Bar Association in proportion to the number of attorneys that are registered on the territory of the Branch.

Registration fees shall be paid directly to the federal organ of the Bar Association.

The Branches shall have the obligation to regularly shall collect membership fees.

If the funds from registration fees collected by the federal organs of the Bar Association in respect of the members of any Branch exceed the amount of proportional participation required for that Branch, the federal organ shall return those excess funds to the Branch. In the case where the amount received is less than the specified amount, the Branch must compensate the federal organs for the shortfall from funds collected for membership fees.

## **IX – TRANSITIONAL AND FINAL PROVISIONS**

### **Article 68**

Attorneys and law trainees who had the right to practice law or to perform the activities of a law trainee by virtue of registration in the Registers of the bar associations existing on the territory of the Federation of Bosnia and Herzegovina on the day this Law comes into force shall have the same rights to practice law or to perform the activities of the law trainees as those persons registered in the Registers of Attorneys and of Law Trainees in accordance with the provisions of this Law.

### **Article 69**

Within 30 days from this Law coming into effect, the constitutive Assemblies of the Branches shall take

place. In accordance with the provisions of this Law, they shall appoint delegates for the Assembly of the federal organ of the Bar Association.

Within 60 days from this Law coming into effect, the constitutive Assembly of the Bar Association shall take place. With its constitution, all other bar associations functioning on the territory of the Federation of Bosnia and Herzegovina until that moment shall cease to exist.

#### **Article 70**

The material property of the existing bar associations on the territory of the Federation of Bosnia and Herzegovina shall be transferred to the newly established Branches of the Bar Association in proportion to the number of members of those associations being abolished whose property is being transferred that comprise each Branch.

A final balance of assets shall be made and the rights and obligations of the existing bar associations on the territory of the Federation of Bosnia and Herzegovina determined, which shall include the total amount of accrued liabilities from membership fees and the state of existing unpaid obligations of attorneys from the territory of each newly established Branch, since they shall be entitled to participate in the assets of the former bar associations as described in the previous paragraph. The participation of each Branch in the distribution of the assets of those existing bar associations shall be decreased by the amount of unpaid membership fees for members of that Branch. The Branches shall be considered to be legal successors of the former bar associations with regard to the uncollected fees of their members.

#### **Article 71**

Attorneys and law trainees who were engaged in the practice of law or who were performing the activities of a law trainee on the territory of the Federation of Bosnia and Herzegovina on the date of this Law coming into force shall be registered in the Register of Attorneys and Register of Law Trainees without further application within three months from the date that the Bar Association is established.

#### **Article 72**

Persons who have passed the bar examination on the basis of the Bar Examination Act ("Sluzbene novine Federacije BiH" No. 2/95 shall be recognised as having passed that examination and shall have the right to be registered in the Register of Attorneys if they satisfy the requirements set out in Article 18 and Article 46 of this Law.

#### **Article 73**

Requests for registration in the Registers of Attorneys, of Joint Attorney Offices and of Law Trainees that were submitted, as well as the disciplinary and other procedures that were commenced before bodies of the bar associations, administrative bodies or competent courts and that have not been resolved by the day of this Law coming into effect shall be solved in accordance with the provisions of this Law. However, only disciplinary sanctions applicable at the time that disciplinary proceedings were instituted may be applied.

#### **Article 74**

This Law shall come into effect on the eighth day from the day of publication in the "Official Gazette of the Federation of Bosnia and Herzegovina".