



Emerika Bluma 1, 71000 Sarajevo
Tel. 28 35 00 Fax. 28 35 01

Department for Legal Affairs



HR DECISION ENACTING THE LAW ON THE ATTORNEYS' PROFESSION OF THE REPUBLIKA SRPSKA

“Official Gazette of Republika Srpska”, 37/02

NOTE: Adopted by the RSNA and published in the “Official Gazette of Republika Srpska”, 30/07.

NOTE: The Law on Changes and Amendments to the Law on the Attorney's Profession of the Republika Srpska was published in the “Official Gazette of Republika Srpska”, 59/08, and it's not included in this translation.

The High Representative's Decision Enacting the Law on the Attorneys' Profession of the Republika Srpska

May 23, 2002

No. 166/02

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 Republika Srpska as well as the advice and assistance of the Council of Europe in its preparation;

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

DECISION

[The Law on the Attorneys' Profession of the Republika Srpska](#), which is hereby attached as an integral part of this Decision, shall enter into force as a law of the Republika Srpska, with effect from the date provided for in Article 91 thereof, on an interim basis until such time as the National Assembly of the Republika Srpska 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 Republika Srpska.

Sarajevo, 22 May 2002

Wolfgang Petritsch
High Representative

Law on the Attorneys' Profession of the Republika Srpska

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 the regulations adopted pursuant to this Law.

The independence of the practice of law 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 Federation of Bosnia and Herzegovina, 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

Attorneys shall provide legal assistance in protection of the human rights and civil freedoms guaranteed by the Constitution of Republika Srpska, the Constitution of Bosnia and Herzegovina and the rights and interests of natural and legal entities as defined by the law.

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 rules and regulations of the Bar Association of the Republika Srpska.

The practice of the 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 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 purposes 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 not compatible with the reputation and independence of the attorneys' profession.

Article 5

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

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

Article 6

Each party shall be entitled to the right of free choice of an attorney who is legally empowered to practice law in the Republika Srpska pursuant to this law.

II – ORGANISATION OF ATTORNEYS INTO BAR ASSOCIATION

Article 7

The Bar Association of the Republika Srpska (hereinafter: the Bar Association) shall be an independent self-governing organisation with mandatory membership for attorneys with the seats of their attorney offices in the Republika Srpska.

The seat of the Bar Association shall be in Banja Luka.

Article 8

The Bar Association shall be a legal person.

The Bar Association shall be presented and represented by the President of the Bar Association.

Article 9

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-Herzegovina,
- 8) To mediate disputes between attorneys and their clients,
- 9) To cooperate with state and international organisations, institutions and associations, and
- 10) To cooperate with the Bar Association of the Federation of Bosnia and Herzegovina and bar associations from foreign states, regional associations of attorneys and international bar associations.

Article 10

The sources of income of the Bar Association shall be registration fees, membership fees, subscription fees for publications, fees for administrative procedures, fines and donations.

Funds provided by donors shall not be used for financing the Bar Association if those funds could in any possible way jeopardise the principle of independence of the attorneys' profession.

Article 11

The Secretariat of the Bar Association shall carry out the financial operations and bookkeeping of the association.

Article 12

The Bar Association may arrange to insure its membership from liability for damage that may occur while performing their professional activities.

BODIES OF THE BAR ASSOCIATION

Article 13

The bodies of the Bar Association shall be the:

- 1) Assembly of the Bar Association,
- 2) President of the Bar Association,
- 3) Executive Board of the Bar Association,
- 4) Forums of Attorneys,
- 5) Disciplinary Court of the Bar Association,
- 6) Disciplinary Prosecutor of the Bar Association,
- 7) Commission for Control of the Financial and Operational Activities of the Bar Association, and
- 8) All other bodies anticipated by the Statute of the Bar Association.

The mandate of the President of the Bar Association and all of the bodies of the Bar Association shall be four years, except for the Forums of Attorneys.

The mandate for the President of the Bar Association may not be entrusted to the same person for a second time in continuity.

Assembly of the Bar Association

Article 14

The Assembly of the Bar Association shall be comprised of delegates.

The delegates for the Assembly of the Bar Association shall be elected by the Forums of Attorneys of the Bar Association with a formula of one delegate for every five attorneys in the Forum. Additionally, the Association of Law Trainees shall designate one law trainee as a delegate to the Assembly.

