

**ACT REGULATING THE EXERCISE OF THE LAWYER'S
PROFESSION
(“RECHTSANWALTSORDNUNG” = LAWYERS' ACT)**

Chapter I – Requirements for the Exercise of the Lawyer's Profession

§ 1

- (1) No appointment by a public authority is required for the exercise of the lawyer's profession in the Republic of Austria; it suffices to provide evidence on compliance with the following requirements and on registration in the list of lawyers (§ 5 and § 5a).
- (1a) To the extent that this federal law contains only a male form when referring to physical persons, these designations apply equally to women and men. When using a designation to refer to a specific physical person, the gender-specific form will be used.
- (2) The requirements are:
 - a) Austrian nationality;
 - b) legal capacity;
 - c) a completed course of studies in Austrian law (§ 3); *
 - d) practical training of the type and term stipulated by law;
 - e) the successful passing of the “*Rechtsanwaltsprüfung*” (bar exam);
 - f) attendance of a maximum of 42 half-days of professional development activities, as required by the “*Richtlinien für die Ausbildung von Rechtsanwaltsanwärtern*” (Guidelines for the Training of Trainee Lawyers);
 - g) taking out professional indemnity insurance pursuant to § 21a.
- (3) The nationality of a Member State of the European Union or another Contracting State of the Agreement on the European Economic Area or of the Swiss Confederation shall be equivalent to Austrian nationality.
- (4) A lawyer can only be registered in the company register if he exercises the lawyer's profession in the form of a “*Rechtsanwalts-Gesellschaft*” (company of lawyers).
- (5) The professional title “*Rechtsanwalt*” (lawyer) may only be recorded in the company register when evidence is provided on the consent of the respective “*Rechtsanwaltskammer*” (bar).

§ 1a

- (1) It is also admissible to exercise the lawyer's profession in the legal structure of a “*Gesellschaft bürgerlichen Rechts*” (civil-law partnership), in the legal structure of an “*offene Gesellschaft*” (general partnership) or a “*Kommanditgesellschaft*” (limited partnership), i.e. as a “*Rechtsanwalt-Partnerschaft*” (partnership of lawyers), as well as in the legal structure of a “*Gesellschaft mit beschränkter Haftung*” (limited-liability company). The profession of lawyer may only be exercised in accordance with the statutory provisions on the lawyer's profession. It requires registration in the “*Liste der Rechtsanwalts-Gesellschaften*” (list of companies of lawyers) maintained by the bar for the district with competences for the location of the company's office. A partnership of lawyers and a limited-liability company must first be registered in the company register before being registered in the list of companies of lawyers. Evidence of registration must be submitted to the board of the competent bar.
- (2) The intention to set up a company must be communicated to the board of the competent bar using the form sheet to be published by the Austrian Bar. The application must state:

1. the type of company and a description of the company, which must include a reference to the exercise of the lawyer's profession; in the case of a partnership of lawyers or a limited-liability company the company name (§ 19 (1) number 4 of the "*Unternehmensgesetzbuch*" [UGB – Commercial Law Code]; § 1b);
 2. the names, addresses, law-practice locations and professional titles of the company partners authorized to represent and manage the company, as well as the names and addresses of the other company partners; § 12(1) of the "*Europäisches Rechtsanwaltsgesetz*" (EIRAG - European Lawyer's Act), Federal Law Gazette I No. 27/2000, shall apply in analogy;
 3. the office location of the company of lawyers;
 4. all additional information which proves that the requirements of § 21a and § 21c are met;
 5. a statement by the "*Rechtsanwalts-Gesellschafter*" (company partners) that they confirm the correctness of the data in the application, in full awareness of their disciplinary responsibility.
- (3) Every change in the circumstances that must be indicated in the application according to paragraph (2) must be communicated without delay to the board of the bar, using the form sheet according to paragraph (2), together with the respective statement according to paragraph (2) number 5.
- (4) The board shall refuse registration in the list of companies of lawyers or delete the registration if it should emerge that the requirements of § 21a or § 21c do not, or no longer apply. The second sentence of § 5 (2) as well as § 5a shall apply in analogy. Except in the case of imminent danger, the board can grant the company of lawyers a respite of six months, as a maximum, before deleting its registration so that it can re-establish a status that is compatible with the law. The company-register court shall be informed that the registration has been deleted (§ 13 of the "*Firmenbuchgesetz* [FBG – Company Register Act]).
- (5) Registration of a partnership of lawyers or a company of lawyers in the legal structure of a limited-liability company, as well as any further entries in the company register relating to a company of lawyers shall require the presentation of a statement by the competent bar that it does not object to such a registration or entry. When moving the office of a company of lawyers to the district of another bar, the statement shall be issued by the bar responsible for the district where the office is moved. Objections shall only be raised if the intended registration is contrary to the law; the second sentence of § 5 (2) and § 5a shall apply in analogy.
- (6) The provisions applicable to lawyers shall equally apply to companies of lawyers.

§ 1b

- (1) The name or designation of a company of lawyers must only comprise the names of one or several of the following persons: a company partner who is a lawyer, as defined in § 21c number 1 letter a), or a former lawyer who resigned as a lawyer and was a company partner at the time of resignation, or whose law practice, which was managed as a company of lawyers or as a sole entrepreneurship, is being continued by the company of lawyers. The names of other persons must not be included in the company name. § 12 (1) of the "*Europäisches Rechtsanwaltsgesetz*" (EIRAG - European Lawyers' Act), Federal Law Gazette I No. 27/2000, shall apply in analogy. The only material reference in the name may be an indication that the lawyer's profession is being exercised. The designation "*offene Gesellschaft*" (general partnership) may be replaced by the



designation “*Partnerschaft*” (partnership) or – if the company name does not include the names of all partners – the addition “*und (&) Partner*” (and [&] partner[s]). The designation “*Kommanditgesellschaft*” (limited partnership) may be replaced by the designation “*Kommandit-Partnerschaft*” (limited partnership of lawyers).

- (2) The designation of a lawyer undertaking that is continued in the form of a partnership of lawyers or a limited-liability company may continue to be used, yet, only with an addition referring to the new legal structure.

§ 2

- (1) The practical training required for the exercise of the lawyer’s profession shall consist of working as a legal professional at court, or with a public prosecution office, or with a lawyer. Moreover, it may also consist of working as a legal professional with a notary, or with an administrative agency, at a university, or with a chartered accountant or tax adviser¹, if the work is conducive to the exercise of the lawyer’s profession. Working at the “*Finanzprokuratur*” (Financial Procurator’s Office) is equivalent to training with a lawyer. Working with a lawyer will only qualify as practical training if this activity is pursued as a primary occupation and is not affected by any other occupational activity. Periods spent on statutory leaves or absences due to illness, accident or a ban on employment under the “*Mutterschutzgesetz*” (MSchG – Maternity Protection Act) are also recognized in this context. If standard working time is reduced in keeping with § 14a and § 14b of the “*Arbeitsvertragsrecht-Anpassungsgesetz*” (AVRAG – Labour Contract Law Amendment Act), or for severely disabled persons as defined in the “*Behinderteneinstellungsgesetz*” (BEInstG – Employment of Persons with Disabilities Act), as well as in cases of part-time employment in keeping with the “*Mutterschutzgesetz*” (MSchG – Maternity Protection Act) or the “*Väter-Karenzgesetz*” (VKG – Paternal Leave Act) the training period shall be recognized at the level to which the standard working time was reduced.
- (2) The practical training as defined in paragraph (1) shall cover a period of five years. A minimum of five months of this period shall be spent working at a court or a public prosecution office in Austria, as well as with a lawyer in Austria for a minimum of three years.
- (3) The following activities shall also be recognized among the training periods that need not necessarily be spent at court, with a public prosecution office or a lawyer in Austria:
1. a maximum of six months of university education after completing the study of Austrian law (§ 3), if it led to an additional academic degree in the field of legal science; *
 2. a practical training period abroad that is equivalent to the training as defined in paragraph (1), if this training is conducive to the exercise of the lawyer’s profession.
- (4) The practical training may be recognized upon the successful completion of studies of Austrian law (§ 3), at the earliest. It is excluded that periods according to paragraphs (1) to (3) will be recognized on a multiple basis. *

§ 3 *

- (1) The studies of Austrian law required for the exercise of the lawyer’s profession shall be pursued at a university and shall be completed with an academic degree in legal science, which may also be based on several studies (§ 54 and following of the “*Universitätsgesetz 2002*” [UnivG – 2002 University Act]). The study course shall cover a minimum of four

years and comprise studies equivalent to a minimum amount of 240 ECTS points (§ 51 (2) number 26 of the “*Universitätsgesetz 2002*” [UnivG – 2002 University Act]).

- (2) In the course of the studies according to paragraph (1), proof shall be provided that reasonable knowledge has been obtained in the following areas of knowledge:
1. Austrian civil law and Austrian civil procedural law,
 2. Austrian criminal law and criminal procedural law,
 3. Austrian constitutional law including fundamental and human rights, and Austrian administrative law including administrative procedural law,
 4. Austrian commercial law, Austrian labour and social law and Austrian tax law,
 5. European law; general international law,
 6. if required, other areas of legal science, and
 7. basis of the law; economics; other areas of knowledge related to law.

These areas of knowledge shall be covered in a scope which is appropriate to ensure an education in legal science commensurate to the requirements for exercising the lawyer's profession. The amount of work in these areas of knowledge shall amount to a total of 200 ECTS points, as a minimum, with areas of knowledge relating to legal science accounting for 150 ECTS points, as a minimum. Proof of knowledge shall be provided by successfully passing examinations and/or obtaining positive grades on written papers, including the paper according to paragraph (3). The subject of both, i.e. the examination and the paper, may also cover several areas of knowledge.

- (3) In the course of the studies, one written paper shall be produced and obtain a positive grade. The main focus of the content shall be on one or several of the areas of law listed in paragraph (2), and the paper shall serve to prove the ability to independently engage in scientific legal work.
- (4) Other law studies at a university, pursued by a national of one of the Member States of the European Union and the other Contracting States of the Agreement on a European Economic Area as well as of the Swiss Confederation, which are completed with an academic degree in legal science, will only be recognized if there is equivalence with the requirements under paragraph (1). The education and its content shall be equivalent if the knowledge and the skills of the graduate correlate with the knowledge and skills obtained when studying Austrian law, as listed in paragraphs (2) and (3). The provisions of the first chapter of the “*Ausbildungs- und Berufsprüfungsanrechnungsgesetz*” (ABAG – Recognition of Education and Occupational Admission Tests Act) shall apply to establishing equivalence and, if necessary, obtaining equivalence in case of partial equivalence.

§ 4

The “*Rechtsanwaltsprüfungsgesetz*” (RAPG – Bar Examination Act), Federal Law Gazette No. 556/1985, shall apply to where and how the bar exam shall be taken.

§ 5

- (1) A person wishing to exercise the lawyer's profession must obtain admission to the “*Liste der Rechtsanwälte*” (list of lawyers) by providing proof of satisfying all statutory requirements to the board of the bar which has competences over the location of his law practice, indicating its address.
- (1a) If there are doubts as to whether the studies of Austrian law completed by the applicant correspond to the requirements of § 3, the board can request – prior to taking its decision

and at the expense of the applicant – the chairperson of the “*Ausbildungsprüfungskommission*” (Educational Qualifications Review Commission) with competences according to the § 5 (4) of the “*Ausbildungs- und Berufsprüfungsanrechnungsgesetz*” (ABAG – Recognition of Education and Occupational Admission Tests Act) that an expert opinion is obtained from one or several of the commissioners who are university professors (§ 3 (3) of the “*Ausbildungs- und Berufsprüfungsanrechnungsgesetz*” [ABAG - Recognition of Education and Occupational Admission Tests Act]). *

- (2) Admission to the list of lawyers shall be refused if the applicant has committed an act that makes him untrustworthy. The board shall conduct the necessary inquiries and, if admission is to be refused, interview the applicant before doing so.
- (3) Admission to the list of lawyers shall otherwise be granted if there are no grounds pursuant to the provisions of the present law which oppose the applicant’s admission.
- (4) The provisions on disciplinary measures determine to what extent admission shall be refused on account of disciplinary decisions.
- (5) Admission to the list of lawyers shall be published, without delay and in a generally accessible form, on the Internet website of the “*Österreichischer Rechtsanwaltskammertag*” (Austrian Bar) (<http://www.rechtsanwaelte.at>).
- (6) If an application for admission is rejected for reasons of untrustworthiness, no further application for admission must be filed with any of the bars prior to the expiry of three years following a legally effective refusal.

§ 5a

- (1) If the board refuses admission to the list of lawyers (§ 5), the applicant has the right to appeal this decision to the Supreme Court (Chapter Seven of the “*Disziplinarstatut*” [DSt – Disciplinary Measures Act]). The right of appeal can be exercised within a period of four weeks.
- (2) The following provisions shall be applied to the proceedings according to paragraph (1) before the Supreme Court:
 1. The Supreme Court shall decide by majority vote; in case of a tie, the presiding judge shall have the casting vote.
 2. The decision, together with its reasons, shall be sent to the board which is responsible for the necessary service of the decision.
 3. Furthermore, § 49 to § 52, § 54, § 55, § 57 and § 58 of the “*Disziplinarstatut*” (DSt - Disciplinary Measures Act) and, on a subsidiary basis, the provisions of the “*Außerstreitgesetz*” (AußStrG – Non-Contentious Proceedings Act) shall apply in analogy, to the extent that their application is compatible with the principles and specific features of the admission procedure.

§ 6 – deleted

§ 7

- (1) Prior to being admitted to the list of lawyers the applicant shall solemnly promise as follows:
“Ich gelobe bei meinem Gewissen und bei meiner staatsbürgerlichen Ehre, der Republik Österreich treu zu sein, die Grundgesetze sowie alle anderen Gesetze und gültigen Vorschriften unverbrüchlich zu beobachten und meine Pflichten als Rechtsanwalt gewissenhaft zu erfüllen.”
 (“I swear on my conscience and my honour as a citizen and pledge my allegiance to the Republic of Austria that I will respect at all times the constitutional laws as well as all other laws and valid regulations and that I will conscientiously perform my duties as a lawyer.”)
- (2) The solemn promise shall be made into the hands of the president or the vice-president of the bar. When moving to another location for the purpose of exercising the lawyer’s profession, the solemn promise need not be renewed.

§ 7a

- (1) Lawyers have the right to also set up places of business outside of the location of their law practice provided that, in each case, the management of these places of business is assigned to a lawyer who has his law office at the respective place of business.
- (2) Setting up a place of business shall require the approval of the bar to which the lawyer is associated. If the place of business is to be set up within the jurisdiction of another bar, its opinion shall be obtained. The approval shall be granted if the requirement according to paragraph (1) is satisfied.
- (3) The second sentence of § 5 (2) and the final sentence of § 21 (1) shall apply in analogy.
- (4) Both the law office and the places of business are locations for the service of documents, as defined in § 13 (4) of the *“Zustellgesetz”* (ZustG - Service of Documents Act).

Chapter II – The Rights and Obligations of Lawyers

§ 8

- (1) A lawyer’s right of representation extends to all courts and authorities of the Republic of Austria and comprises the power to represent parties on a professional basis, both in and out of court, as well as in all public and private matters. A reference to this power substitutes for any proof by way of documents in all courts and before all authorities.
- (2) The power to represent parties on a professional basis in all matters, as defined in paragraph (1), is reserved to lawyers. The foregoing shall not affect the powers resulting from Austrian legislation on the professions of notaries, patent agents, chartered accountants and civil engineers.
- (3) Moreover, the foregoing shall not affect the powers granted in other statutory provisions under Austrian law to persons or associations who represent parties within a limited material scope, the scope of competences of statutory professional organizations and voluntary occupational associations of employers or employees with collective-bargaining powers, the provision of information or assistance by persons or organizations, to the extent that these services do not directly or indirectly serve the objective of obtaining economic advantages for these persons or organizations, as well as the powers granted in

other statutory provisions under Austrian law that are part of the range of powers of regulated or licensed crafts or businesses.

