*Approved*

 *by the Second Republican Conference of Collegium of advocates Delegates*

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**CODE OF PROFESSIONAL ETHICS OF ADVOCATES**

Advocates of the Republic of Kazakhstan, called upon to facilitate the implementation of the human rights guaranteed by the state and enshrined in the Constitution of the Republic of Kazakhstan for the judicial protection of their rights, freedoms and qualified legal assistance are based on the universally recognized norms of international law and the rules of the profession of advocates, adopt this Code of Professional Ethics of advocates.

**Chapter 1. Basic principles and norms of professional conduct of advocates**

1. This Code, supplementing the norms of the legislation of the Republic of Kazakhstan, regulating the issues of organizing advocacy and legal practices, the authorities of the advocate to protect and represent the rights, freedoms and legitimate interests of citizens, the rights and legal interests of legal persons, establishes ethical standards of conduct binding for each advocate on the principles of independence and legality, humanity and decency, competence and integrity, confidentiality, trust and honesty.

The provisions of this Code are not exhaustive and must not be interpreted as prescribing or allowing the commission of acts contrary to the requirements of the legislation of the Republic of Kazakhstan.

2. The advocate in his professional activities must be aware of his mission of serving law, promoting the establishment and practical implementation of the principles of the rule of law and strict observance of the rule of law.
Care about the prestige of the profession, the preservation of honor and dignity, the authority of the collegium is the every advocate’s moral duty.

The conduct of the advocate must meet the requirements of the law and the principles of morality, both in providing them with legal assistance, both in everyday life and in private life. Conduct defaming the title of the advocate undermines public confidence in the institution of Advocacy and is incompatible with the legal status.
In order to properly fulfill his professional duty to provide qualified legal assistance, the advocate must make full use of his knowledge and professional skills.

The advocate’s conduct must meet the requirements of the law and the principles of morality, both in providing them with legal assistance, both in everyday life and in private life.

Conduct that defaming the title of the advocate undermines public confidence in the institution of the collegium and is incompatible with the legal status.

In order to properly fulfill his professional duty to provide qualified legal assistance, the advocate must make full use of his knowledge and professional skills.

The advocate must be polite, tactful, precautionary, honest, conscientious and principled. The advocate must observe business ethics in communication and business style of clothing when performing his/her professional duties.

In cases where the issues of professional ethics of the advocate are not regulated by legislation on Advocacy or this Code, the advocate should adhere to the customs and traditions that have developed in the legal profession, the content of which corresponds to the general ideals and principles of morality in society.

3. The advocate is independent and obeys only to the law in his professional activities.

The advocate’s independence helps to promote public confidence in justice, the strengthening of law and order, respect for the advocates’ profession.

The advocate makes decisions independently on the means, tactics, content, forms, methods, sequence and time of performance of his professional duties, guided by the requirements of the law, relying solely on his knowledge and practical skills, without allowing outside influence, pressure from third parties or organizations including the collegium of advocate, without giving up the principles of professional duty.

Contradicting the law requests and the requirements of the client must not be accepted by the advocate for execution and serve as grounds for termination of the contract for legal assistance in appropriate cases.

The advocate may not engage in other activities that would place him or her in legal, property or moral dependence on the client, its representatives and other persons, would subordinate the advocate to instructions that are contrary to the law, the norms of this Code, or otherwise interfere with the free and independent performance by a advocate of one's own professional duties.

The advocate must maintain his independence when providing legal assistance both on property and other disputes, not related to the material interests of the parties.

4. The advocate must always be aware when carrying out professional activities, that the profession of a advocate is not only a source of earnings, but also one of the main guarantees of an appropriate level of providing qualified legal assistance.

The advocate must provide qualified legal assistance and carry out the assignment entrusted to him in a competent and conscientious manner, delving into all the details of the case, taking into account all the details necessary for the timely and high-quality execution of the commissioned instruction.

The advocate, performing his professional duties, must act with the greatest efficiency of his forces and abilities, devote sufficient time and attention to the implementation of each accepted instruction, regardless of its complexity and amount of payment; use all effective and non-contradictory means and methods to represent and protect the rights and legitimate interests of the client; make every effort to provide him with qualified legal assistance in the shortest possible time and with the maximum consideration of his legitimate interests.

