



# CODE OF NOTARY ETHICS

---

Funded  
by the European Union  
and the Council of Europe



COUNCIL OF EUROPE



---

Implemented  
by the Council of Europe



NOTARSKA KOMORA  
CRNE GORE

# **CODE OF NOTARY ETHICS**

© 2021 Council of Europe.

All rights reserved. Licensed to the European Union under conditions.

No part of this publication may be translated, reproduced or transmitted, in any form or by any means, electronic (CD-Rom, Internet, etc.) or mechanical, including photocopying, recording or any information storage or retrieval system, without prior permission in writing from the Directorate of Communications (F-67075 Strasbourg Cedex or [publishing@coe.int](mailto:publishing@coe.int)).

This document was produced with the financial support of the European Union and the Council of Europe.

The views expressed herein can in no way be taken to reflect the official opinion of either party

# FOREWORD

The beginnings of notaries in Montenegro date back to the Middle Ages, when certain provisions on notaries were observed in the statutes of Kotor and Budva municipalities. Formally, notaries were introduced into the legal system of Montenegro by the Law on Notaries in 2005, taking into account the Council of Europe recommendations and experiences of other countries in the region, and began operating in 2011. This development aimed to increase legal certainty, reduce disputes and provide citizens with faster and more efficient legal services.

According to the so-called '*Latin type* notarial system' which Montenegro had followed, a notary is a holder of public service, which he/she performs professionally, independently, neutrally and as an exclusive profession. The Notary Chamber is a professional association of notaries, established with the aim of protecting the reputation and rights of notaries, while ensuring that notaries perform their duties in accordance with the law and act in line with the Code of Notary Ethics. Notary chambers or other associations of notaries of this *Latin* type are part of the International Union of Notaries (UINL), which Montenegro has joined in 2012.

No profession is possible without ethics, nor ethics without professionalism. This interrelation is particularly important when it comes to the notary function, which is unique, but associated with numerous challenges in ensuring legal certainty. Notary ethics set out moral principles, rules of conduct and values of the notary profession that aim to ensure the professional conduct of its members and increase the reputation and accountability of notaries.

The first Code of Notary Ethics was adopted in 2011, with the aim of contributing to the fulfilment of transparency, accountability and conscientiousness of notary work. Considering the notarial development and the amendments to the Law on Notaries in 2016, a need to improve the Code and harmonise it with modern deontological rules and standards of the International Union of Notaries has become apparent.

The preparation of the new Code of Notary Ethics by the working group of the Chamber of Notaries was supported by the project "Accountability and Professionalism of the Judicial System of Montenegro", within the joint programme of the Council of Europe and the European Union "Horizontal Facility for the Western Balkans and Turkey II". The new Code brings important legal and technical amendments, as well as novelties which implement the best European examples and practices. Also, it transposes a number of rules from the Principles of Notary Ethics and the Deontological Rules of the International Union of Notaries.

The recent adoption of the new Code of Notary Ethics in December 2020 creates additional opportunities for the further implementation of judicial reform, while supporting the aspirations of the notary profession towards achieving European standards, strengthening legal certainty and improving the rule of law. The provisions of the new Code should be present in the consciousness and beliefs of every notary, in other words, they should become a way of life and action of a notary.

Podgorica, February 2021

**Mr Branislav Vukićević, president of the Notary Chamber of Montenegro**

**Livia Stoica Becht, Head of Legal Co-operation Division, Council of Europe**

Pursuant to Article 107 of the Law on Notaries (Official Gazette of the Republic of Montenegro 68/05 and the Official Gazette of Montenegro 49/08 and 84/18) and Article 83 of the Statute of the Notary Chamber of Montenegro, the Assembly of the Notary Chamber of Montenegro adopted by electronic vote on 28 December 2020 the following

## **CODE OF NOTARY ETHICS**

### **INTRODUCTORY PART**

#### **Article 1**

The Code of Notary Ethics (hereinafter referred to as the “Code”) prescribes the principles, rules and procedure for determining the violation of professional and ethical conduct of notaries when performing notarial activities and beyond, with the aim of impeccable performance of notarial duties and preserving and improving the dignity of notaries and reputation of the notariat as a service of public trust.

Montenegro, as a civil and democratic state based on the rule of law, promotes the notariat as a service of public trust and the notaries who, by their professional responsibility, will ensure and preserve legal safety and certainty in the performance of legal affairs.

