

DECISION
amending the Regulations on the Activity
of the Authorized Intellectual Property Attorneys

No.714 of 18/07/2018

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Pursuant to Article 5 letter b) of the [Law No. 136/2017](#) on the Government (Official Gazette of the Republic of Moldova, 2017, No.252, Art. 412), as well as for the implementation of the provisions of Art.331 of the Association Agreement between the Republic of Moldova, on the one part, and the European Union and the European Atomic Energy Community and their Member States, on the other part, ratified by the Law No.112/2014 (Official Gazette of the Republic of Moldova, 2014, No.185 -199, Art.442), the Government

DECIDES:

1. The Regulations on the Activity of the Authorized Intellectual Property Attorneys, approved by the [Government Decision No.541/2011](#) (Official Gazette of the Republic of Moldova, 2011, No.118-121, Art.610), shall be amended as follows:

1) in item 11, sub-item 8), the text “ , accumulated within 5 years, and decides the deletion from the Register of Authorized Attorneys on whose activity, during the said period, there are not registered with AGEPI any statistical information according to item 35 of this Regulation” shall be excluded;

2) item 14 shall have the following content:

“14. The Appeals Board is responsible for preventing fraudulent practices of the attestation examination, provided and sanctioned in accordance with item 21 of this Regulation.”;

3) in item 16, the text “ ,at the end of the five-year period,” shall be excluded;

4) in item 23, the words “on the working day immediately following the conduct” shall be replaced by the text “within 3 working days of the date of the conduct”;

5) in item 24:

the words “on behalf of the Chairman of the Appeals Board” shall be excluded;

the figure “2” shall be replaced by “7”;

6) in item 26, the words “on the day immediately following the expiry” shall be replaced by the text “within 7 working days from the date of expiry”;

7) items 38-41 shall be repealed;

8) in item 42, the text “and was not deleted from the Register in accordance with item 38 of this Regulation” shall be excluded;

9) in item 45, the text “in accordance with the principles of good faith, honesty, trust and confidentiality” shall be replaced by the text “in compliance with the Code of Ethics and Conduct for Authorized Intellectual Property Attorneys, as set out in the Annex to this Regulation”;

10) shall be supplemented by item 45¹ with the following contents:

“45¹. The authorized attorney who has breached the obligations laid down in the contract or the norms of the Code of Ethics and Conduct for Authorized Intellectual Property Attorneys shall be liable under the law.”;

11) shall be supplemented by an annex with the following contents:

**“Annex
to the Regulations on
the Activity of the Authorized
Intellectual Property Attorneys**

**CODE
of Ethics and Conduct for Authorized Intellectual Property Attorneys**

**Chapter I
GENERAL PROVISIONS**

1. The Code of Ethics and Conduct for Authorized Intellectual Property Attorneys (hereinafter referred to as “the Code”) regulates the fundamental principles and rules of professional conduct mandatory for the authorized intellectual property attorney (hereinafter referred to as “the authorized attorney”) both in relations with customers, with national and international authorities, with non-governmental organizations, and with other authorized attorneys.

2. The authorized attorney is the natural person attested by the Commission for Attestation and Discipline of Authorized Intellectual Property Attorneys of the State Agency on Intellectual Property (hereinafter referred to as “AGEPI”) and registered in the National Register of Authorized Intellectual Property Attorneys, who represents the interests of natural and legal persons and provides them with the necessary assistance in the field of protection of intellectual property objects.

3. The norms of this Code are intended to secure the fulfilment of the professional commitment of an authorized attorney. Failure by the authorized attorney to comply with these norms shall entail liability under the law.

4. The authorized attorney must know and strictly abide by this Code, being also responsible for the observance and application of the principles of this Code by its employees and collaborators.

5. In the exercise of his/her profession, the authorized attorney has the duty to protect his/her customers against situations in which their rights are not respected and to provide them with the necessary assistance in the process of understanding the legal provisions, avoiding conflicts and resolving them.

**Chapter II
PRINCIPLES OF CONDUCT**

**Section 1
Independence**

6. The authorized attorney must enjoy professional independence in his/her activity in such a way as to avoid any dependence which may prejudice the interests of his/her customer.

7. The authorized attorney must be free of any influence that might result from his/her own interests or those of third parties in relation to the commitment undertaken.

8. The professional probity shall be inclusively secured by ignoring any requests from the customer that are likely to prejudice the commitment of the authorized attorney and the rules for its realization.

9. The authorized attorney cannot accept a commitment when, due to other obligations, it is impossible to fulfil this commitment promptly or to consult the customer correctly.

Section 2

Moral Integrity and Trust

10. The authorized attorney must demonstrate honesty, probity, fairness, correctness, sincerity and confidentiality in the relationship with his/her customer, characteristics that motivate the customer's decision to engage him/her.

11. Moral integrity consists in the behavior of the authorized attorney in such a way as not to prejudice the characteristics referred to in item 10 both in the exercise of the profession and outside of it.

