



Schweizerischer Anwaltsverband
Fédération Suisse des Avocats
Federazione Svizzera degli Avvocati
Swiss Bar Association

This is an unofficial translation of the Swiss Code of Professional Conduct of lawyers. Please note that only the texts in German, French, and Italian language have been passed by the Swiss Bar Association and are, therefore, binding and pertinent. Language inserted in [brackets] is not translated from the official text but included for the convenience of better understanding in particular by non-Swiss readers. The Term "lawyer" or "lawyers" means a person practicing law subject to regulatory supervision.

Swiss Code of Professional Conduct (SCPC)

The Swiss Bar Association, based on Art. 1 and Art. 12.10 of the Articles of Association, mindful that the Federal Act on the Free Movement of Lawyers (the "Lawyers Act") provides binding principles for the practice of law in Switzerland, in an effort to standardize the rules of conduct for lawyers in Switzerland and to substantiate the professional rules of the Lawyers Act, issues the following rules of professional conduct.

Part I: Lawyers' Professional Role, and Scope of the Code of Professional Conduct

Art. 1 Lawyers' Professional Role

Lawyers are guarantors of the rule of law. They support the interests of those they advise and represent independently, and they support them in asserting their rights and freedoms.

Art. 2 Scope

This Code of Professional Conduct (the "Code") effectuates the lawyers' professional role and substantiates the professional rules pursuant to the Lawyers Act. The Code is addressed to all lawyers practicing in Switzerland, and it is binding on members of the Swiss Bar Association.

Lawyers are also responsible for ensuring that their auxiliaries, including junior associates, observe the Code.

Part II: Principles of Professional Conduct

Art. 3 Independence

Lawyers shall act in full independence and under their own disciplinary responsibility.

Independence presupposes that, in the exercise of their profession, lawyers will not be influenced by third parties who are not subject to regulatory supervision as lawyers.

Lawyers avoid any activities that are incompatible with their independence.

Art. 4 Professional secrecy

Lawyers must keep secret from everyone and for an unlimited period of time all confidential information and findings gathered or generated in matters entrusted to them by their clients.

Professional secrecy protects only clients. Third parties, including without limitation opposing parties, [who share confidential information with lawyers other than their own], may not invoke the professional secrecy [to prevent disclosure].

Even if the professional secrecy has been waived, lawyers [may, but] are not obliged[,] to disclose any secret.

Lawyers are responsible for ensuring that their auxiliaries [not being admitted lawyers] observe professional secrecy.

Lawyers must first obtain their client's consent before sharing information subject to professional secrecy with third parties, in particular with legal protection insurers and lawyer solicitation platforms.

Art. 5 Conflicts of interest

Lawyers shall avoid any conflict between the interests of their clients and their own interests or the interests of third parties.

Lawyers shall never represent, advise, or defend more than one client in the same matter if there is either an actual conflict or, due to the relevant circumstances of the case, a concrete and serious danger of a conflict, in each case impeding the lawyer's independent conduct of the entrusted matter. As soon as a lawyer becomes aware of an actual conflict or reasonably believes that a concrete and serious danger of such a conflict is arising, the lawyer shall terminate all mandates with all clients concerned.

In no case shall lawyers accept any mandate if they risk to violate the professional secrecy obligation in using information entrusted to them by other clients or if the knowledge of the other matter would be to the detriment of such other clients.

Art. 6 Diligent and conscientious practice of the profession

Lawyers practice their profession diligently and conscientiously, and they ensure compliance with applicable laws when doing so. They ensure they can be reached.

They refrain from any behavior that calls their trustworthiness into question.

They undergo continuous legal education and ensure that they have the appropriate knowledge to carry out the mandate.

They provide practical training and introduction to the profession for their junior associates.

Art. 7 Free choice of attorney

Lawyers shall not enter into agreements, e.g., agreements with legal protection insurers, that would violate an individual's entitlement to choose their lawyers freely.

Part III: Management of Mandates

Art. 8 Acceptance and carrying out of mandates

Lawyers shall exercise due diligence in full compliance with the principles of professional conduct when accepting mandates. They shall refuse any mandate that is in conflict with such principles.

Lawyers must exercise due diligence to verify the identity of their clients and obtain information necessary to assess possible situations of conflicts of interest.

Lawyers shall clearly and transparently regulate their relationship with clients, in particular with regard to the scope and objective of the entrusted matter. They shall carry out each mandate carefully, conscientiously and expeditiously in full compliance with the principles of professional conduct. They inform their clients about the progress of the matter.

Lawyers represent their clients in legal proceedings in their own name, and they carry out mandates in their own personal disciplinary responsibility [under the Lawyers Act].

Art. 9 Resignation from mandate

Lawyers may not resign from mandates at an inopportune juncture.

Art. 10 Loss of the capacity to practice the profession, and the lawyer's death

Lawyers shall ensure the adequate protection of the interests of their clients and of the professional secrecy in the event they lose their capacity to practice, in particular in the event of their incapacity to act or in the event of their death.