The notary shall protect the legal order and contribute to the rule of law, legality and fairness through his/her professional and other public activities.

#### **Article 2**

Ethical and legal obligations of notaries are based on ratified and published international treaties and generally accepted rules of international law, the Constitution, the Basic Principles of Notarial Deontology of the International Union of Notaries, the Law on Notaries, the Statute of the Notary Chamber and the Code of Ethics of Notaries.

#### **Article 3**

In his/her work, while respecting the fundamental spirit and rules of this Code, each notary shall, completely autonomously and independently assess the situation at hand and decide according to his/her conscience in each individual case.

By applying the law and implementing acts, all notaries are, as part of the notarial service in Montenegro, obliged to ensure that they act identically and uniformly in identical or similar situations in the performance of notarial duties. The uniform and harmonised manner of and procedure for undertaking of notarial actions ensures legal certainty, objectivity and trust in the work of notaries and avoids any kind of unfair competition, which contributes to preserving the reputation of notariat as a public service.

In more complex cases, when the notary is in doubt about the manner of action, he/she shall ask fellow notaries for an opinion or shall address the Committee for Professional Education of Notaries of the Notary Chamber to issue an opinion on the recommended course of action.

#### **Article 4**

If there is no rule in the Code that can be directly applied to a particular case, the Code shall be applied in accordance with the meaning of its principles as well as with the standards and best notarial practice.

#### **Article 5**

The provisions of this Code shall apply *mutatis mutandis* to substitute notaries, notary associates and trainees and other persons employed by notaries.

#### **Article 6**

The principles and rules of conduct of notaries shall be amended according to the needs and time with a view to ensuring the relevance of the rules. In this regard, all notaries are expected to propose, in the future, new rules of conduct or amendments to the existing rules contained in the Code.

### **GENERAL PART**

#### **Basic principles**

##### **Expertise**

#### **Article 7**

The notary shall perform his/her activity expertly in order to ensure the legality of the documents he/she draws up or certifies. By his/her work, knowledge and behaviour, the notary must justify and strengthen the trust of the clients, courts and other state authorities.

The notary shall make appropriate preparations for the taking of certain notarial actions, while respecting the standards of the notarial activity.

The notary shall undergo professional training in accordance with the established training programme, follow legislation, court and notarial practice and professional literature and shall maintain, improve and expand his/her legal and general education, without neglecting any area of law falling within the framework of notarial activity.

The goal of legal education is also to study legal skills, develop a sense of ethical values and protection of human rights and freedoms, encourage care for the work for the benefit of the clients and improvement of the legal and judicial systems.

A notary should encourage development, economic activity and good international relations through knowledge of foreign languages and legislation of other countries and through participation in international notary organisations.

## **Principle of legality and conscientiousness**

### **Article 8**

The notary shall perform the notarial service in accordance with the applicable legislation, good practices and the principle of conscientiousness and honesty.

The notary shall protect the interests of the clients by means that are in accordance with the laws and dignity of the notarial activity, guided by impartiality, good practices, conscience and rules of public morality.

The conscientiousness of a notary comprises careful, diligent, determined and timely undertaking of notarial actions.

A notary may refuse to perform the tasks falling within his/her competence only for the reasons provided for by the law.

The notary shall be accountable for his/her work in accordance with the law.

## **Principle of independence and impartiality**

### **Article 9**

The notary shall be independent and impartial in his/her work.

The notary shall perform his/her activity and undertake notarial actions independently, in accordance with his/her beliefs based on the applicable law, legal science and practice, international legal standards, the statute and the Code.

The notary shall balance the individual interests of the clients, seek solutions with the primary goal of safeguarding the legality and protection of all parties to the proceedings and avoid any personal influence.

The notary shall take into account the circumstances and situations which raise doubts about his/her impartiality, which may cause the clients a justified fear of bias, and shall act in such cases in accordance with the procedure for exclusion of notaries provided for by the law.

The notary shall avoid exerting any kind of influence on the clients that goes beyond the duties of the notary as an expert in the field of law.

The notary shall observe the prohibition of creating strong economic ties and the excessive concentration of the same clientele compromising the impartiality.

## **Autonomy**

### **Article 10**

The notary shall be autonomous in the performance of his/her activity, subject to limitations arising from his/her membership in the Chamber and the forms of supervision provided for by law.