Article 15

The Assembly of the Bar Association shall:

- 1) adopt the General Acts of the Bar Association and the Book of Procedures for the work of the Assembly of the Bar Association,
- 2) elect and dismiss other bodies of the Bar Association, except for Forums of Attorneys and the bodies of

- the Forums of Attorneys, unless otherwise provided by this law,
- 3) adopt financial plans and reports on the execution of the financial plan of the Bar Association,
 - 4) adopt reports of the President of the Bar Association and the reports of the Executive Board of the Bar Association,
 - 5) make proposals for the Tariff on Fees for Attorney Services,
 - 6) determine the modes of cooperation of the Bar Association with other bar associations or associations, and
 - 7) determine all other issues under its competence pursuant to the law and General Acts of the Bar Association.

Article 16

The Assembly of the Bar Association may decide validly if the session is attended by two-thirds of delegates.

Sessions of the Bar Association Assembly shall be prepared by the Bar Association Executive Board.

The Book of Procedures of the Bar Association Assembly shall prescribe its manner of work during sessions, elections, the manner of work of its bodies and other issues of significance for performing the functions of the Bar Association Assembly.

President of the Bar Association

Article 17

The President of the Bar Association shall:

- 1) present and represent the Bar Association,
- 2) take actions to ensure the protection of constitutionality and legality in the work of the Bar Association,
- 3) establish and coordinate cooperation of the Bar Association with the legislative, judicial and executive authorities throughout Bosnia and Herzegovina,
- 4) establish and coordinate cooperation of the Bar Association with the Bar Association of the Federation of Bosnia and Herzegovina, as well as bar associations of foreign states, regional associations of attorneys and international bar associations,
- 5) establish and coordinate cooperation of the Bar Association with state or international organisations, institutions or associations,
- 6) carry out other functions in accordance with this Law and the General Acts of the Bar Association.

The President of the Bar Association shall report to and shall be responsible for his/her work to the Bar Association Assembly.

Executive Board of the Bar Association

Article 18

The Executive Board of the Bar Association (hereafter: the Executive Board) shall:

- 1) decide on the system for and keeping of the Register of Attorneys, Register of Law Trainees, Register of Joint Attorney Offices and Register of Law Firms of the Bar Association,
- 2) decide on the registration and removal from the Registers of Attorneys, of Law Trainees, of Joint Attorney Offices and of Law Firms, including appointing appropriate panels or commissions to assist in carrying out these duties if necessary,
- 3) decide on the rights, obligations and professional responsibilities of attorneys and law trainees, including appointing appropriate panels or commissions to assist in carrying out these duties if necessary,
- 4) execute the Bar Association financial plan, including undertaking and carrying out financial obligations in accordance with the plan,

- 5) pass decisions on the amount of the fees for registration in the Registers and the amount of membership and subscription fees for publications,
- 6) organise the work of the Secretariat of the Bar Association,
- 7) decide on the employment of administrative and technical workers in the Secretariat,
- 8) elect and appoint an Editor in Chief and the Editorial Board of the Bar Association magazine, and
- 9) carry out other functions on the basis of the Law and General Acts of the Bar Association.

The Executive Board shall be the executive body of the Assembly of the Bar Association.

Appeals against the decisions of the Executive Board described in items 2 and 3 of Paragraph 1 of this Article are not allowed, however, an administrative dispute before the competent Court may be initiated.

Appeals against the decisions of the Executive Board described in item 7 of Paragraph 1 of this Article are not allowed, however, a civil dispute before the competent Court may be initiated.

Article 19

The Executive Board shall be comprised of eleven members.

The President of the Bar Association shall be a member of the Executive Board.

Presidents of the Forums of Attorneys shall be members of the Executive Board by virtue of their position.

The Assembly of the Bar Association shall elect the remaining members of the Executive Board from among the membership of the Bar Association.

Forums of Attorneys

Article 20

The Forums of Attorneys shall be the vehicle for the exercise of the rights and the carrying out of the duties of attorneys and law trainees registered in the Registers of Attorneys and Law Trainees of the Bar Association within the parameters of this Law and the General Acts of the Bar Association.

The territorial limits, organisational structure, financing, voting methods, rules for convening and all other matters governing the work of the Forums of Attorneys shall be regulated in the Statute of the Bar Association.

All attorneys with the seats of their offices within the territory of a Forum of Attorneys shall be a member of that Forum.

The Assembly of the Forum of Attorneys shall be comprised of all members of the Forum.