- (4) The professional title “*Rechtsanwalt*” (lawyer) may only be used by persons who are registered in the list of lawyers of bars. Other persons, who are entitled to use the professional title “*Rechtsanwalt*” (lawyer) on the basis of the provisions of the “*Europäisches Rechtsanwaltsgesetz*” (EIRAG - European Lawyers’ Act), may use this professional title only by indicating the location of their law practice abroad. The title “*Rechtsanwalt*” (lawyer) may only be added to the name of a company of lawyers with powers to exercise the profession (§ 21c) and may only be used by such a company to refer to a line of business (§ 3 number 5 of the “*Firmenbuchgesetz*” [FBG – Company Register Act]) and be recorded in the company register. The same applies to all other concepts and phrases referring to the exercise of the lawyer’s profession.
- (5) If a lawyer acts as a mediator or conducts a public auction pursuant to § 87c of the “*Notariatsordnung*” (NO – Notaries’ Act), he must also comply with the professional obligations of a lawyer in this function. The foregoing shall not affect any special regulations applicable to mediators under other statutory provisions.

§ 8a

- (1) With a view to the particularly high risk of money laundering (§ 165 of the Criminal Law Code [StGB]) or financing of terrorist activities (§ 278d of the Criminal Law Code [StGB]) in specific contexts, lawyers are obliged to examine with special attention all operations when acting in the name and for the account of their client in financial or real-estate transactions, or participating for their client in the planning or performance of deals that relate to the following:
 1. buying or selling real-estate property or undertakings,
 2. managing money, securities or other assets, opening or managing bank, savings or securities accounts, or
 3. establishing, operating or managing trust companies, companies of similar structures such as trusts or foundations, including the procurement of funds necessary to establish, operate or manage companies.
- (2) Lawyers shall introduce and maintain reasonable and appropriate strategies and procedures in order to comply with the duties of care imposed upon them in connection with combating money-laundering (§ 165 of the Criminal Law Code [StGB]) and financing of terrorist activities (§ 278d Criminal Law Code [StGB]) in respect of clients, reports on suspicions, the keeping of records, internal controls, risk assessment and risk management, as well as ensuring compliance with the relevant provisions and communication within their law offices in order to prevent and forestall transactions associated with money laundering (§ 165 of the Criminal Law Code [StGB]) or financing of terrorist activities (§ 278d of the Criminal Law Code [StGB]).

§ 8b

- (1) In the event of one of the transactions listed in § 8a (1), the lawyer is obliged to establish and check the identity of his client and that of the beneficial owner (§ 8d):
 1. prior to accepting a client’s brief, when establishing a contractual relationship (business relationship) that is designed for a certain length of time,
 2. in case of all other transactions, prior to performing the operation, if the contract value (which is the assessment basis in keeping with the “*Allgemeine Honorar-Kriterien für*



- Rechtsanwälte*” [General Fee Criteria for Lawyers] in conjunction with the “*Rechtsanwaltstarifgesetz*” [RATG – Lawyers’ Fees Act]) amounts to EUR 15,000, as a minimum, and irrespective of whether the operation is transacted in one single step or in several steps which appear to have some connection; if the contract value (the amount of the assessment basis) is not known initially, the client’s identity must be established as soon as it becomes foreseeable, or has become clear that the contract value (the amount of the assessment basis) will probably amount to EUR 15,000 as a minimum,
3. if the lawyer knows, suspects or has justified reason to assume that the operation serves money laundering (§ 165 of the Criminal Law Code [StGB]) or to finance terrorist activities (§ 278d of the Criminal Law Code [StGB]), or
 4. if the lawyer has doubts concerning the authenticity or the adequacy of the proof of identity which he received.
- (2) A party shall prove his identity by personally presenting an identity card with a photograph or, if this is not possible and a transaction needs to be performed in order to secure the rights of defence or the right to effective enforcement of the law, as defined in Article 6 of the ECHR, by means of an officially documented, equally conclusive procedure. In this context, official identity cards with photographs shall be all documents issued by a state authority which bear a non-exchangeable, recognizable photograph of the head of the person in question and indicate the name, the signature and, to the extent required by the laws of the issuing state, also the date of birth of the person, as well as the issuing authority. If a representative intervenes on behalf of a party, his identity must be established in the same manner. The authorization to represent the party must be checked by presenting suitable attestations.
- (3) If the party is not physically present when the business relationship is established or the operation is performed (non-face-to-face transaction), the lawyer must take additional, appropriate and conclusive measures in order to reliably establish the identity of the party as well as to check and ensure that the first payment by the party in the course of the operation is made via an account that was opened in the name of the party with a credit institution that falls within the scope of application of Directive 2005/60/EC.
- (4) The lawyer shall take risk-based and reasonable measures to check the identity of the beneficial owner. In case of physical persons, proof of identity of the contracting party in question shall be provided by presenting the original, or a copy of an official identity card with a photograph of the contracting party in question, as well as by means of conclusive documents in case of legal entities.
- (5) To the extent possible, the lawyer shall keep the originals of the documents pursuant to paragraphs (2) to (4) presented to establish identity. Copies shall be made and filed in the case of official identity cards with photographs and other documents where it is impossible or not feasible to file the original.
- (6) On the basis of a risk-based assessment, the lawyer shall obtain information about the purpose and the targeted type of business relationship or operation and monitor the business relationship on an ongoing basis. The lawyer shall pay increased attention to particularly complex or other business relationships and operations that are intended to perform transactions that are particularly complex or unusual due to their construction. Moreover, lawyers shall certainly be obliged to attach increased attention if a party or a beneficial owner has his office or domicile in a state which is listed in an ordinance that the “*Finanzmarktaufsicht*” (FMA – Financial Market Authority) shall issue pursuant to § 40b (1) of the “*Bankwesengesetz*” (BWG – Banking Industry Act) as a country with an increased risk of money laundering and financing of terrorist activities, as indicated by a



reliable source. Monitoring shall include a review of the transactions performed in the course of the business relationship in order to ensure that these correspond to the lawyer's information about the party, his business activities and risk profile, including, if necessary, the source of the funds. The lawyer shall make sure that the respective documents, data or information are kept updated at all times.

- (7) If the lawyer is not or no longer in a position to establish and check the identity of a party or that of a beneficial owner, or to obtain information about the purpose and the intended type of business relationship, he must not establish the contractual relationship and must not perform the transaction; any existing business relationship shall be ended. Moreover, it should be contemplated to send a report to the Federal Minister of the Interior (Federal Bureau of Investigation, Money-Laundering Reporting Unit, pursuant to § 4 (2) of the "*Bundeskriminalamt-Gesetz*" [BKA-G - Federal Bureau of Investigation Act]). If the party wantonly does not comply with a lawyer's justified demand for information in the context of his obligation to establish a person's identity, the Federal Minister of the Interior (Federal Bureau of Investigation, Money-Laundering Reporting Unit, pursuant to § 4 (2) of the "*Bundeskriminalamt-Gesetz*" [BKA-G - Federal Bureau of Investigation Act]) shall be informed. The second sentence of § 8c (1) shall apply in analogy.

§ 8c

- (1) In the cases of § 8 (1) the lawyer must inform, without delay, the Federal Minister of the Interior (Federal Bureau of Investigation, Money-Laundering Reporting Unit, pursuant to § 4 (2) of the "*Bundeskriminalamt-Gesetz*" [BKA-G - Federal Bureau of Investigation Act]) if he knows, suspects or has justified reason to assume that the transaction serves money-laundering purposes (§ 165 of the Criminal Law Code [StGB]) or to finance terrorist activities (§ 278 of the Criminal Law Code [StGB]) (report on a suspicion). However, the lawyer is not obliged to report a suspicion concerning facts that have come to his knowledge from or via a party in the course of providing legal advice, or in connection with representing a party in court, or before an agency preceding court proceedings, or before a public prosecution office, unless it becomes obvious to the lawyer that the party has sought the lawyer's advice clearly for the purpose of money-laundering (§ 165 of the Criminal Law Code [StGB]) or financing terrorist activities (§ 278 Criminal Law Code [StGB]).
- (1a) The lawyer may only inform the authorities with competences for combating money laundering and financing terrorist activities, the bar and the criminal prosecution offices of a report on a suspicion or a report to the Federal Minister of the Interior (Federal Bureau of Investigation, Money-Laundering Reporting Unit, pursuant to § 4 (2) of the "*Bundeskriminalamt-Gesetz*" [BKA-G - Federal Bureau of Investigation Act]), pursuant to § 8b (ban on disclosing information). It is admissible to disclose this information within the lawyer's office as well as within the company of lawyers. The ban on disclosing information does not oppose efforts by the lawyer to keep the party from committing an unlawful act. If the party also retains a lawyer in a Member State of the European Union or a third country where requirements are valid that are equivalent to those of Directive 2005/60/EC, as well as where there are equivalent obligations on confidentiality and data protection, or if such a lawyer is otherwise involved in the transaction of the party, then information relating to the transaction in question may be exchanged between these lawyers. However, the exchanged information may only be used to prevent money laundering (§ 165 Criminal Law Code [StGB]) or financing of terrorist activities (§ 278d of the Criminal Law Code [StGB]).

- (2) If the lawyer is required to file a report on a suspicion pursuant to paragraph (1) he may not perform the operation prior to having filed his report with the Federal Minister of the Interior (Federal Bureau of Investigation, Money-Laundering Reporting Unit, pursuant to § 4 (2) of the “*Bundeskriminalamt-Gesetz*” [BKA-G - Federal Bureau of Investigation Act]). The lawyer has the right to demand a decision from the Federal Minister of the Interior (Federal Bureau of Investigation, Money-Laundering Reporting Unit, pursuant to § 4 (2) of the “*Bundeskriminalamt-Gesetz*” [BKA-G - Federal Bureau of Investigation Act]) as to whether there are reservations concerning the immediate performance of the operation. If the Federal Minister of the Interior (Federal Bureau of Investigation, Money-Laundering Reporting Unit, pursuant to § 4 (2) of the “*Bundeskriminalamt-Gesetz*” [BKA-G - Federal Bureau of Investigation Act]) does not respond by the end of the following working day, the operation may be performed immediately. However, if it is not possible to relinquish the transaction, or if relinquishing the transaction would render it more difficult, or prevent that the facts are established, or that the assets secured, the lawyer shall provide to the Federal Minister of the Interior (Federal Bureau of Investigation, Money-Laundering Reporting Unit, pursuant to § 4 (2) of the “*Bundeskriminalamt-Gesetz*” [BKA-G - Federal Bureau of Investigation Act]) the necessary information immediately after performing the transaction.
- (3) The Federal Minister of the Interior (Federal Bureau of Investigation, Money-Laundering Reporting Unit, pursuant to § 4 (2) of the “*Bundeskriminalamt-Gesetz*” [BKA-G - Federal Bureau of Investigation Act]) has the right to order that the operation in question must not be performed, or must be postponed for the time being. The Federal Minister of the Interior (Federal Bureau of Investigation, Money-Laundering Reporting Unit, pursuant to § 4 (2) of the “*Bundeskriminalamt-Gesetz*” [BKA-G - Federal Bureau of Investigation Act]) shall inform the lawyer, the party and the public prosecution office of such an order without any undue delay. The information provided to the lawyer shall be deemed to be the official notification of the order. The information provided to the party shall include an indication that the party or any other person concerned has the right to file a complaint with the Federal Administrative Court for violation of his rights. Reference shall be made to the provisions concerning such complaints, which are contained in § 7 to § 9 of the “*Verwaltungsgerichtsverfassungsgesetz*” (VwGVG – Administrative Court Constitution Act). Whenever the party would need to be informed of such an order, the lawyer may certainly inform his party accordingly.
- (4) The Federal Minister of the Interior (Federal Bureau of Investigation, Money-Laundering Reporting Unit, pursuant to § 4 (2) of the “*Bundeskriminalamt-Gesetz*” [BKA-G - Federal Bureau of Investigation Act]) shall repeal an order pursuant to paragraph (3) as soon as the requirements for issuing it no longer prevail, or the public prosecution office states that the pre-conditions for confiscation pursuant to § 115 (1) number 3 of the Code of Criminal Procedure (StPO) no longer apply. Moreover, the order shall cease to be effective,
1. if more than six months have passed since it was issued, or
 2. as soon as a court has taken a final and enforceable decision on the order for confiscation pursuant to § 115 (1) number 3 of the Code of Criminal Procedure (StPO).
- (5) The Federal Minister of the Interior (Federal Bureau of Investigation, Money-Laundering Reporting Unit, pursuant to § 4 (2) of the “*Bundeskriminalamt-Gesetz*” [BKA-G - Federal Bureau of Investigation Act]) has the right to investigate, to process and to exchange with the authorities of other states, which are responsible for combating money-laundering and the financing of terrorist activities, such data of physical persons and legal entities as well



as other institutions with legal character, as are required to comply with the obligations imposed upon him by paragraphs (1) to (4) as well as § 8b.

§ 8d

Beneficial owners are physical persons who ultimately own or control the party, or upon whose instruction the party ultimately acts. The concept of beneficial ownership shall comprise the following features, in particular:

1. concerning enterprises:
 - a) the physical persons who ultimately own or control a legal entity by holding or controlling directly or indirectly a sufficient amount of shares or voting rights relating to that legal entity, including participations in the form of owner shares. This enterprise shall not be a listed company on a regulated market which is subject to disclosure requirements corresponding to Community law or an equivalent international standard. A stake of 25% plus one share shall be regarded as sufficient to fulfil the present criterion;
 - b) the physical persons who exercise some other form of control over managing the business of a legal entity;
2. concerning legal entities such as, for example, foundations as well as concerning trusts which manage or distribute money:
 - a) if the future beneficiaries have already been determined, those physical persons who receive as benefits 25% or more of the allocations from a trust or a legal entity;
 - b) if the individual persons have not yet been determined as beneficiaries of the trust or the legal entity, the group of persons in whose main interest the trust or the legal entity is effective or was set up;
 - c) the physical persons who exercise control over 25% or more of the assets of a trust or a legal entity.

§ 8e

- (1) Except for the case of § 8b (1) number 3, the obligations listed in § 8b shall not apply, namely to establish and check the identity of the party and that of the beneficial owner, to obtain information about the purpose and intended type of business relationship, as well as to monitor and update information if the party is
 1. a credit or financial institution that falls under the scope of application of Directive 2005/60/EC,
 2. a credit or financial institution domiciled in a third country which is subject in that country to requirements that are equivalent to the requirements stipulated in Directive 2005/60/EC, and which is subject to a supervisory agency concerning their compliance,
 3. a listed company whose securities have been admitted to trading on a regulated market pursuant to § 2 number 37 of the “*Bankwesengesetz*” (BWG - Banking Industry Act) in one or several Member States, or a listed company from third countries which is subject to disclosure requirements that correspond or are comparable to those under Community law and shall be issued in the form of an authorizing ordinance by the Financial Market Authority (FMA) pursuant to § 2 number 37 of the “*Börsegesetz*” (BörseG – Stock Exchange Act),
 4. an Austrian authority, or
 5. any other authority or public institution,



- a) which has been entrusted with public tasks on the basis of the Treaty on the European Union, the Treaties on the European Communities or the secondary legislation of the Community, and
 - b) whose identity can be publicly checked and is transparent and exists beyond any doubt,
 - c) whose activities and accounting practices are transparent, and
 - d) which are accountable to a body of the Community or the authorities of a Member State, or in respect of which other controls and mechanisms for double-checking exist to review their activities, or
6. any other legal entity,
- a) which is domiciled in a Member State which has placed its activities under the provisions of Directive 2005/60/EC, pursuant to its Article 4, and which, pursuant to its Article 37 (3), is subject to supervision by the competent authorities, in which connection non-compliance with the Directive requirements leads to effective, proportional and deterring sanctions, and
 - b) whose identity can be publicly checked and is transparent and exists beyond any doubt, and
 - c) which, under the laws of the individual state, cogently requires a license in order to engage in financial operations, which license may be refused if the physical persons conducting its business operations or the beneficial owners lack in trustworthiness and technical qualifications, or which is subject to comprehensive supervision (including in-depth on-site reviews) by the competent authorities, or
7. which is a subsidiary of one of the persons under number 6, if and to the extent that the Member State also placed the activities of that subsidiary under the provisions of Directive 2005/60/EC.
- (2) In any event, the lawyer shall collect sufficient information in order to be able to reliably establish that the exemption provision applies to the party.