12. The authorized attorney is required to abstain from assisting and consulting a customer in criminal activities.

Section 3

Professional Secret. Confidentiality

13. The authorized attorney is bound to keep the confidentiality of any data, including personal data, and information that becomes known to him/her directly or indirectly from his/her customer, whether directly linked to or not by the assumed commitment. He/she cannot disclose this information both during the commitment and after its termination, except with the express consent of his/her customer.

14. The right and obligation to maintain confidentiality apply to all information acquired during the exercise of the profession and will have to be respected even after the settlement of the commitment, except in cases expressly provided for by law.

15. The authorized attorney cannot pass on to any third party any document received from his/her customer, such as documents, printed or electronic files, samples and models, without the consent of the customer.

16. The obligation of confidentiality implies an active role of the authorized attorney in ensuring that such confidentiality is preserved, including by the persons he or she employs in order to fulfil a particular commitment or to carry out his/her professional activity in general.

17. Among the customers represented jointly, the confidentiality rule does not apply unless the parties decide otherwise.

Section 4

Competence

18. The authorized attorney carries out the activity entrusted to him/her on the basis of his/her professional competence.

19. The authorized attorney is not entitled to accept a commitment if he/she is certain that he/she does not have the necessary competence to deal with the matter, unless he/she cooperates with another authorized attorney or other specialist with that competence.

Section 5
Conflict of Interests

20. The authorized attorney is not entitled to participate in a particular commitment if he/she has already counseled or has already represented another party in the same case with conflicting interests, or has been involved professionally or otherwise in this case, which could prejudice the customer's interest. In this case, the authorized attorney is obliged to notify the customer as soon as the circumstance becomes known to him/her.

21. The authorized attorney will abstain from dealing with the cases of all the customers involved in the commitment for which he was engaged when a conflict of interests arises, when the professional secret runs the risk of being violated or when his/her independence takes the risk of casting doubt on it.

22. The authorized attorney cannot accept a case of a new customer when the secret of the information entrusted by an old customer runs the risk of being violated or when the customer's knowledge of the old customer's cases favors the new customer unjustifiably.

Section 6
Incompatibilities

23. The authorized attorney may carry out his/her professional activity as an individual entrepreneur without being considered a legal entity or being considered a legal entity for the provision of intellectual property services and as an employee of an institution, organizations or enterprises with any form of legal organization.

24. The authorized attorney may not act as such on grounds of incompatibility established under the law, such as the status of an employee of AGEPI or the exercise of a public function.

Section 7
Advertising of the Authorized Attorney's Activity

25. The authorized attorney may promote his/her professional activity, subject to the compliance with the provisions of Section 3 of this Chapter relating to professional secret, providing concrete information on the exercise of his/her profession and carrying out his/her activity with dignity and prudence. It is in particular allowed to mention the core activities, the special experience acquired in the professional environment in which he/she activates and the qualifications formally obtained.

26. In all promotional and advertising actions, regardless of their material support, including the Internet, the authorized attorney must ensure that all the elements of identification of the form of exercise of the profession in which he/she activates, according to the forms of organization of the profession established by law, are presented in a correct and complete manner so that the public is aware of all the details of the person or persons providing the respective services and there is no confusion in relation to other attorneys as well as in relation to other institutions or organizations.

27. References to files and customers are only allowed if the customer has previously expressed expressly his/her consent in this respect, except that reference(s) is (are) only related to the information available to the public.

28. Advertising and promotion must not contain any allegations that may affect the status and dignity of the profession of authorized attorney or any other free profession.

29. Regardless of the means of advertising used, all laudatory or comparative mentions with other authorized attorneys are forbidden.

Chapter III CUSTOMER RELATIONSHIP

Section 1

Commitment and Acceptance of Commitment

30. The authorized attorney is free to accept or not a particular commitment offered by the customer. This commitment must be in written form.

31. Unless otherwise agreed by the parties, this commitment may be in the form of an exchange of messages, whether written or electronic. From this communication must unequivocally result the understanding of the terms of the commitment by the customer and acceptance of the commitment by the authorized attorney.

32. The authorized attorney and the customer agree on the content of the commitment, in particular on the extent of the obligation of assistance to be borne by the authorized attorney, the fee he will receive, the necessary conditions of payment and other reasonable and necessary expenses.

Section 2

Fixing the Honorarium

33. The authorized attorney and the customer are fully free to establish the honorarium to be paid.

34. The authorized attorney informs the customer of the honorarium/honoraria and its/their structure, and the total amount of honoraria must be fair and justified.

35. The authorized attorney shall provide the customer, upon request, with details of the actions undertaken or to be undertaken in relation to the fixed honorarium.

36. When the customer fails to pay the debts related to the honoraria and expenses, the authorized attorney has the right to renounce the commitment and to withdraw, respecting a reasonable possibility of the customer to independently deal with his/her own case.

37. The authorized attorney may not offset the debts he/she claims from the customer at the expense of the funds entrusted to him to discharge the specific commitment, except with the agreement of his/her customer.