Article 21

A Forum of Attorneys shall:

- 1) provide opinions and proposals on applications for registration in the Bar Association as provided in this Law, and on all basic rights, duties and responsibilities of attorneys and law trainees,
- 2) carry out decisions of other bodies of the Bar Association,
- 3) elect the President of the Forum of Attorneys and delegates for the Assembly of the Bar Association, and
- 4) carry out other obligations pursuant to the Law and General Acts of the Bar Association.

Other Bodies of the Bar Association

Article 22

The disciplinary bodies of the Bar Association shall be independent bodies of the Bar Association with responsibility for making decisions on the initiation of disciplinary proceedings against attorneys and law trainees, conducting those disciplinary proceedings, making final decisions on disciplinary liability and sanctions, and executing sanctions.

Article 23

The Commission for Control of the Financial and Operational Activities of the Bar Association shall administer and report on the financial and material business operations of the Bar Association, including the interim statements of account and the annual balance sheet, which are prepared by the Secretariat of the Bar Association.

The Commission for Control of the Financial and Operational Activities of the Bar Association shall have three members, two of whom shall be registered attorneys and the third member shall be a financial expert, whose work shall be contracted by the Executive Board of the Bar Association.

The President of the Bar Association and Executive Board members cannot be members of the Commission.

GENERAL ACTS OF THE BAR ASSOCIATION

Article 24

General Acts of the Bar Association shall be:

- 1) the Statute of the Bar Association (hereinafter: the Statute),
- 2) the Attorneys' Code of Ethics (hereinafter: Code of Ethics), and
- 3) the Rule Book on Disciplinary Responsibility of Attorneys and Law Trainees.

Article 25

General Acts of the Bar Association shall be passed by a two-thirds majority of the entire Assembly of the Bar Association.

Article 26

The Statute of the Bar Association shall regulate the:

- 1) work of the Assembly and other bodies of the Bar Association,
- 2) financial and operational activities of the Bar Association,
- 3) procedures for acquiring the right to practice law or perform as a law trainee and for determining disciplinary responsibility and sanctions,
- 4) rights, obligations and responsibilities of attorneys and of law trainees,
- 5) association and work of attorneys in joint attorney offices,
- 6) founding and practice of law firms,
- 7) organisation, financing and work of the Forums of Attorneys,
- 8) organisation, financing and work of the Association of Law Trainees, and
- 9) adoption and coming into force of General Acts.

Article 27

The Code of Ethics shall regulate the 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 28

The Rule Book on Disciplinary Responsibility of Attorneys and Law Trainees shall refer to the disciplinary violations set forth in the Code of Ethics, define the competencies of disciplinary bodies of the Bar Association, set forth the procedure for determining disciplinary liability and delineate disciplinary measures.

III – CONDITIONS NECESSARY FOR REGISTRATION INTO THE REGISTER OF ATTORNEYS

Article 29

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

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 Ministry of Justice of the Republika Srpska 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 fulfils the conditions for the right to practice law, from providing legal advice regarding the law of that state.

Article 30

The right to practice law shall be acquired on the day of registration in the Register of Attorneys of the Bar Association.

The Register of Attorneys, as well as any other Registers held by the Bar Association, are public books. Excerpts from these Registers and certificates issued on the basis of information from them shall be public documents.

No other 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 provided for by law.

Article 31

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

Article 32

The right to registration in 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 on the territory of Bosnia-Herzegovina, or of any law faculty in the Socialist Federal Republic of Yugoslavia before 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 Republika Srpska Ministry;
- 3) To have passed the bar examination on the territory of Bosnia-Herzegovina or in the Socialist Federal Republic of Yugoslavia before 22 May 1992; in case of passing bar examination in another state, the candidate shall fulfil this condition after recognition of such bar examination by the competent Ministry in the Republika Srpska.
- 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 prison term for the 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 the test that refers to the content of the Law on Legal Profession, Statute, 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 33

An application for registration in the Register of Attorneys, including all required valid documentation, shall be submitted to the Secretariat of the Bar Association.

The Secretariat of the Bar Association shall deliver to the relevant Forum of Attorneys the application and all submitted materials within eight days in order to receive an opinion in writing from that Forum of Attorneys as to whether the requirements for registration in the Register of Attorneys from Article 32, paragraph 1, item 8 of this Law are met.

The Forum of Attorneys is obliged to give its opinion in writing within fifteen days of receipt of the application from the Secretariat, giving specific reasons for all opinions expressed and identifying all pertinent documentation supporting the opinion.