Within the limits of laws and implementing acts, the notary shall decide autonomously: on the organisation of the work of his/her office; on employment of associates, trainees and administrative

staff; on the manner of work, training and responsibilities of the persons he/she employs; on the disposal of funds generated by his/her work; on participation in public debates on the work of the judiciary, legal problems and other issues of general importance; on launching initiatives for the adoption of and amendments to the laws and other regulations as well as for review of the constitutionality and legality of legislation; on performing activities that are not incompatible with the notary activity.

The notary may join expert and professional associations in Montenegro and abroad, subject to prior opinion of the Chamber.

A notary may not entrust the performance of notarial duties or specific notarial actions falling within his/her competence to persons who are not authorised to do so.

## **Incompatibility**

### **Article 11**

A notary shall perform the notarial service as an exclusive and permanent occupation until his/her service ends, in accordance with the law.

A notary must not accept jobs and titles that would jeopardise his/her independence and autonomy.

A notary may not engage in activities that diminish the importance and damage the reputation of the notariat and shall be obliged in accordance with the law to take due account of the incompatibility of the notarial activity with other activities.

A notary may not mediate in the conclusion of legal transactions, take over a guarantee or give another security to a client in connection with an official action, negotiate as a fee the object or a part of the object to which his/her official actions relate, and he/she must take care that the persons working for him/her shall not take such actions either.

A notary may not be a member of a body of a political party or be politically active.

A notary may be a member of a state authority to which he/she is elected under the law from among the notaries, as well as of state bodies and non-governmental bodies, a member of boards, councils of organisations, provided that he/she is not working on a permanent basis and that such work is not contrary to the principles of notarial service.

## **Dignity**

### **Article 12**

The notary shall act in accordance with the respect and trust shown to the notarial service during and outside the performance of the notarial activity.

Honour and honesty are the characteristics of a notary's professional work.

In the performance of his/her service, conduct, public appearance and private life open to public scrutiny, the notary shall maintain his/her own reputation and the reputation of the notariat as a service of public trust. The notary must take care that the members of his/her family are also making effort not to diminish the reputation of the notary and of the notarial service as a public service by their behaviour and actions.



By his/her way of work and life, the notary should contribute to the importance and social role and necessity of the notary in the legal and judicial system of Montenegro.

When undertaking official actions and in his/her social, public and private life in general, the notary shall take due account of the professional and general culture, shall strive to preserve the honour and reputation of the notary and the reputation of the notariat as a public service by his/her every action.

### **Principle of confidentiality and the duty to keep notarial secret**

#### **Article 13**

The professional activity of a notary by its nature results in the creation of a relationship of trust with clients.

The notary and all persons employed in the notary office shall have the duty to keep notarial secret, in accordance with the law.

The notary shall keep as a notarial secret any information and knowledge obtained in the course of performance of notarial activity, regardless of whether that information and knowledge was obtained from the clients or otherwise. The notary may not express curiosity about facts that do not concern him/her and may not comment on someone's behaviour inappropriately.

The obligation to keep notarial secret shall survive the termination of performance of notarial activity.

The notary shall be released from the duty to keep the notarial secret in cases prescribed by law. The notary shall be authorised to forward to the competent authorities the most essential information on a particular notarial activity without the consent of the client, if necessary to eliminate the danger of criminal, civil, administrative or disciplinary liability to himself/herself and persons employed in his/her office.

The notary shall ensure that the secret is kept through organisation of work in his/her office, and in particular with regard to his/her correspondence in the media and with regard to the organisation of the notarial archive. He/she shall create conditions for protecting the privacy of the clients during the performance of official actions, and in particular in respect of family and inheritance law matters.

### **Accountability**

#### **Article 14**

Each notary shall be individually accountable for his/her decisions and actions and shall perform notarial duties with special care and responsibility.

In the performance of his/her activity, the notary shall be accountable for the advice he/she has given or failed to give, and for the actions he/she has taken or failed to take.

The notary should at all times be aware of his/her accountability and act accordingly. In the performance of his/her official actions, the notary shall act appropriately and constructively and constantly take care and make clear that he/she is accountable for the work and maintenance of order in the notary office.

The notary shall fully identify the requirements of the clients, choose the legal form that best suits the intentions of the clients and ensure the legality and regularity of that form, provide the clients with all necessary instructions, explanations and warnings to be aware of the legal consequences of intended legal actions.

