

# Deontologia Professionale Organi e Aspetti Pratici

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epi deontology system

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# Deontologia Professionale Organi e Aspetti Pratici

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Questa presentazione rappresenta esclusivamente il mio punto di vista personale e non è indicativa di alcuna posizione ufficiale di epi

# epi deontology system

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the basis (EPC)

fundamental provisions (RoD)

the principles

other provisions (CoC)

more principles

the rules

bodies, measures and procedures (RoD)

the basis: EPC art. 134a (1)(c)

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the Administrative Council shall be competent  
to adopt and amend provisions governing  
the disciplinary power  
exercised  
by the Institute  
or the European Patent Office  
in respect of professional representatives

# fundamental provisions

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Regulation on Discipline  
for professional representatives  
(RoD)

# the principles (RoD art. 1 & 2)

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## **Article 1 General professional obligations**

(1) A professional representative shall exercise his profession conscientiously and in a manner appropriate to its dignity. In particular, he shall not knowingly make any false or misleading statement.

(2) A professional representative shall conduct himself in such a manner as not to prejudice the necessary confidence in his profession.

## **Article 2 Professional secrecy**

A professional representative shall be bound not to disclose information accepted by him in confidence in the exercise of his duties, unless he is released from this obligation.

# the principles (RoD art. 1 & 2)

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professional consciousness

dignity of the profession

confidence in the profession

no false or misleading statements

secrecy

# other provisions

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## Code of Conduct

of the Institute of Professional Representatives before  
the European Patent Office

(CoC)



# more principles (CoC art. 1)

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(c) The basic task of a member is to serve as a reliable adviser to persons interested in patent matters. He should act as an independent counsellor by serving the interests of his clients in an unbiased manner without regard to his personal feelings or interests.

(e) Good fellowship among members is a necessity for preserving the reputation of the profession and should be exercised irrespective of personal feelings.

# more principles (CoC art. 1)

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reliability

independency

interests of the client

good fellowship

# rules: advertising (CoC art. 2)

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(a) Advertising is generally permitted provided that it is true and objective and conforms with basic principles such as integrity and compliance with professional secrecy.

(b) The following are exceptions to permitted advertising:

(1) the identification of a client without the express authorisation of that client;

(2) the mention of the name of another professional entity unless there is a written co-operation agreement between the member and that entity;

(3) the advertisement, announcement or publishing of offers to buy, sell or negotiate industrial property rights, except upon the instructions of a client.

rules:  
advertising (CoC art. 2)

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true and objective

# rules: relations with the public (CoC art. 3)

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- (a) A member shall uphold the public reputation of the Institute, of its members and of the practice of representation before the European Patent Office.
- (b) A member shall not give any indication on office premises, stationery or otherwise which is misleading to the public.
- (c) A member shall not give any commission to others for the introduction of business, but this does not extend to the acquisition in part or in whole of another patent agency practice.
- (d) A member shall not permit without adequate supervision professional activities related to the European Patent Office under his name or the name of his association by a person who is not a member.
- (e) As far as the exercise of his profession is concerned, a member is responsible for the acts of non-member assistants.

rules:  
relations with the public (CoC art. 3)

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reputation of the epi

no misleading indications

no commissions for business

adequate supervision of non-members &  
responsibility for their acts

# rules: relations with clients (CoC art. 4)

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- (a) A member shall at all times give adequate care and attention and apply the necessary expertise to work entrusted to him by clients. A member shall keep clients informed of the status of their cases.
- (b) In principle, a member does not need to serve the interests of a client in matters not connected with professional work entrusted to him by the client.
- (c) A member may demand advance payments from a client.
- (d) In addition to the requirements of Article 3(2) of the Disciplinary Regulation, a member shall decline an order which is in conflict with his own interests. In all such cases, if the order cannot be postponed without possible damage to the client, a member shall accept and perform the order so far as immediately necessary to avoid such possible damage; thereafter he shall resign from the case.

# rules: relations with clients (CoC art. 4)

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(e) A member must not acquire a financial interest in any industrial right in such circumstances as to give rise to a conflict between professional duty and interest. He must not charge a fee directly related to the outcome of the services he provides.

(f) Supplementary to Articles 2 and 3 of the Disciplinary Regulation, a member shall not take any action against a particular matter which is being handled or has been handled by the member or another person in his office, unless the client in the matter agrees to this action or unless the member has no cognisance of the matter and is no longer in a position to take cognizance of it. The member is not permitted to make use in the action of information obtained during the time the matter was previously handled, unless the information is public.