§ 8f *

- (1) In the event of one of the transactions listed in § 8a (1), the lawyer shall check, as part of his identification obligation, whether the party, domiciled in another Member State or in a third country, is a politically exposed person, as defined in paragraph (2). For this purpose he must have at his disposal adequate, risk-based procedures in order to determine this criterion.
- (2) Politically exposed persons are:
 1. physical persons who hold, or have held within the last year, the following public offices on the national level, the Community level or the international level:
 - a) heads of state, heads of government, ministers, deputy ministers and state secretaries;
 - b) members of parliament;
 - c) members of supreme courts, constitutional courts or other high-level judiciary institutions where no legal remedy can be obtained against their decisions, except under extraordinary circumstances, unless they only hold middle or lower-level functions,
 - d) members of courts of audit or the management boards of central banks, unless they only hold middle or lower-level functions,
 - e) ambassadors, charges d'affaires and high-ranking officers of the armed forces (especially in the rank of generals or admirals), unless they only hold middle or lower-level functions, or



- f) members of the administrative, managing or supervisory boards of public enterprises, unless they only hold middle or lower-level functions,
 2. the spouse or partner, in case of equal position under the laws of the individual state, the children and their spouses and/or partners, as well as the parents of the persons listed in number 1, or
 3. physical persons who are known to be beneficial owners (§ 8d), together with one of the persons listed in number 1, of legal entities or legal agreements, or who otherwise maintain close business relations with that person, as well as physical persons who are the sole beneficial owner (§ 8d) of legal entities or legal agreements which are known to have, in fact, been established for the benefit of one of the persons listed in number 1.
- (3) A contractual relationship with a person who is politically exposed and domiciled in another Member State or a third country may only be entered after having obtained the lawyer's consent (a lawyer authorized to manage a company of lawyers). If the party or the beneficial owner is a person who is politically exposed and domiciled in another Member State or in a third country, the lawyer shall take reasonable measures in order to check the origin of the money that is deployed in the course of the business relationship or the transaction, and the business relationship shall be subject to increased continuous monitoring.

§ 9

- (1) The lawyer is obliged to represent the clients whose brief he has accepted in accordance with the law, as well as to represent his clients' rights vis-à-vis third parties applying his diligence, loyalty and conscientiousness. He is authorized to openly put forward everything which he deems to be conducive, according to the law, to represent his client, to use his client's pleas and defences in any form and way that is not in conflict with his submissions, his conscience and the law.
- (1a) In keeping with technical and organizational possibilities as well as the requirements of an orderly and structured administration of justice, the lawyer is obliged, subject to guidelines which are defined in § 37 number 6, to ensure that he uses the instruments necessary to preserve, pursue and enforce the interests entrusted to him, especially to use electronic legal communication (§ 89a of the "Gerichtsorganisationsgesetz" [GOG – Court Organization Act]) in contacts with courts.
- (2) The lawyer is obliged to maintain confidentiality concerning all matters entrusted to him and the facts that have otherwise come to his knowledge in his professional capacity, whenever maintaining confidentiality is in the interest of his party. In court and other proceedings before authorities, the lawyer has this right to secrecy, in keeping with procedural regulations. The same applies to the company partners as well as the members of supervisory bodies of a company of lawyers established under law or articles of association.
- (3) The right of a lawyer to secrecy pursuant to the second sentence of paragraph (2) must not be bypassed by court or other measures of authorities, especially by questioning a lawyer's auxiliary staff or by ordering the surrender of documents, video, audio or data carriers, or by confiscating these. Special rules defining this ban shall remain unaffected.
- (4) In the event of one of the operations listed in § 8a (1), the lawyer shall provide information to the Federal Minister of the Interior (Federal Bureau of Investigation, Money-Laundering Reporting Unit, pursuant to § 4 (2) of the "Bundeskriminalamt-Gesetz" [BKA-G - Federal Bureau of Investigation Act]), upon his inquiry, concerning all

circumstances known to him, to the extent that this is required to clarify any suspicion of money-laundering (§ 165 of the Criminal Law Code [StGB]) or financing terrorist activities (§ 278d of the Criminal Law Code [StGB]) directed against the party. This obligation shall not apply under the requirements indicated in the second sentence of § 8c (1).

- (5) The bona fide information provided to the Federal Minister of the Interior (Federal Bureau of Investigation, Money-Laundering Reporting Unit, pursuant to § 4 (2) of the “*Bundeskriminalamt-Gesetz*” [BKA-G - Federal Bureau of Investigation Act]) pursuant to § 8b and § 8c shall not be regarded as a violation of the obligation to secrecy, nor of any other restrictions on disclosure governed by other contractual or judicial and administrative provisions (secrecy obligations) and shall not lead to any prejudicial legal consequences for the lawyer.

§ 9a

In deviation from § 40 (4) of the “*Bankwesengesetz*” (BWG – Banking Industry Act) lawyers are required, in connection with escrow accounts, to establish the identity of the persons in whose name the money has been deposited (§ 8b (2)). Information about the actual identity of these persons shall be disclosed to the credit institution upon its request. The lawyer shall keep the documents that prove the identity of such persons (§ 8b (5)).

§ 10

- (1) The lawyer is not obliged to accept representing a party and can refuse to do so without indicating any reasons. However, he is obliged to refuse representing a party or to merely provide advice to that party if he represented the adverse party in the same matter or a matter associated to it, or if he acted as a judge or public prosecutor in such matters at an earlier point in time. Moreover, he must not provide services or provide advice to both sides in a legal dispute.
- (2) Altogether, the lawyer is obliged to preserve the honour and dignity of the legal profession by acting truthfully and honourably.
- (3) The board of a bar shall appoint a lawyer for a solvent party when no lawyer voluntarily accepts to represent that party. In such a case, the lawyer must accept representing that party against securing a deposit for the cost of representation.
- (4) If the law requires that a document shall be issued before a lawyer, the lawyer shall check the identity of the party by means of an official identity document with a photograph; he shall inform the party comprehensively about the possible structure and content of the document in question as well as its legal effects, and he shall make sure that the party has understood the consequences and effects of the legal transaction performed by the party through that document. The lawyer shall also sign the document, as proof of having complied with this obligation.
- (5) A lawyer is permitted to engage in advertising to such an extent as the advertising provides true and factual information about his professional activity and is in agreement with his professional obligations.
- (6) A lawyer is obliged to engage in continuous professional development. This especially applies to the areas of knowledge that were the subject of his studies (§ 3) and the bar exam (§ 20 of the “*Rechtsanwaltsprüfungsgesetz*” [RAPAG – Bar Exam Act]).

§ 10a

- (1) If a lawyer accepts a fiduciary relationship, he must perform it at his own responsibility. In this connection, he must not accept guarantees, nor grant loans or credits. The tasks to be performed by a lawyer in a fiduciary relationship shall be laid down fully in a written agreement on that fiduciary relationship. The lawyer shall enter the assumed fiduciary relationships into a register with consecutive numbering.
- (2) If the amount deposited in the framework of a fiduciary relationship exceeds the amount of EUR 40,000, or if any other statutory provision requires securitization in a “*Treuhandtschaftseinrichtung*” (trust recording institute = trust book) of the bar, the fiduciary relationship shall be handled via the “*Treuhandtschaftseinrichtung*” (trust recording institute = trust book), to be maintained by the bar. The foregoing shall not apply to amounts which a lawyer receives in the course of pursuing a legal action, or collecting liabilities, or managing assets, or acting as an insolvency administrator, or when the money serves to pay court fees, taxes or charges.
- (3) A lawyer need not comply with the obligation pursuant to paragraph (2) if the party expressly refuses in writing that the fiduciary relationship is managed via a “*Treuhandtschaftseinrichtung*” (trust recording institute = trust book), after it has been brought to the party’s knowledge, which shall be recorded as evidence, that, as a result of the party’s decision, there is no securitization of the fiduciary relationship, including insurance coverage. The foregoing shall not apply to fiduciary relationships where another statutory provision requires securitization in the “*Treuhandtschaftseinrichtung*” (trust recording institute = trust book) of a bar.
- (4) In the event of a fiduciary relationship requiring securitization via the “*Treuhandtschaftseinrichtung*” (trust recording institute = trust book) of a bar, the lawyer shall report the fiduciary relationship to the trust book prior to making the first disposition concerning the deposited fiduciary amount. The lawyer shall also report the termination of a fiduciary relationship.
- (5) The lawyer shall make it possible for the “*Treuhandtschaftseinrichtung*” (trust recording institute = trust book) to review the proper management of the assumed fiduciary relationships pursuant to the guidelines in § 27 (1) letter g, by providing the relevant information and facilitating the inspection of all documents concerning the fiduciary relationships assumed by him, including the register to be kept by him pursuant to paragraph (1). In this context, the lawyer shall obtain the release from his obligation to secrecy from his party.
- (6) If there are specific indications that the lawyer does not, or not sufficiently, comply with the obligation to manage fiduciary relationships via the “*Treuhandtschaftseinrichtung*” (trust recording institute = trust book), a review pursuant to paragraph (5) may also be conducted, independent of any specific fiduciary relationship. In such an event, the right of a bar to obtain information and to conduct an inspection relates to all fiduciary relationships, as defined in paragraph (2), which the lawyer managed or is managing.
- (7) The lawyer is obliged to pay contributions for the financing of premiums that the bar has to pay for the insurance coverage to secure the rights of trustors (§ 23 (4)). These contributions shall be calculated at the same amount for all members of the bar, irrespective of the number of fiduciary relationships which a lawyer handles via the “*Treuhandtschaftseinrichtung*” (trust recording institute = trust book).



§ 11

- (1) A lawyer owes performance of the business entrusted to him during the term of his brief or commission, and he shall be responsible for non-performance.
- (2) However, the lawyer has the right to terminate representation of a party, in which case, as well as in the event that the party terminates the representation, the lawyer has the duty to continue representation for another 14 days after receipt of the termination notice, to the extent that this is necessary in order to protect the party against adverse legal effects.
- (3) The foregoing obligation shall cease if the party revokes the lawyer's brief.

§ 12

- (1) If representation of a party has ended, the lawyer is obliged, upon the party's request, to return the originals of the documents and files belonging to the party. However, he has the right, in the event that his costs for representing the party have not been paid, to make and retain copies, at the party's expense, of the documents to be returned which are required to prove his costs.
- (2) The lawyer never has any obligation to return to the party drafts of writings, letters by the party to the lawyer and other reference files, as well as proof of payments made by the lawyer which have not yet been refunded to him. However, the lawyer is advised to return copies of these items, upon a party's request and at a party's expense. This obligation, as well as the obligation to keep files, expires after five years, calculated as of the date at which representation of the party ends.
- (3) The obligation to keep documents pursuant to § 8b (4) ends after five years, at the earliest, calculated as of the time at which the business relationship with the party has ended. The same applies to receipts and records concerning the business matters covered by § 8a (1).

§ 13

The lawyer is not obliged to return the power of attorney to the party. However, a party has the right to visibly indicate the revocation of the power of attorney on that form.

§ 14

If a lawyer is prevented, he has the right to be substituted by another lawyer maintaining, though, his statutory liability. If he is continually prevented or absent for a longer period of time, he shall notify the board of his bar that he is being substituted. The board, in turn, must also notify the competent “*Oberlandesgericht*” (Higher Regional Court) so that the subordinate courts can be informed accordingly. A lawyer does not need permission for a holiday leave planned for a longer period of absence.

§ 15

- (1) If it is a statutory requirement to retain a lawyer, the lawyer can also be represented before all courts and authorities by a trainee lawyer who is employed by him and entitled to act as a substitute, while retaining his responsibility. However, it is not admissible that the trainee lawyer signs any submissions to courts or authorities.
- (2) A trainee lawyer is entitled to act as a substitute if he has successfully passed the bar exam. Upon request by the lawyer, the requirement to have passed the bar exam may be waived by the board of a bar for those trainee lawyers employed by the requesting lawyer for reasons deserving consideration, whenever these trainee lawyers have completed their law studies (§ 3) and can prove their practical training for a minimum of five months with a court or public prosecution office as well as of eighteen months with a financial procurator’s office or a lawyer. However, the waiver of the bar exam shall only apply for the time that the trainee lawyer is employed by the lawyer upon whose request it was granted. *
- (3) Whenever it is not a statutory requirement to retain a lawyer, the lawyer can be substituted before all courts and authorities by any other trainee lawyer employed by him, while retaining his responsibility. However, it is not admissible that the trainee lawyer signs any submissions to courts or authorities.
- (4) The board of a bar shall issue identity cards to the trainee lawyers employed by a lawyer, which indicate the entitlement to act as a substitute pursuant to paragraph (2) (full entitlement card) or the entitlement to act on behalf of a lawyers pursuant to paragraph (3) (partial entitlement card).

§ 16

- (1) A lawyer is free to agree his fees with a party. However, he is not entitled to fully or partially share in the proceeds of a litigation entrusted to him (*quota litis*).
- (2) A lawyer appointed pursuant to § 45 or § 45a shall accept representing or defending a party in keeping with the decree on his appointment and with the same care as a freely retained lawyer. He has a title to remuneration against the party represented or defended by him, with the proviso of additional procedural rules, only to the extent that the losing party refunds the litigation costs.
- (3) Concerning services provided by lawyers appointed pursuant to § 45 or § 45a, for which they would otherwise have no title to remuneration on account of procedural law provisions, the lawyers admitted to the list of lawyers of an Austrian bar have a claim against that bar in that the bar credits them an equal share to their contributions to old-age, occupational disability and surviving dependants’ pension, from the lump sum allocated to the bar, unless there is a title to remuneration pursuant to paragraph (4).

- (4) In proceedings where the lawyer appointed pursuant to § 45 or § 45a provides services on more than ten days of hearings or altogether more than 50 hours of hearings within one year, he has a claim to adequate remuneration against the bar concerning all services in a year that are in excess of the aforementioned periods, subject to the requirements of paragraph (3). Upon request by the lawyer, the service to draw up a written legal remedy, in proceedings where the court decides to extend the deadline for filing a legal remedy in keeping with § 285 (2) of the Code of Criminal Procedure (StPO), shall be regarded as equal to ten hours of hearing for every full week by which the deadline for the legal remedy is extended. The lawyer shall file his application for remuneration with the bar by 31 March of the year following the expired calendar year in which the lawyer provided his service, with the claim being lost otherwise. Upon his request, the lawyer shall be granted a reasonable advance payment by the bar concerning this remuneration, in keeping with advance payments pursuant to the last sentence of § 47 (5). The board decides on the amount of the remuneration as well as on granting an advance payment and on its amount. In the course of determining a reasonable remuneration, the services detailed in the lawyer's application shall be taken into account and evaluated according to their sequence over time. If the remuneration is smaller than the advance payment granted, the lawyer shall return the respective amount to the board of the bar.
- (5) The provisions of paragraphs (3) and (4) shall be applied analogously if the remuneration claim of an *ex officio* defence counsel, appointed under § 61 (3) of the Code of Criminal Procedure (StPO), proves to be uncollectible, in spite of exhausting all steps that he can reasonably be expected to take for its collection, and this fact has been established by the bar.

§ 16a – deleted

§ 17

- (1) In the absence of an agreement, the amount of the remuneration due in civil disputes shall be calculated for the time spent and the efforts made by the lawyer in keeping with a schedule of fees, to the extent possible. This schedule of fees shall be stipulated by way of legislation, as soon as the new Code of Civil Procedure has become effective. The statutory provisions on work contracts shall apply to those items that are not contained in the schedule of fees.
- (2) Prior to the introduction of the aforementioned schedule of fees and in all other cases, the statutory provisions on work contracts shall solely be applicable to the determination of expenses and the consideration due to the lawyer in the absence of an agreement.

§ 18

- (1) If, upon application by a party, that party's rights are enforced against a third party whose legal representation in court is assigned to a lawyer, the refund of the cash expenses shall be borne by the state. If the party represented by the lawyer, who is appointed by the state, has financial means or obtains possession of financial means, that party shall refund the cash expenses to the state and pay a remuneration to his representative.
- (2) The laws on fees and charges shall determine in which case an exemption from stamp duty shall be granted or when it needs to be paid.

§ 19

- (1) A lawyer is entitled to deduct the sum of his expenses and his remuneration from cash funds which he receives from his client, to the extent that these are not covered by advance payments received; yet, he owes it to the client to immediately settle these positions with the client.
- (2) In the event that the correctness and the amount of his claim are contested, both the lawyer and the client have the right to seize the board of the bar for an amicable solution.
- (3) However, in the event that the correctness and the amount of a lawyer's claim is contested, the lawyer is entitled to use, as coverage, also the cash funds received for depositing with the court, up to the amount of the contested claim. However, he is equally obliged to prove the correctness and the amount of the latter if the requested amicable solution is not obtained.
- (4) The lawyer has a statutory lien on the deposited amount for the claim which arises from representing a party.

