

DRAFT CODE OF CONDUCT FOR ADVOCATES IN THE FIELD OF MEDIA AND SOCIAL MEDIA

Mindful of Law No. 90/059 of 19 December 1990 to organize Practice at the Bar, particular Articles 55, 56, 57 and 58;

MINDFUL of Decision N°41/DPJ/SG/MJ of 12 April 2005 on the Internal Regulations of the Cameroon Bar Association, particular its provisions relating to the essential principles of the profession, professional secrecy and publicity of Advocates;

CONSIDERING that the digital environment, the media and social media do not constitute spaces exempt from the legal, regulatory and ethical rules applicable to the practice of legal profession in Cameroon;

CONSIDERING the need to ensure respect for the principles of dignity, honour, independence, loyalty, probity, **delicacy**, moderation, courtesy and fraternity, as well as professional secrecy by regulating the public and professional communications of advocates, without infringing on their freedom of expression;

The Council of the Cameroon Bar Association, meeting in an **ordinary/joint** session on **XXXXX**, and composed of:

- Barrister MBAH Eric MBAH (*President of the Bar Association*)
- **XXXXX**
- **XXXXX**
- **XXXXX**

ADOPTS THIS CODE OF CONDUCT FOR ADVOCATES IN THE FIELD OF MEDIA AND SOCIAL MEDIA

PREAMBLE

The Advocate, a key player in the public service of Justice and defender of rights and freedoms, contributes, through the exercise of his profession, to the proper functioning of the Judicial Institution, and to the consolidation of the rule of law.

The development of information and communication technologies, the rise of digital media and the generalization of the use of social media offer the Advocate new spaces for expression, information, communication and participation in public debate.

The use of these new modes of communication, while contributing to the evolution of the conditions of practice of the profession, is not without risks **and challenges**.

In particular, it is likely to infringe professional secrecy, the rights and interests of litigants, the authority and serenity of justice, as well as the dignity, image and consideration attached to the legal profession.

The purpose of this Code of Conduct is to define the ethical principles and rules applicable to the use of the media and social media by members of the Cameroon Bar Association, as well as to the communications and publications they disseminate therein.

Its provisions complement, but do not replace, the legislative, regulatory and ethical rules governing the practice of the legal profession.

PRELIMINARY CHAPTER: COMMON PROVISIONS:

SECTION 1: SCOPE AND DEFINITIONS

Article 1:

This Code of Conduct applies to any Advocate registered on the Roll of the Cameroon Bar Association.

It also applies to Pupil Advocates as well as to Law Firms in the context of their communication activities.

Advocates who are omitted from the Roll or who resign remain subject to the provisions of this Code for acts committed during their period of registration on the Roll or on the Internship List.

Article 2:

This Code governs all communication, publication, dissemination, sharing or republication made by means of a media or a social media by those subject to this Code.

Its provisions apply to both professional and personal communications when they are likely to affect, in particular:

- the image of the profession,
- a client's interests,
- the rights of a third party,
- the functioning of justice.

Article 3:

The provisions of this Code shall apply to any communication accessible from Cameroonian territory, regardless of the international, cross-border or global nature of the media, digital platform or social media on which it is disseminated.

Article 4:

For the purposes of this Code, the following definitions apply:

Subject to this Code: Advocates registered on the Bar Roll, Pupil Advocates and Law Firms subject to the provisions of this Code.

Client: any natural or legal person who has entrusted or entrusts to an Advocate the defence of his or her interests or the performance of a professional service.

Professional communication: any information, statement, publication, intervention or dissemination by a person subject to this Code in the context of or in connection with the exercise of his or her professional activities, regardless of the device, format or method of dissemination.

Personal account: any account or digital space used for private purposes, regardless of its device or the platform that stores it.

Professional account: any account, page, website, blog, channel or digital space used, as a main or ancillary activity, in the context of the practice of the legal profession or the professional communication of a Law Firm.

a mis en forme : Anglais (États-Unis)

Conflict of interest: any situation in which the personal, professional or financial interests of the Advocate or the Law Firm are likely to compromise its independence, objectivity or the defence of the client's interests.