### **Respect for basic human rights and freedoms**

#### **Article 15**

Any form of discrimination shall be prohibited in the work of notaries, and in particular on the grounds of: race, colour of skin, national affiliation, social or ethnic origin, affiliation to a minority nation or minority national community, language, religion or belief, political or other opinion, gender, gender identity, sexual orientation, health condition, disability, age, material status, membership of a group or assumed membership of a group, political party or another organisation, as well as on other personal characteristics.

By his/her conduct, the notary must serve as an example of humanity, respect for human rights and human dignity, environmental protection, justice, freedom, truth, honesty and reliability.

A notary may not participate in any way whatsoever in corrupt practices, put himself/herself in a position of subordination and dependence, conclude or apply prohibited agreements or take other actions that endanger persons and economic development.

A notary may not take actions that, although not prohibited, lead to some form of abuse of rights.

## **SPECIAL PART**

### **METHODS OF ACQUIRING CLIENTS**

#### **Fair competition**

#### **Article 16**

Notaries are equal to each other and compete with each other with the quality of their personal professional work, while respecting the principle of free choice of a notary.

A notary should be recommended by the expertise, ability, success, reputation and trust he/she has gained through his/her work and behaviour.

The clients shall choose the notary by agreement, and in case of disagreement the client bearing the costs of the procedure shall have priority in choosing the notary.

#### **Prohibition of unfair competition**

#### **Article 17**

A notary may not offer his/her services or acquire clients in a dishonest or inadmissible manner, through means that are contrary to the prohibition of unfair competition. Unfair competition shall, in

particular, mean the acquisition of clients through offers, intermediaries, advertisements, direct or indirect pressure, references to good connections and the like.

A notary may not put emphasis on his/her previous profession in order to get clients, nor in any way lead the client to believe that he/she is performing his/her notarial activity more successfully or efficiently because of that.

An act of unfair competition shall mean any non-reporting of information relevant to the work and operations of a notary, relating to the status and working conditions of a notary and to his/her office, and which, if they existed, would be a reason for termination of work of a notary or office.

Any unfair competition shall be contrary to the honour and reputation of notariat, which includes in particular:

- offering the performance of official actions in the country or abroad in the media or via a website other than the website of the Chamber, or through circular letters or leaflets;
- setting up a notary's own website, regardless of the content;
- using an e-mail address that suggests incorrectly that the notary concerned is the only notary in a certain court or city area (for example: "notar-budva@t-com.me" or "ivan.ivanovic@notar-budva.me");
- promising or giving a commission or reward to others for acquiring clients;
- offering to charge a fee for official actions lower than prescribed;
- disparaging other notaries or expressing in front of the clients in any form criticism relating to the work or behaviour of colleagues, except for remarks necessary for the lawful undertaking of official actions;
- failure to notify another notary of the intention to employ his/her associate, trainee or other employee;
- frequent and/or regular performance of official actions outside the notary office, except in cases prescribed by law;
- press releases of an advertising nature, especially those including the publication of photos of the notary;
- any kind of direct or indirect pressure.

## **Advertising ban**

### **Article 18**

A notary must not publicly praise his/her knowledge and abilities or advertise himself/herself.

A notary shall be deemed to be in breach of the advertising ban, in particular when:

- he/she posts, shares or publishes in public media, in electronic presentations and in other publications the announcements in which he/she offers his/her services, or when he/she allows such offers to be included in advertisements and advertising material of other legal or natural persons;
- he/she organises or uses the services of intermediaries, agents or third parties advertising him/her, and in particular when arranging for the referral of clients for that purpose;
- he/she gives his/her business cards to another to be further distributed to potential clients;
- he/she marks the office, its printed material and other features (signboard, seal, headed notepaper) in an overly conspicuous, unusual and thoughtless manner;
- he/she gives legal advice in the media, at public gatherings, or outside the office in front of unknown persons;

- he/she requests to be included in directories, address books, catalogues, guides and similar manuals as a notary, or a notary who stands out prominently;
- he/she presents his/her abilities and successes to the public in a sensationalist or boastful manner;
- he/she stands out publicly, appears in the press, etc. with an emphasis on the status of a notary, i.e. in a way that could be understood as advertising;
- he/she sponsors events, activities or individuals with the aim, effect or possible effect of direct or indirect self-promotion.

