



## **Common Values of the Liberal Professions (I) in the European Union**

**Revised Version - 2014**

### **Preamble**

In March 2000 the European Council of Lisbon adopted a programme for reform. The aim was to make the EU the most competitive and dynamic knowledge-based economy in the world by 2010. The Commission recognise the contribution that liberal professions make to the economy (II) in all Member States and thus to the EU economy as a whole.

One major identifying factor of a profession is the willingness of individual practitioners to comply with ethical and professional standards that exceed the minimum legal requirements. It is clear that where professional activities are provided cross border, the host Member State's professional rules linked to professional qualifications, particularly those linked to consumer protection and safety shall apply (III). This recognises the current position in which codes of conduct for an individual professional may differ from one Member State to another and that those who avail themselves of cross-border professional activities will expect it to be provided subject to the same ethical and practice standards as apply where they live.

Directive 2006/123 asks Member States, in cooperation with the Commission, to encourage the drawing up at Community level of professional codes of conduct and to ensure that such codes are accessible by electronic means.

The Commission stressed the importance of codes of conduct at the European level (IV); in particular this Report stated that laying down codes of conduct at European level may also help to bring out the specific nature of the activities of certain sectors, especially regulated professions, by guaranteeing that they can exercise their profession independently and by protecting the impartiality of the rules of professional conduct.

CEPLIS considers that having regard to the provisions of the Directives and the Commission Report (III-IV), as well as the European Commission's proposal in regard to Entrepreneurship (V) it is timely to carry out a review of the CEPLIS Common Values taking into account the continued integration of the European Union, the increasing frequency of cross border activities by members of the liberal professionals within the European Union and the impact of developments on professional practice.

CEPLIS recognises that there will be differences in detail in codes for individual professions at EU level, for example in the area of confidentiality of information. There will also necessarily be differences in detail in the way that the values in the EU code are reflected in the codes at Member State level to recognise differences in legislation – for example on data protection – and in culture and tradition. The initiative should however result in considerable narrowing of differences in codes applicable in individual Member States.

The activities of liberal professionals comprise intellectual tasks for the proper discharge of which a high level of legal and technical and sometimes scientific knowledge is required. The necessary knowledge is acquired by the successful completion of studies leading to a degree or diploma of higher education and/or the award of a recognised professional title. In some cases there may be additional requirements leading to registration with a regulatory body before practice is permitted. The liberal professional then becomes subject to the code of conduct applicable to that profession drawn up by the appropriate professional body with a focus on the interests of those who seek to avail themselves of professional activities. That professional is aware that contravention of the provisions of the code may lead to disciplinary sanctions. Clients and patients must have confidence that alleged contravention of the provisions of Codes of Conduct will be treated seriously by the professional body concerned and, if proved, will result in action proportionate to the seriousness of the breach being taken.

CEPLIS believes that the Common Values have assisted and will continue to assist the liberal professions, clients and patients and accordingly recommends the inclusion of the following equivalent values in national codes of conduct.

## **1. Confidentiality**

This is the cornerstone for the building of trust between professionals and their clients or patients.

Codes of Conduct should make it clear that professionals must respect the confidentiality of information acquired in the course of their professional activities and ensure that information about an individual is not disclosed to others except in specified circumstances and, where possible, with the informed consent of the individual.

## **2. Participation in Continuous Professional Development**

Codes of Conduct should make it clear that professionals have an unequivocal responsibility to maintain competency in their field of practice and to this end must participate in continuous professional development throughout their working lives.

Those who avail themselves of professional activities have a right to expect that practitioners will keep their knowledge in their field of practice up-to-date and will extend their competencies as the demand for new professional skills develops.

## **3. Independence and Impartiality**

Codes of Conduct should make it clear that liberal professionals have the right to exercise personal judgement in the frame of their responsibilities after taking into account all relevant circumstances, without any application of external influence.

Those who use liberal professional services have a right to expect assessment of circumstances to be carried out and advice to be given impartially and objectively, without pressure from external sources and without conflicts of interest.