Media intervention: any speech, statement, interview, contribution, comment or participation by a person subject to this Code in any media, regardless of the device.

Media: all means of communication that make it possible to disseminate information, opinions or content to a specific or undetermined audience, including the written press, radio, television, digital media and online information platforms.

Sharing or republication: any action consisting of relaying, reproducing or redistributing, in whole or in part, content created or published by a third party.

Publication: any content made available to the public or to a specific group of users, by any means of communication.

Advertising: any communication intended to promote, directly or indirectly, the professional services of an Advocate or a Law Firm to a specific or indeterminate public.

Social networks: digital platforms that allow their users to create, publish, share or comment on content and interact with other users or with a specific or unspecified audience.

Professional secrecy: the obligation incumbent on the Advocate to preserve the confidentiality of all information, confidences, correspondence, documents and data of which he or she becomes aware in the exercise or in connection with the exercise of his or her profession, including those communicated to him or her prior to the constitution of the mandate.

Third party: any natural or legal person who is neither the client, nor the Advocate, nor the Law Firm, nor a person contributing to the professional practice of the Advocate.

SECTION 2 : BASIC PRINCIPLES AND OBLIGATIONS

Article 5:

Any communication, publication or intervention carried out on the media or social media remains subject to the essential principles of the legal profession.

In accordance with the texts governing the profession, any breach of the oath, the duties of Advocate or the requirements of loyalty, probity, honour, delicacy or dignity is likely to constitute a disciplinary offence.

The provisions of this Code specify, in the specific field of media and social media, the modalities of application of these professional obligations.

Article 6:

Those subject to this Code must ensure, in all circumstances, that the honour, dignity, independence and consideration attached to the legal profession are preserved.

They must refrain from any publication, statement, representation, image, video, comment or behaviour likely to undermine the honour or reputation of the profession, to alter the public's confidence in the Advocate or in the administration of Justice, or to discredit the Judicial Institution.

All professional communication must, therefore, be conducted with restraint, prudence and responsibility and remain compatible with the requirements of dignity, independence and probity attached to the practice of the profession.

Article 7:

Those subject to this Code shall exercise their freedom of expression and their communication activities in accordance with their professional independence.

They must refrain from any communication or position dictated by interests likely to compromise their objectivity, their professional integrity or the defence of their client's interests.

They must, in all circumstances, ensure that their publications and interventions do not create or promote a situation of conflict of interest.

Article 8:

In their relations with clients, learned colleagues, court officers, judicial and administrative authorities, journalists and the public, those subject to this Code are required to observe the principles of courtesy, moderation and mutual respect.

They must refrain from any outrageous, insulting, defamatory, discriminatory expression or expression likely to harm the image of the profession or the serenity of judicial proceedings.

Criticism of judicial decisions, institutions or judicial actors must be formulated with moderation, objectivity and respect for the persons concerned.

Those subject to this Code must, in all circumstances, observe the requirements of fraternity, delicacy, moderation and courtesy which govern relations between Advocates and, more generally, the practice of the profession

Article 9:

Professional secrecy is a fundamental obligation from which no person subject to this Code can evade.

Those subject to this Code shall refrain from disclosing, directly or indirectly, by any means whatsoever, information, documents, correspondences, confidences or elements of which they become aware in the exercise of their activities, except in the cases provided for by the texts in force.

This obligation is imposed for an unlimited period of time.

SECTION 3 : Responsibilities

Article 10:

Those subject to this Code are personally responsible for the content they create, publish, comment, share or relay on media and social media.

Before any dissemination, they must ensure that the content complies with applicable laws, regulations and ethical principles.

This responsibility extends to the consequences that may result from these communications on the rights of clients, learned colleagues, third parties, the judicial institution and the legal profession.

The fact that a content was initially published by a third party, relayed automatically by a digital platform or generated by means of an artificial intelligence system cannot exempt its author from liability where it is established that he or she disseminated or shared it.