### **Permitted ways of presentation**

#### **Article 19**

It shall be permitted to give only notices for information purposes, which are encouraged and regulated in more detail by the Chamber, while respecting the principle of equality among notaries, as well as the collective promotion of notariat, which is carried out by the Chamber.

It shall not be considered advertising to present basic information about the notary if this information is presented via the website of the Chamber, in a measured manner, truthfully and without self-praise.

It shall not be considered advertising to provide basic information about the name, place and area of the court for which the notary has been appointed, telephone number and email address, education, professional qualifications, or the status of a court interpreter/translator for a foreign language, if this information is presented in a measured manner, truthfully and without self-praise with published professional papers or publications.

The business card of a notary shall contain the name, place and area of the court for which he/she has been appointed, the telephone number and e-mail address of the notary, and the appearance of the business cards shall be recommended by the Chamber.

The notarial document must not bear a heading, logo or other mark intended for advertising. It shall not be considered advertising to state on the documents of the notary office a scientific title and other recognised titles or properties. The notary is allowed to hand over the documents to the clients in folders of inconspicuous and appropriate appearance, whose appearance shall be recommended by the Chamber.

### **Public appearances**

#### **Article 20**

During public appearances, including within scientific, pedagogical and journalistic activities, in professional papers, at professional meetings of lawyers and in the media, the notary shall take due account of the ban on advertising and the importance and reputation of notariat.

Except as provided by law, a notary shall be prohibited from expressing his/her views or emphasising his/her professional abilities, or from any indirect self-promotion that has the same ultimate objective.

A notary who is written or spoken about in the media in a way that is damaging to the personal reputation of that notary and/or notariat shall immediately request the Chamber to publicly distance itself from such reporting in an appropriate manner without delay and shall request that inaccurate

and incomplete information be corrected. If the Chamber fails to do so within a reasonable time, the notary may himself/herself, in an appropriate manner, publicly distance himself/herself from such reporting. In accordance with a special piece of legislation, the notary is authorised to request that inaccurate and incomplete information be corrected, if it refers to him/her as an individual.

A notary may not run question and answer sessions in the media under his/her name or give legal advice to an undefined group of persons through the media. A notary is allowed to appear in the media only with the approval or on the order of the President of the Chamber and in the case referred to in paragraph 3 of this Article.

## **Advertising changes**

### **Article 21**

Circular written notice sent to associates, other notaries, judicial and administrative authorities and professional associations of lawyers, by which the notary informs the public about the opening of the office, change of seat, association and termination of association of notaries in a joint office, shall not be considered unfair competition.

It is allowed that a notary who has changed the seat of the office or left the joint office leave a signboard with a note on the new address at the place where the office was located within a period of six months from the occurrence of the change.

## **Promotion of notariat**

### **Article 22**

In the interest of notariat and of each notary individually, the Chamber shall take measures and activities aimed at informing the public in a timely manner and fully about the principles and benefits of notariat and about any change in the performance of notarial activity that is of interest to citizens and the economy.

The Notary Chamber shall also be responsible for informing the public about the activities of the profession of notary, the bodies of the Chamber and all notaries together.

## **OPERATIONS IN THE NOTARY OFFICE**

### **Office work**

### **Article 23**

The notary shall provide the appropriate conditions for efficient work, in accordance with the legislation regulating the requirements to be met by the notary office in respect of premises and equipment, as well as equipping the office with appropriate technological equipment enabling the performance of tasks in accordance with the standards for organising notarial activity at both the Montenegrin and international level.

The notary shall organise the work so as to meet the standards prescribed by law and implementing acts, while the notary office and the manner of work in that office must reflect the reputation of the notarial service and his/her title.

The notary shall perform official actions in clothes that are appropriate to the dignity of the notarial service.

The notary shall keep the cases and the archive in an orderly and up-to-date manner, maintain accurate records of deadlines and hearings, to be able to find information on the state of the case at all times by inspecting the files.

The notary shall have a signboard displayed on the building where the notary office is located, the signboard must be appropriate and must not imply advertising by its appearance and the way the text is written. In order to make the notary office more visible, the notary is authorised to place a maximum of two information boards next to the signboard: Notary, signpost and any address.

A notary is not allowed to perform his/her activity and receive clients outside the notary office, except in cases prescribed by law.

When performing notarial actions, the notary may not use seat markings, telephone numbers and contact details other than those reported to the Chamber.