Within thirty days of receipt of the opinion from the relevant Forum of Attorneys, the Executive Board of the Bar Association shall determine whether the application fulfils the requirements foreseen by this Law for registration in the Register of Attorneys and must make a decision on entry of the candidate into the Register of Attorneys. The applicant shall be provided with a copy of the decision on entry into the Register of Attorneys in writing.

An administrative dispute can be taken before the Supreme Court of the Republika Srpska against a final decision made pursuant to the previous paragraph denying the applicant the right of registration in the Register of Attorneys.

Article 34

Registration of an attorney into the Register of Attorneys shall be carried out after the decision on registration into the Register of Attorneys becomes valid and as soon as possible after the giving of a solemn declaration stating as follows:

“I declare that I shall carry out the duties of an attorney independently, conscientiously and expertly, that in my work and behaviour I shall observe the Constitution and laws of the Republika Srpska, the Constitution and laws of Bosnia and Herzegovina and the General Acts of the Bar Association, take advanced professional training and preserve the reputation of the legal profession.”

The solemn declaration shall be given and signed before the President of the Bar Association.

IV – RIGHTS AND DUTIES OF ATTORNEYS

Article 35

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 Republika Srpska under the condition of approval by the Ministry of Justice after consultation with the Bar Association.

Article 36

An attorney may be replaced by another attorney or law trainee in his/her office for the purpose of performing individual actions in the attorney's practice, unless the client explicitly opposes it.

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

Article 37

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, the 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 38

Both the attorney and client may cancel the authorisation for representation.

Upon cancellation of authorisation to a client, the attorney shall be obliged to undertake necessary actions in the proceedings for a period of 30 days following the cancellation to protect against any damage to the interests of the client occurring, if the client has not appointed another representative or has not explicitly opposed undertaking the actions.

The attorney shall not be obliged to act pursuant to the provisions of Paragraph 2 of this Article should the client revoke authorisation, except that 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 39

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

After the completed representation, upon request of the party, 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 40

An attorney shall be obliged to sign and confirm by seal every document or submission which the attorney or his/her law trainee has written.

Article 41

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

Article 42

Courts shall inform the Bar Association without delay about any measure of detention ordered against an attorney or law trainee.

Article 43

Search of an attorney's office shall be allowed only on the basis of an order of the competent court and only with regard to the files and cases explicitly stated in the search order.

When searching, the secrecy of other documents and case files must not be violated.

The Forum of Attorneys in whose territory the attorney's office is seated must be informed without delay about the search.

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

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

Article 44

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 45

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

Article 46

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 expenditures 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 forth 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.

Article 47

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.

Tariff on Fees for Attorney Services

Article 48

The Tariff on Fees for Attorney Services (hereinafter: the 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 Ministry of Justice after consultation with other pertinent ministries, and published in the Official Gazette of Republika Srpska.

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, those decisions shall be made in accordance with the Tariff regulations that were valid at the time that the services were rendered.

V -FORMS OF ORGANISING ATTORNEY PRACTICE

Article 49

Attorneys may perform the practice of law:

- 1) as individuals,
- 2) in a joint attorney office, or
- 3) in a law firm, with the capacity of a legal entity.

Article 50

An attorney may have only one office on the territory of the Republika Srpska.

An attorney's office must have its name and seal.

In the name of an attorney's office, which must be visibly displayed, and in the seal of an attorney, the following shall be inscribed: "Attorney", name of the attorney and seat of the attorney's office.

Article 51

Two or more attorneys may join into a joint attorney office.

The attorneys joining into a joint attorney office shall define their rights and obligations through a contract.

The contract from paragraph 2 of this Article shall be submitted to the Bar Association for approval of the association and registration in the Register of Joint Attorney Offices.

The Bar Association shall determine if the contract is in compliance with this Law, the Statute, the Code of Ethics and any other Bar Association documents.

The joint attorney office must have a name and a seal.

The name of the joint attorney office and seal shall have the following inscribed: "joint attorney office", the

names of attorneys who joined and the seat of the joint office.

Article 52

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

Article 53

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

The work of a 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 54

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 55

In order to establish a law firm, the founders shall be obliged to obtain prior provisional approval from the Executive Board.

The Executive Board shall give provisional approval for the law firm to be registered in the Register of Law Firms after determining whether the foundation contract or decision on creation of the law firm is in compliance with this Law, the Statute, the Code of Ethics and any other Bar Association documents.