Ignorance, carelessness, urgency or the technical characteristics of a platform do not constitute grounds for exoneration from liability.

Law Firms are responsible for communications disseminated under their name or digital identity, unless it is demonstrated that they no longer had control over them.

Article 11:

The republication or sharing of content whether with express or implied consent implies a presumption of approval of its content.

Before any sharing or dissemination, those subject to this Code must carry out the necessary checks to ensure that the content in question is not contrary to applicable laws, regulations or ethical principles.

In particular, they must refrain from relaying information:

- manifestly false,
- defamatory or insulting,
- infringes on privacy,
- covered by professional secrecy or confidentiality,
- likely to undermine the honour of the profession or the authority of justice.

Article 12:

Any person subject to this Code who finds that the content that he or she has published or relayed infringes the provisions of this Code is required to take, within a maximum period of seventy-two (72) hours from becoming aware of the breach, the appropriate measures to correct, remove or limit its effects.

The removal or correction of a content does not prevent the application of the measures or procedures provided for by the texts in force.

Article 13:

Persons subject to this Code may use artificial intelligence tools in their communication activities.

They remain solely responsible for the content disseminated.

Before any publication, they must verify the accuracy, legality and ethical compliance of the information produced or assisted by an artificial intelligence system.

The use of artificial intelligence is neither a cause of exoneration nor a mitigating circumstance of liability.

TITLE I: RELATIONS WITH SOCIAL MEDIA

CHAPTER I: USE OF SOCIAL MEDIA

Article 14:

Those subject to this Code may use social media for professional purposes, in particular to:

- disseminate legal or institutional information,
- participate in debates of legal or social interest under the conditions provided for in this Code,
- promoting access to the law,
- inform the public about the rights and freedoms,
- contribute to the dissemination of legal culture.

Article 15:

Those subject to this Code have the right to express themselves in a personal capacity on social media while respecting their freedom of expression.

However, they remain bound by the obligations arising from their status and must ensure that their publications, comments or interactions do not harm the image of the profession, the public's confidence in the judiciary, the interests of clients, or the rights and reputations of third parties.

The allegedly private or personal nature of an account or publication cannot justify behaviour contrary to the ethical principles applicable to the profession.

Article 16:

Those subject to this Code who use social media in a professional context must ensure the accuracy of information relating to their identity, professional capacity, titles, functions and membership of the Bar Association.

Any presentation, mention, reference or publication that is likely to mislead the public about their qualifications, skills, experience or professional status is prohibited.

All professional communication must remain truthful, respectful of professional secrecy and carried out with dignity and delicacy.

Canvassing as well as any personalised solicitation of professional services carried out without prior invitation remain prohibited, including when they are carried out by any technical means of distance communication.

Article 16 bis :

In particular, the following are prohibited in any professional communication or personal advertising:

- laudatory or self-promotional statements likely to present the Advocate or the Law Firm as superior to its learned colleagues or competitors;
- comparative communications, direct or indirect, with other Advocates or Law Firms;
- any indication relating to the identity of the customers, subject to the exceptions expressly provided for by the applicable texts;
- any communication that is false, misleading or likely to create an unjustified expectation in the mind of the public as to the Advocate's competence or the outcome of a procedure;
- any guarantee or promise of result;
- any inaccurate or inauthentic representation of qualifications, titles, skills or professional experience.

These prohibitions apply regardless of the device or method of communication used.

Article 17:

Except in the cases provided for by the texts in force, those subject to this Code must respect professional secrecy in their communications on social media in all circumstances.

They are prohibited from publishing, commenting, sharing or disseminating any information covered by professional secrecy, even when it appears to them to be already known to the public.

This obligation is imposed for an unlimited period of time.

CHAPTER II: OBLIGATIONS OF ADVOCATES ON SOCIAL MEDIA

Article 18:

Without prejudice to the exceptions provided for by the texts in force, those subject to this Code must refrain from any publication allowing the direct or indirect identification of a client, a procedure, a file or any person concerned by a matter of which they become aware in the course of their professional activities.

This prohibition applies even if the published material does not expressly reveal the identity of the persons concerned but make it reasonably possible to identify them.

