

**The Hague Principles on Ethical Standards**  
**for Counsel Appearing before International Courts and Tribunals**

**The Study Group of the International Law Association on the Practice and Procedure of International Courts and Tribunals:**

*Convinced* that the identification of clear and transparent principles of general application will contribute to the maintenance of the highest standards of professional conduct for counsel in proceedings before international courts and tribunals with a view to ensuring the integrity, justice and fairness of the international judicial process;

*Conscious* of the need to provide courts and counsel with practical guidance in order to resolve the ethical questions which can arise in reconciling counsel's duties to the court and to their client;

*Recognising* that general principles for counsel are a useful and necessary complement to the Burgh House Principles on the Independence of the International Judiciary 2005;

*Noting* the United Nations Basic Principles on the Role of Lawyers 1990; the relevant procedural rules of the principal international courts; ethical standards adopted by the International Bar Association and the Council of Bars and Law Societies of Europe and other international rules and standards on the ethical standards of the Bar;

*Mindful* of the special challenges faced by counsel in proceedings before

international courts and tribunals in view of the non-national context in which they operate and differing national ethical rules;

*Noting* that these Principles are not intended to displace any special provision made in the ethical rules of a particular international court or tribunal;

*Recognising* that each international court and tribunal has its own characteristics and functions and that each international court may need to adapt principles to fit its particular circumstances and practices;

*Conscious* that international courts and tribunals have an inherent power and duty to conduct the proceedings before them in a manner that ensures that the parties are treated fairly and with equality and may decide to secure this objective by making procedural or other orders or decisions concerning the role and conduct of counsel;

**PROPOSES** the following Principles on Ethical Standards for Counsel Appearing before International Courts and Tribunals:

## **1. Scope**

1.1 The Principles apply to any person discharging the functions of counsel by representing, appearing on behalf of, or providing legal advice to a party in proceedings before an international court or tribunal, however such person may be described, and whether or not the person has professional legal training or is admitted as a member of a bar association or other professional body.

1.2 ‘International court or tribunal’ refers to a court or tribunal created under and governed by international law, including criminal and non-criminal courts, whether standing or *ad hoc*, and, as appropriate, to an international arbitral tribunal in a proceeding in which one or more of the parties is a state.

1.3 Subject to Principle 5.1, counsel has a duty to ensure, so far as possible, compliance with these Principles in proceedings before an international court or tribunal and with such national ethical rules as may be applicable to him or her.

## **2. General Principles**

Counsel shall strive to carry out their duties in a manner which achieves compliance with a number of core principles, subject to the need to strike a balance between them in particular situations:

2.1 *Fair administration of justice*: Counsel has a duty of loyalty to his or her client consistent with a duty to the international court or tribunal to contribute to the fair administration of justice and the promotion of the rule of law.

2.2 *Independence*: Counsel shall maintain independence of conduct in the performance of his or her duties and shall act without regard to personal interests or external pressure.

2.3 *Professionalism*: Counsel shall discharge his or her professional duties with integrity, diligence, efficiency and with a view to avoiding unnecessary expense or delay.

2.4 *Confidentiality*: Counsel shall respect the confidential character of any information imparted to him or her in confidence in the litigation.

### **3. Relations with the Client**

3.1 *Loyalty*: Counsel shall loyally discharge his or her professional duties in the best interests of the client, placing those interests before his or her own or those of any third party to the proceedings.

3.2 *Integrity*: Counsel shall not engage in any activity for a client, nor allow any other person to engage in any activity on counsel's behalf, that he or she reasonably believes to be criminal, fraudulent or otherwise in conflict with these Principles. Counsel shall not advise or assist a client to engage in conduct that he or she knows or ought to know is criminal or fraudulent or otherwise in conflict with these Principles.

3.3 *Professionalism*: Counsel shall discharge his or her professional duties competently and with integrity, diligence and efficiency and with a view to avoiding unnecessary expense or delay. Professionalism denotes both the requisite skill and the ability to dedicate the time and resources necessary to perform the required duties.

3.4 *Confidentiality*: Without prejudice to the rules of an international court or tribunal, counsel shall not disclose any information communicated by the client to counsel in a professional capacity unless authorised to do by the client. This duty applies in preparation for and during the proceedings and continues after their conclusion.

