

Draft CODE of CONDUCT for COUNSEL before the ICC

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Preamble

The Assembly of States Parties,

Pursuant to rule 8 of the Rules of Procedure and Evidence;

Considering the draft Code of Professional Conduct drawn up by the Presidency, after having consulted the Prosecutor, in accordance with the aforementioned rule;

Noting that the draft is based upon a proposal made by the Registrar after having conducted consultations in accordance with rule 20, sub-rule 3;

Has adopted the following Code of Conduct for Counsel as a common standard of achievement for all counsel practicing at the International Criminal Court.

Chapter 1

General Provisions

Section 1

General terms

1. Subjects of this Code

This Code shall apply to the professional activities of all counsel, as defined in regulation 2 of the Regulations of the Court.

2. Use of Terms

1. All terms used in this Code will be interpreted in the sense and within the scope of the Rome Statute, the Rules of Procedure and Evidence and the Regulations of the Court, and according to the definitions and use of terms provided therein.

2. In the present document:

- “Code” refers to the present Code of Conduct;
- “paragraph” refers to a paragraph of this Code;
- “associate” refers to persons being shareholders of the same law firm as counsel;
- “Disciplinary Board” refers to the organ of the same name created in paragraph 40 of the Code;
- “Disciplinary Appeals Board” refers to the organ of the same name created in paragraph 48 of the Code;

- “national authority” refers to a bar association to which counsel is a member or an administrative organ competent to regulate and control the activity of lawyers, judges, prosecutors or professors of law;

3. The singular includes the plural and vice versa.

3. Entry into force

The present Code shall enter into force upon its adoption.

4. Amendment

1. Any proposal for amendments to this Code shall be submitted to the Registrar, together with any explanatory material, in both working languages of the Court.
2. The Registrar shall transmit the proposals to the Presidency, together with a reasoned report prepared after consultation, if necessary, according to rule 20, sub-rule 3.
3. The Presidency shall draw up a draft amendment that shall be transmitted to the Assembly of States Parties for the purpose of adoption, according to article 112, paragraph 7.

5. Conflict between Codes

Where there is any inconsistency between this Code and any other code of ethics or professional responsibility which counsel are bound to honour, the terms of this Code shall prevail in respect of their conduct before the Court.

Section 2

Basic principles

6. Compliance with Statute, Rules, Regulations

1. Before taking office, counsel shall give the following solemn undertaking: “I solemnly declare that I will perform my duties and exercise my mission before the Court with loyalty, diligence and dedication, honourably, independently and consciously, and that I will scrupulously respect professional secrecy”.
2. Counsel must at all times comply with the Statute, the Rules, the Regulations of the Court, the Regulations of the Registry and such rulings as to conduct and procedure as may be applied by the Court in its proceedings, including the enforcement of the Code. Counsel must at all times have due regard to the fair and expeditious conduct of proceedings.

7. Independence of the counsel

1. Counsel shall act without fear or favour within the bounds of the law.
2. Counsel must not
 - a) permit his or her absolute independence, integrity and freedom to be compromised by external pressure;
 - b) do anything as may lead to any reasonable inference that may compromise his or her independence;
 - c) compromise his or her professional standards in order to please the client, the Court or a third party.

8. Loyalty and integrity

1. Counsel shall be loyal and respectful in his or her relations with the Chamber, the Office of the Prosecutor and its members, the Registrar and the members of the Registry, the client, opposing counsel, accused persons, victims, witnesses, and any other person related to the proceedings.
2. While maintaining due respect and courtesy towards the Court, counsel shall defend the client’s interests honourably and fearlessly without regard to counsel’s own interests or to any consequences to counsel or other persons.
3. Counsel must not seek to influence a judge or other official of the Court in an improper manner.

9. Confidentiality

1. Counsel shall protect the confidentiality of information which is:
 - a) in regard to the client, of privileged nature in the sense of rule 73, sub-rule 1;
 - b) in regard to the Court, of confidential nature, when so declared by the Statute or the Rules, or by a Chamber or another party to the proceedings.