Any authorised communication remains, in any event, subject to the respect of professional secrecy, confidentiality and the legitimate interests of the client.

Article 19:

Those subject to this Code must maintain relations among themselves based on courtesy, confraternity and mutual respect.

They must refrain from any publication, comment or position taken that is likely to:

- denigrate a learned colleague,
- damage a colleague's reputation,
- questioning a colleague's probity without serious basis,
- reveal confidential information about the learned colleague,
- to provoke or publicly maintain polemics incompatible with the requirements of confraternity.

Disputes between learned colleagues are settled in accordance with the texts governing the profession.

Article 20:

Those subject to this Code must refrain from creating, publishing, disseminating or relaying information that they know to be false or whose accuracy they cannot reasonably verify.

They must refrain from using fictitious identities, anonymous profiles or any other process intended to mislead the public about their identity, skills, experience or the nature of their activities.

Any use of fraudulent means of communication or manipulation of information constitutes a breach of ethical obligations.

Article 21:

It is forbidden for those subject to this Code to use social media to harass, intimidate, threaten, defame or exert pressure on a client, a learned colleague, an administrative or judicial authority, a judicial officer, a journalist or any other person.

In particular, any smear campaign, any public incitement to hatred or any repeated dissemination of content intended to infringe the rights or reputation of others constitutes a breach within the meaning of this article.

Any such conduct constitutes a serious breach of ethical obligations.

Article 22:

Those subject to this Code must ensure that they behave on social media in a manner that is compatible with the requirements of dignity, reserve and responsibility attached to their position.

They must refrain from any publication that is likely to undermine public confidence in the administration of justice or to undermine the reputation due to the profession.

TITLE II: RELATIONS WITH THE MEDIA

CHAPTER I: RELATIONS WITH THE WRITTEN, AUDIOVISUAL AND DIGITAL PRESS

Article 23:

Those subject to this Code are free to maintain relations with the written, audiovisual and digital press in compliance with the laws, regulations and essential principles of the profession.

In their dealings with the media, they must at all times ensure that they maintain their independence, objectivity and duty of reserve.

Article 24:

Those subject to this Code must exercise caution, moderation and legality in their statements to the media.

They must refrain from any communication that could:

- mislead the public,
- compromise the rights of a party,
- unduly influence an ongoing proceeding,
- undermine the proper administration of justice,
- or harm the profession.

Article 25:

Those subject to this Code must only provide information that they can reasonably guarantee to be accurate.

They shall refrain from disseminating or relaying information that is incomplete, inaccurate, distorted or insufficiently verified, in particular relating to:

- a person,
- a court case,
- an institution,
- an ongoing legal procedure,
- or any legal matter that may affect the rights of third parties.

They must carry out the necessary checks before any public communication and assume full responsibility for the information they disseminate.

CHAPTER II: PUBLIC INTERVENTIONS

SECTION 1: INTERVIEWS

Article 26:

Those subject to this Code may give interviews to the media on legal, institutional or public interest issues.

They must ensure that their statements remain objective, measured, accurate and consistent with the essential principles of the profession.

Their participation in an interview shall not have the effect of compromising their independence or undermining the dignity of the profession.

When an interview concerns the functioning, governance, representation or official position of the Bar Association, the Advocate may only speak in the name of or on behalf of the Bar Association by virtue of an express mandate from the President of the Bar Association or any person specially authorised for this purpose by him. Otherwise, his statements are deemed to express his personal position and may not be presented as binding or reflecting that of the Bar Association.

Article 27:

Those subject to this Code shall refrain from making any statement that could reveal information covered by professional secrecy or compromise the interests of a client.

They must refrain from making any peremptory assertions that could influence ongoing legal proceedings or undermine the presumption of innocence.

SECTION 2 : OPINIONPIECES AND CONTRIBUTIONS

Article 28:

Those subject to this Code may publish opinion pieces, analyses, reviews, commentaries or contributions in the media.

These publications contribute to the dissemination of the law, to the information of the public and to the enrichment of the legal debate.