The advocate must constantly maintain a high level of professional qualifications, improve their knowledge, with the aim of possessing information on legislative novels needed to provide qualified legal assistance.

The advocate must ensure the necessary level of competence of his assistants, technical personnel and other persons who are involved with him/her for performing certain tasks in connection with the execution of the assignment.

5. Confidentiality of the relationship between the advocate and the client must be ensured in the interests of the individual who applied for legal assistance as a guarantor of trust to the advocate and the immunity of the client.

The advocate must avoid actions aimed at undermining confidence. Abuse of trust is incompatible with the title of advocate.

Trust to an advocate cannot be without the client’s conviction in the decency, honesty and conscientiousness of the advocate without the confidence in maintaining the legal profession.

The period of keeping the professional secrets is not limited in time. An advocate is required to keep professional secrets both in the course of rendering legal assistance and after completing its rendering.

The advocate may not be relieved of the obligation to keep professional secrets by anyone other than the client. The client’s consent to the termination of the practice of professional secrets must be expressed in writing in the presence of counsel without impact on a client by the advocate and third parties.

The professional secrets applies to:

1) the fact of applying to the advocate, including the names and client’s titles;

2) evidence and documents collected by counsel during the execution of the assignment;

3) the content of legal advice and documents intended for the client;

4) information about the client which became known to the advocate in the process of providing legal assistance, or received by the advocate from the client;

5) content of interviews with the client;

6) legal proceedings in the case;

7) terms and conditions of the contract for legal assistance, including monetary settlements between the advocate and the client;

8) other information related to the provision of legal assistance.

The advocate may not give testimony about the circumstances that he/she became aware of in connection with the performance of professional duties. The use by the advocate without the consent of the client of the information communicated to him/her and the disclosure of information entrusted to him/her is allowed to the extent that the advocate considers reasonably necessary to substantiate his/her position in a civil action instituted by the client against him/her or for his defense in disciplinary proceedings, administrative or criminal proceedings instituted against the basis of the client's application.

The advocate may not use for personal purposes the information received from the client. In order to preserve the professional secrets, the advocate must conduct the proceedings separately from the materials and documents of the client.

The materials of the advocate's proceedings in the case, as well as the correspondence of the advocate with the client must be clearly and unambiguously indicated as belonging to or leaving the advocate.

The advocate cannot cede the right of a monetary claim to a client under a contract concluded between them to provide legal assistance without the consent of the client.

The non-disclosure requirements of professional secrets apply to advocates’ assistant and probationers, staff of the collegium of advocates, legal advice, advocate offices, which about they must be warned in writing when concluding a contract or hiring and giving a non-disclosure subscription.

6. The advocate in his professional activity must show honesty and decency; do not resort to deceit, threats, blackmail, bribery, use of heavy material or personal circumstances of others, as well as other unlawful means to achieve their professional or personal goals.

The advocate must not hide from the client the actual state of affairs, mislead him about the essence and consequences of the case.

Honesty of legal assistance involves:

1) subjectively honest attitude to the statement of individual assessments, personal opinions, own position of the advocate;

2) honest conduct of the advocate in relations with others;

3) the right to choose his advocate's conduct and legal position in the relationship with the client, the court, consistent with his professional status.

7. The dignity of the profession of the advocate is ensured by his special moral attitude towards himself, which determines the corresponding attitude to him from the side of society.

The affirmation and maintenance of the dignity of the advocate presuppose abstention from committing acts that discredit his high rank and undermine the confidence of citizens and society in the advocacy.

8. Self-promotion of the advocate does not correspond to the ethical rules of the advocates’ profession.

Information about the advocate, legal advice, law office, collegium of advocates is permissible if it does not contain:

1) evaluative characteristics of the advocate;

2) comparisons with other advocates and criticism of other advocates;

3) statements, hints, ambiguities that may mislead potential client or cause them to have unreasonable hopes.