2. Counsel must not reveal this information to any other person beside associates, assistants and staff and anyone engaged by counsel in the course of providing professional services to a client.
3. Counsel may only disclose privileged or confidential information:
- a) to prevent an act which counsel reasonably believes that
 - is or may be criminal within the territory in which it may occur or under the Statute, the Rules or the Regulations; or
 - may result in death or substantial bodily harm to any person unless the information is disclosed, or
 - b) when required by the law of the Statute and the Rules, or
 - c) after consent of the Chamber.
4. Notwithstanding the provisions of rule 73, sub-rule 1, counsel may reveal privileged information to third persons only when required to establish in connection with the representation of the client
- a) a defence to a criminal or disciplinary charge or civil action formally instituted against counsel or counsel's professional associates and staff; or
 - b) a claim in a civil action instituted by counsel; in these circumstances disclosure may be made only to those directly involved in the disciplinary, criminal or civil proceedings.

This obligation remains in force after the end of the mandate, and only the client can establish its termination.

5. Counsel shall ensure that their present and former assistants and staff adhere to this duty of confidentiality at all times.

10. Non-discriminatory conduct

Counsel shall not engage directly or indirectly in discriminatory conduct in relation to any other person, including the client, because of any ground such as race, colour, ethnic or national origin, nationality, citizenship, political conviction, religious beliefs, gender, sexual orientation, disability, marital or other personal or economic status.

Chapter 2

The agreement

Section 1 ***Establishment of the agreement***

11. Establishment of the representation agreement

1. The agreement is established when a client has commended counsel to act on his or her behalf and counsel has accepted or when the Chamber, after consultation with the Registrar, has appointed a counsel.

2. Counsel must inform the Registrar of the agreement as soon as it is established. The Registrar shall record the power of attorney after verification of the qualifications of counsel.

3. Counsel accepting an agreement shall prove he or she is covered by professional liability insurance.

12. Publicity

1. Counsel must not advertise or seek personal publicity on locations where not permitted.

2. When allowed, the content of the advertising or personal publicity shall provide information that is:

- a) truthful;
- b) respectful of counsel's obligations regarding confidentiality and privilege;
- c) thoughtful, considerate and dignified.

3. Counsel shall not, directly or indirectly, approach potential clients with whom he or she has not had a previous professional relation.

13. Client with special needs or diminished capacities

1. In his or her relations with the client, counsel shall take into account the client's personal circumstances and needs, specially in the case of victims of sexual violence, children, elderly, frail persons or persons under a disability.

2. When a client's ability to make adequately considered decisions in connection with the representation is impaired because of mental disability or some other reason, counsel must:

- a) inform the Registrar and the Chamber;
- b) take such steps as are necessary to assist in providing for the adequate legal representation of the client according to the Statute and the Rules; and

14. Conflict of interests relating to the establishment of the agreement

1. Counsel shall not represent a client in connection with any matter in which he or she was involved or has been privy to information as an official or staff member of the Court, unless the Registrar consents, if necessary after consultation with the other participants in the proceedings.

2. Counsel must not represent a client with respect to a matter if:

- a) there is a conflict, or significant risk of conflict, between the interests of such client or any other client or clients of counsel or his or her associates;
- b) the matter is the same or substantially related to another matter in which counsel or his or her associates had formerly represented another client, and the interests of the client are materially adverse to the interests of the former client, unless the client and the former client consent after consultation.

3. A conflict of interest as set forth in sub-paragraphs 1 and 2 may be avoided if counsel and his or her associates establish an efficient procedure to isolate the counsel carrying the confidential information that is the source of the conflict. This procedure must prevent any communications, written or verbal, between counsel and his or her assistants and staff and the person with whom the conflict of interest exists.

4. Counsel shall not act in proceedings in which there is a substantial probability that counsel or an associate of counsel will be a necessary witness except where:

- a) the testimony relates to an uncontested issue;
- b) the testimony relates to the nature and value of legal services rendered during the case; or
- c) substantial hardship would be caused to the client if that counsel does not so act.

15. Non-acceptance of an agreement

1. Counsel has the right to refuse an agreement without stating reasons.

2. Counsel has a duty to refuse an agreement,

- a) because of a conflict of interest under paragraph 14;
- b) when counsel is incapable of dealing with the matter promptly and diligently;

3. Counsel refusing an agreement shall be bound by paragraph 9.

Section 2

Remuneration of Counsel

16. General principles concerning remuneration

1. Counsel and his or her assistants and staff shall receive a fair remuneration for their work.
2. An estimate of fees to be charged by counsel shall be fully disclosed in advance to a client.
3. The basis or rate of the fee shall be communicated to the client in writing before or, if necessary, within a reasonable time after commencing the representation including the basis for calculating the costs, the billing arrangements and the right of the client to receive a bill of costs.