§ 19a

- (1) If a party is granted the refund of costs in proceedings before a court or another public authority, or if he is awarded refund of costs by an arbitral tribunal, the lawyer, who last represented that party, has a lien in connection with the cost refund claim of that party, with regard to his own and his predecessors' claims for refund of the cash expenses and the remuneration for representing the party.
- (2) If a party was ultimately represented by several lawyers, the first-mentioned lawyer has the right to this lien.
- (3) If the debtor of the costs does not pay the full amount of the costs, then the last lawyer shall distribute the received amount among himself and the earlier lawyers, in accordance with the amounts of costs due to him and the other lawyers.
- (4) The party required to refund the costs may pay these, at any time and with legal effect, to the lawyer entitled to a lien and also to the party, as long as the lawyer has not demanded that the payment is made to him.

§ 20

It is incompatible with the exercise of the lawyer's profession:

- a) to hold a paid government office/position, with the exception of a teaching position;
- b) to exercise the profession of notary public;
- c) to engage in such other activities as run counter to the reputation of the lawyer's profession.

§ 21

- (1) A lawyer is permitted to choose and change the location of his law practice. However, prior to re-locating, he shall notify the move to the board of his bar, as well as to the board of the bar responsible for the newly chosen location of his law practice. The board of the bar shall publish the notification immediately and generally accessible on the Internet website of the Austrian Bar (<http://rechtsanwaelte.at>).
- (2) A lawyer is entitled to use his qualified electronic signature as a lawyer (§ 2 letter 3a of the "*Signaturgesetz*" [SigG – Signature Act]) in the course of his professional activities,

which is reserved to the exercise of his profession as a lawyer (electronic lawyer's signature). The request to be issued the qualified certificate and the identity card for the electronic lawyer's signature shall be filed with the responsible bar, in keeping with § 8 (1) of the "*Signaturgesetz*" (SigG – Signature Act). The professional title shall be included in the qualified certificate. It is inadmissible to use a pseudonym, as defined in § 5 (1) letter 3 of the "*Signaturgesetz*" (SigG – Signature Act). The provider of the certification service shall render the content of the qualified certificate accessible on the Internet in a secure mode. The qualified certificate shall be revoked upon every change of the data in the qualified certificate. The attaching identity card shall be returned to the bar. The latter shall issue an identity card upon application, which shall be attached to the new qualified certificate.

- (3) Upon expiry of the right to exercise the lawyer's profession (§ 34 (1)), the right to use the electronic lawyer's signature expires as well. The identity card must be returned to the respective bar without delay. In the cases defined in § 34 (2) the right to use the electronic lawyer's signature is also suspended. The bar shall immediately inform the Austrian Bar of the expiry or suspension of the right to exercise the lawyer's profession and shall arrange for the revocation of the certificate by the certification service provider. In these cases the certification service provider shall revoke the certificate upon request by the bar and with immediate effect, (§ 9 of the "*Signaturgesetz*" [SigG – Signature Act]). The electronic register for lawyers' signatures must indicate that the right to exercise the lawyer's profession has been suspended or has expired.
- (4) The identity card for the electronic signature entitles the lawyer to archive, with the consent of the party, public and private documents in the Lawyers' Documents' Archives, adding his electronic lawyer's signature ("*Archivium*" - § 91c and § 91d of the "*Gerichtsorganisationsgesetz*" [GOG – Court Organization Act]). The lawyer shall facilitate electronic access to these documents to the parties (§ 91c (3) of the "*Gerichtsorganisationsgesetz*" [GOG – Court Organization Act]). If a temporary deputy according to § 34 (4) has been appointed, that person shall facilitate the access for the parties. In the absence of such a deputy, the Austrian Bar shall facilitate access to these documents to the parties. The parties have the right to permit electronic access to additional persons, in the form provided in the guidelines. Except for the cases provided in the law, access to these documents may be facilitated to the court only upon a court order, or to the competent bar upon its order in the course of exercising its supervision over the rules of conduct and ethics.

§ 21a

- (1) Every lawyer is obliged to prove to the board of the bar, prior to being registered in the list of lawyers, that he has taken out professional indemnity insurance with an insurer entitled to operate in Austria, which will cover claims for damages against him, arising from his professional activity. He shall maintain this insurance throughout the period in which he exercises the lawyer's profession.
- (2) If a lawyer does not comply with his obligation to maintain professional indemnity insurance, in spite of being requested to do so by the board of the bar, the board shall ban him from exercising the lawyer's profession until he has provided proof of compliance with this obligation.
- (3) The minimum insured sum shall amount to a total of EUR 400,000 for every insurance claim. For partnerships of lawyers the insurance must also cover claims for damages that are filed against a lawyer on account of his position as a company partner.

- (4) For companies of lawyers in the form of a limited-liability company or a partnership of lawyers, where the only general partner is a limited-liability company, the minimum insured sum shall amount to a total of EUR 2,400,000 for every insurance claim. If the professional indemnity insurance is not maintained or not in the required amount, the company partners will also be held personally responsible in the amount of the missing insurance coverage, in addition to the company, irrespective of whether they can be found to be at fault.
- (5) Any exclusion or time limitation of the insurer's follow-up liability is inadmissible.
- (6) The insurer is obliged to report to the competent bar, without being so requested and without any delay, any circumstance that results, or may result in a termination or restriction of the insurance coverage, or a deviation from the original insurance confirmation, as well as to inform the competent bar on its request about such circumstances, with the insurer's obligation to provide coverage otherwise continuing up to two weeks as of providing the information.

§ 21b

- (1) The lawyer shall make sure that the trainee lawyer receives comprehensive training in keeping with the professional profile of the lawyer and to deploy him accordingly on a full-time basis.
- (2) The lawyer shall make the trainee lawyer aware, as well as the other persons employed by him, by means of appropriate measures, of the provisions that serve to prevent or combat money laundering (§ 165 of the Criminal Law Code – StGB) or the financing of terrorist activities (§ 278d of the Criminal Law Code – StGB). These measures include, *inter alia*, attendance by the lawyer and the trainee lawyer of special further-training programs (§ 28 (2) to identify transactions associated with money-laundering (§ 165 of the Criminal Law Code – StGB) or the financing of terrorist activities (§ 278d of the Criminal Law Code – StGB) and the proper conduct to be pursued in such cases.

§ 21c

In case of companies for the exercise of the lawyer's profession, the following requirements must be satisfied at all times:

1. The company partners shall only be
 - a) Austrian lawyers and lawyers according to the annex to the “*Europäisches Rechtsanwaltsgesetz*” (EIRAG – European Lawyer's Act), Federal Law Gazette I No. 27/2000,
 - b) the spouses and children of a lawyer associated to the company,
 - c) former lawyers who gave up exercising the lawyer's profession and who were company partners at the time of their waiver, or whose law practice is continued by the company,
 - d) the widow (widower) and children of a deceased lawyer if the latter was a company partner at the time of his demise, or if the widow (widower) or the children set up the company with a lawyer for the purpose of continuing the law practice,
 - e) Austrian private foundations established by one or several of the company partners, where the sole purpose of these foundations is to support the persons listed in letters a) to d),
 - f) limited-liability companies whenever they are the sole general partner of a partnership of lawyers organized in the form of a limited partnership.

2. Except for the case of a partnership of lawyers in which the sole general partner is a limited-liability company, lawyers may be associated to a company only as personally liable company partners or, in the case of limited-liability companies, as company partners authorized to represent and manage the company. Lawyers who temporarily do not exercise the lawyer's profession pursuant to § 20 letter a), as well as the company partners listed in number 1 of letters b) to e) may belong to the company only as limited partners, as company partners without authorization to represent and manage the company, or like dormant company partners. Other persons who are company partners must not share in the turn-over or profit of the company.
3. The temporary discontinuation or prohibition to exercise the lawyer's profession does not prevent a person from being associated to a company; yet, these conditions prevent that person from representing and managing the company.
4. Spouses (number 1 letter b)) may only be associated to a company during the period of the marriage, children (number 1 letters b) and d)) only up to the age of 35 years, and beyond that age only during the time that they prepare to become lawyers.
5. All company partners must exercise their rights in their own name and for their own account. Any fiduciary assignment and exercise of company rights is not admissible.
6. The activities of the company must be limited to exercising of the lawyer's profession, including all necessary ancillary activities and the management of the company assets.
7. At least one of the company partners must have his law practice at the office of the company. § 7a shall apply in analogy to the setting up of branch offices.
8. Lawyers must not belong to any other professional affiliation in Austria. The foregoing shall not preclude participation of a lawyer either as a limited partner in a partnership of lawyers in which the only general partner is a limited-liability company, or as a company partner in the limited-liability company in question which acts as general partner. The articles of association may provide, though, that a lawyer may also exercise the lawyer's profession outside of the company. Participation of companies of lawyers in other affiliations for the joint exercise of the profession in Austria is not admissible. The foregoing shall not prevent participation of a limited-liability company which acts as the only general partner (number 11) in a partnership of lawyers that is organized as a limited partnership.
9. All lawyers associated with a company must individually be authorized to represent and to manage the company. However, they can exercise representing and managing the company only within the framework of their professional authorization. All other company partners must be excluded from representing and managing the company. The foregoing shall apply in analogy to liquidation. Only a lawyer may be appointed as liquidator, for as long as the exercise of the lawyer's profession has not been terminated. In the event that § 117 and § 140 of the "*Unternehmensgesetzbuch*" (UGB – Commercial Law Code) apply, an effective arbitral award in arbitral proceedings shall be equivalent to a court decision.
- 9a. In a company of lawyers which is constituted as a limited-liability company, only company partners may be appointed as managing directors. Powers of attorney (*Prokura*) and powers to act cannot effectively be granted in a company of lawyers.
10. The lawyers must hold the majority in the company capital, and they must have a decisive influence on the decision-making process. The exercise of a brief/retainer by a lawyer associated with a company must not be tied to any instruction or consent of the company partners (meeting of company partners).
11. If a limited-liability company is the sole personally liable shareholder of a partnership of lawyers (limited-liability company acting as general partner), the provisions



applicable to companies of lawyers constituted as limited-liability companies shall apply in analogy, with the proviso that the business purpose of the limited-liability company acting as general partner must be limited to performing its tasks as a company partner of the limited partnership as well as the management of the company assets, including the ancillary activities required in this connection, and that the limited-liability company acting as general partner must not be authorized to independently exercise the lawyer's profession. The managing directors of the limited-liability company acting as general partner may only be lawyers, who are also limited partners of the limited partnership.

§ 21d

- (1) Every lawyer associated with a company shall ensure compliance with the provisions of § 21c and the reporting obligation pursuant to § 1a (2) and (3), especially by appropriate wording in the articles of association. Nor may he engage in any practice that is in contradiction to these provisions.
- (2) He is personally responsible for complying with his professional and ethical obligations. This responsibility can neither be restricted nor set aside by articles of association, or decisions of the company partners, or measures by the managing director(s).

§ 21e

Powers of attorney may be granted to partnerships of lawyers and companies of lawyer constituted as a limited-liability company. The company partners, who are authorized to represent the company, are authorized to exercise this representation on account of their personal professional authorization, as defined in § 8.

§ 21f

Only a lawyer may be appointed as the liquidator of a dissolved company of lawyers.

§ 21g

Lawyers may only become employed in an employment relationship with a lawyer or a company of lawyers when the purpose of the employment relationship also comprises activities that are part of the tasks for which a lawyer is authorized.

Chapter III – The Bar and its Board

§ 22

- (1) Bars are constituted by all lawyers admitted to the list who have the office of their law practice in the district covered by that bar, as currently defined, as well as all trainee lawyers who are being trained by lawyers and who are registered in the list of trainee lawyers.
- (2) Bars are corporations under public law; they are entitled to display the national coat of arms. The official seal of a bar shall comprise the national coat of arms surrounded by the name of the bar.
- (3) For the purpose of affixing an electronic signature, when managing the business of a bar, the bar president shall use his electronic lawyer's signature, adding a graphic presentation of the official seal of the bar (§ 19 (3) of the “*E-Government-Gesetz*” (E-GovG – E-Government Act) and the words “as President of the Bar”. The foregoing shall apply in analogy to his deputies.

§ 23

- (1) The sphere of activities of a bar shall cover the “*Bundesland*” (federal province/region) for which it was set up, as well as all lawyers and trainee lawyers who have been entered into the lists of that bar. The bar manages its business partly directly in the plenary assembly and partly indirectly via its board.
- (2) Within its sphere of activities, a bar shall safeguard, promote and represent the professional, social and economic interests of the lawyers and trainee lawyers associated to the bar in question. In this context, the bar is also charged to protect the honour, the reputation and the independence of lawyers, as well as to protect the rights and to monitor the duties of its members.
- (3) Bars may also disseminate information to their members by way of electronic mail. Bulk mailings to bar members, which serve to fulfil the tasks entrusted to bars, do not require any agreement on the part of the recipients pursuant to § 107 of the “*Telekommunikationsgesetz*” (TKG – Telecommunications Act).
- (4) Every bar shall set up and manage a “*Treuhandtschaftseinrichtung*” (trust recording institute = trust book), which serves to protect fiduciary relationships pursuant to § 10a (2), and monitor compliance of lawyers with their duties pursuant to § 10a as well as pursuant to the guidelines pursuant to § 27 (1) letter g. Moreover, every bar shall take out insurance to secure the rights of trustors in the deposited amounts, when their fiduciary relationships are managed by the “*Treuhandtschaftseinrichtung*” (trust recording institute = trust book) which every bar shall maintain. Every trustor has the right to ask the bar for information as to whether and in what manner the fiduciary relationship in question has been secured by the “*Treuhandtschaftseinrichtung*” (trust recording institute = trust book) and what insurance coverage exists.
- (5) Bars shall perform the tasks conferred upon them within their own sphere of activities. The Federal Minister of Justice has the right to obtain information on whether the administrative business is being conducted lawfully. Upon his request, the bar shall provide him the requested information. As part of his supervisory obligations, the Federal Minister of Justice also has the right

1. to deny or grant his approval to the internal rules of procedure of bars and their boards, which shall be submitted within one month after their adoption, as well as of the articles of incorporation of their pension funds pursuant to § 27 (6),
 2. to issue the articles of incorporation of the pension funds pursuant to § 49 (3), and
 3. to demand the presentation of the register on appointments in keeping with § 45 based on § 56 (2), which bars shall maintain.
- (6) Unless statutory provisions provide otherwise, the official notices issued on the basis of the present law can be appealed by means of complaint to the administrative court of the respective “*Bundesland*” (federal province/region).

§ 24

- (1) At the plenary assembly of bar members,
1. all bar members elect the president, the vice-presidents, the lawyers who act as examination commissioners at the bar exam, and the auditors,
 2. the lawyers registered in the list of lawyers elect the other members of the board from among the lawyers,
 3. the trainee lawyers registered in the list of trainee lawyers elect the members of the boards from among the trainee lawyers, and
 4. the lawyers registered in the list of lawyers elect the delegates to the Assembly of Representatives (§ 39) from among the registered lawyers who are members of the board.
- (2) Only bar members who are registered in the list of lawyers can be elected to the positions listed in paragraph (1) number 1.
- (3) The elections pursuant to paragraph (1) are conducted by secret vote during the plenary assembly by means of voting slips. If the internal rules of procedure of the bar so provide, the voting right may also be exercised by correspondence (§ 24a). At elections pursuant to paragraph (1) number 1, the votes cast by trainee lawyers shall be weighted so that two votes each cast by trainee lawyers correspond to the vote of one lawyer. Except for ballots pursuant to § 27 (1) letter d), which fixes the annual contribution of bar members to funding the administrative expenses of the bar as well as the contributions of bar members to funding the expenses arising under § 27 (1) letter c), and the decision on the schedule of contributions pursuant to § 51, analogous provisions shall apply to ballots taken in the course of a plenary assembly.
- (4) The voting slips cast shall be collected separately for the individual elections (paragraph (1)), and also separate for lawyers and trainee lawyers. The counting of the votes shall be monitored by the person chairing the plenary assembly. If that person runs as a candidate, § 27 (3) shall be applied in analogy concerning monitoring of the vote-counting.
- (5) The absolute majority of the votes cast by the bar members participating in an election shall be required for the election of president and vice-president. If such a majority is not obtained on the first ballot, the persons who obtained the relatively largest number of votes on the first ballot shall be short-listed for the second ballot. The number of short-listed persons shall always be twice the number of persons to be elected. All votes shall be invalid when cast for a person who has not been short-listed.
- (6) The simple majority of the votes cast by the bar members participating in each of the elections of auditor and examination commissioner for the bar exams shall be required for these elections, as well as for elections to the positions indicated in paragraph (1) items 2 to 4.