Art. 11 Efforts for the amicable settlement of disputes

Lawyers shall promote the amicable settlement of disputes, provided that the settlement is in the client's interest.

Lawyers shall duly consider mediation in progress or any request by a party for mediation.

Art. 12 Contact with witnesses

Lawyers shall abstain from unduly influencing witnesses or court experts.

The rules applicable in proceedings before foreign courts and authorities, in arbitration proceedings and in proceedings before supranational courts are reserved.

- Art. 13** **Free legal assistance and publicly awarded mandates**
Lawyers shall ensure that indigent persons receive legal assistance and representation under the legal aid system. They shall inform their clients accordingly.
- Lawyers shall treat matters on behalf of indigent clients with the same level of care as in all other matters.
- Unless otherwise provided by law, lawyers shall not demand from their clients any fees in addition to the remuneration fixed by the court.
- Art. 14** **Principles of remuneration**
Lawyers shall inform their clients about their principles of remuneration when accepting a new mandate. They shall regularly inform the client about the fees incurred.
- The amount of remuneration, even in the form of a lump sum fee, shall not be excessive. Fees are considered to be excessive if they cannot be justified given all the circumstances of the individual case, the difficulty and importance of the matter, the amount in dispute, the interests of the client, the experience of the lawyer, his or her responsibility, or the result achieved.
- Art. 15** **Contingency fees**
Before the end of a legal dispute, lawyers may neither participate in the gains of a case as a substitute for a fee (*pactum de quota litis*), nor may they undertake to waive their fee in case of an unfavorable outcome of the proceedings.
- Subject to Article 14, lawyers may, however, agree to receive, in addition to their ordinary fees, a premium for success (*pactum de palmario*), such an agreement to be concluded either when accepting the mandate or during the term of the mandate, but in no case at an inopportune moment. Such premium, if any, may be calculated as a percentage of the result.
- Art. 16** **Advances of fees**
If lawyers request one or more advances on their fees or expenses, such advances shall be in reasonable proportion to the anticipated amount of the fees or expenses.
- If the advance is not paid, lawyers may refuse to accept, or resign from, the mandate, subject, however, to Article 9.
- Art. 17** **Invoicing**
At the client's request, a lawyer shall provide a detailed invoice.
- Art. 18** **Remuneration for the referral of mandates**
Lawyers shall not pay commissions to third parties for referrals. They neither may accept commissions when they arrange referrals for others.
- Art. 19** **Assets entrusted**
Lawyers keep the assets entrusted to them separate from their own assets.
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They shall hold the assets entrusted to them with care and shall be in a position to return them to the client at any time. Client funds shall be returned without delay. Lawyers retain the right, however, to offset their fees against client funds.

Lawyers shall keep complete and accurate records of the assets entrusted to them.

Part IV : Organization of Professional Practice

Art. 20 Freedom of organization

Lawyers are free to organize themselves for the practice of their profession.

They may practice their profession alone or jointly with colleagues (law firms [independent of their legal form and organisation]), in any legal form permitted by Swiss law.

Lawyers shall organize themselves in such a way that the professional rules of the Lawyers Act and the principles of professional practice pursuant to Part 2 of this Code are observed and enforced [independent from their legal organisation]

Art. 21 Joint practice of the profession

When practicing jointly, lawyers shall ensure their independence when advising and representing their clients.

If a lawyer is employed [in a law firm], the lawyer may only take instructions from lawyers who are themselves admitted and submitted to the regulatory supervision as lawyers [by the cantonal Surveillance Authorities].

Art. 22 Professional practice with members of other professions

Lawyers may cooperate with members of other professions, provided that the independence of the representation of and advice to clients as well as the professional secrecy are maintained at any time.

Art. 23 Handling of conflicts of interest

The provisions on avoidance of conflicts of interest [cf. Art. 5] shall apply in law firms to the entirety of professionals employed as well as to each of its professionals. If one professional is conflicted, such conflict shall be attributed to each of the professionals employed.

If a lawyer changes law firms or if law firms merge, the parties involved shall take all precautions as necessary under the circumstances of the individual case to maintain professional secrecy and to avoid conflicts of interest.

In particular, when changing law firms, the receiving law firm must exclude lawyers from acting in mandates which they were involved in on the part of an opposing party during their prior engagement.

Art. 24 Bankruptcy and liquidation of law firms

The lawyers responsible for the mandate [within the law firm] shall be personally liable to ensure that the interests of existing and former clients of the firm continue to be protected if the law firm is put into liquidation, bankruptcy or is otherwise restricted in its ability to act.

Part V: Conduct in Public and Towards Courts, Authorities and Colleagues and Counterparties

Art. 25 Advertising

Lawyers may advertise.

Such advertising shall be truthful, in a reasonable context with the professional activity and shall respect professional secrecy.

Lawyers must not permit third parties to undertake advertising on their behalf that violates the principles set forth in the preceding paragraph 2. They need to ensure compliance with said rules whenever advertisement is made, whether directly or indirectly, on their behalf.