Section 3

Interaction with the Customer

38. The authorized attorney acts only when he/she is empowered by his/her customer, based on the commitment made by the customer and accepted by the attorney. Relationship with the customer must be official.

39. The authorized attorney shall consult the customer conscientiously and shall inform him diligently of the progress of the commitment he/she has accepted.

40. If the authorized attorney is unable to carry out his/her duties, he/she must ensure that the customer in question is in a position to independently deal with his/her case or may in due time contract another person to provide him/her with the necessary assistance to avoid causing damage to the customer.

41. Even if the customer's interest is paramount, the authorized attorney will not subordinate his/her personal and professional integrity to his/her customer.

42. The authorized attorney is not entitled to accept an unlawful proposal.

43. The authorized attorney cannot guarantee a certain result of the assumed commitment; no matter how foreseeable it is, especially when the result depends on the decision of the AGEPI, the court, another public authority or a third party.

Section 4

Dossier of the Commitment Received

44. For each commitment entrusted, the authorized attorney must keep a dossier that gives a clear picture of the activity he/she has carried out.

45. The authorized attorney may keep the dossier in electronic format, provided that the original individual copies are not required to be kept. The authorized attorney also has the right to convert in part or in total a dossier from non-electronic format into electronic format, by making electronic copies and by destroying the copies kept on paper, provided that the legal provisions do not contradict this procedure.

46. At the customer's request, the authorized attorney shall provide copies or extracts from the commitment dossier without incurring any additional charge that exceeds his/her own costs/expenses.

47. Upon completion of the commitment, the customer may ask the authorized attorney for a copy of the dossier that the attorney provides, except for those data, information, drawings, notes that are not directly related to the appropriate commitment or whose provision is prohibited by the obligation/obligations of the professional secret.

Section 5

Waiver of Commitment

48. The authorized attorney may not relinquish a file unjustifiably before the deadline if there are no reasonable reasons for doing so. However, for reasonable reasons, the authorized attorney is entitled to waive his/her commitment at any time, provided that a reasonable period of notice is observed, so that the customer may independently deal with his/her own case or may engage another authorized attorney.

49. In this case, the authorized attorney shall undertake any action that is urgent and decisive for the case of his/her customer, without making unreasonable, in some way, this behavior.

50. This obligation of maximum prudence in the event of waiving the commitment entrusted does not apply if the waiver is caused by the customer's fault or if the customer agrees to take all future actions on his behalf.

Chapter IV

INTERACTION WITH OTHER AUTHORIZED ATTORNEYS. COLLEGIALITY

51. Collegiality requires trust-based relationships, in the customer's interest, to avoid unnecessary processes and any behavior likely to affect the reputation of the profession.

52. In no case will collegiality be the basis for the unreasonable contradiction with the interests of the customers. Between them, authorized attorneys will exhibit collective and respectful behavior.

53. An authorized attorney shall not refer to another authorized attorney in improper or offensive terms.

54. Professional competition must be fair. When ordering, as well as in any other form of promotion, including on the Internet, the authorized attorney will abstain from making misleading or self-deceiving statements and/or by direct criticism or allusion to the work and quality of the work of other attorneys.

55. The authorized attorney shall not exercise or favor discrimination against other authorized attorneys on grounds of age, gender, religion, political option, social affiliation, etc. If an authorized attorney intends to bring an action against another authorized attorney in connection with the violation of these rules of conduct, he/she will first attempt to resolve the dispute through direct contact with the other attorney. In the event that no agreement can be reached, the authorized attorney will continue to hand over the case to the Commission for Attestation and Discipline of the Authorized Intellectual Property Attorneys. Unless such mediation fails, the authorized attorney may bring legal action against the other attorney.

56. An authorized attorney may not enter into a direct relationship with a person in respect of a particular case when knowing that such person is represented or assisted by another authorized attorney, unless he/she has the consent of his/her colleague.

Chapter V

INTERACTION WITH THE AGEPI, THE COURTS AND OTHER AUTHORITIES

57. The authorized attorney is required to show respectful behavior towards the AGEPI, the courts and any other authorities with which he/she interacts in the performance of his/her commitment.

58. An authorized attorney who presents himself/herself to the courts or who participates in a jurisdictional-administrative procedure must comply with the rules of conduct applicable to these procedures.

59. The obligation to comply with these rules does not limit the authorized attorney to object to the actions of the authorities or to exercise other procedural rights.

60. The authorized attorney cannot knowingly provide obviously false data and information to the authorities with which he/she interacts in the discharge of his/her commitment.

61. The authorized attorney is not responsible for the truthfulness of the data and information provided by the customer. At the same time, the authorized attorney shall be obliged to notify the competent authorities if such data and information are likely to prejudice the legal provisions.”

2. This Decision shall enter into force on the date of its publication.

PRIME MINISTER

Pavel FILIP

Countersigned:

Minister of Economy and Infrastructure

Chiril Gaburici

No.714. Chisinau, July 18, 2018.