## **4. Conflicts of Interest**

Codes of Conduct should make it clear that having regard to the nature of the appropriate professional activity, a professional may not advise, represent or act on behalf of two or more clients in the same matter if there is a conflict, or a significant risk of conflict, between the interests of those clients. The foregoing may not apply in the case of those professions where assistance on behalf of one or more clients is required by law

Professionals should be aware that circumstances could arise where the professional would be obliged to cease acting on behalf of both clients in the event of a conflict of

interest or a risk of a conflict of interest and especially whenever there is a risk of a breach of confidence or where the professional's independence may be impaired, or where the professional has a personal interest direct or indirect in the matter on which the professional is being consulted.

Compliance with the provisions of codes of conduct regarding conflicts of interest is of particular importance where multi-disciplinary activities are pursued by professionals. See also Common Value 13.

## **5. Honesty and Integrity**

Codes of Conduct should make it clear that professionals are required to act with courtesy, honesty and integrity in their relationships with clients, patients and others, including professional colleagues and must not engage in any activity or behaviour that would be likely to bring the profession into disrepute or undermine public confidence in the profession. The first priority in the provision of a professional activity must be the best interests of the client or patient.

Clients and patients have the right to expect to be treated with courtesy and respect. They are also entitled to receive sound professional advice in terms they will understand, as well as information before and during the provision of a professional activity both on the procedure it is intended to pursue to achieve the desired objective and on the fees involved. See also Common Value 10.

## **6. Supervision of Support Staff**

Codes of Conduct should make it clear that professionals are required to ensure that any member of support staff to whom a task is delegated has the knowledge and skills necessary to undertake that task effectively and efficiently. There should also be appropriate supervision.

Clients and patients place their trust in the practitioner with whom they have direct contact and have the right to be confident that tasks will be delegated only to members of support staff who have the necessary knowledge and competencies. In that context, it should be clear that the responsibility for a delegated task remains with the delegator.

## **7. Compliance with Codes of Conduct and Practice**

All codes of Conduct should make it clear that members of the profession concerned are required to comply not only with the provisions of the Code of Conduct itself but

also with legislation and the provisions of codes of practice and standards relating to the specific professional activities they may provide.

Those who consult professionals have the right to expect professional activities of the highest quality through strict compliance with all relevant legislation and codes of practice.

### **8. Professional Indemnity Insurance**

Codes of Conduct should make it clear that members of the profession concerned have an obligation to carry professional indemnity insurance at a level sufficient to ensure that in the event of a justified claim from a client or patient arising as a result of the provision of a professional activity, the individual will be adequately compensated.

Clients and patients have the right to expect adequate compensation in the event of adverse effects resulting from errors arising from the provision of a professional activity.

### **9. Conflicts with Moral and Religious Beliefs**

Codes of conduct should make it clear that in the event of conflicts with moral or religious beliefs arising from a request for the provision of a professional activity members of the profession have an obligation to provide information on how another professional colleague who may comply with their request may be conveniently contacted. After agreeing to act liberal professionals are bound to set aside any personal, religious, political, philosophical or other convictions.

Those who lawfully seek to avail themselves of a professional activity should not have access barred due to the moral or religious beliefs of the individual professional. Once a liberal professional has agreed to act, personal convictions must be set aside.

### **10. Disclosures to Clients and Patients**

Codes of Conduct should make it clear that, prior to entering into any contractual arrangements, professionals should furnish clients with all relevant information which will enable the client to determine the nature and quality of the activity to be delivered by the professional, and in particular information relating the professional's terms and conditions including the applicable law, fees, details of appropriate professional liability insurance and guarantees and assurances as to the absence of any potential conflicts of interest.

Furthermore the following information should at least be provided unless such information is readily available from the professional's competent authority:

- The name of the professional, legal status and form, the geographic address at which the professional is established and details enabling the professional to be contacted rapidly and communicated with directly;
- Where the activity is subject to an authorisation scheme the particulars of the relevant competent authority or the single point of contact;
- The VAT identification number where applicable;
- In the case of the regulated professions, any professional body or institution with which the professional is registered, the professional title and the member state in which the title has been granted.

## **11. Disputes**

Codes of Conduct should make it clear that, without prejudice to the rights of a professional to seek redress or defence through the Courts, a professional should in the first instance, endeavour to settle any disputes or complaints either directly or indirectly with the client and failing which through an alternative dispute resolution procedure or mediation. It is incumbent on the professional to deal with any such disputes or complaints in a prompt and transparent manner.