3.5 *Acceptance*: Counsel shall not accept a case if such acceptance will, or will be likely to, result in a violation of any of these Principles.

3.6 *Withdrawal*: Counsel may withdraw from a case where good cause for withdrawal exists, including a failure by the client to pay fees in a timely manner. Counsel exercising such right of withdrawal shall provide the client with reasonable notice.

#### **4. Conflicts of Interest**

This Principle identifies situations in which counsel may be precluded from representing a client before an international court or tribunal by virtue of the conflicting interest which counsel may have arising from his representation of another current or former client, a third party, or his own interests:

4.1 Counsel may not represent two or more clients in the same proceedings if there is a reasonable risk of a conflict between the interests of those clients.

4.2 Counsel may not represent a new client in proceedings where a former client is party to the same or closely related proceedings and there exists a material risk of breach of confidentiality, except with the express authorisation of the former client.

4.3 The personal interests of counsel create an impermissible conflict where he or she:

4.3.1 has personal links to another party that might create a reasonable risk of a conflict of interest;

4.3.2 has a material personal, professional or financial interest in the outcome;

4.3.3 has a reasonable expectation that he or she may be required to give evidence in the proceedings as a witness of fact;

4.3.4 has served as a judge or other officer of the international court or tribunal within the previous three years or such other period as the court or tribunal may establish by its rules; or

4.3.5 has previously dealt with the case in a judicial capacity.

4.4 Notwithstanding Principle 4, counsel is not precluded from acting in a case in which he or she has made appropriate disclosure in writing of the facts relevant to the Principle on the basis of which the parties have given their express consent.

## **5. Relations with the International Court or Tribunal**

5.1 Counsel shall abide by the rules of conduct, orders and directions of the international court or tribunal.

5.2 Counsel shall act in a manner that is conducive to the fair conduct of proceedings.

5.3 Counsel shall at all times address the international court or tribunal in a respectful manner.

5.4 Except as permitted by these Principles, when representing a client in a pending matter a counsel shall not communicate about the substance of the proceedings with any member of the international court or tribunal outside the presence of opposing counsel. Notwithstanding the foregoing, such communication may be permitted if:

(a) authorized by the rules or orders of the international court or tribunal;

(b) the communication is in writing and opposing counsel receives a copy of the communication at the same time as the international court or tribunal; or

(c) where permitted by the international court or tribunal, there is express agreement by all counsel and parties to such communication.

5.5 Counsel shall exercise appropriate caution in his or her personal contacts with the judges, officers and staff of the international court or tribunal, in particular in relation to any pending case. Any such contacts should be conducted in a manner that is compatible with the exercise of an independent judicial function and that may not affect or reasonably appear to affect independence or impartiality.

## **6. Presentation of Evidence**

6.1 Counsel shall present evidence in a fair and reasonable manner and shall refrain from presenting or otherwise relying upon evidence that he or she knows or has reason to believe to be false or misleading.

6.2 Counsel may engage in pre-testimonial communication with a witness, subject to such rules as the international court or tribunal may have adopted.

6.3 Counsel shall comply with the procedural rules of the international court or tribunal when presenting evidence.

6.4 Counsel shall comply with the rules and orders of an international court or tribunal regarding the confidentiality of the proceeding or with any other applicable laws and regulations regarding the confidentiality of the proceeding.

## **7. Relations with Others**

7.1 Counsel shall at all times treat each other, as well as witnesses, third parties, experts and officers of the international court or tribunal, with due respect, courtesy and dignity.

7.2 Counsel shall use best endeavours to cooperate effectively with each other.

7.3 Counsel shall respect any conditions attaching to correspondence received from counsel for the opposing party, including confidentiality.

7.4 Counsel shall not engage in any direct communication with the opposing party, where that party has retained counsel, except with the latter's consent or by order of the international court or tribunal.

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<sup>1</sup> The Hague Principles on Ethical Standards before International Courts and Tribunals are issued on the authority of the Co-Chairs and members of the Study Group. They reflect the discussions that took place in the Study Group as a whole, and have been the subject of extensive review, consultation and comment. The members participated in the Study Group in their personal capacity. Additionally, the Study Group has benefited from input from advisers, also acting in their personal capacity. The content of the Principles should not be attributed to any individual member of the Study Group or be taken as representing the view of any institution to which anyone associated with the Study Group's work may be affiliated.

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