17. Financial agreements

1. Counsel must not accept remuneration for representing a client from a source other than that client, unless:
 - a) that client consents in writing after consultation; and
 - b) there is no interference thereby with the counsel's independence of professional judgment nor with the client-counsel relationship.
2. Counsel shall not acquire any financial interest in the outcome of a case in which he or she is involved as such.
3. Counsel shall never mingle funds of a client with his or her own, or with the funds of counsel's employer or associates. Counsel shall not retain money received for a client.

18. Remuneration of counsel in the framework of legal assistance paid by the Court

1. The payment of counsel in the framework of legal assistance paid by the Court is regulated in accordance with the Regulations of the Court and the Regulations of the Registry, as well as in this regulation.
2. In this framework, counsel must not accept or solicit a fee, or require payment or a disbursement, from the client or any other person or group of persons than the Registrar, except in the case of partial indigency or if otherwise foreseen in the law enforced by the Court. They shall not borrow monies or assets from a client.

19. Fee-splitting

1. Counsel shall neither permanently transfer nor lend or temporarily transfer all or part of their fees earned in connection with the representation of a client or any other

monies or assets to such client, his or her relatives, acquaintances, or any other third person or organisation from which the client benefits or in which he or she has a personal interest.

2. Counsel shall inform the Registrar
 - a) of any such arrangement by his or her assistants or staff;
 - b) of any such arrangement by any other counsel or his or her assistants and staff; or
 - c) of any request of such arrangements by a client after having advised the client on the prohibition of such practice.

Section 3

The scope and content of the agreement

20. Content of the agreement

1. The relationship of client and counsel is one of candid exchange and trust, binding counsel to utmost good faith in dealing with the client. In the discharge of that duty to the client, counsel must always act with fairness, honour, candour, and fidelity to the client.
2. When representing a client, counsel must:
 - a) consult with the client concerning the objectives of representation and the means by which those objectives are to be pursued; and
 - b) abide by a client's decision concerning such objectives, if not inconsistent with counsel's duties under the law of the Statute and Rules and the Code.
3. Counsel must not advise or assist a client to engage in conduct that counsel knows is in breach of the law of the Statute and the Rules or which will facilitate the commission of an offence or deception.
4. Counsel has a duty to supervise the actions of his or her assistants and staff, including investigators, law clerks, researchers and paralegals to ensure that the standards set by this Code are met.

21. Communication

1. Counsel must keep a client informed about the status of a matter of the proceedings and must promptly comply with all reasonable requests for information.
2. Counsel shall explain all matters to the client to the extent reasonably necessary to permit the latter to make informed decisions regarding the representation.
3. Upon withdrawal or termination, counsel shall take reasonable steps to convey to the former client or replacement counsel any material communication that counsel received relating to the representation.
4. When communicating with the client, counsel shall seek to ensure the confidentiality of such communication.

5. Counsel shall undertake personal responsibility for the discharge of instructions given to him or her or to his or her assistants and staff by a client.

22. Conflict of interests

1. Counsel shall exercise all care to ensure that no conflict of interests arises. Counsel shall put the client's interests before counsel's own interests or those of any other person, organisation or State having due regard to the law of the Statute and the Rules and the Code.

2. Counsel's professional judgement on behalf of the client will be, or may reasonably be expected to be, adversely affected by:

- a) the counsel's responsibilities to, or interests in, a third party; or
- b) the counsel's own financial, business, property or personal interests.

3. Where a conflict of interests does arise, counsel shall:

- a) promptly and fully inform each potentially affected client of the existence of the conflict; and
- b) either:
 - i) withdraw with prior consent of a Chamber; or
 - ii) obtain the full and informed consent in writing of all potentially affected clients to continue representation, but only if such consent, in the best judgement of counsel, is unlikely to prejudice in any way the administration of justice.

23. Termination of the agreement

1. Counsel may only withdraw from agreement with prior consent of a Chamber

- a) if the client engages in activities described in paragraph 20 (3);
- b) if there is a reason such as:
 - i) the client insisting upon pursuing an objective that the counsel considers repugnant or imprudent;
 - ii) the client failing substantially to fulfil an obligation to counsel regarding counsel's services and has been given reasonable warning that counsel will withdraw unless the obligation is fulfilled; or
 - iii) representation resulting in an unreasonable financial burden on counsel or has been rendered unreasonably difficult by the client.

2. Any withdrawal of counsel shall be done in such a manner as to have a minimum adverse effect for the client.

3. In case a client discharges counsel, the agreement shall not be terminated before the consent of a Chamber is obtained.