### **Financial operations of the office**

#### **Article 24**

The notary shall keep financial books, records and financial accounting in an orderly manner on a daily basis, in the way that books and other documentation can be inspected at any time. The notary shall bring the operations of his/her office in line with the legislation regulating material and financial operations.

The notary shall duly settle all liabilities towards third parties, and in particular membership fees and other contributions to the Chamber, salaries, payroll taxes, professional liability insurance premiums etc.

The notary may not mix the funds generated by the operations of his/her office or personal funds with the funds of the clients received as the deposit.

The notary must manage someone else's money and deposited items in a conscientious and responsible manner, in order to always be able to pay other people's money under the conditions prescribed by law.

### **RELATIONSHIP OF NOTARIES WITH THE STATE, COURTS, ADMINISTRATIVE AND OTHER AUTHORITIES AND INSTITUTIONS**

#### **Delegation of public authority and public service**

#### **Article 25**

Notaries owe loyalty to the State which has delegated public authority to them. They are obliged to perform their service actually and continuously and to exercise the entrusted powers responsibly and

with dignity. As public servants holding public authority, notaries must perform their activity whenever necessary, using all necessary material and human resources.

Notaries are required to fulfil their public function with integrity, readily and diligently, and to refrain from any conduct that is contrary to the dignity of the notariat.

The same duties apply to notary office staff.

Notaries may cease to perform their service only in cases provided by law, after ensuring the continuity of the notarial activity in the area concerned.

## **RELATIONSHIP OF NOTARIES WITH THE NOTARY CHAMBER**

### **Article 26**

The notary shall maintain and improve the reputation, autonomy and integrity of the Chamber and of international associations of notary chambers.

In relation to the Chamber, the notary shall:

- enforce the final decisions of its bodies in a timely manner;
- fulfil his/her material and other obligations in a timely manner and completely;
- respond to a written communication or respond to an invitation from its competent bodies within the set deadline;
- present truthful information in an official address;
- submit the requested documents and provide the requested explanations, unless this would breach the obligation of secrecy;
- not refuse, without valid reason, election and appointment to its bodies and working bodies;
- not refuse, without valid reason, to perform the duties entrusted by the Chamber;
- actively participate in all activities of the Chamber, and in particular attend the meetings of the bodies of which he/she is a member, and seminars and training organised by the Chamber;
- perform his/her duties in the bodies and working bodies to which he/she has been elected or appointed professionally, conscientiously and in a timely manner, and participate in their work.

As a representative of the Chamber, the notary shall perform his/her tasks with good will and objectivity, and encourage the idea of unity among notaries.

The notary shall inform the Chamber of all facts that could jeopardise the interests of the profession or circumstances that could jeopardise the integrity and organisation of the Chamber.

### **Relationship of the representatives of the Chamber with the notary**

#### **Article 27**

A notary elected to the bodies and working bodies of the Chamber shall protect the legal rights and interests of notaries and treat his/her colleagues in a measured and polite manner in an official address.

A member of the disciplinary committee and a disciplinary prosecutor of the Chamber who learned a professional secret from an accused colleague in disciplinary proceedings shall keep this secret

outside the framework of the disciplinary proceedings, as if he/she had been entrusted with that secret.

## **RELATIONS BETWEEN NOTARIES**

### **Collegiality**

#### **Article 28**

In order to maintain good collegial relationships, as an expression of mutual respect and protection of the reputation of notaries, a notary shall treat colleagues politely, with respect and appreciation, without gossip, insults or other personal attacks. Without prior communication with a colleague, a notary may not take over his/her trainees, associates and other office staff.

A notary must not harm the reputation of notariat or the reputation of his/her colleagues by speaking negatively about their abilities, knowledge or performance of the activity.

The notary shall participate in the promotion of notariat, by exchanging knowledge and experiences with his/her colleagues and persons in training and, if necessary, with students as well, and by participating in professional training programmes, seminars and activities aimed at promoting the profession, which are organised by the Chamber.

### **Principle of professional cooperation**

#### **Article 29**

The notary shall cooperate collegially with other notaries, assist them with expert advice, opinion or in another manner as laid down by law.

In order to establish and maintain good professional cooperation, the notary shall:

- exchange expert knowledge and opinions with colleagues;
- provide to a colleague the professional assistance sought, unless this considerably exceeds the extent of usual exchange of knowledge and opinions;
- accept substituting for a colleague requesting him/her to do so, or, if he/she is indisposed for justified reasons, inform the colleague or the President of the Chamber thereof in a timely manner;
- regulate, by agreement, mutual relations with a substitute notary, and shall try to resolve any dispute that may arise amicably, with the mediation of the Chamber.