§ 24a

- (1) The internal rules of procedure of a bar may provide that the elections pursuant to § 24 (1) may also be conducted by way of delivering a closed envelope to the bar (vote by correspondence). If a bar member intends to exercise his voting right by way of correspondence, he shall inform the bar accordingly up to three weeks, at the latest, before the day of the plenary assembly. The bar shall send to the bar member one or several voting slips, at the latest ten days before the day of the elections, together with a sealable election envelope, as well as a sealable return envelope, on which the address of the bar, as recipient, and the name of the respective association member, as sender, has been printed. The election envelopes for lawyers and trainee lawyers must be of a different colour. The following sentence shall be shown on the reverse side of the return envelope: *“Mit meiner Unterschrift erkläre ich eidesstattlich, dass ich den/die einliegenden Stimmzettel persönlich, unbeobachtet und unbeeinflusst ausgefüllt habe.”* (With my signature I make this declaration in lieu of oath that I have completed the enclosed voting slip(s) personally, unobserved and uninfluenced.)
- (2) In order to exercise his voting right, the bar member shall place the voting slip(s) completed by him into the election envelope, seal it and place it into the return envelope. He shall then sign and declare in lieu of oath on the return envelope that he has completed the voting slip(s) personally, unobserved and uninfluenced. The bar member shall then seal the return envelope and deliver it to the bar personally, by messenger or mail, and in such good time that it arrives one day before the plenary assembly, at the latest, in the course of which the elections take place.
- (3) The return envelopes received by the bar shall be collected and kept unopened as well as stored under lock and key until the election procedures in the plenary assembly have been completed.
- (4) Prior to the election procedures, the plenary assembly shall elect a minimum of two, and if required also more, tellers. Under the supervision of the person chairing the plenary assembly or, if he is prevented, under the supervision of his deputy (§ 24 (4) last sentence) the tellers shall check the return envelopes that have been received in good time, immediately after the election procedures in the plenary assembly have ended, whether the sender listed on the envelope is registered in the list of lawyers or in the trainee list of lawyers and has provided the required declaration in lieu of oath pursuant to paragraph (2). If one of these requirements is not satisfied, the vote cast by way of correspondence shall be invalid, and the election envelope inside the return envelope shall be excluded from any further consideration. The same applies if it turns out that the respective person eligible to vote is or was personally present at the plenary assembly. The person chairing the plenary assembly shall put the respective election envelopes into the election file that he must keep.
- (5) The tellers shall then take the election envelopes from the return envelopes that merit further processing and place them, without opening them, into a separate ballot box. Separate ballot boxes shall be used for lawyers and trainee lawyers. The empty return envelopes shall be attached to the election file.
- (6) If any other envelope than the election envelope sent out by the bar was used, or if any notes, signs or alike are written on the election envelopes, this vote cast by way of correspondence shall be null and void, and the respective election envelope shall be excluded from any further consideration. This fact shall be noted in the election file. Ballot papers that were not placed into the election envelope but directly into the return envelope shall be treated in the same way.

- (7) When counting the votes, the voting slips cast in the plenary assembly and the voting slips sent in by way of correspondence shall be counted together. Moreover, § 24 shall apply in analogy.

§ 24b

- (1) The person chairing the plenary assembly establishes the result of the elections pursuant to § 24 (1), separate for every election. Every person eligible to vote can challenge the election within one week of the announcement of the election result (§ 25 (5)), if a person was unjustly excluded from an election, or admitted to an election, or declared as elected.
- (2) The “*Oberste Gerichtshof*” (Supreme Court) shall decide on challenges of an election. An election shall be repeated if calculations indicate that another person would have been elected to a given position without the specific reason given to challenge the election.

§ 25

- (1) The president, the vice-presidents and the other members of the board from among the lawyers, as well as the delegates to the Assembly of Representatives from among the lawyers shall be elected for a term of office of four years; the members of the board from among the trainee lawyers and the auditors shall be elected for a term of office of two years. If one of the elected persons resigns during his term of office and a replacement is elected, then the newly elected person shall serve for the remaining term of office in the position of the resigned board member. § 24 (1) shall apply to the removal from office of the president and the vice-presidents, with the proviso that a majority of two thirds of the votes cast by a plenary assembly in a secret ballot shall be required for a removal from office.
- (2) After the expiry of a term of office, the elected persons shall continue in their official duties until their successors have been elected.
- (3) Re-election is admissible; however, the elected persons are not obliged to accept re-election.
- (4) The internal rules of procedure of a bar can stipulate that, if a completely new board were to be elected, the vice-presidents and some of the board members will resign already during their term of office of four years, in order to ensure the best-possible transition and continuation in managing the board’s activities.
- (5) The result of every election shall be published on the Internet website of the bar, without delay and in a generally accessible form.

§ 26

- (1) The board of a bar shall consist of 5 members, when the list of lawyers of a bar did not comprise more than 100 lawyers on 31 December of the calendar year preceding the election to the board, or 10 members, respectively, if a bar has 101 to 250 lawyers, or 15 members, respectively, if a bar has 251 to 1,000 lawyers, or 30 members, respectively, if a bar has more than 1,000 members. The president and the vice-presidents are members of the board.
- (1a) In addition, a board shall comprise one or several members from among the trainee lawyers. For bars, where on the 31 December of the calendar year preceding the election the trainee list of lawyers included
1. not more than 100 trainee lawyers, one trainee lawyer shall be elected,

2. between 101 and 1,000 trainee lawyers, two trainee lawyers shall be elected, and
 3. more than 1,000 trainee lawyers, three trainee lawyers shall be elected to the board.
- (2) If the board consists of a minimum of ten members, the tasks listed in § 28 (1) letters b), d), f), g), h), i) and m), as well as monitoring of the lawyers and trainee lawyers, decision-taking pursuant to § 16 (5) and decision-taking on granting benefits from the pension fund shall be carried out by one of its sections on behalf of the board, whenever this is possible without conducting preliminary inquiries. The sections shall consist of a minimum of three board members. In addition, a minimum of two board members shall be available as substitute members. The board shall constitute the sections and distribute the tasks among the sections.
 - (3) The president, one vice-president or the most senior board member (in terms of age) shall preside over the board and the sections. If these persons are prevented, another board member elected by the board can also be assigned this function.
 - (4) The board and the sections take decisions by simple majority. The chairperson shall only cast a vote in the event of a tied vote. The presence of a minimum of one half of the members is required to take decisions in the board and the sections. The board member appointed on behalf of the board or the section shall be responsible for all decisions in connection with the tasks assigned to the board pursuant to § 28 (1) letter a), except for decisions on registration in the list of lawyers or its refusal, as well as on the refusal to register, or on deleting a company, on issuing certification documents for law office staff (§ 28 (1) letter b), for collecting annual contributions (§ 28 (1) letter d), as well as for appointing lawyers pursuant to § 28 (1) letter h) and pursuant to § 45 or § 45a, when an immediate decision is necessary. If the internal rules of procedure of a bar stipulate that the next bar member from among the lawyers in alphabetical order shall be appointed as the lawyer required pursuant to § 45 or § 45a, the respective decision may be issued by the bar office without seizing the board or the section.
 - (5) A decision taken by a section on behalf of the board can be appealed to the board within 14 days after service of the decision.
 - (6) In urgent cases the board or the sections may also take their decisions by correspondence, by means of facsimile transmission or by electronic communication, using the electronic lawyer's signature, without the board or the section convening for a meeting (decision by circular vote) if all members of the board or the section who are eligible to vote have agreed to this form of decision-taking.

§ 27

- (1) The plenary assembly shall be responsible for the following matters:
 - (a) establishing its internal rules of procedure and those of the board, as well as the articles of incorporation of the pension fund;
 - b) election of the president, the vice-presidents and the members of the board of a bar, the delegates to the Assembly of Representatives (§ 39), as well as examination commissioners who are practicing lawyers for the bar exam, and the auditors;
 - c) establishing the expenses of the bar for humanitarian purposes, to the extent that they exceed the benefits provided from the pension fund pursuant to § 49 and § 50, taking due account of the economic capacity of the bar members ;
 - d) fixing the annual subscriptions of bar members to cover the administrative expenses of the bar, the expenses for measures in the interest of bar members, especially for insurance policies and public relations for the profession, as well as contributions of the bar members to cover expenses pursuant to letter c);

- e) establishing the draft budget for income and expenses as well as auditing and approving the invoices of the bar;
 - f) applications for amending the geographical scope of existing bars and setting up new ones;
 - g) issuing guidelines on the setting up and managing of a “*Treuhandeinrichtung*” (trust recording institute = trust book) which serves to protect the managing of fiduciary arrangements pursuant to § 10a (2) and can also be maintained in computerized form, especially on the structure, organization and form of this “*Treuhandeinrichtung*” (trust recording institute = trust book), as well as on the modalities and procedures when reviewing the proper handling of fiduciary arrangements assumed by a lawyer, including rules in this connection, as to where and in what form the lawyer has to comply with his obligations to cooperate in these reviews, on the structure, the scope of coverage and the amount of coverage of the insurance to be taken out to secure the rights of trustors, as well as fixing the contributions of lawyers to pay the premiums due on this insurance, as well as on the form and content of the information to be provided to trustors on securing the fiduciary arrangements.⁺
- (2) For trainee lawyers the subscriptions and contributions pursuant to paragraph (1) letter d) may only amount to half of the sum fixed for lawyers, as a maximum. Moreover, the subscriptions and contributions shall generally be fixed at the same amount for all bar members. The plenary assembly can decide that the subscriptions and contributions of trainee lawyers shall always be collected from the lawyer where they receive their training. ^ When the economic capacity of the individual bar members differs considerably, a bar may be required to stipulate in the regulations on subscriptions and contributions that the amounts shall be fixed on several levels, in keeping with the number of staff or the earnings position of the law offices. The board may defer or waive subscriptions and contributions in exceptionally extenuating circumstances.
- (3) The president and, if prevented, a vice-president and, if they are prevented, the most senior board member present (in terms of years) shall chair the plenary assembly. If no board member is present, the most senior member of the plenary assembly present (in terms of years) shall chair the plenary assembly.
- (4) A plenary assembly shall constitute a quorum if, as a minimum, one tenth of the bar members take part in a vote. It takes its decision by a simple majority of the votes cast. However, a minimum of one fifth of the bar members and a two-thirds majority shall be required for decisions on the internal rules of procedure of the bar and the board, as well as on the articles of incorporation of the pension fund. The chairperson shall only cast a vote in case of a tied vote.
- (5) The internal rules of procedure of the bar can stipulate that decisions, which are the responsibility of the plenary assembly pursuant to paragraph (1), may also be taken by means of delivering a closed envelope to the bar (vote by correspondence). In such cases, § 24a shall be applied in analogy.
- (6) The internal rules of procedure of bars and their boards, as well as the articles of incorporation of pension funds shall require the approval of the Federal Minister of Justice in order to become effective. They must therefore be submitted to him within one month after their adoption. The approval shall be granted if the internal rules of procedure and the articles of incorporation comply with the law. If the approval is not denied within three months, it shall be deemed to have been granted.

§ 28

- (1) The board shall be responsible for the following matters:
- a) maintaining the list of lawyers (§ 1 and § 5 and following), especially the decisions on registration in the list, as well as on the withdrawal of a member, issuing the identity card for the electronic lawyer's signature (official identity cards with photograph), monitoring the obligations on returning the identity card, and maintaining the list of companies of lawyers, especially the decision to refuse registration or to delete a company;
 - b) maintaining the list of trainee lawyers, confirming the practical training as lawyer, as well as issuing the identity card as a substitute for a lawyer, as well as the identity card for staff members of law offices (§ 31 (3) of the Code of Civil Procedure – ZPO);
 - c) implementing the bar decisions;
 - d) managing the economic operations of the bar and collecting the annual subscriptions;
 - e) communicating with authorities and persons outside the bar;
 - f) writing expert opinions on the reasonableness of fees and remunerations for a lawyer's services, as well as reaching the requested amicable settlement in a fee dispute (§ 19);
 - g) mediating in case of controversies between bar members in the course of exercising the lawyer's profession;
 - h) appointing a temporary substitute in the cases stipulated by law or the disciplinary regulations;
 - i) appointing a lawyer pursuant to § 45 or § 45a and deciding on claims pursuant to § 16 (4);
 - k) convening ordinary and extraordinary plenary assemblies of the bar;
 - l) in relation to the "*Bundesland*" (federal province/region) in which the bar was established, submitting proposals for legislation and opinions on legislative proposals, reports on the state of the administration of justice, as well as communications on deficiencies and requests in connection with the administration of justice; submitting such comments to the Austrian Bar when relating to other "*Bundesländer*" (federal provinces/regions) and/or the entire national territory;
 - m) organizing, if applicable recognizing, compulsory educational events for trainee lawyers pursuant to the guidelines issued by the Austrian Bar;
 - n) fixing a reasonable remuneration for the drafting of expert opinions on the reasonableness of fees, especially in court proceedings.
- (2) Moreover, the board shall be responsible for all tasks that are not expressly assigned by law to another entity.
- (3) An extraordinary plenary assembly shall be convened if the board so decides, or if one tenth of the bar members so demand.

§ 29

Upon application and against cost refund the bar shall issue identity cards to its members from among the lawyers, which must be official identity cards with photographs in keeping with § 8b (2), and which shall be used for the electronic lawyer's signature.

§ 30

- (1) In order to obtain registration in the list of lawyers, a notice shall be sent to the board when commencing practical training with a lawyer, proving Austrian nationality,

nationality of a member state of the European Union or another Contracting State of the Agreement on a European Economic Area or the Swiss Confederation, as well as proof of having completed studies of Austrian law (§ 3). The period of practical training with a lawyer (§ 2 (2)) will only be calculated as of the date on which this notice is received. *

- (1a) In case of doubt as to whether the studies of Austrian law completed by the applicant satisfy the requirements of § 3, the board may obtain an expert opinion, at the expense of the applicant, from one or several examination commissioners from among the university professors (§ 3 (3) of the “*Ausbildungs- und Berufsprüfungsanrechnungsgesetz*” [ABAG - Recognition of Education and Occupational Admission Tests Act] via the chairperson of the competent training commission pursuant to § 5 (4) of the “*Ausbildungs- und Berufsprüfungsanrechnungsgesetz*” [ABAG - Recognition of Education and Occupational Admission Tests Act]). *
- (2) Every lawyer is also obliged to inform the board whenever a trainee lawyer leaves his law office, as well as whenever a trainee lawyer is prevented from pursuing his practical training with the lawyer for more than one month.
- (3) Registration in the list shall be denied if one of the exclusions pursuant to § 2 (2) of the “*Rechtspraktikantengesetz*” (RPG – Traineeship at Court Act) applies, or the applicant has committed an act which renders him unworthy of confidence. The board shall conduct all possibly necessary inquiries, and if the registration is to be denied, the applicant shall first be heard. *
- (4) The persons concerned have the right to appeal to the “*Oberster Gerichtshof*” (Supreme Court) when being denied registration in the list of trainee lawyers, when being deleted from this list and when being refused the confirmation concerning their practical training (Seventh Chapter of the Disciplinary Measures’ Act for Lawyers and Trainee Lawyers). The last sentence of § 5 (1) and paragraph (2) shall apply.

§ 31

The identity card required to exercise the right to substitute for a lawyer, as contained in § 15, will be issued upon intervention by the lawyer where the trainee lawyer received his training, and it shall cease to be valid as soon as this deployment has ended.

§ 32 – deleted

§ 33

- (1) Lawyers are independent of the courts.
- (2) Disciplinary powers over lawyers and trainee lawyers shall first of all be exercised by the bodies of the lawyer’s profession. Disciplinary regulations, issued through legislation, shall govern the procedure in this context, as well as provisions on the type and degree of sanctions, the appellate instances and the legal remedies against decisions taken.
- (3) – not applicable
- (4) However, the right of the courts to maintain order during court hearings shall remain unaffected.

