

Independent lawyers, stronger democracies:  
understanding why self-regulation matters



## Independent lawyers, stronger democracies: understanding why self-regulation matters

### What is self-regulation of the legal profession?

Self-regulation of the legal profession enables professional bodies or associations to govern their members in a manner that ensures that they are not subject to undue influence from the State or other external pressures.

There is no one unique form of self-regulation. In various European countries, the legal profession is subject to a combination of state regulation and self-regulation. Therefore, self-regulation

does not necessarily mean exclusive and full regulation by the legal profession. In many cases, the State provides Bars and/or Law Societies with the authority to regulate the practice of the profession by providing Bars and Law Societies with the legal framework to establish professional rules. States also, for example, ensure and uphold the protection of various principles, including the principle of lawyer-client confidentiality.

### Why is self-regulation needed?

Self-regulation protects lawyers from external influences that could compromise their integrity and independence, which are essential for a functioning democracy. In many parts of the world, lawyers face pressure from governments or other entities that seek to control or influence their work. Self-regulation acts as a buffer against such pressures, enabling lawyers to act in the best interests of their clients and the justice system.

Self-regulation also enables lawyers to exercise their profession in full independence, which is a prerequisite for effective legal representation and advice. It thus prioritises the rights and needs of clients and the integrity of the legal system over the interests of individual practitioners.<sup>1</sup> As such, self-regulation is a significant component for the proper administration of justice. Self-regulation also ensures that lawyers maintain high standards and professional competence.

<sup>1</sup> See also Principle J of the [CCBE Charter of Core Principles of the European Legal Profession](#)

## What are the main features of self-regulation of the legal profession?

Self-regulation of the legal profession enables professional bodies or associations to govern their members in a manner that allows professional bodies or associations to, among others:

### → **Define professional standards of conduct:**

Professional standards of conduct are the deontological and behavioural guidelines that govern how lawyers should interact with clients, courts, and other parties. These standards ensure that lawyers act with integrity, maintain client confidentiality, avoid conflicts of interest, and provide competent representation.

### → **Define and implement rules on accessing the profession:**

Rules on accessing the legal profession, such as education, training, and qualification requirements, ensure that only individuals who are adequately prepared and qualified can practice law. This safeguards the quality of legal services provided to the public.

### → **Ensure the observance of rules and standards:**

Ensuring that lawyers adhere to established rules and standards is key to maintaining the profession's integrity and protecting clients' interests. Self-regulation allows for ongoing monitoring and enforcement of these rules.

### → **Develop continuing education requirements:**

The law is constantly evolving, with new legislation, case law, and legal technologies emerging regularly. Continuing education standards and requirements set by Bars and Law Societies ensure that lawyers remain current with these developments and continue to provide

competent representation.

### → **Develop and apply disciplinary measures:**

Disciplinary measures are necessary to address cases of professional misconduct or incompetence. These measures help to protect the public, maintain the profession's reputation, and ensure that justice is served.

In summary, the self-regulation of the legal profession is fundamental to ensuring that lawyers are well-qualified and capable of providing high-quality legal services. It helps maintain public trust in the legal system, protects the independence of the profession, and upholds the rule of law — all of which are essential for a functioning democracy.

## How self-regulation benefits the public?

In restrictive societies, governments control the activities of Bars, Law Societies and lawyers, thus hampering citizens from having an effective and independent defence which is essential to protect against injustice and arbitrariness. Self-regulation of the legal profession provides many essential benefits which protect the public:

→ **Independence which is a prerequisite to properly defend clients:** Self-regulation safeguards the independence of lawyers from States or external pressures. This independence is fundamental for lawyers to advise, assist or represent their clients without discrimination, improper hindrance or interference, or being subjected to attacks, threats, harassment, or intimidation. It thus ensures a fair and independent administration of justice (for more information on the importance of independence, see the 2021 [CCBE European Lawyers' Day Handbook](#)) "*No justice without independent lawyers*").

→ **Accountability:** Self-regulation ensures that independent mechanisms are in place to hold lawyers accountable for their actions. This includes strict disciplinary procedures that address misconduct, thus protecting clients and maintaining the integrity of the profession.

## Conclusion

The CCBE selected this theme for European Lawyers' Day 2024 as it wishes to enhance the understanding of the importance of self-regulation and how this is intrinsically linked with the health of democratic societies. It is essential to have confidence in a justice system, and understanding the importance of self-regulation helps us to appreciate its key role in ensuring the effective functioning of the justice system.

→ **Guarantees quality of service for clients:** Self-regulation means that only qualified individuals are admitted to practice law. In addition, self-regulation also ensures continuous education and professional development, thereby ensuring the quality of service to clients.<sup>2</sup>

→ **Changing environments:** Self-regulation allows the legal profession to quickly adapt to changes and emerging issues, enabling the profession to respond to evolving clients' needs. This flexibility allows for the timely update of regulations and practices in response to changing legal landscapes, while ensuring that those changes of practices and regulations maintain the independence and integrity of the administration of justice and the rule of law. The rule of law — all of which are essential for a functioning democracy.



Find more information about European Lawyers' Day 2024 on [www.ccbe.eu](http://www.ccbe.eu).

<sup>1</sup> See also [Joint CCBE-FBE Conference on Self-Regulation & Quality in the Legal Profession – Lisbon – 25.10.2019](#)

## RESOURCES

- [CCBE Model Code of Conduct for European Lawyers \(2021\)](#)
- [CCBE Code of Conduct for European Lawyers \(2019\)](#)
- [CCBE Charter of Core Principles of the European Legal Profession \(2006\)](#)
- [Joint CCBE-FBE Conference on Self-Regulation & Quality in the Legal Profession – Lisbon \(25.10.2019\)](#)

## EU AND INTERNATIONAL INSTRUMENTS

- [United Nations Basic Principles on the Role of Lawyers \(1990\)](#)
- Council of Europe Recommendation Rec(2000)21 on the freedom of exercise of the profession of lawyer

## CASE LAW

Case-law of the Court of Justice of the EU:

- [Wouters Case C-309/99](#): Wouters v. Algemene Raad van de Nederlandse Orde van Advocaten (2002): This landmark case examines the compatibility of self-regulatory measures with EU competition law.
- [Ordre des barreaux Case C-305/05](#): Ordre des barreaux francophones et germanophone and Others v. Council (2007): This case explores the autonomy of legal professions and their self-regulation within the EU legal framework.

Case-law of the European Court of Human Rights:

- [Morice v. France \(2015\)](#)