Information on the activities of the advocate or a college of advocates must be objective, reliable, clear and understandable, must not create grounds for misleading potential client about the quality of the legal assistance provided and the advocate’s professionalism, and should meet reasonable aesthetic requirements.

Advocates, who manage legal advice, heads of law offices bear personal responsibility for the authenticity of the information disseminated by them and for its compliance with the requirements of the current legislation and this Code.

If a advocate or legal formation has become aware of the dissemination of information about their activities without their knowledge, which does not meet the requirements of the current legislation and this Code, they must immediately inform the Presidium of the collegium of advocates about it.

The advocate may not engage in anti-advertising about another advocate, the collegium of advocates, legal advice, a law firm or use this method to advertise their activities.

**Chapter 2. Ethics of advocate's relations with the court,
the  law enforcement agencies and other authorities and officials**

9. The advocate who participates in the proceedings must comply with the rules of procedural law.

The advocate must show respect to the court and the persons participating in the case, to monitor compliance with the law with respect to the client, and in case of violation of the rights of the latter, to petition for their elimination.

Objections to the actions (inaction) of judges and persons participating in the case, limiting the right to protection or infringing the rights of a party in the process, the advocate must pronounce in a correct form in accordance with the requirements of the current legislation.

Participating in legal proceedings, the advocate may not incline his client or persons participating in the case to give knowingly false testimony.
The prevention of legal disputes is an integral part of the legal assistance provided by the advocate in civil cases, so the advocate must take care of eliminating everything that hinders the settlement.

10. If an advocate cannot, for good reason, appear in court or participate in investigative activities at a fixed time, or if an advocate intends to file a motion for changing the time of the hearings or investigative activities, he/she should notify accordingly the judge or the case investigator in advance, inform the other advocates participating in the case, and agree with them on the time of the specified procedures.

The advocate may not ignore violations of the law, insensitive and contemptuous attitude of the court, other authorities leading the process, other participants in the process to his client to himself or the legal profession generally and must respond to the appropriate action in the forms stipulated by the current legislation. It is unacceptable to diminish the honor and dignity of the officials of the body leading the process.

The advocate who has accepted an instruction at the preliminary investigation stage for the purpose in accordance with the procedure established by procedural law or on the basis of a written contract has no right, without good reason, to refuse from the assumed duty to protect the principal in the court of first instance. In this case, the advocate is required to perform the duties of counsel and, if necessary, prepare and file an appeal.

11. As a member of the judicial pleadings, the advocate should be respectful to his opponents. His arguments should be based on the analysis of the case, examined by the court.

The advocate must avoid statements that may be considered as evidence in his/her speeches.

The advocate, who carries out defense by appointment in accordance with the procedure established by procedural legislation at any stage of the criminal process, is entitled to conclude a contract for the provision of legal assistance.

The advocate's actions against other defendants, whose interests contradict the interests of his client, justified only when cannot be implemented fully to protect the rights and legitimate interests of his client without it.

The advocate may interview the client’s procedural opponent whose interests are represented by another advocate, only with the consent or in the presence of the latter.

Cooperation on a confidential basis is incompatible with the advocate’s status with the authorities that carry out the operational-search activity during the implementation of legal practice.

During visits to persons in custody, the advocate must follow the rules established for the places in which they are held.

**Chapter 3. Ethics of advocate’s relations with clients**

12. The client shall be understood to mean:

1) the person who concludes with the advocate an agreement on legal assistance;

2) the person to whom a advocate renders legal assistance under an agreement on legal assistance concluded by a third party;

3) a person who is provided with legal aid for appointment in accordance with the procedure established by procedural legislation.

The advocate must not fulfill the client’s wishes, requests or demands involving non-compliance and violation of the law or provisions of this Code.

The advocate must observe in his/her professional activity to proceed from the advantage of the client’s interests to his/her own interests or others’ interests.

The advocate may not participate in a case if the obligation to provide legal assistance is not formalized in accordance with the requirements of the law on  legal practice.

The advocate may not give a promise to client regarding a positive result of the execution of an instruction or any guarantees and assurances about the successful resolution of the case and generate hopes from the client by reference to his experience or special relations with officials.