They must respect the requirements of intellectual honesty, legal rigour and professional responsibility.

Article 29:

Opinion pieces, analyses, reviews and contributions must not contain any defamatory, insulting, outrageous or remarks that are likely to undermine the dignity of persons or institutions.

They may not be used as a roundabout means of canvassing or advertising contrary to the rules governing the profession.

Article 30:

Those subject to this Code must ensure that their publications clearly distinguish between proven facts, legal analyses and personal opinions.

They must refrain from presenting as certain a fact whose accuracy has not been established or which is still the subject of a judicial debate.

SECTION 3 : PUBLIC DEBATES

Article 31:

Those subject to this Code may participate in public debates relating in particular to legal, judicial, economic, social, institutional or any other subject of general interest.

They must ensure that their interventions contribute to an informed, respectful and constructive debate.

Article 32:

During public debates, those subject to this Code must show restraint, courtesy and respect towards other participants.

They must refrain from any aggressive, insulting, contemptuous behaviour or behaviour likely to damage the image of the profession.

Article 33:

Those subject to this Code must observe particular restraint when expressing themselves publicly on an ongoing case or one likely to give rise to legal proceedings.

They must ensure that their statements do not compromise the rights of the parties, the proper conduct of proceedings, or the authority of court decisions.

Article 34:

Those subject to this Code may comment on or analyse laws, regulations, court decisions or legal issues of general interest.

This analysis must be formulated with objectivity, rigour and moderation.

It may not include personal attacks directed against Magistrates, parties, witnesses, experts or any other actor in the judicial system.

Article 35:

Those subject to this Code must refrain from using the media to exert undue pressure on courts, magistrates, court officers, witnesses, experts or any person participating in proceedings.

Any media approach that has the purpose or effect of improperly influencing the outcome of a case constitutes a breach of ethical obligations.

TITLE III: PUBLIC INFORMATION AND PROFESSIONAL COMMUNICATION

Article 36:

Professional communication and personal advertising by the Advocate or the Law Firm are governed by the applicable laws and regulations governing the legal profession.

They must be intended to provide the public with necessary information, be truthful, respect professional secrecy and be implemented with dignity and delicacy.

To this end, those subject to this Code may, in particular, have recourse, in compliance with the applicable rules, to the following means of communication:

- professional cards and devices;
- professional websites and blogs;
- social media;
- newsletters;
- legal publications;
- podcasts and audiovisual content;
- institutional communication devices.

Any form of canvassing, prohibited solicitation or advertising contrary to the essential principles of the profession remains prohibited.

Article 37:

All professional communication must permit the clear identification of its author. It includes, depending on the device used, the necessary information relating to:

- the identity of the Advocate or the name of the Law Firm;
- professional quality;
- membership of the Bar Association;
- with useful professional contact details.

The information disseminated must be accurate, verifiable and not contain any information likely to mislead the public.

In particular, they may not include laudatory or comparative statements, promises or guarantees of results, or information relating to the identity of clients, subject to the exceptions provided for by the applicable texts.

Article 38:

The organization or announcement by an Advocate or a Law firm of colloquiums, seminars, conferences, webinars or professional training courses, as well as participation in professional, scientific, cultural or institutional events, does not in itself constitute prohibited advertising.

Communication relating to these activities must remain informative and respect the requirements of dignity, moderation, loyalty and sensitivity attached to the profession.

It may not be used as a disguised means of canvassing or prohibited solicitation.

Article 39:

Any website, blog or digital space used by an Advocate or a Law Firm for professional purposes must comply with the principles applicable to professional communication and advertising.

The Advocate who intends to open a website must inform the Bar Association in advance and provide it with the references of the service provider as well as the procedures for accessing it.

The content published on this site or this digital space remains under the responsibility of the Advocate or the Law Firm that operates it.

Any substantial modification of the professional information disseminated must remain in accordance with the provisions of this Code and the texts governing the profession.