(g) A member is automatically released from his secrecy obligation according to Article 2 of the Disciplinary Regulation if the secret information becomes published.



rules:  
relations with clients (CoC art. 4)

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care and attention

keep clients informed

advance payments allowed

decline orders in case of conflict with own interests

no result related fees

no action against matters handled by same office

rules:

## relations with other members (CoC art. 5)

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(a) A member must observe good fellowship towards other members, and this includes courtesy and the fact that a member may not speak of another member in discourteous or offensive terms. Grievances in respect of another member should first be discussed in private with the other member, either directly or through a third member, and then if necessary through the official channels prescribed by the Institute and in the Disciplinary Regulation.

(b) Since a prime interest of the Institute is to maintain a unified profession, no member must exercise or promote discrimination between members, for example on grounds of language or nationality.

# rules:

## relations with other members (CoC art. 5)

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(c) A member shall avoid any exchange of views about a specific case, which he knows or suspects is or was being handled by another member, with the client of the case, unless the client declares his wish to have an independent view or to change his representative. The member may inform the other member only if the client agrees.

(d) Where a member is instructed by a client to take over the handling of a case from another member, the member so instructed is free to accept such instruction but then shall ensure that the other member is informed. Such other member shall without delay, loan or transfer all documents necessary for the handling of the case or provide copies at reasonable expense to the new representative.

rules:

relations with other members (CoC art. 5)

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good fellowship and courtesy

no discrimination among members

avoid reviews of other members' work

cooperate in case of transfer of responsibility

# rules: relations with the EPO (CoC art. 6)

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In all dealings with the European Patent Office and its employees, a member shall act courteously, and shall do everything possible to uphold the good reputation of this Institute and its members.

rules:  
relations with the EPO (CoC art. 6)

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courtesy

uphold good reputation of epi

no false or misleading statements

# rules: relations with the Institute (CoC art. 7)

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(a) Members must keep the Institute informed of their address to which correspondence and other information from the Institute are to be sent. Changes of address must be notified to the Secretary-General without delay.

(b) Members must pay, in accordance with arrangements laid down and notified by the Council, the annual subscription required by Article 6 of the Regulation on the establishment of the Institute.

If a member fails to pay the subscription as required by the arrangements, the matter may be referred by the Treasurer to the Disciplinary Committee.

(c) No member may, unless authorized by the President of the Institute, make any written or oral communication on behalf of the Institute.

# rules: relations with the Institute (CoC art. 7)

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(d) A member has the right to seek through the Secretary-General an opinion on the permissibility, under this Code, of any act the member proposes to do or sanction. Such opinion shall not be binding on the Disciplinary Bodies.

(e) Except as provided in paragraph 5(b), breaches of the Code should be brought to the notice of the Disciplinary Committee in writing.



rules:  
relations with the Institute (CoC art. 7)

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inform of address changes

pay annual fee

do not speak on behalf of epi

can ask epi for opinions

# bodies, measures and procedures: disciplinary bodies (RoD art. 5-11)

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epi disciplinary committee

epo disciplinary board

epo disciplinary board of appeal

# bodies, measures and procedures: disciplinary measures (RoD art. 4)

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(a) warning

(b) reprimand

(c) fine not exceeding DM 20 000

(d) deletion from the list of professional representatives for not more than six months

(e) deletion from the list of professional representatives for an indefinite period

# bodies, measures and procedures: procedure (RoD art. 12-28)

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[hopefully unnecessary here!]



# UPC deontology system ???

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the basis (UPC RoP)

fundamental provisions ???

other provisions ???

bodies, measures and procedures (UPC RoP)

## the basis: RoP 290 (2)

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Representatives who appear before the Court shall strictly comply with any code of conduct adopted for such representatives by the Administrative Committee

# bodies, measures and procedures: RoP 291 (1)

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If the Court considers that the conduct of a party's representative towards the Court, towards any judge of the Court or towards any member of the staff of the Registry is incompatible with the dignity of the Court or with the requirements of the proper administration of justice, or that such representative uses his rights for purposes other than those for which they were granted, or that such representative is otherwise in breach of any code of conduct adopted pursuant to Rule 290.2 it shall so inform the person concerned. On the same grounds, the Court may at any time, after having given the person concerned an opportunity to be heard, exclude that person from the proceedings by way of order. That order shall have immediate effect.

# bodies, measures and procedures: RoP 291 (1)

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body:

UPC itself

measures:

information

exclusion from the proceedings

procedure:

information

hearing

order



# Deontologia Professionale

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Grazie per l'attenzione!

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