A professional who is subject to a code of conduct or a professional body which provides for a client's rights of recourse to a non-judicial means of dispute settlement, should supply all relevant information in that respect.

## **12. Assumption of Responsibility**

National Codes of Conduct should make it clear that professionals have a duty to fully disclose to their clients and patients all relevant information regarding the facts and circumstances which might have led to an adverse consequence to their clients or patients and to co-operate fully with such clients or patients in reaching a mutually acceptable resolution.

National Codes of Conduct should make it clear that professionals have a collective and individual responsibility to ensure that in the public interest all relevant competent authorities are kept informed of facts which might indicate a failure on the part of a professional to maintain acceptable standards of competency or behaviour and compliance with legal requirements arising from their professional activities.

### **13. Multi-disciplinary Activities**

Codes of Conduct should make it clear that in the event that professionals participate in multi-disciplinary activities either jointly, or in partnership or other appropriate business structures, such professionals should seek to ensure that each of them subscribe to and be bound by rules governing their professional ethics and conduct at least similar to and compatible with the provisions contained herein.

Professionals should also ensure that clients are informed that activities are being undertaken by a multi-disciplinary practice as well as details of the activities being carried on by that practice.

For the sake of clarity the expression “Multi-disciplinary activities” does not include inter-disciplinary professional teams established for specific projects as for example in the field of health treatment, or joint cost saving arrangements.

### **14. Language Skills**

Codes of Conduct should provide that a professional should ensure that, prior to acting for a client or patient, the professional is personally satisfied that he or she has sufficient competence in a relevant language and that clients have a clear and unambiguous understanding of the nature and subject of the conditions that apply.

To that extent the professionals should ensure that in the event of the professional not having a reasonable level of language competence, the professional should make available appropriate interpretation facilities or refer the matter to another professional having the appropriate level of language competence. (See Directive 2013/55/EU – Article 53)

### **15. Communications**

Codes of Conduct should make it clear that communications published by or on behalf of a professional shall at all times contain information which is accurate, not misleading and complies with the core values of the particular profession.

### **16. Training in Ethical Standards**

Codes of Conduct should make it clear that professionals and support staff are expected to fully participate in programmes designed to promote a better understanding of ethical issues relevant to their professions and as provided in relevant codes of conduct.

## **17. Good Governance**

Although the provisions of these Common values are intended in the first instance to apply to professionals, the role and responsibilities of professional associations, either regulatory or non-regulatory, in the compliance by professionals with the requirements and enforcement of Codes of conduct is a key element in ensuring a high level of ethical standards.

Accordingly such associations should ensure that appropriate monitoring and supervision of and compliance with, Codes of Conduct are maintained as well as the implementation of appropriate procedures and programmes (as for example in regard to training).

### **References :**

I - Liberal professions, [...] are, according to this Directive, those practised on the basis of relevant professional qualifications in a personal, responsible and professionally independent capacity by those providing intellectual and conceptual services in the interest of the client and the public.” in Directive 2005/36/EC of the European Parliament and of the Council of 7 September 2005 on the Recognition of Professional Qualifications.

II – Communication from the Commission to the Council, the European Parliament, the European Economic and Social Committee and the Committee of the Regions - Professional Services - Scope for more reform -Follow-up to the Report on Competition in Professional Services, COM(2004) 83 of 9 February 2004 (SEC(2005) 1064)

III – Directive 2005/36/EC of the European Parliament and of the Council of 7 September 2005 on the recognition of professional qualifications

IV – “Enhancing the Quality of Services in the Internal Market: The Role of European Codes Of Conduct” – DG Internal Market - 2007

V – Communication from the Commission to the European Parliament, the Council, the European and Social Committee of the Regions – Entrepreneurship 2020 – Action Plan - Reigniting the entrepreneurial spirit in Europe

VI – Directive 2013/55/EU of the European Parliament and of the Council of 20 November 2013 amending Directive 2005/36/EC on the recognition of professional qualifications and Regulation (EU) No 1024/2012 on administrative cooperation through the Internal Market Information System (‘the IMI Regulation’)