4. A counsel shall be withdrawn by a Chamber on his or her request or on proposal of the Registrar, the Chamber, the client or third parties, in case his or her physical or mental condition materially impairs his or her ability to represent the client.

24. Consequences of the agreement

1. Counsel must advise and represent a client until
 - a) the matter before the Court has been finally determined, including all appeals;
 - b) a Chamber consented to a withdrawal or termination of the agreement as foreseen in paragraph 23; or
 - c) the assignment is withdrawn.

2. The duties of counsel towards the client continue until the representation has ended.

3. Counsel shall keep files containing documents and record of work accomplished in fulfilment of mandate for seven years following the termination of the mandate unless earlier turned over to subsequent counsel or client and shall allow a client or former client to inspect it, unless substantial grounds exist to refuse. After this time counsel shall seek instruction from the Registrar on the disposition of the files, with due regard to confidentiality.

Chapter 3

Proceedings

Section 1

Relation with the Court

25. Registrar

1. All written communication with the Court or other parties is channelled through the Registrar.
2. Counsel shall request all available materials and information related to the matter and the client from the Registrar.

Comment:

This does not include the disclosure of evidence.

26. Contact with Chambers

Counsel must not, unless permitted by the law of the Statute or the Rules, the Code, or by a Chamber seized of the matter, or within the proper context of the proceedings or before a representative of the Registrar, make contact with a Chamber concerning proceedings in which he or she is involved.

27. Candour towards the Court

1. Counsel must take all necessary steps to ensure that his or her actions, or actions of his or her assistants or staff, do not bring proceedings before the Court into disrepute and do not offend the dignity and decorum of the Court.
2. Counsel is personally responsible for the conduct and presentation of the case of his or her client, and must exercise personal judgment on the substance and purpose of statements made and questions asked.
3. Counsel shall not deceive or knowingly mislead the Court. He or she must take all necessary steps to correct an erroneous statement made by him or her or by his or her assistants or staff in ongoing proceedings before the Court as soon as possible after becoming aware that the statement was erroneous.

28. Evidence

1. Counsel must at all times maintain the integrity of the evidence, whether in written, oral or any other form, which is submitted to the Court. He or she shall not introduce evidence which he or she knows to be incorrect.

2. If counsel reasonably believes that the evidence will not be destroyed or tampered with, counsel may refuse to accept the evidence or return it to the source, warning the persons in possession of the evidence about the law regarding the conservation of evidence.

3. If counsel reasonably believes that the evidence may be destroyed or tampered with, or if the client consents, counsel shall request the Chamber to issue an order to collect the evidence under rule 116.

4. Counsel shall at all times maintain the privileged or confidential character of evidence disclosed or introduced, when so declared.

Section 2 ***Relation with other parties***

29. Contact with the Office of the Prosecutor

Counsel shall at all times maintain a courteous and professional relationship with the Office of the Prosecutor and its members.

30. Relation with unrepresented persons

1. Counsel may communicate and meet with an unrepresented person when, in the client's interests, it is required by counsel's agreement with the client. When counsel communicate with an unrepresented person they shall:

- a) inform the person of his or her right to assistance from counsel and, if applicable, of their right to legal aid; and
- b) without infringing upon the confidentiality of the counsel-client privilege, inform the person of the interest that the counsel represents and the purpose of the communication.

2. If counsel becomes aware of a potential conflict of interests in the course of a communication or meeting with an unrepresented person, they shall, notwithstanding the responsibility stated in sub-paragraph 1, abstain immediately from engaging in any further contact or communication with the person.

31. Relation with other counsel

1. Counsel shall, in dealing with other counsel appearing or acting in relation to proceedings before the Court, consider them as professional colleagues and must act fairly, loyally and courteously towards them and their clients.

2. All correspondence between counsel who represent clients with a common interest in a litigated or non-litigated matter and who agree on exchanging information concerning the matter, shall be presumed confidential and privileged by counsel.

3. When counsel does not expect a particular correspondence to be confidential, he or she must, at the outset, state clearly that the correspondence between counsel is not confidential.

4. Counsel shall not call another counsel involved in the proceedings as a witness unless there is a compelling need for that counsel's testimony. If another counsel involved in the proceedings has to be called as a witness, confidentiality and privilege shall be preserved, unless counsel is ordered to testify to a confidential or privileged matter by a Chamber.

32. Relation with persons already represented by counsel

Counsel must not address the client of another counsel except through or with the permission of that counsel.