TITLE IV: CONTROL OF COMPLIANCE WITH THE CODE OF CONDUCT AND ETHICAL CONSEQUENCES

CHAPTER I: CONTROL OF COMPLIANCE WITH THE CODE

Article 40:

The control of compliance with the provisions of this Code falls within the remit of the Bar Council, which ensures compliance with professional ethics and ensures the discipline of Advocates in accordance with the applicable legal and regulatory provisions.

The President of the Bar Association shall ensure the application of this Code within the framework of the powers conferred upon him by the texts governing the profession.

Article 41:

The Bar Council shall ensure, through the intermediary of the Bar President, monitors the publications, communications and public interventions of persons subject to this Code, when they are likely:

- to undermine the honour, dignity or image of the profession,
- compromise the interests of a client,
- to undermine the authority of justice,
- or to constitute a violation of the provisions of this Code.

This monitoring shall be carried out in accordance with the fundamental freedoms recognised to those subject to this Code as well as the rights guaranteed by the texts in force.

Article 42:

Any person subject to this Code, any litigant, any public or private institution, any press organ or any third party may bring to the attention of the Bar President any fact likely to constitute a breach of the provisions of this Code or, more generally, of the ethical obligations of the profession.

The referral shall be made in writing and shall contain a sufficiently precise statement of the facts and, as far as possible, the available evidence.

The report constitutes an element of information brought to the attention of the Bar President and does not prejudice either the disciplinary classification of the facts or the follow-up that may be taken there.

Reports that are manifestly abusive, vexatious or made in bad faith may be dismissed.

Article 43:

When informed of facts likely to constitute a breach of the provisions of this Code or a disciplinary offence, the Bar President may carry out or cause to be carried out the necessary preliminary due diligences.

In particular, it may gather any relevant information, request the communication of any pertinent information and invite the person concerned to provide explanations.

When the facts appear likely to fall within the disciplinary jurisdiction of the Bar Council, the Bar President assesses the action to be taken in accordance with the provisions of Law No. 90/059 of 19 November 1990 on the organization of the legal profession.

The disciplinary procedure is governed by the rules of jurisdiction and procedure provided for by the said law and the Internal Regulations of the Bar.

CHAPTER II: ETHICAL CONSEQUENCES

Article 44:

No person subject to this Code may be subject to a disciplinary sanction for violation of the provisions of this Code except at the end of a procedure conducted in accordance with the guarantees provided for by the texts governing the legal profession.

Any disciplinary sanction presupposes, in particular, that the Advocate or Pupil Advocate concerned has been heard or duly called by any means leaving a written record.

Under the conditions provided for by the Law and the Internal Regulations, he/she benefits from the guarantees attached to the respect of the adversarial principle.

Article 45:

Without prejudice to the possible exercise of disciplinary action under the conditions provided for by the texts in force, the Bar President may invite the person concerned to take any appropriate measure to put an end to an apparent breach or to limit its effects.

This invitation may include:

- the withdrawal of a publication;
- rectification of content;
- patch release
- the deletion of a comment;
- any other appropriate measures intended to prevent or limit the consequences of the content concerned.

These measures do not, in themselves, constitute disciplinary sanctions.

They shall be brought to the attention of the person concerned by any means leaving a written record.

TITLE V: FINAL AND TRANSITIONAL PROVISIONS

Article 46:

The provisions of this Code shall apply only to acts committed after its entry into force, as set out in Article 48 below.

No prosecution may be based solely on the provisions of this Code in respect of facts prior to its entry into force.

Article 47:

The exercise of any procedure resulting from the violation of the provisions of this Code shall be subject to the rules of jurisdiction, procedure and prescription provided for by the texts governing the legal profession.

The provisions of this Code may not be interpreted as derogating from the legal or regulatory rules applicable to disciplinary matters.

Article 48:

This Code, established in French and English, shall enter into force as of its adoption by the Bar Council , subject to its publication in accordance with the texts and procedures applicable to the Cameroon Bar Association .

However, Advocates, Pupil Advocates and Law Firms have a period of six (06) months from its entry into force to bring their accounts, websites, digital platforms and other communication media into compliance with the provisions of this Code.