Art. 26 Appearance before courts and authorities

Lawyers shall act with due decency and respect towards the courts and authorities, and they can expect the same attitude towards themselves.

They shall take all necessary legally permitted means to protect the interests of their clients.

Art. 27 Decency and collegiality

Lawyers shall not personally attack colleagues in the practice of their profession.

Collegiality shall not interfere with the protection of the interests of the clients.

Art. 28 Proposals for settlement

Settlement proposals between colleagues [on behalf of their clients] are confidential and must not be brought to the attention of the court or an authority unless the opposing party has consented. If lawyers negotiate settlement arrangements with an opposing party not being represented by a lawyer, settlement proposals are not considered as confidential unless the person making the proposal expressly insists on confidentiality.

If a settlement is reached, the settlement discussions shall remain confidential unless otherwise agreed.

Art. 29 Other confidential communication

Lawyers who wish to communicate confidentially with other lawyers must state so unequivocally.

Lawyers shall not abuse the institute of requested confidentiality.

Lawyers shall not use confidential documents or confidential communications in proceedings.

Art. 30 **Direct contact with another party**

Lawyers shall not communicate directly with a party represented by a lawyer unless such opposing lawyer consents to, or exceptional circumstances require such direct communication.

If a lawyer communicates directly, she or he must inform the representing lawyer immediately.

Art. 31 **Mandates against colleagues**

Lawyers shall endeavor to settle concerns regarding the professional conduct of colleagues [opposing lawyers] before taking legal action.

If a lawyer intends to take legal action against a colleague [for an alleged breach of the rules of professional conduct], she or he shall put the cantonal bar association which the colleague is a member of on notice duly.

These rules [in paragraphs 1 and 2 above] shall not apply if a settlement or mediation [by the cantonal bar association] is reasonably excluded for causes of merits or time constraints.

Art. 32 **Disputes between colleagues**

If a lawyer is of the opinion that another lawyer is violating the law or rules of professional conduct, she or he will put the other lawyer on notice accordingly.

If a dispute arises between lawyers, they shall try to reach an amicable settlement.

If no amicable settlement can be reached, the lawyer seeking redress shall contact the cantonal bar association which the colleague is a member of before taking legal action before the courts or authorities.

Art. 33 **Change of attorney**

Subject to the client's prior consent, lawyers shall inform their colleagues when they accept a mandate in a matter in which such colleagues have acted before.

Part VI: **Digitalization and Outsourcing**

Art. 34 **In Principle**

Lawyers may use digital applications and auxiliary tools in their professional practice, and they may provide their own online or otherwise digitalized services, provided that compliance with all of the rules of professional conduct is ensured.

Art. 35 **Digital communication**

Unsecured communication by digital means requires the consent of the client. The client is deemed to consent if the client communicates [with its lawyer] digitally in an unsecured manner without reservation.

Art. 36**Lawyers' platforms**

Lawyers may offer or provide their legal services via digital platforms, such as [without limitation] lawyers' directories, intermediary or consulting platforms.

They shall ensure in particular compliance with the principles of independent exercise of the profession (Art. 3), professional secrecy (Art. 4), prohibition against commissions for referrals (Art. 18), and advertising (Art. 25).

Art. 37**Data security**

Lawyers shall ensure that digital data subject to professional secrecy are stored and made available for digital access in such a way that it is protected against unauthorized access by third parties in accordance with [with the technical means available in] the state of the art.

Art. 38**Outsourcing**

The commissioning of third parties to provide digital or personal auxiliary services for the exercise of the profession (outsourcing) is permissible. Third-party providers of such services must be informed that they are subject to professional secrecy pursuant to Art. 321 of the Swiss Criminal Code in their capacity as auxiliaries, and that they must strictly comply with it. Lawyers shall ensure compliance with the rules of professional conduct, in particular professional secrecy, by carefully selecting and instructing service providers and by means of sufficient contractual provisions.

Third parties may store and process data subject to professional secrecy, provided the security of the data is ensured pursuant to Article 37 and access to such data is possible only in compliance with the provisions on the protection of professional secrecy. This is presumed to be the case with sufficiently experienced providers of cloud solutions with data storage and processing in Switzerland, the EU, EFTA and the United Kingdom.

Part VII: Final Provisions**Art. 39****Disciplinary authority**

The power to discipline lawyers for breaches of the rules of this Code is vested in the cantonal bar associations [subject to the jurisdiction of the surveillance authorities and courts to the extent such breaches also constitute breaches of the Lawyers Act or any other laws].

Art. 40**Entry into force and repeal of the previous Code of Professional Conduct**

This Code was adopted by the Assembly of Delegates of the Swiss Bar Association held in Lucerne on June 8, 2023.

In accordance with the resolution of the Swiss Bar Association's Board of Directors, the Code has come into force on July 1, 2023.

The [prior] Swiss Code of Professional Conduct of June 10, 2005, is repealed and superseded as of this date.