The advocate may express his opinion on the prospects for the outcome of the case.

The advocate may not be held liable for the reliability of information in the documents compiled by him/her if this information was presented to him by the client. The advocate may not also be held liable for the content of documents containing false information if he was not aware of it.

13. The advocate's duties in providing legal assistance at the expense of the state's funds do not differ from his duties in providing legal assistance under a written contract concluded with the person applying for legal assistance.

Accepting an order, the advocate must be confident in his competence in resolving issues which are related to the merits of the case. In the cases, that the advocate has reason to believe that his competence is not sufficient to fulfill the mandate, he must refuse to accept the commission.

The advocate must inform the client about the progress of the assignment and timely respond to the client's inquiries about the state of his case.

The advocate must take all the remedies that depend on him/her to fully understand all the issues of the case, to study the jurisprudence and relevant specialized literature. In necessary cases, with the preservation of the professional secrets, the advocate may to recruit specialists to give opinions and resort to consultations with colleagues.

If, after accepting the instruction, circumstances are revealed in which the advocate was not entitled to accept the commission, he must terminate the contract and inform the client about it in advance, so that he/she has the opportunity to apply to another advocate.

When using the right to have a holiday the advocate must take remedies to ensure the legitimate rights and the client’s interests.

It is inadmissible to acquire the advocate as payment for providing legal assistance to the property being the subject of the dispute or the rights to it.

14. The advocate may not be an adviser, defender or representative of several parties in one case, whose interests contradict each other, he may only contribute to the reconciliation of the parties.

The advocate may not provide legal assistance to the client and must refuse to accept an obligation to provide legal assistance or from its further execution in cases where:

1) he/she provides or previously provided legal assistance to the client whose interests are contrary to the interests of the individual or legal entity seeking legal assistance;

2) he/she participated in this case in a different procedural quality;

3) the person with whom the advocate is in related relations participates in the investigation of the case or its consideration;

4) he is in close family relations with the advocate who, in the same case, provides legal assistance to a person whose interests are contrary to the interests of the person applying;

5) the client’s requirements are contrary to the law, or the client requires to accept for protection of his interests knowingly false or obtained in violation of the law evidence or use other illegal means and methods;

6) circumstances may arise that require him to divulge secrets entrusted to him by another client, except in cases when a written consent of the client interested in preserving the secrecy is obtained.

The date of acceptance of the instruction for conducting the case is the date of full or partial payment of the amount of payment established by the agreement on rendering legal aid to the cash desk of the collegium advocates or advocate's colleague or transfer to the bank account of the advocate.

On the instructions accepted by the advocate in the framework of the state-guaranteed legal aid provided at the expense of the state, the date of accepting the commission for the conduct of the case is the date of handing the warrant to the advocate, certifying his/her authorization to conduct the case.

If it is necessary to provide legal assistance immediately in which it is difficult or impossible to execute the order, due to circumstances beyond the advocate’s control, the actual entry of the advocate to participate in the case or to perform professional duties is considered the moment of acceptance of the order.

It is not allowed to combine the protection of an adult and a juvenile accused.

The advocate, who participates in the case for appointment in accordance with the procedure established by procedural legislation should explain to his/her client about the availability of his right to invite the advocate under the contract, without using it as an excuse for avoiding the execution of an instruction.

15. The advocate must support and substantiate the position of the accused, who does not recognize his guilt and may not take a different position. Recognition of the client’s guilt is a gross violation of the right to defense.

If the client recognizes the facts underlying the charge as containing the elements of the offense, but denies his/her guilt, the advocate must proceed from the need for a proper legal assessment of these facts, explaining to him a possible judicial perspective.

If the client confesses his guilt, but this confession is not supported by other evidence, and the materials of the case indicate the failure of the charge, the advocate may take a position that does not worsen the client’s situation. In the event that the recognition of guilt was caused by an unlawful effect on the accused, the advocate must take all the remedies that depend on him to establish this circumstance and fix it in the minutes and other documents.