If the Executive Board does not make a decision within 60 days from the day the request for approval is submitted, it shall be considered that provisional approval for registration has been given.

The law firm shall be registered in the register of legal entities with the competent court.

Article 56

A law firm shall be obliged to submit to the Bar Association an application for registration in the Register of Law Firms, which shall include the decision of the Executive Board from the previous Article and a verified copy of the decision on registration in the court register, within three days from the day of registration in the register of legal entities.

The Bar Association shall be obliged to register the law firm in the Register of Law Firms within three days from the day of receiving the application from Paragraph 1 of this Article.

The name and seal of the law firm shall have the following inscribed: "law firm office", the names of attorneys who joined, and the seat of the law firm."

The law firm shall acquire the right to practice law on the day of registration in the Register of Law Firms.

Article 57

All attorneys in law firms shall be responsible for legal assistance provided to the clients in accordance with the general laws on liability.

Article 58

The disciplinary liability of attorneys in law firms, relations toward the Bar Association and the institutions of the Bar Association shall remain separate and individual.

Article 59

If the Executive Board later determines that activities of a law firm, contracts made between the law firm and the members of that firm, or the conditions under which attorneys perform their duties violate regulations stipulated by this Law, the Statute or the Code of Ethics, the activities of such firm may be forbidden by decision of the Executive Board.

An administrative dispute may be raised against the decision from the paragraph 1 of this Article.

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

The law firm shall be removed from the Register of Law Firms upon the day of legal validity of the decision from the paragraph 1 of this Article.

The Bar Association shall immediately notify the competent registry of legal entities regarding the legal validity of the decision by which the law firm is forbidden to perform its activities.

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 60

Attorneys, joint attorney offices and law firms may conclude contracts on employment with persons that perform administrative, technical, financial and other affairs, 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 the attorney, joint attorney office or law firm.

VI – LAW TRAINEES

Article 61

Law trainees shall be prepared for the independent performance of the attorneys' profession and for acquiring the 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 62

The status of law trainee is acquired by registration into the Register of Law Trainees.

The right to registration in the Register of Law Trainees is granted to the applicants fulfilling the following requirements:

- 1) To be a citizen of Bosnia-Herzegovina;
- 2) To be a graduate of one of the law faculties on the territory of Bosnia and Herzegovina or of any law faculty in the Socialist Federal Republic of Yugoslavia before 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 Republika Srpska Ministry; and
- 3) To have proof that he/she will establish employment with an attorney who fulfils the requirements from the Article 61, paragraph 2 of this Law.

Article 63

An application for registration in the Register of Law Trainees including all required valid documentation shall be submitted to the Secretariat of the Bar Association.

The Executive Board of the Bar Association shall determine within 30 days whether the application fulfils the requirements foreseen by this Law for registration in the Register of Law Trainees and must make a decision on entry of the candidate into the Registry of Law Trainees. The applicant shall be provided with a copy of the said decision on entry into the Registry of Law Trainees in writing.

Article 64

Registration of law trainees in the Register of Law Trainees shall be carried out on the day when the validity of the decision on registration in the Register of Law Trainees was established.

Article 65

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

A law trainee shall have the right to request and receive from his/her attorney-principle a salary for his/her work and establish working hours in a monthly amount and to have these matters stated in the contract on employment.

The provisions of this Law regarding 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 66

The Executive Board shall develop and supervise implementation of a programme for training law trainees.

Article 67

A law trainee may hold the position of law trainee with the same attorney-principle for up to two years after passing the bar exam.

Article 68

All law trainees shall become members of the Association of Law Trainees of the Bar Association.

The Association of Law Trainees participates in the work of the bodies of the Bar Association with the rights and obligations as determined in this Law, the Statute and the General Acts of the Bar Association.

VII – REMOVAL FROM THE REGISTERS AND THE TEMPORARY BAN ON PRACTISING LAW OR PERFORMING THE ACTIVITIES OF A LAW TRAINEE

Article 69

The Executive Board shall make decisions about removal from the Register of Attorneys, the Register of Law Trainees, and the Register of Law Firms, and about the temporary termination of the right to practise law, or perform the activities of a law trainee.

It is possible to take legal action against the final decision of the Executive Board from paragraph 1 of this Article in the form of an administrative dispute before the competent court.