33. Relation with counsel of co-accused

Counsel must always provide independent representation for his or her client. Counsel shall not enter into agreements to conduct a defence to the expense of independence and loyalty to his or her client.

34. Relation with witnesses and victims

1. Counsel must refrain from gratuitously intimidating, bullying, badgering, humiliating witnesses or victims or otherwise causing them undue stress inside or outside the courtroom. They shall have a special consideration for victims of sexual violence, children, elderly and frail persons.

2. Counsel shall not reveal the identity of protected victims and witnesses, or any information that may reveal their identity and whereabouts, unless they have been specifically authorized to do so by the Court.

Chapter 4

Disciplinary regime

35. Conflict between disciplinary regimes

The present Chapter is not intended to prohibit or limit in any manner the disciplinary powers of any other disciplinary authority that may apply to counsel subject to this Code.

36. Misconduct

Counsel commits misconduct

- a) when he or she violates or attempts to violate any provision of the Code and the law enforced by the Court implying a duty to him or her,
- b) when he or she knowingly assists or induces another person to do so, or
- c) when he or she does so through the acts of another person.

37. Liability for conduct of assistants or staff

1. Counsel shall be liable for violations of legal provisions of the Code by their assistants or staff:

- a) when they order or approve the conduct involved; or
- b) when they know or should have known of the conduct at a time when its consequences can be or could have been avoided or mitigated without taking reasonable remedial action.

2. Counsel will only be liable for other conduct of assistants or staff when they did not carefully choose their assistants or staff and when they did not instruct assistants and staff in the standards set by this Code and by the law enforced by the Court.

38. Complaints of misconduct

1. Complaints against counsel regarding misconduct as defined in paragraphs 36 and 37 may be submitted to the Registrar by

- a) by the Chamber seized of the case;
- b) by the Prosecutor;
- c) any person or group of persons whose rights or interests could have been affected by the alleged misconduct;

2. The complaint shall be in writing. It shall identify the complainant and the counsel against whom the complaint is made, and shall describe in sufficient detail the alleged misconduct.

3. The Registrar may reject every complaint which is manifestly vexatious, misconceived, lacking in substance or out of time.

4. The Registrar may file a complaint against a counsel *proprio motu*.

5. All complaints shall be kept confidential by the Registrar.

39. Prescription

The right to complain against counsel concerning misconduct prescribes 5 years after the termination of the agreement. In case an agreement did not exist, the right to complain prescribes 5 years beginning at the end of the year in which the alleged misconduct took place.

40. Power and composition of the Disciplinary Board

1. The Disciplinary Board shall comprise four permanent members and one *ad hoc* member.

2. The four permanent members shall be chosen by the Registrar from the list foreseen in rule 21, sub-rule 2, preferably from among counsel with established competence in ethical matters, and appointed for a period of two years.

3. The *ad hoc* member shall be:

- a) a lawyer proposed by the Bar Association to which the incriminated counsel is a member; or
- b) a national judge from the State where the incriminated counsel has its professional centre.

4. The permanent members shall be eligible for re-election once. They shall select at its first meeting a chairperson among its members.

5. All members of the Disciplinary Board shall have the same rights and votes. The Disciplinary Board shall decide by majority vote. In case of equality of votes, the chairperson shall have the casting vote.

6. After the expiration of their mandate, the permanent members shall continue to deal with such cases as they already have under consideration.

7. The Registrar shall appoint a member of the Registry to ensure the secretariat of the Disciplinary Board.

41. Due process of law

1. If the complaint meets the requirements set forth in paragraph 38, the Registrar shall forward the complaint containing the charges to the incriminated counsel, who shall submit a response within fifteen days.

2. The response shall include, if the alleged misconduct has been or is the object of a disciplinary procedure before a national body:

- a) the identity of the national body deciding on the alleged misconduct;
- b) a certified communication by the national body, stating the alleged facts being the object of the disciplinary procedure.