If the advocate defends a person who incriminates another defendant of committing a crime, he/she must make efforts to find mitigating circumstances in the client’s actions. In this case, the advocate may not prove the guilt of another person, acting as a prosecutor.

16. The advocate must appeal against a sentence in the following cases:

1) at the client’s request;

2) if the court did not share the advocate’s position as a defender and (or) his client and appointed more severe punishment or punishment for a more serious crime than the advocate and / or his client asked;

3) in the presence of grounds for cancellation or modification of the sentence on the grounds favorable to the client.

The advocate may not refuse a client in a request to appeal a sentence.

If a advocate sees the grounds for appeal and the convicted person objects to this, it is necessary to receive a written refusal of the convicted person to appeal the verdict. This rule does not apply to minors and persons with physical or mental disabilities.

17. The amount of legal aid paid by the advocate and reimbursement of expenses related to protection and representation is established by a written contract concluded in accordance with the procedure established by the legislation on legal practice.

The advocate may accept monetary funds in payment for legal assistance for the client from third parties under a contract concluded in writing. In this case, the advocate is not obliged to check the relationship between the principal and the third person who is the payer.

The advocate is prohibited to accept from the client or his/her representative any property in support of a contract for legal assistance.

**Chapter 4. Ethics of advocate’s relations with colleagues**

18. The advocate must respect colleagues, maintain a normal moral and psychological climate in the team, provide advice to colleagues as necessary, carefully treat the work of beginning advocates, helping them with their knowledge and experience.

The advocate must not discuss with his/her agents the circumstances relating to the personal life of another advocate, his/her financial situation, origin, nationality and other circumstances that concern the advocate, but are not relevant to the nature of the commission.

The advocate must not allow and must refrain from:

1) use in the compilation of documents, in conversations with persons seeking legal assistance, expressions that detract from the honor, dignity or business reputation of another advocate who previously provided legal assistance to these persons, assessments and criticisms of the correctness of this advocate’s actions and consultations, who applied for legal assistance, the reasonableness of the amount of payment collected by other advocates;

2) dissemination of knowingly untrue information about another advocate;

3) challenging the correctness of the actions of another advocate in the presence of the person who applied for legal assistance.

If colleague's error was found, the advocate should find an opportunity in tactful form to help correct it.

19. The advocate may not induce a person who has come to another advocate to enter into a contract for legal assistance between him and that person.

The advocate, when accepting a commission in a case in which another advocate is involved, must to notify him of his participation in the case. The advocate may talk with another advocate’s client on the same case, only with his client’s consent.

If one of the advocates disagrees on joint management of the case with another advocate, each of these advocates may explain to the client about his right to choose the advocate at his discretion.

Relations between advocates should not affect the protection of the parties’ interests involved in the case.

**Chapter 5. Legal consequences of violation of the Code of Professional Ethics of advocates**

20. Violation by the advocate of the requirements of this Code entails the application of disciplinary sanctions provided by the legislation on Advocacy of the Republic of Kazakhstan.

Disciplinary sanctions are not applied for the act (inaction) of the advocate, formally containing the signs of violation, but in fact not defaming the honor and dignity of the advocate, which does not detract from the authority of the Collegium and does not cause significant damage to the client or the collegium of advocates. The procedure for imposing disciplinary sanctions, their withdrawal and appeal is determined by the charter of the collegium of advocates.

Disciplinary proceedings fall within the competence of the Presidium of the collegium of advocates, which ensures timely, comprehensive, objective, fair consideration and execution of the decision taken on it in accordance with the law on Advocacy and this Code.

**Chapter 6. Final Provisions**

21. The validity of this Code extends to all types of legal practice, regulated by the current legislation, and also to other acts (inaction) of the advocate, which may conflict with his professional duties or undermine the prestige of the advocates’ profession.

This Code applies to staffs of advocates’ authorities, advocates’ assistant and probationers in the part that can be applicable to their activities. Advocates, heads of legal practices must inform advocates’ assistant, probationers and other staffs with this Code to ensure that they meet its standards in terms appropriate to their professional responsibilities.

This Code does not apply to relations that arose before its enactment.
22. This Code is effective from the 1st January, 2015.