Chapter IV – Expiry of the Right to Exercise the Lawyer’s Profession

§ 34

- (1) The right to exercise the lawyer’s profession expires
 1. upon loss of Austrian nationality;
 2. upon the legally effective appointment of a guardian;
 3. upon waiver of the right to exercise the lawyer’s profession;
 4. upon the legally effective opening of insolvency proceedings or the legally effective non-opening of such proceedings in the absence of cost-covering property;
 5. upon deletion from the list of lawyers based on a disciplinary decision;
 6. upon death.
- (2) The right to exercise the lawyer’s profession is suspended:
 1. in the cases listed in § 20;
 2. upon a prohibition to exercise the lawyer’s profession, pronounced in the course of disciplinary proceedings, or upon exclusion for not maintaining professional indemnity insurance as required by § 21a (2);
 3. if proceedings are launched to appoint a guardian for a lawyer, and if these are continued on the basis of the results of the first hearing, and if the board bans the lawyer from exercising the lawyer’s profession due to concerns over grave prejudices to the interests of person in search of legal assistance, or the reputation of the profession, until the proceedings for the appointment of a guardian have been ended with legal effect.
- (3) The lawyer has the right to appeal to the “*Oberster Gerichtshof*” (Supreme Court) (Chapter 7 of the Disciplinary Measures’ Act for Lawyers and Trainee Lawyers) against decisions pursuant to paragraphs (1) and (2), to the extent that they have not been issued on the basis of a disciplinary decision or in the course of disciplinary proceedings. In the cases of paragraph (1) numbers 2 and 4 and of paragraph (2) numbers 2 and 3, the appeal does not have any delaying effect. Moreover, the provisions of the last sentence of § 5a (1) and (2) shall apply.
- (4) A temporary substitute shall be appointed for the lawyer in the cases listed in paragraphs (1) and (2). Upon this information being provided by the competent bar, the temporary deputy shall be registered *ex officio* with the lawyer concerned in the company register and deleted when his appointment has ended. The Austrian Bar shall give the temporary deputy access to the documents archived by the lawyer in the lawyers’ documents’ archives (*Archivium*). A temporary deputy shall also be appointed in case of a lawyer’s disease or absence, for the time that the lawyer is prevented, unless the lawyer himself nominated, or was able to nominate, a substitute pursuant to § 14. In such cases the temporary deputy shall hold the position of a substitute pursuant to § 14.
- (5) Trainee lawyers who have lost their Austrian nationality shall be deleted from the list.
- (6) Paragraph (1) number 1 and paragraph (5) shall apply in analogy to the loss of nationality concerning one of the states listed in § 1 (3) and § 30 (1). The legal consequences of a loss of nationality will not become effective if the lawyer or trainee lawyer continues to be a national of one of the states listed in § 1 (3) and § 30 (1).

Chapter V – The Austrian Bar

§ 35

- (1) The Austrian Bar comprises all bars in Austria. It is a corporation under public law and has its registered office in Vienna. Its sphere of activities covers the entire national territory.
- (2) The Austrian Bar has the right to display the national coat of arms; its official seal shall comprise the national coat of arms and the words “*Österreichischer Rechtsanwaltskammertag*” (Austrian Bar) written around it.
- (3) Whenever issues concern the members of all bars or exceed the sphere of activities of any one of the bars, the Austrian Bar shall be responsible for safeguarding the rights and interests of lawyers as well as for representing them. The Austrian Bar shall take care of the tasks conferred upon it by law within its own sphere of activities. The Federal Minister of Justice has the right to obtain information about the lawfulness of the administrative management. Upon his request, the Austrian Bar shall provide the necessary information.
- (4) When filing documents in the lawyers’ documents’ archives (*Archivium*) (§ 91c and § 91d of the “*Gerichtsorganisationsgesetz*” (GOG – Court Organization Act) the Austrian Bar shall regard those lawyers as entities pursuant to § 91d of the “*Gerichtsorganisationsgesetz*” (GOG – Court Organization Act) who have been issued an identity card with an electronic lawyer’s signature.

§ 36

The Austrian Bar is responsible, in particular,

1. for submitting proposals for legislation and opinions on draft legislation as well as for identifying deficiencies in the administration of justice and public administration to the competent body, and for presenting proposals to improve the administration of justice and public administration;
 2. for deciding on measures which promote the exercise of the lawyer’s profession, in particular
 - a) with regard to preserving the independence of the lawyer’s profession, as well as
 - b) with regard to basic and further training;
 3. for representing the members of the bars vis-à-vis other professional organizations in Austria and abroad which have the same or a similar remit;
 4. for establishing and managing the lawyers’ documents’ archives (*Archivium*) (§ 91c and § 91d of the “*Gerichtsorganisationsgesetz*” [GOG – Court Organization Act]) for filing public and private documents, as well as the accompanying register, and for determining the requirements for filing, access to and the deletion of documents, as well as the time of their archiving, in addition to determining the charges necessary to cover the expenses related to entering, granting access to and deleting documents;
 5. for maintaining an electronic register of the lawyers’ signatures which can also be maintained within an electronic register of lawyers, which must be accessible via the website of the Austrian Bar and from which one can gather the authorization for the electronic lawyers’ signatures.
- (2) The foregoing shall not affect the rights of bars.
 - (3) Every bar can transfer to the Austrian Bar, with its consent, matters falling within their own range of tasks, such as managing the pension fund of a bar, organizing and recognizing educational events that are mandatory for trainee lawyers, negotiating and

signing insurance contracts, and managing the registers for fiduciary relationships (trust books).

- (4) The Austrian Bar can disseminate information to lawyers and trainee lawyers also by way of electronic mail. Bulk mailings to lawyers and trainee lawyers which serve to comply with tasks transferred to the Austrian Bar shall not require the consent of the recipients pursuant to § 107 of the “*Telekommunikations-Gesetz*” (TKG – Telecommunications Act).
- (5) The bars shall make available to the Austrian Bar the data which they have been permitted to collect and process within the scope of their statutory sphere of activities, to the extent that the Austrian Bar needs these in order to comply with the tasks assigned to it by law or transferred to it for management pursuant to paragraph (3). Once these data are no longer needed for complying with one of these tasks, the Austrian Bar shall delete or destroy them.

§ 37

- (1) The Austrian Bar can issue guidelines
 1. on the exercise of the lawyer’s profession;
 - 1a. for issuing and distributing the identity cards with the electronic lawyer’s signature, as well as for monitoring their use, including the amount and type of the fees necessary for them;
 2. on monitoring the duties of lawyers and trainee lawyers;
 - 2a. on working as a temporary substitute, especially on his rights and obligations vis-à-vis the lawyer, the former lawyer or his legal successor, as well as on his remuneration, on how to represent the interests of the parties concerned, and on how to manage the law office;
 - 2b. lifted on account of a decision of the Constitutional Court of 4 December 2008;
 3. on the training of trainee lawyers, especially on the type, scope and subject of the educational events which satisfy the requirements of the “*Rechtsanwaltsprüfungsgesetz*” (RAPG – Bar Examination Act), which have to prepare trainee lawyers for the exercise of the lawyer’s profession, and which the trainee lawyer shall attend as a prerequisite for being admitted to the bar exam, as well as on the credits to given to their practical training. In the guidelines the trainee lawyers can also be granted the possibility to participate in some of the educational events only after having taken the bar exam and prior to their registration in the list of lawyers;
 4. on the criteria for determining reasonable fees;
 5. on the awarding of decorations;
 6. on determining the obligation pursuant to § 9a (1)a;
 7. on establishing and managing the lawyers’ documents’ archives (*Archivium*) (§ 91c and § 91d of the “*Gerichtsorganisationsgesetz*” [GOG – Court Organization Act]) and the electronic register for lawyers’ signatures, especially on the content and form of the records, the documentation of the document-saving procedures, the access and the information to be given, as well as the modalities for electronic access and review, including the granting of review authorizations and their validity to parties and the persons authorized by them, as well as the amount and form of collecting the associated necessary fees; the guidelines shall conform with all requirements of the ordinance pursuant to § 91b (5) numbers 2 to 5 of the “*Gerichtsorganisationsgesetz*” [GOG – Court Organization Act].
 2. The guidelines issued by the Austrian Bar shall be available on the Internet website of the Austrian Bar (<http://www.rechtsanwalte.at>) at all times.



§ 38

The bodies of the Austrian Bar are the “*Vertreterversammlung*” (Assembly of Representatives), the “*Präsidentenrat*” (Presidents’ Council) and the “*Präsidium*” (Presidency).

§ 39

(1) The delegates to the Assembly of Representatives are

1. the presidents of bars,
2. the additional delegates from among the lawyers, who are elected in the plenary assembly of the respective bar from among the board members belonging to the lawyers and who continue to be on the board from among the lawyers; one delegate shall be elected for every commenced entity of 100 members of a bar from among the lawyers, and
3. the trainee lawyers who are on the boards of bars.

The presidents of the bars shall belong to the Assembly of Representatives in any event; they shall be taken into consideration accordingly when determining the number of delegates pursuant to item 2.

(2) It is admissible for a delegate to be represented by another delegate associated to the same or another bar.

§ 40

(1) The Assembly of Representatives shall constitute a quorum whenever a minimum of six bars are represented by the majority of their delegates or their authorized persons (§ 39 (3)).

(2) The Assembly of Representatives shall take its decisions by a simple majority of the votes cast. Every delegate shall have one vote. It is also required for a decision that the majority of delegates from six bars, as a minimum, vote in favour of the decision. In case of a tie, the vote of the person chairing the Assembly shall be the casting vote (§ 41 (3)). If the person chairing the Assembly is not a delegate at the same time, he shall have only the right to vote in case of a tie.

(3) The Assembly of Representatives shall:

1. issue guidelines (§ 37);
2. elect the President and the Vice-Presidents as well as the auditors;
3. make proposals to improve the administration of justice and the public administration;
4. take decisions on proposals by the Presidents’ Council;
5. take decisions on submissions by two bars, as a minimum, concerning matters that were not already previously deliberated in the Presidents’ Council;
6. approve the annual accounts and the budget as well as the annual amount of the expenses to be incurred by the Austrian Bar;
7. issue internal rules of procedure for the Austrian Bar.

§ 41

(1) The Assembly of Representatives shall elect from the members of the individual bars the President and the three Vice-Presidents of the Austrian Bar, in compliance with the prerequisites required for decisions (§ 40 (1) and (2)). Only lawyers can be elected to

these positions as well as to the position of auditor. During the terms of their office, the President and the three Vice-Presidents shall also be members of the Assembly of Representatives if they are not delegates. In the latter case, though, they shall not have the right to vote – with the proviso of the last sentence of § 40 (2).

- (2) The President and the Vice-Presidents shall have a term of office of three years. If one of the elected persons resigns during that period, and if an election to replace that person takes place, the newly elected person will succeed to the vacant position for the remaining term of office. § 25 (2) and (3) shall apply in analogy. § 40 (1) and (2) shall apply to the revocation of the President and the Vice-Presidents, with the proviso that a revocation shall require a two-thirds majority of the votes cast by the Assembly of Representatives in a secret ballot by voting slips.
- (3) The President or one of the Vice-Presidents shall chair the Assembly of Representatives.
- (4) The President shall convene the Assembly of Representatives whenever necessary, as a minimum, though, once every year and, in addition, at any time upon a request by two bars or a minimum of five delegates. A minimum period of fourteen days shall lapse between convening and holding an Assembly.

§ 42

- (1) The “*Präsidentenrat*” (Presidents’ Council) of the Austrian Bar consists of the presidents of the individual bars. The bars take turns of six months each in chairing the Presidents’ Council. Members of the “*Präsidium*” (Presidency) of the Austrian Bar cannot be members of the Presidents’ Council.
- (2) Whenever the president of a bar is prevented, he shall be represented by a vice-president or, if the latter is prevented, by another member of the board of his bar who the president shall authorize, or by the president of another bar who the president shall authorize. The members of the Presidency of the Austrian Bar cannot represent the president of their bar, if he should be prevented, nor can they be authorized to represent him.
- (3) The Presidents’ Council shall constitute a quorum if six bars, as a minimum, are represented. Only the representatives of bars have the right to vote. The representatives of six bars, as a minimum, shall vote in favour of a decision, for a decision of the President’s Council to become effective. However, a decision shall not become effective if the representatives of bars, who jointly represent a majority of the delegates (§ 39 (1)), have voted against the application submitted for decision-taking. However, one half of the members of the Presidents’ Council present and eligible to vote shall be sufficient for applications of the Presidents’ Council to the Assembly of Representatives. In any event, it shall be sufficient for applications if four members eligible to vote cast their vote in favour of the application.
- (4) The Presidents’ Council can also take its decisions in writing if all members of the Presidents’ Council who are eligible to vote agree on a vote by correspondence.
- (5) The Presidents’ Council shall
 1. establish the ethical principles of the lawyer’s profession and the policy to be pursued for the legal profession in Austria;
 2. approve the budget of the Austrian Bar which the Presidency of the Austrian Bar shall present to the Assembly of Representatives for approval;
 3. continuously monitor budget implementation as well as approve any shifts within the budget in order to cover non-budgeted expenses;
 4. monitor the activities of the Presidency and issue instructions and orders to the Presidency; the Presidency shall report to the Presidents’ Council;



5. take decisions on applications by the Presidency on matters in which the Presidency could not agree unanimously (§ 42a (3)), as well as in the event that only one member of the Presidency moves such a decision by the Presidents' Council.
- (6) The Presidents' Council can require that performance of individual transactions by the Presidency or one of the members of the Presidency with management powers depends on its approval.
- (7) The members of the Presidency of the Austrian Bar shall attend the meetings of the Presidents' Council, unless the Presidents' Council takes a decision to the contrary. The members of the Presidency do not have any right to vote in the Presidents' Council.
- (8) The chairperson of the Presidents' Council shall convene meetings whenever necessary, in any event upon request by two members of the Presidents' Council or a member of the Presidency of the Austrian Bar. The meetings shall take place within three weeks following the request to the chairperson of the Presidents' Council.

§ 42a

- (1) The "*Präsidium*" (Presidency) of the Austrian Bar comprises the President and the three Vice-Presidents of the Austrian Bar. The President of the Austrian Bar acts as the chairperson of the Presidency and, if prevented, he is represented by a Vice-President (§ 42b (2)).
- (2) The chairperson shall convene the meetings of the Presidency whenever necessary; yet, in any event, upon a request by one Presidency member. The meetings shall take place within two weeks after the application has been communicated to the chairperson of the Presidency.
- (3) The Presidency shall constitute a quorum if a minimum of three members are present after having been duly convened. The consent of all Presidency members present is required if a decision of the Presidency is to become effective. If unanimity cannot be reached, the matter shall be presented to the Presidents' Council, also upon application by only one of the Presidency members present on that occasion (§ 42 (5) item 5). Decisions of the Presidency can also be taken by way of correspondence, if all Presidency members agree to a decision by way of correspondence.
- (4) The Presidency shall have collective responsibility for performing all tasks that are not reserved to the Assembly of Representatives pursuant to § 40 (3) or the Presidents' Council pursuant to § 42 (5) and (6).
- (5) The Presidency shall agree on the distribution of duties, which shall require the approval of the Presidents' Council. Notwithstanding the collective responsibility of the Presidency, the distribution of duties shall determine which Presidency member is responsible for a specific task. These tasks shall be performed by taking account of the budget specifications, in keeping with the ethical principles, established by the Presidents' Council, of the lawyer's profession and the policy to be pursued for the legal profession, observing the decisions of the Presidents' Council and the Presidency of the Austrian Bar.

§ 42b

- (1) The President of the Austrian Bar shall represent the Austrian Bar vis-à-vis third parties and implement the decisions of the Assembly of Representatives, the Presidents' Council and the Presidency of the Austrian Bar.
- (2) If the President is prevented, or upon the request by the President of the Austrian Bar, the President shall be represented by the Vice-President instructed by him or, in the absence

of an instruction, by the Vice-President of the Austrian Bar with competences according to the internal rules of procedure of the Austrian Bar.

- (3) For the purpose of an electronic signature when conducting the business of the Austrian Bar, the President shall use his electronic lawyer's signature adding a graphic presentation of the official seal of the Austrian Bar (§ 19 (3) of the “*E-Government-Gesetz*” [E-GovG – E- Government Act) and the words “*als Präsident des Österreichischen Rechtsanwaltskammertags*” (“as President of the Austrian Bar”). The foregoing shall apply to his deputies in analogy.