Article 70

The Executive Board shall cancel any decision recognising the right to perform the activities of an attorney, law trainee or law firm, and shall remove a party or firm from the Register of Attorneys, the Register of Law Trainees, or the Register of Law Firms, if it is determined that in the procedure that preceded the registration, the applicant failed to disclose relevant facts or provided false information with regard to fulfilling the conditions for registration.

Article 71

The Executive Board shall pass a decision on removal of an attorney from the Register of Attorneys if the attorney meets any of the following conditions:

- 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 of a criminal act punishable by an unconditional sentence to imprisonment

longer than six months or convicted of any criminal act that makes him/her unsuitable and unworthy of practising law – from the date of legal validity of the court decision.

Article 72

The Executive Board shall make decisions regarding the temporary termination of the right to practice law or to perform the activities of a law trainee.

An attorney or law trainee shall be temporarily banned from the practice of law or from performing the activities of a law trainee if he/she has been confined to detention or if he/she has started prison time in the duration up to six months.

The attorney or law trainee may be temporarily banned from practising law or performing the activities of a law trainee if:

- 1) a criminal proceedings have been started against him/her for an act that makes him/her unsuitable and unworthy of performing the attorneys' profession or the activities of a law trainee;
- 2) if disciplinary proceedings have been started for a serious violation of duty;
- 3) if the criminal or disciplinary proceedings cannot be successfully carried out without a temporary ban on his/her performing the attorney's activities or the activities of a law trainee; or
- 4) if during performance of the practice of law or the activities of a law trainee 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 or law trainee shall be banned from practising law or from performing the activities of a law trainee must be determined by the Decision on temporary banning.

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

Article 73

The Executive Board shall initiate the procedure for removal of a law firm from the Register of Law Firms:

- 1) if the law firm does not practice law for longer than three months in continuity,
- 2) if it is established that the law firm performs other activities outside of the legal profession,
- 3) 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.
- 4) if it 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, the Statute, or the Code of Ethics.

In the procedure for the removal of a law firm from the Register of Law Firms, 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 Executive Board shall, within three days of the validity of the decision on removing the law firm from the Register of Law Firms, notify the registration court or agency regarding the decision and deliver a copy of the decision on removal to the court or agency.

Article 74

The registration court or agency shall deliver the decision on removal of the law firm from the court register to the Bar Association.

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

Article 75

The Executive Board shall make decisions on the removal of a law trainee from the Register of Law Trainees if any of the following conditions are met:

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

Article 76

Upon request of the attorney-principle and law trainee, the Executive Board may, if the request is justified, allow extension of the duration of the status of law trainee for one additional year.

Article 77

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.

VIII - DISCIPLINARY RESPONSIBILITY OF ATTORNEYS AND LAW TRAINEES

Article 78

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 79

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 disciplinary sanctions.

The Statute and Rule Book on disciplinary responsibility of members 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 Assembly of the Bar Association 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 Disciplinary Prosecutor.

The 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 the attorney to justify it being forwarded to the Disciplinary Court. If the 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 Ministry of Justice may also initiate disciplinary proceedings against an attorney with the Disciplinary Court, which shall be prosecuted by the 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 80

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 in practising law 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 duty of conscientious performance of the practice of law and preservation of the reputation of the legal profession.

Article 81

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 as an attorney or perform the activities of a law trainee from six months up to five years, and/or
 - c) removal from the Register of Attorneys or of Law Trainees during the period of the ban on the right to practice as an attorney or perform the activities of a law trainee.

Article 82

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 83

Disciplinary proceedings in respect of 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 84

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 declared.

Article 85

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.

Article 86

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 to practice law.

IX – FINAL AND TRANSITIONAL PROVISIONS

Article 87

The Ministry of Justice of Republika Srpska 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 Ministry of Justice of Republika Srpska, taking into account the independence of the attorneys' profession, may request the Bar Association to submit relevant reports and data.

Article 88

The Bar Association shall be obliged to adopt General Acts in accordance with this Law within six months of it coming into effect.

All General Acts of the Bar Association shall be published in the Republika Srpska Official Gazette.

Article 89

Requests for registration in the Registers of Attorneys, Joint Attorney Offices and Law Trainees that were submitted, as well as disciplinary and other procedures that were commenced before bodies of the Bar Association, 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 90

The validity of the Law on Legal Profession ("Official Gazette of the Republika Srpska", nos. 17/92, 12/93 and 26/93) shall cease on the day that this Law comes into effect.

Article 91

This Law shall come into effect on the eighth day from the day of publication in the "Official Gazette of the Republika Srpska".