## **NOTARY'S RELATIONSHIP WITH NOTARY ASSOCIATES, TRAINEES AND ADMINISTRATIVE STAFF**

#### **Article 30**

The notary shall provide employees with appropriate working conditions, including adequate salary and other employment rights, in accordance with the general labour legislation.



To the employees in his/her office, the notary shall:

- enable full training and encouragement to comprehensively and thoroughly acquire the necessary practice and knowledge;
- point out the manner of work in the notary office, the obligation to keep professional secret, the relationship with clients, colleagues, other judicial professions, the court and other bodies;
- give work instructions;
- carefully assign tasks to the employees in accordance with the law and the Rules of Procedure, supervise their work, take care of their status, and especially in the performance of tasks and in relations with clients;
- monitor and analyse the work and point out the strengths and weaknesses of the work;
- set a positive example by his/her behaviour and work;
- ensure that they are acquainted with the content of the Code and all decisions of the bodies of the Chamber that are delivered to them regarding the application of the Code;
- point out the obligation to dress decently and appropriately during the work in the office, as well as the necessary cultured and patient treatment of clients and appropriate behaviour in private life open to public scrutiny.

The notary shall train the hired notary trainee for the taking of notary exam and for independent performance of notarial duties, in accordance with the purpose of the trainee training.

The notary shall be obliged especially to devote enough time, attention and educational influence to the trainee in order to pass on to him/her his/her professional knowledge and experience and provide information on how to use legislation and legal literature.

## **NOTARY'S RELATIONSHIP WITH CLIENTS**

### **Article 31**

The client shall choose a notary and there is freedom of choice of notary, except in cases prescribed by law.

A notary is not a representative of a client, but a person authorised to perform tasks laid down by law.

The notary shall treat all clients politely and responsibly, approach all cases equally conscientiously and professionally, and take actions without undue delay.

The notary shall undertake his/her actions professionally and conscientiously, without delay and interruption. In so doing, he/she shall not endanger the legal interests of the clients because of excessive workload.

The notary must not refuse to take the actions he/she is authorised to take, except in cases prescribed by law.

In the performance of his/her activity, a notary must not act for the benefit or to the detriment of individual clients, but shall take care that the legislation is applied correctly.

When drafting notarial deeds, a notary shall inform the clients about the legal consequences of the undertaken action. The notary shall determine the true intentions of the clients, clarify the true facts,

inform the clients about the legal consequences of the legal transaction they undertake in the form of a notarial deed.

If there is a possibility of drafting a notarial document with the effect of an enforceable document, the notary shall advise of this possibility separately.

The notary may not charge a fee and reimbursement of expenses for official actions that are higher or lower than the prescribed amounts, nor cause unnecessary costs to the client. The notary shall insert a record on the amount of the fee in each notarial written document. The notary shall charge the fee and reimbursement of his/her expenses to the party that chose/selected him/her, in case there are more than one contracting party. The notary shall try to resolve any dispute over the fee and reimbursement of expenses with the client amicably.

## **DISPUTE RESOLUTION**

### **Article 32**

The interests of collegial solidarity, professional cooperation and preservation of the reputation of the notariat require the notary:

- to try to repair disturbed relationships with a colleague;
- not to allow such disturbed relationships to be evident in the performance of the activity;
- not to allow that the taking of actions he/she is authorised to take is in any way limited or denied because of such disturbed relationships;
- to try to resolve his/her disturbed relationships with a colleague, amicably, before resorting to the court or another competent authority.

Any disputes between notaries shall be resolved in a dignified and cultured manner as befits persons and service that enjoy public trust, first of all amicably and within the framework of competence of the Chamber. The President of the Chamber shall use his/her authority to try to resolve the dispute.

A notary shall try to resolve any disputes that may arise between the notary and his/her employees, amicably, in a dignified manner, in person or with the mediation of the Chamber. In case of a dispute with a person employed by another notary, the notary shall first address the fellow notary with a view to resolving the dispute amicably.

## **VIOLATIONS OF THE CODE**

### **Article 33**

The notaries shall be obliged to comply with the provisions of the Code of Notary Ethics.