§ 43

The Austrian Bar shall adopt its internal rules of procedure. They shall contain detailed provisions, especially on the economic management, on the business to be conducted by its individual bodies, and on the office management of the Austrian Bar.

§ 44

The bars shall bear the costs of the Austrian Bar in proportion to the number of their members from among the lawyers. The Assembly of Representatives shall determine the amount of these costs on an annual basis.

Chapter VI – Appointment of Lawyers, Especially for Legal-Aid Purposes

§ 45

- (1) If the court has decided to assign a lawyer to a party, or if granting legal aid includes assignment of a lawyer, the respective party is entitled to have a lawyer appointed to him by the bar.
- (2) Appointments for proceedings before the “*Verfassungsgerichtshof*” (Constitutional Court) or the “*Verwaltungsgerichtshof*” (Administrative Court) are the responsibility of the board of the bar with competences for the usual domicile of the party, or otherwise by the board of the bar with competences for the venue of the court.
- (3) If the appointed lawyer would have to take action outside of the district of the first-instance court in which the office of his law practice is located, or if the party, who resides outside of this district, cannot reasonably be expected to travel to the appointed lawyer for a necessary oral consultation, on account of insurmountable obstacles or high costs, the board of the bar with competences for the location in which action is to be taken, or for the place in which the party resides, shall appoint a lawyer to this case upon application by the initially appointed lawyer or the party, and the office of the law practice of this lawyer shall be situated in the district of the first-instance court with competences for the specific location.
- (4) If the appointed lawyer cannot accept or continue representing or defending the party for one of the reasons listed in the second half-sentence of the first sentence, or the second sentence of § 10 (1), or due to being prejudiced, he shall be released from this case upon an application by the lawyer, the party or *ex officio*, and another lawyer shall be appointed. In the event of demise of the appointed lawyer, or loss of authorization to exercise the lawyer's profession, another lawyer shall be appointed *ex officio*.

- (4a) If the court case for which a lawyer was appointed has ended with final and enforceable effect, and unless forced execution measures are initiated within one year, the appointed lawyer shall be released upon application to the bar, if it is not predictable that the order to initiate forced execution measures will be initiated in the near future. The person receiving legal aid shall be informed of the release and shall also be informed that he may request the appointment of another lawyer from the competent bar at any time, who shall initiate forced execution proceedings, as the decision to be granted legal aid by assigning a lawyer to his case continues to be valid.
- (5) The board of a bar shall immediately send information about an appointment to the respective court in the cases of paragraph (2), or in the cases of paragraph (3) to the court in which the first-instance proceedings are conducted, or any other court if the appointed lawyer has to take action at a different court. The foregoing shall apply to the cases of paragraphs (4) and (4a).

§ 45a

§ 45 shall apply in analogy to the appointment of a legal-aid lawyer for cases before the administrative courts.

§ 46

- (1) The boards of the bars shall proceed according to fixed rules when appointing a lawyer; these shall ensure that the lawyers associated to a bar are assigned to cases and exposed to a workload as equitably as possible, taking special account of local conditions. These rules shall be determined in the internal rules of procedure of boards.
- (2) However, the internal rules of procedure can also lay down general aspects, according to which lawyers shall be partly or fully exempt, for important reasons, from being appointed. The exercise of an activity in the service of the legal profession, which takes up considerable time, or personal circumstances that would make the appointment of the lawyer appear to be a particular hardship, in particular, shall be regarded as important reasons. In any event, the members of the Presidency of the Austrian Bar are exempt from being enlisted for these services.

Chapter VII – Lump-Sum Remuneration, Old-Age, Occupational Disability and Dependant Survivors' Benefits

§ 47

- (1) Before 30 September of every year, the federal authorities shall pay to the Austrian Bar a reasonable lump-sum remuneration for the current calendar year for the services provided by the lawyers who are appointed in keeping with § 45, for which they would otherwise not have any title to remuneration, due to procedural regulations. Advance payments in reasonable instalments shall be made for the lump-sum remuneration that will be paid for the current calendar year.
- (2) At the time when the present federal law became effective, a lump-sum remuneration of ATS (Austrian Schilling) 32,000,000.00 was deemed to be reasonable.

- (3) The Federal Minister of Justice, with the consent of the Federal Minister of Finance and the “*Hauptausschuss des Nationalrates*” (Main Committee of the National Council), shall adjust accordingly the amount of the lump-sum remuneration, by way of ordinance, if
 1. economic conditions have changed considerably,
 2. the number of appointments in a year or the scope of the services pursuant to paragraph (1) have increased or decreased by more than 20 per cent, or
 3. it proves to be necessary, in the absence of statutory fees, to align the remuneration for the services pursuant to paragraph (1) more closely to the compensation that is regarded as adequate according to the lawyers’ guidelines on professional conduct.
- (4) When assessing the issue whether a change pursuant to paragraph (3) number 1 or number 2 has occurred, the evaluation shall be made beginning with the date on which these circumstances were last taken into account for a re-assessment.
- (5) For the services provided pursuant to the first sentence of § 16 (4), a reasonable lump-sum remuneration shall be determined separately. These services shall not be taken into account when re-assessing the lump-sum remuneration pursuant to paragraph (3). The first half-sentence of paragraph (3) shall be applied, when the lump-sum remuneration to be determined exceeds the amount of EUR 50,000. For the lump-sum remuneration which the Federal Minister of Justice shall determine separately by way of ordinance, he may grant the Austrian Bar, upon its application, a reasonable advance for legal-aid services that have been provided from the funds always available for these purposes in the federal budget implementation law; if the ultimately determined lump-sum remuneration is lower than the advance payments, the Austrian Bar shall return the amount in question to the Federal Minister of Justice.
- (6) The foregoing provisions shall also be applied in analogy to the cases described in § 16 (5).

§ 48

- (1) When distributing the lump-sum remuneration among the individual lawyers, the Austrian Bar shall pay one half of the lump-sum remuneration in accordance with the number of members who were registered in the list of lawyers as at 31 December of the previous year, and the second half of the lump-sum remuneration in keeping with the number of appointments made pursuant to § 45 among the members of a bar during the previous year. The lump-sum remuneration pursuant to § 47 (5) shall be transferred to the responsible bar.
- (2) The bars shall use the lump-sum remuneration pursuant to § 47 (1) to (3) for the old-age, occupational disability and surviving dependants’ benefits of lawyers and trainee lawyers.

§ 49

- (1) The bars shall set up and maintain pension funds in order to provide for lawyers and trainee lawyers upon reaching retirement or in case of occupational disability, as well as for the surviving dependants in the event of the lawyer’s or a trainee lawyer’s death. The articles of incorporation of these pension funds shall be adopted by the bars. The articles of pension funds based on a contributory system shall stipulate – while preserving already acquired legal titles – that all benefits from the pension fund shall be determined in keeping with the acquired number of contribution months, that upon reaching a specific number of contribution months (standard contribution months) the claim to an old-age pension (basic old-age pension) is acquired, the amount of which is fixed in the schedule

of benefits, and that the old-age pension which will be awarded will increase or decrease, compared to the basic old-age pension, if more or less standard contribution months have been accumulated. When determining the basic old-age pension benefit for the first time, it must not fall short of the old-age pension benefit that was available under the previously valid schedule of benefits after 35 years of registration in the list of lawyers. Amendments of the articles of incorporation of pension funds shall take account of acquired rights and preserve the protection of legitimate expectations.

- (1a) The articles of incorporation may also stipulate that the pension funds also pay the contribution pursuant to § 3 (5) of the “*Bundespflegegeldgesetz*” (BPPG – Federal Care Benefits Act), Federal Law Gazette No. 110/1993, in its respectively valid version. The bars shall pay this contribution for lawyers and trainee lawyers in keeping with the number of lawyers in the list of lawyers and number of lawyers in the list of trainee lawyers as well as in the list of established European lawyers as at 31 December of the previous year. However, when calculating the relevant total number, only one half of the number of trainee lawyers shall be taken into account.
- (2) As a matter of principle, all lawyers registered in a list of an Austrian bar, or the list of established European lawyers of an Austrian bar, as well as the trainee lawyers registered in the list of trainee lawyers of an Austrian bar shall be obliged to pay contributions, unless they are already subject to mandatory insurance contributions, due to their work as lawyers, based on other statutory stipulations applicable to an old-age pension system of a member state of the European Union, another Contracting State of the Agreement on a European Economic Areas or the Swiss Confederation. Two or several bars can also jointly set up a pension fund with uniform articles of incorporation.
- (3) If a bar does not comply, or only in a form that is not commensurate with the law, with its duty to set up and maintain a pension fund, in spite of being so requested by the Federal Minister of Justice, the latter shall decree the articles of incorporation by way of ordinance. This ordinance shall become ineffective as soon as the bar has established a situation that is in conformity with the law. The Federal Minister of Justice shall make known the ineffectiveness of the ordinance in the Federal Law Gazette.

§ 50

- (1) Every lawyer and trainee lawyer as well as their surviving dependants shall have a title to an old-age, occupational disability and surviving dependants’ benefit if the requirements are met and when an insured event occurs.
- (2) Fixed rules shall define this claim in the articles of incorporation. In this connection, the following principles shall be observed:
 1. Lawyers and trainee lawyers who are or were previously required to pay contributions shall have a title to old-age pension benefits; the widow or the widower (the divorced spouse) and the children of a lawyer or trainee lawyer who is or was previously obliged to pay contributions shall have a title to surviving dependants’ benefits.
 - 1a. Only lawyers and trainee lawyers who are or were previously required to pay contributions and who were registered in the list of lawyers or the list of trainee lawyers of an Austrian bar, or the list of established European lawyers of an Austrian bar at the time that the insured event occurred, shall have a title to occupational disability insurance benefits, as well as lawyers and trainee lawyers who were previously required to pay contributions and exercised the lawyer’s profession in a member state of the European Union, one of the Contracting States of the Agreement on a European Economic Area or the Swiss Confederation under one of the

designations listed in the annex to the “*Europäisches Rechtsanwaltsgesetz*” (EIRAG – European Lawyer’s Act), Article I, Federal Law Gazette I No. 27/2000 in the respectively valid version, at the time the insured event occurred. The application for being awarded occupational disability benefits shall be filed within one year as of the expiry of the authorization to exercise the lawyer’s profession (§ 34 (1)); § 1494 of the “*Allgemeines Bürgerliches Gesetzbuch*” (ABGB – General Civil Law Code) shall be applied in analogy.

2. The requirements for a title to benefits are

- a) in the case of old-age pension benefits, the obligation to pay contributions to a pension fund for a minimum period of twelve months, in which connection the articles of incorporation may stipulate that trainee lawyers (§ 53 (2) first sentence) and lawyers who temporarily pay lower contributions, on the basis of arrangements contained in the articles of incorporation pursuant to § 53 (2) number 5, can only acquire contribution months on a pro-rata basis, in keeping with their payments of lower contributions, as well as having reached the age of 70; the articles of incorporation may provide for an earlier retirement age; yet, the age of 65 must have been reached, as a minimum; an early-retirement old-age pension may be granted up to four years before the person in question reaches his specific retirement age, in which case pension deductions shall be calculated in keeping with actuarial principles;
- b) in the case of occupational disability pension benefits that the age limits pursuant to letter a), which are decisive for obtaining benefits, are not reached; moreover, the lawyer or the trainee lawyer must have been required to pay contributions for a minimum period of five years, or must have exercised the lawyer’s profession in a member state of the European Union, a Contracting State of the Agreement for a European Economic Area or the Swiss Confederation under a designation listed in the annex to the “*Europäisches Rechtsanwaltsgesetz*” (EIRAG – European Lawyer’s Act), Article I, Federal Law Gazette I No. 27/2000 in the respectively valid version, for a minimum period of five years (waiting time); the waiting time will increase to ten years if the period commenced when the lawyer or trainee lawyer had reached the age of 50;
- c) in the case of old-age or occupational disability insurance benefits
 - aa) the waiver to exercise the lawyer’s profession in Austria and abroad;
 - bb) in case of established European lawyers, also a confirmation concerning this waiver by the competent authority of the country of origin;
 - cc) the waiver to be registered in the list of defence counsels;
- d) in the case of widow (widower) pension benefits, that the marriage was contracted before the deceased lawyer or trainee lawyer had reached the age of 55, unless the marriage was intact at the time of the demise of the lawyer or trainee lawyer and had been maintained for a minimum of five years, and the age difference between deceased lawyer or trainee lawyer and the widow, or widower, is less than 20 years, and children were the offspring of that marriage;
- (e) in the case of pension benefits for a divorced spouse that
 - aa) the deceased lawyer or trainee lawyer had to pay maintenance (subsistence contribution) at the time of his death on the basis of a court decision, a court settlement or a contractual obligation entered prior to the dissolution of the marriage, unless the divorced spouse has married subsequently,
 - bb) the marriage lasted a minimum of ten years, and
 - cc) the spouse had reached the age of 40 at the time at which the marriage was dissolved.



The requirements listed under letter bb) and cc) shall not apply if the spouse has been incapable of earning a living since the dissolution of the marriage, or an orphan's pension pursuant to item 1 becomes due upon the death of the lawyer or trainee lawyer, provided that the child is an offspring of the dissolved marriage or was jointly adopted by the spouses and if, in all these cases, the child has been living in the household of the spouse entitled to benefits on an ongoing basis at the time of the death of the lawyer or trainee lawyer. In the case of children born later, the requirement of living continuously in a common household shall not apply.

3. Every pension title becomes effective at the end of the month in which all requirements for the respective title have been satisfied.
 4. A widow's or a widower's (a divorced spouse's) pension title ends upon re-marriage; the pension benefit title is suspended if the obligation of the deceased to pay maintenance had ceased for another reasons.
 5. A child's title to pension benefits ends with last day of the month in which the obligation of the deceased to pay maintenance would have ended. The title to an orphan's pension is suspended for the period of a temporary self-sufficiency capacity, especially during the period of military service or substitute military service; it shall end, in any event, on the last day of the year in which the child reaches the age of 26.
- (3) The articles of incorporation of pension funds may also stipulate pension plans that go beyond the principles laid down in paragraph (2) and are more favourable for the beneficiary, especially allowing for more favourable waiting times; in the case of occupational disability and surviving dependants' pension benefits the requirement of a waiting time may be waived altogether. The articles of incorporation may also provide that former lawyers and trainee lawyers as well as their surviving dependants will remain entitled to benefits if they continue to pay contributions to the pension fund, the amount of which shall take into account that no legal-aid services will be provided. In addition to pension funds based on contributory systems, the articles of incorporation may also stipulate that fully funded pension funds shall be set up where the pension benefit titles are calculated exclusively on the basis of the paid amounts, the bonuses and the investment yields, where the requirement of waiting time can be waived completely, and the waiver concerning exercise of the profession is not a requirement for a title. In the case of a pension fund based on a fully funded regime, the capital and vested amounts which, in particular, are transferred from a pension fund, a group annuity insurance system, a pension and support scheme of a chamber of self-employed persons, or a former employer, shall be equivalent to the contributions paid into the foregoing.
- (3a) In the event that the authorization to exercise the lawyer's profession expires, or in the event of deletion from the list of lawyers, to the extent that the pension fund, structured as a fully funded system, so requires in the respective articles of incorporation, the former bar member may apply for the transfer of his credit balance in a pension fund structured as a fully funded system to another pension fund, to which he now has access, especially to a pension fund or an institution pursuant to § 5 (4) of the "*Pensionskassengesetz*" (PKG – Pension Fund Act), a company's collective insurance or a group annuity insurance of a new employer or a pension fund and support institution for self-employed persons. The detailed provisions of the transfer shall be governed by the respective articles of incorporation.
- (4) The bars can also set up funds that cover disease; these must satisfy the requirements of § 5 of the "*Gewerbliches Sozialversicherungsgesetz*" (GSVG – Social Security for Self-Employed Persons in Industry Act), for their members and their dependants as well as



other persons who receive benefits from the pension fund (§ 49). These institutions can also consist of a group insurance scheme which the bar sets up by contract.

- (5) When calculating the additional benefits pursuant to paragraphs (3) and (4), the economic capacity of bar members shall be taken into account.

§ 51

Every year the plenary assembly of a bar shall adopt a “*Leistungsordnung*” (schedule of benefits) and an “*Umlagenordnung*” (schedule of contributions). The schedule of benefits shall determine the amount of the benefits to be paid by the pension fund, while the schedule of contributions shall determine the amount of the contributions required to raise the necessary funds.