42. Complementarity of disciplinary measures

1. When the alleged misconduct has been the object of a disciplinary procedure before another disciplinary authority, the procedure will be suspended until that has been solved.
2. Incriminated counsel shall instruct the disciplinary authority seized of the matter to inform the Disciplinary Board of the progress of the procedure and its final decision, or do it her or himself. If the Disciplinary Board does not receive the decision and is not satisfied with the information received, it shall consider to continue the proceedings as foreseen in paragraph 43 or to declare closed the procedure.
3. Upon reception of the decision by the disciplinary authority, the Disciplinary Board shall:
 - a) declare closed the procedure; or
 - b) determine
 - i that the decision of the disciplinary authority does not or only partially cover the misconduct brought before the Disciplinary Board and therefore determine that the procedure set out in paragraph 43 is to be followed; or
 - ii that the disciplinary authority is unable or unwilling to carry out the disciplinary procedure, and therefore determine that the procedure set out in paragraph 43 is to be followed. For the purposes of this sub-paragraph, unwillingness and inability shall be ascertained according to article 17.
4. In the case of sub-paragraphs 2 and (3) (b), the Disciplinary Board may ask the incriminated counsel to inform about the details of the procedure, including any minute or evidence that might have been submitted.
5. A decision by the Disciplinary Board based on this paragraph can be appealed before the Disciplinary Appeal Board.

43. Procedure

1. The Registrar, if he or she considers it appropriate, shall offer a mediation to the parties.
2. When necessary, the Registrar shall further the complaint and all subsequent submissions to the Disciplinary Board after the applicable deadlines have expired.
3. The Disciplinary Board may dismiss a complaint without any further investigation, if it finds the alleged misconduct unfounded in fact or in law.
4. If necessary, the Disciplinary Board shall ask the Registrar to appoint a counsel from the list foreseen in rule 21, sub-rule 2, to investigate the alleged misconduct within due time.
5. The investigating person shall take into consideration evidence, be it in oral, written or any other form, which is relevant and has probative value. He or she may get

assistance from the Registrar and shall keep all information concerning the disciplinary procedure secret.

6. The Disciplinary Board shall hold a hearing in due time after the investigating person has submitted the investigation report. The incriminated counsel and the Registrar shall be called and heard. The Disciplinary Board may also call and hear any other person deemed useful for the establishment of the truth.

7. The hearing shall be public. However, the Disciplinary Board may decide to hold the hearing in closed session, in particular to safeguard the confidentiality of information in the investigation report and the protection of victims and witnesses.

8. During the procedure, in exceptional cases, when the alleged misconduct is of a nature to seriously prejudice the interests of justice, the Registrar may, on urgent motion, seize the Chamber before which the counsel intervenes so that it may, as appropriate, declare a temporary suspension of counsel.

44. Rights and duties of counsel

1. Counsel submitted to a disciplinary procedure shall be entitled to assistance and representation by another counsel.

2. Counsel submitted to a disciplinary procedure shall cooperate fully with the Registrar, the Disciplinary Board and the investigative person by answering all questions and by providing information and materials in whatever format they may be.

45. Findings of the Disciplinary Board

1. At the end of the hearing, the Disciplinary Board may either dismiss the charge, and in this case declare the acquittal of counsel, or find that the incriminated counsel committed the alleged misconduct.

2. The decision shall be issued in public session. It shall be reasoned and issued in writing.

3. The decision shall be notified to the incriminated counsel and to the Registrar, who shall inform the complainant.

4. When the decision is final, it shall be published in the Official Journal of the Court, and transmitted to the national authority.

46. Sanctions

1. The Disciplinary Board may impose sanctions on a finding of misconduct by way of:

- a) admonishment,
- b) public reprimand,
- c) fine up to 50,000 EUR,
- d) temporary suspension not exceeding two years,

- e) permanent ban from practising before the Court.
2. Misconduct and imposed sanction shall be communicated to the national authority competent to control the professional activity of the sanctioned counsel.
 3. Admonishment may include recommendation, including advice regarding future conduct of the sanctioned counsel.
 4. The costs of the procedure shall be borne by the sanctioned counsel.

47. Appeal

1. Sanctioned counsel , as well as the Registrar, shall have the right to appeal the decision of the Disciplinary Board.
2. The appeal shall be transmitted to the Disciplinary Board within one month after its decision has been delivered.
3. The procedure shall be the same, *mutatis mutandis*, as before the Disciplinary Board.

48. Power and composition of the Disciplinary Appeals Board

1. The Disciplinary Appeals Board shall decide on appeals against decisions of the Disciplinary Board.
2. The Disciplinary Appeals Board shall comprise:
 - a) three judges, designated by the Presidency;
 - b) three counsel, chosen by the Registrar from the list foreseen in rule 21, sub-rule 2, after consultation with the legal profession.
3. No member of the Disciplinary Appeals Board may at the same time be a member of the Disciplinary Board.
4. The members of the Disciplinary Appeals Board shall elect a judge as chairperson by majority vote.
5. The Disciplinary Appeals Board shall adopt its decisions by majority vote. In case of equality of votes the chairperson shall have the casting vote.