Everyone has the right to request an opinion on whether the Code has been violated by the conduct, action or omission of a notary.

The request against the notary shall be submitted within 30 days from the date of becoming aware of the conduct, action or omission referred to in paragraph 2, and no later than within 6 (six) months from the date of violation of this Code.

The procedure on the request can be conducted regardless of the expiry of the above-mentioned time limits if the notary agrees to initiate the procedure.

The request shall be submitted to the Chairperson of the Ethics Committee by filing it to the Notary Chamber of Montenegro.

The request shall contain the name and surname of the notary against whom the request is filed, a description of the conduct, action or omission of the notary which constitutes a violation of the Code, the time and place when such conduct was manifested.

The Chairperson of the Ethics Committee shall present the submitted request to the members of the Committee.

The Ethics Committee shall invite the notary to whom the request relates to give a written statement within 15 days from the date of invitation to give such statement. In the invitation to give the statement, the notary shall be advised that he/she can request to give an oral or written statement before the Committee, as well as of the possibility to request to confront the claimant before the Committee. If the statement is not submitted within the set time limit, the Committee shall issue an Opinion, according to the information available to it at the time of issuing of the opinion. If the claimant unjustifiably fails to appear at the requested confrontation, the request shall be considered withdrawn, of which the claimant shall be explicitly warned in the invitation for confrontation.

The Ethics Committee shall determine in its Opinion whether or not there is a violation of the Code in a particular case.

The Committee shall issue an Opinion no later than 30 days from the date of receiving the request. The dissatisfied party may file a complaint against the Committee's Opinion to the Management Board within 8 days from the date of receiving the written copy of the Opinion.

The Management Board shall decide on the complaint by a simple majority vote. The Management Board shall decide within 15 days from the date of receiving the complaint. If conducting proceedings against a notary has become barred by the statute of limitations, the Management Board shall issue a decision that the proceedings against a notary have become barred by the statute of limitations and shall discontinue the proceedings.

If during the proceedings for determining the violation of the Code, the Ethics Committee determined that there are elements of disciplinary breach, the Committee shall submit the petition to the disciplinary prosecutor to initiate disciplinary proceedings because of possible breach of official duty for actions laid down as disciplinary offences by the Statute of the Notary Chamber and the Law on Notaries.

## **GIVING ADVICE**

### **Article 34**

A notary may address the Ethics Committee to advise him/her on whether a particular conduct, action or omission constitutes a violation of the Code. The Notary Chamber shall ensure the anonymity when sending questions for advice to the Committee and when providing answers.

The Notary Chamber shall make available to all notaries the interpretations, opinions and views of the Ethics Committee with the aim of better understanding the rules of professional ethical conduct provided in the Code.

## **CESSATION OF VALIDITY OF THE PREVIOUS CODE AND ENTRY INTO FORCE**

### **Article 35**

The Code of Notary Ethics of 30 March 2012 shall cease to be valid (Official Gazette of Montenegro 18/2012) with the entry into force of this Code.

This Code shall enter into force on the eighth day following that of its publication in the *Official Gazette of Montenegro*.

**Notary Chamber of Montenegro**  
**President**  
**Branislav Vukićević**

## Notary Chamber of Montenegro

Ulcinjaska 7c, 81000 Podgorica

Phone/fax +382 20 26 46 50

+382 20 26 46 44

E-mail: [notaricg@notarskakomora.me](mailto:notaricg@notarskakomora.me)

Website: [notarskakomora.me](http://notarskakomora.me)

*This publication was produced with the financial support of the European Union and the Council of Europe.  
The views expressed herein can in no way be taken to reflect the official opinion of either party.*

The Council of Europe is the continent's leading human rights organisation. It comprises 47 member states, including all members of the European Union. All Council of Europe member states have signed up to the European Convention on Human Rights, a treaty designed to protect human rights, democracy and the rule of law. The European Court of Human Rights oversees the implementation of the Convention in the member states.

[www.coe.int](http://www.coe.int)

The Member States of the European Union have decided to link together their know-how, resources and destinies. Together, they have built a zone of stability, democracy and sustainable development whilst maintaining cultural diversity, tolerance and individual freedoms. The European Union is committed to sharing its achievements and its values with countries and peoples beyond its borders.

[www.europa.eu](http://www.europa.eu)

Funded  
by the European Union  
and the Council of Europe



COUNCIL OF EUROPE



Implemented  
by the Council of Europe