§ 52

- (1) The basic old-age pension benefit (§ 49 (1)) shall not fall short of the reference rate laid down in § 293 (1) and (2) of the “*Allgemeines Sozialversicherungsgesetz*” (ASVG – General Social Security Act), Federal Law Gazette No. 189/1955 in the respectively valid version.
- (2) If two or more persons are entitled to surviving dependants’ pension benefits upon the demise of a lawyer or trainee lawyer, the sum total of benefits payable to these entitled persons shall not be higher than the benefit to which the lawyer or the trainee lawyer would have been entitled. Within the maximum amount, the benefits for the individual entitled persons shall be reduced on a pro-rata basis.
- (3) If the sum total of the benefits paid by the pension fund in one calendar year does not reach the amount of that share in the lump-sum remuneration which is due to the bar, the remaining rest of that share shall be distributed among the entitled persons in relation to their claims pursuant to paragraphs (1) and (2), after taking account of the second sentence of § 53 (1).
- (4) The schedule of benefits can provide benefits that exceed the aforementioned provisions, especially higher pension benefits, in order to enable the entitled persons to live under living conditions that are commensurate with the average living conditions of lawyers or trainee lawyers, as well as reasonable payments in the case of death and as severance benefits. It can also provide for a scale of benefits depending on the period of registration in the list of lawyers or the period in which contributions were paid into the pension fund of a bar, or the time as of which the pension benefits are claimed. However, when calculating such additional benefits, the economic capacity of the bar members shall be taken into account.

§ 53

- (1) When determining the contributions to the pension fund, the “*Umlagenordnung*” (schedule of contributions) shall ensure that the payment of benefits is secured on a long-term basis, taking account of the share in the lump-sum remuneration which is due to every bar. To this end, provisions shall be formed, in consideration of the medium-term financing requirements and based on actuarial principles. For recipients of benefits under the old-age, occupational disability and surviving dependants’ pension schemes, the schedule of contributions and the schedule of benefits can determine a contribution to stabilize pension benefits, always limited to a maximum period of ten years, which shall

amount to not more than 2.5 per cent of the gross benefit that is paid every month, if actuarial principles indicate that, on a short-term basis, coverage of the pension benefits could only be obtained by an extraordinary rise in contributions, which would exceed the economic capacity of the bar members.

(1a) Paragraph (1) shall not apply to pension funds based on fully funded systems.

(2) The contributions of trainee lawyers must amount to one fourth, as a minimum, and may amount to one half, as a maximum, of the contribution element that lawyers actually pay who are registered in the list of lawyers; in addition, the contributions shall generally be established at an equal level for all lawyers and trainee lawyers who are obliged to pay contributions. However, the schedule of contributions may determine that

1. lawyers and trainee lawyers who already satisfy the requirements for claiming benefits but do not actually claim them, are fully or partially exempt from paying contributions;
2. the level of the contributions is adjusted depending on the period of falling into the category of lawyer or trainee lawyer;
3. the contributions shall be established to take adequate account of the differences in workload caused by legal-aid cases, for which established European lawyers (§ 13 item 3 of the “*Europäisches Rechtsanwaltsgesetz*” [EIRAG – European Lawyers’ Act]) and trainee lawyers need not provide services;
4. contributions are deferred under extenuating circumstances, and possible arrears are offset against benefits from the pension fund;
5. lawyers, when submitting an application within one year as of the birth or adoption of a child, only pay the contribution established for trainee lawyers for a maximum period of twelve months.

The schedule of contributions may also stipulate that the contributions of trainee lawyers shall always be collected from the lawyer where they receive their practical training.

§ 54

The board of a bar shall take a decision on an application for benefits from the pension fund within three months, as a maximum.

§ 55

Every year before 31 March of the subsequent calendar year, at the latest, The Austrian Bar shall report to the Federal Minister of Justice concerning

1. the distribution of the lump-sum remuneration to the bars, indicating the individual amounts;
2. the use of the individual amounts of the lump-sum remuneration by the bars;
3. the number of cases of representation and defence during the expired calendar year (§ 47 (1)).

§ 56

(1) The bars shall keep a special register for the appointments according to § 45 in every calendar year. The following minimum information shall be entered into these registers:

1. the continuous reference number, starting with 1;
2. the designation and the file number of the court which granted the assignment of a lawyer;

3. the name and location of the law practice of the appointed lawyer;
 4. the date of the appointment decree.
- (2) The bars shall keep these registers for a period of seven years as of the end of the respective calendar year and submit them to the Federal Minister of Justice at his request at any time.

§ 56a

- (1) § 55 and § 56 shall be applied in analogy to the services provided by lawyers appointed pursuant to § 45a, with the proviso that the Federal Minister of Justice shall be replaced by the Federal Chancellor.
- (2) The federal authorities shall pay to the Austrian Bar a reasonable lump-sum remuneration by 30 September, at the latest, for the services provided by the lawyers appointed pursuant to § 45a. The amount of this lump-sum remuneration shall be determined by the Federal Chancellor by way of ordinance. If the anticipated amount of the lump-sum remuneration exceeds the amount of EUR 25,000, the Federal Chancellor shall seek the agreement of the Federal Minister of Finance and the Main Committee of the National Council.
- (3) When determining the lump-sum remuneration for the first time, the number of annual appointments and the scope of the services provided pursuant to paragraph (1) as an average for the past five years shall be taken as a basis. The amount of the lump-sum remuneration shall subsequently be adjusted whenever
 1. the economic circumstances have changed considerably, compared to the time up to which these circumstances were taken into account when determining it for the first time or when adjusting the lump-sum remuneration, also when considering the average development, or
 2. the number of appointments per year or the scope of the services provided pursuant to paragraph (1) increased or decreased by more than 20 per cent, measured against the average of the respective past five calendar years prior to adjusting the lump-sum remuneration.
- (4) A reasonable lump-sum remuneration shall be determined separately for the services pursuant to the first sentence of § 16 (4) provided by the lawyers appointed pursuant to § 45a.
- (5) The lump-sum remuneration pursuant to paragraph (2) shall be borne by the federal and the regional authorities on a pro-rata basis, with the components being determined by the relationship between the appointments for the respective administrative court and the total number of appointments. The regional authorities shall refund to the federal authorities their respective share by 31 March, at the latest, of the year following the calendar year in which the federal authorities made the payment pursuant to paragraph (2).

Chapter VIII – Sanctions

§ 57

- (1) Whenever a person uses the professional designation “*Rechtsanwalt*” (lawyer) without authorization, one of the professional designations listed in the annex to the “*Europäisches Rechtsanwaltsgesetz*” (EIRAG – European Lawyer’s Act), or one of the professional designations for internationally performing lawyers deriving from Part 5 of the “*Europäisches Rechtsanwaltsgesetz*” (EIRAG – European Lawyer’s Act), adds it to

the name of his law office, indicates it to be a business branch or purpose of the undertaking, uses it otherwise for advertising purposes, or pretends in another way to have the authorization to exercise the lawyer's profession, that person commits an administrative offence and shall be punished to pay a fine of up to EUR 10,000.00.

- (2) Whenever a person offers or provides services, which are reserved to lawyers by the present federal law, on a commercial basis and without authorization, that person commits an administrative offence and shall be punished to pay a fine of up to EUR 16,000.00. This act must not additionally be prosecuted according to other provisions on the punishable offence of pettifogging as a lawyer.
- (3) The aforementioned provisions shall not be applied if one of the punishable acts pursuant to paragraphs (1) and (2) also constitutes the facts of an act that is punishable by a court.

§ 58

In administrative proceedings pursuant to § 57 as well as in other proceedings against pettifogging lawyers who, without authorization, exercise an activity that is reserved to lawyers, the bar of that district in which the authority with competences to prosecution is located, can appear as a party and has the right to file legal remedies, as well as to file an appeal to the "Verwaltungsgerichtshof" (Administrative Court) pursuant to Article 133 (1) item 1 of the "Bundesverfassungsgesetz" (B-VG – Federal Constitution Act).

Chapter IX – Arbitration

§ 59

- (1) Arbitration tribunals can be set up for disputes pursuant to § 577 and following of the Code of Civil Procedure by a decision of the plenary assembly, in the case of bars, or by decision of the Assembly of Representatives, in the case of the Austrian Bar.
- (2) Arbitration rules can be adopted by the respective board of a bar for its arbitration tribunal, or likewise by the Assembly of Representatives for the Austrian Bar. Moreover, the Assembly of Representatives of the Austrian Bar is also authorized to adopt framework arbitration rules, which can lay down the essential principles of the arbitration rules to be adopted by the bars.
- (3) When exercising their function, the arbitration bodies are independent and not bound to any instructions.

* § 1 (2), § 2 (4), § 3, § 4, § 5 (1a), § 15 (2) and § 30 (1), (1a) and (3) of the "Rechtsanwaltsordnung" (RAO – Lawyers' Act) (in the version of the "Berufsrechts-Änderungsgesetz" - 2008" [BRÄG 2008 – 2008 Law on Professions Amendment Act]) shall only be applied to university law studies that are commenced after 31 August 2009, in which connection a continuation of the studies at another university does not have any influence on any time period that has already begun. If the studies of Austrian law which are required for the exercise of the lawyer's profession or the appointment as notary (§ 3 of "Rechtsanwaltsordnung" [RAO – Lawyer's Act], § 6a of the "Notariatsordnung" [NO – Notaries' Act]), are based on several studies (§ 54 and following of the "Universitätsgesetz 2002" [UnivG - 2002 University Act]), the legal stipulations in force as at 1 September 2009 shall also be applied in those cases where only the final university law studies, which need to be completed successfully for complete compliance with the requirements of § 3 of the "Rechtsanwaltsordnung" (RAO – Lawyers' Act), or § 6a of the "Notariatsordnung" (NO – Notaries' Act), respectively, are commenced after 31 August 2009.

§ 3 (4) of the “*Rechtsanwaltsordnung*” (RAO – Lawyers’ Act) (in the version of the “*Berufsrechts-Änderungsgesetz - 2008*” [BRÄG 2008 – 2008 Law on Professions Amendment Act]) shall be applied to completed studies which are to serve for the exercise of the profession, whenever the applicant submits his application to the respectively competent bar, or the “*Ausbildungsprüfungskommission*” (Education Examination Commission) after 31 August 2009.

- i § 2 (1) of the “*Rechtsanwaltsordnung*” (RAO – Lawyers’ Act) shall be applied to a practical training with a chartered accountant or tax consultant that was completed after 31 August 2013.
- ° § 2 (3) letter 1 “*Rechtsanwaltsordnung*” (RAO – Lawyers’ Act) (in the version of the “*Berufsrechts-Änderungsgesetz - 2008*” [BRÄG 2008 – 2008 Law on Professions Amendment Act]) shall be applied to university studies that lead to a further academic degree by a law university, whenever these studies were commenced after 31 August 2009.
- “ Provisions decisive for spouses, marital issues or marital matters in the respectively valid versions shall be applied in analogy to registered partners, partnership issues or partnership matters.
- + Whenever the plenary assembly of the competent bar does not meet between the announcement and the entry into force of the “*Berufsrechts-Änderungsgesetz - 2010*” [BRÄG 2010 – 2010 Law on Professions Amendment Act]), guidelines pursuant to § 27 (1) letter g of the “*Rechtsanwaltsordnung*” (RAO – Lawyers’ Act), in the version of the “*Berufsrechts-Änderungsgesetz - 2010*” [BRÄG 2010 – 2010 Law on Professions Amendment Act]), may on an exceptional basis also be decided by the board of a bar. In such a case, the first plenary assembly, at the latest, convened after the entry into force of the “*Berufsrechts-Änderungsgesetz - 2010*” [BRÄG 2010 – 2010 Law on Professions Amendment Act]) shall take a decision in plenary assembly pursuant to § 27 (1) letter g) of the “*Rechtsanwaltsordnung*” (RAO – Lawyers’ Act) in the version of the present federal law, with the effect that the board decision becomes ineffective at the same time.
- ‘ The contributions of bar members from among the trainee lawyers pursuant to § 27 (1) letter d) of the “*Rechtsanwaltsordnung*” (RAO – Lawyers’ Act) shall be established only for the time after 31 December 2010.



RAO – Glossar

Allgemeines Bürgerliches Gesetzbuch = (ABGB) General Civil Law Code
Allgemeines Sozialversicherungsgesetz = (ASVG) General Social Security Act
Arbeitsvertragsrecht-Anpassungsgesetz = (AVRAG) Labour Contract Law Amendment Act
Ausbildungs- und Berufsprüfungsanrechnungsgesetz = (ABAG) Recognition of Education and Occupational Admission Tests Act
Außerstreitgesetz = (AußStrG) Non-Contentious Proceedings Act
Bankwesengesetz = (BWG) Banking Industry Act
Behinderteneinstellungsgesetz = (BEInstG) Employment of Persons with Disabilities Act
Berufsrechts-Änderungsgesetz - 2008 = (BRÄG 2008) 2008 Law on Professions Amendment Act
Börsegesetz = (BörseG) Stock Exchange Act
Bundeskriminalamt-Gesetz = (BKA-G) Federal Bureau of Investigation Act
Bundespflegegeldgesetz = (BPPG) Federal Care Benefits Act
Disziplinarstatut = (DSt) Disciplinary Measures Act
E-Government-Gesetz = (E-GovG) E-Government Act
Europäisches Rechtsanwaltsgesetz = (EIRAG) European Lawyer's Act
Firmenbuchgesetz = (FBG) Company Register Act
Gerichtsorganisationsgesetz = (GOG) Court Organization Act
Gewerbliches Sozialversicherungsgesetz = (GSVG) Social Security for Self-Employed Persons in Industry Act
Mutterschutzgesetz = (MSchG) Maternity Protection Act
Notariatsordnung = (NO) Notaries' Act
Pensionskassengesetz = (PKG) Pension Fund Act
Rechtsanwaltsordnung = (RAO) Lawyers' Act
Rechtsanwaltsprüfungsgesetz = (RAPG) Bar Examination Act
Rechtsanwaltstarifgesetz = (RATG) Lawyers' Fees Act
Rechtspraktikantengesetz = (RPG) Traineeship at Court Act
Signaturgesetz = (SigG) Signature Act
Telekommunikationsgesetz = (TKG) Telecommunications Act
Universitätsgesetz 2002 = (UnivG) 2002 University Act
Unternehmensgesetzbuch = (UGB) Commercial Law Code
Väter-Karenzgesetz = (VKG) Paternal Leave Act
Zustellgesetz = (ZustG) Service of Documents Act



Allgemeine Honorar-Kriterien für Rechtsanwälte = General Fee Criteria for Lawyers
Archivium = Lawyers' Documents' Archives
Ausbildungsprüfungskommission = Educational Qualifications Review Commission
Bundesland = federal province/region
Finanzmarktaufsicht = (FMA) Financial Market Authority
Finanzprokuratur = Financial Procurator's Office
Gesellschaft bürgerlichen Rechts = civil-law partnership
Gesellschaft mit beschränkter Haftung = limited-liability company
Hauptausschuss des Nationalrates = Main Committee of the National Council
Kommanditgesellschaft = limited partnership
Kommandit-Partnerschaft = limited partnership of lawyers
Leistungsordnung = schedule of benefits
Liste der Rechtsanwälte = list of lawyers
Liste der Rechtsanwalts-Gesellschaften = list of companies of lawyers
Oberlandesgericht = Higher Regional Court
Oberste Gerichtshof = Supreme Court
offene Gesellschaft = general partnership
Österreichischer Rechtsanwaltskammertag = Austrian Bar
Partnerschaft = partnership
Präsidentenrat = Presidents' Council
Präsidium = Presidency
Rechtsanwalt = lawyer
Rechtsanwalt-Partnerschaft = partnership of lawyers
Rechtsanwaltsprüfung = bar exam
Rechtsanwalts-Gesellschafter = company partners
Rechtsanwaltskammer = bar
Richtlinien für die Ausbildung von Rechtsanwaltsanwärtern = Guidelines for the Training of Trainee Lawyers
Treuhandenschaftseinrichtung = trust recording institute / trust book
Umlagenordnung = schedule of contributions
Verfassungsgerichtshof = Constitutional Court
Vertreterversammlung = Assembly of Representatives
Verwaltungsgerichtshof = Administrative Court

