



**SURVEY: DEONTOLOGY IN EUROPE
ISSUE: OCTOBER 2003**

	Country Netherlands
National Representative	Martijn Hoving
<p>1. Are there any circumstances under which a lawyer might be forced to break his or her confidentiality on information?</p>	<p>No, any violation of confidentiality is a criminal offence and there are no exceptions to the rule that lawyers in the Netherlands can refuse to give testimony in any kind of procedure (both civil and criminal). (article 218 Code of Criminal Proceedings – Wetboek van strafvordering and article 165 Code of Civil Proceedings – Wetboek van Burgerlijke Rechtsvordering). The only exception to this rule is the fact that a lawyer is obliged to give all information to the President of the local Bar association necessary for a procedure when requested by the President.</p>
<p>2. Are there any circumstances under which a lawyer can voluntarily break his confidentiality?</p>	<p>Only when the client does not have any objections and even then the lawyer has his own responsibility in giving any information.</p>
<p>3. To what extent does there exist an (indirect) right of third parties who have received information from a lawyer to withhold this information in the course of legal proceedings?</p>	<p>a. Dutch lawyers are by law required to impose the same obligation of confidentiality on their associates and staff (Rule 6 Code of Conduct) and these people can not be forced to testify or give information regarding such matters; b. third parties that have been given information by a lawyer (for example accountants, damage experts, etc.) can</p>
<p>4. When is it allowed to use correspondence between lawyers in legal procedures?</p>	<p>In principle it is not allowed to use correspondence between lawyers in legal procedures, even if a letter is not marked as confidential. The local President of the Bar can however grant permission to use certain correspondence, when the opposing party refuses to grant permission to submit the correspondence.</p>
<p>5. Is it allowed to bring negotiation information before a judge?</p>	<p>No, it is never allowed to communicate any particulars of the negotiations over a settlement agreement between lawyers to a judge.</p>

Country	Netherlands
National Representative	Martijn Hoving
<p>6. Can a lawyer directly address the opposing party, when he knows that this party has legal representation through a lawyer?</p>	<p>This is not allowed, unless the lawyer of the opposing party grants permission. One other exception exists: when a lawyer wants to communicate a written message that has legal consequences (for example the date at which statutory interests will commence), in which case this letter can be directly send to the opposing party with a copy to the lawyer of the opposing party. This prevents the situation that a lawyer would have to ask permission from the opposing party or the president of the local Bar association to submit this relevant information to the court (see 4)</p>
<p>7. Is a lawyer obliged to give prior notice to the opposing party / its lawyer before taking legal action?</p>	<p>A lawyer is obliged to give prior notice before taking any legal action, especially measures of enforcement of awards. There are, however, exceptions to this rule, for example in case of seizure of goods in order to serve as security for payment of a legal procedure that has not yet been finished (seizure before judgement). In principle a lawyer should allow for sufficient time for the opposing party to react to this notification.</p>
<p>8. Is it allowed to hear a (former) lawyer as a witness for any information that has come to his or her knowledge in his occupation?</p>	<p>This can not be done without prior permission of the President of the local Bar Association. It also applies to employees of a (former) lawyer. Of course a lawyer can not break his duty of confidentiality in giving evidence.</p>
<p>9. Is a lawyer allowed to get in contact with a witness?</p>	<p>No. in principle a lawyer cannot approach a (potential) witness before trial. In criminal proceedings a lawyer is also refrained from hearing a witness of the District-Attorneys office. (Rule 16 Code of Conduct)</p>
<p>10. Are lawyers under an obligation to insure against professional liability?</p>	<p>Yes, the Dutch Bas Association obliges its members to have professional liability insurance with a minimum coverage of € 453.780,00 per event. This insurance covers liability for events in all EU Member States.</p>
<p>11. To what extent can a lawyer limit his liability below the amount and on what conditions?</p>	<p>A Dutch lawyer is not permitted to limit his liability below the amount and conditions of his insurance coverage. In practice most law firms in the Netherlands use the limitation in their general terms and conditions.</p>
<p>12. Is there a compulsory requirement for continuing professional development and training?</p>	<p>yes, the Dutch Bar Association requires a Dutch lawyer to continue his professional development and training after his or her first three years. A Dutch lawyer is required to spend at least 16 hours a year receiving education and/or teaching and/or writing articles.</p>

Country

Austria

National Representative

Jörg STEINSCHNACK

<p>1. Are there any circumstances under which a lawyer might be forced to break his or her confidentiality on information?</p>	<p>No, the confidentiality is one of the most important pillar of the Austrian attorneyship. Civil and Criminal laws enable an advocat to deny a testimony in a trial concerning information of or from his client.</p>
<p>2. Are there any circumstances under which a lawyer can voluntarily break his confidentiality?</p>	<p>Only when the client does not have any objections and even then the lawyer has to examine carefully, if there will be important disadvantages for the client.</p>
<p>3. To what extent does there exist an (indirect) right of third parties who have received information from a lawyer to withhold this information in the course of legal proceedings?</p>	<p>Criminal and civil laws enable also the stuff of the advocat to deny a testimonial in a trial concerning information of or from his client.</p>
<p>4. When is it allowed to use correspondence between lawyers in legal procedures?</p>	<p>The usage of correspondence between lawyers is usual and there are no specific rules for this kind of letters. The basic requirement is, that the client agrees to the usage and it isn't a disadvantage for the client.</p>
<p>5. Is it allowed to bring negotiation information before a judge?</p>	<p>There are no specific rules for this kind of information. The basic requirement is, that the client agrees to the usage and it isn't a disadvantage for the client</p>



Country

Austria

National Representative

Jörg STEINSCHNACK

6. Can a lawyer directly address the opposing party, when he knows that this party has legal representation through a lawyer?	This would be an infraction of discipline.
7. Is a lawyer obliged to give prior notice to the opposing party / its lawyer before taking legal action?	It is not obliged but usual.
8. Is it allowed to hear a (former) lawyer as a witness for any information that has come to his or her knowledge in his occupation?	The former lawyer has the same due of confidentiality (see point 1. and 2.)
9. Is a lawyer allowed to get in contact with a witness?	It is basicly allowed, but an advocat should avoid every appaerance to influende a witness, otherwise it is an infraction of discipline.
10. Are lawyers under an obligation to insure against professional liability?	Of course. The minimum sum of liability is € 400000,- for every case of damage.
11. To what extent can a lawyer limit his liability below the amount and on what conditions?	There is no possibility to limit the liability.
12. Is there a compulsory requirement for continuing professional development and training?	There is only a compulsory requirement for a trainee to become an advocat.

Country **Belgium**

National Representative **Axel Naeyaert**

<p>1. Are there any circumstances under which a lawyer might be forced to break his or her confidentiality on information?</p>	<p>No. Article 458 of The Criminal Code stipulates that the holder of the professional secrecy may not disclose the secrets obtained through professional activity, unless he is summoned to appear as a witness in court or when the law forces him to do so. The first exception needs to be precised in the sense that the lawyer must come to court but he has the right not to speak. The second exception is only applicable in tax matters and also then very controversial. In this situation the professional secrecy is considered as a right.</p>
<p>2. Are there any circumstances under which a lawyer can voluntarily break his confidentiality?</p>	<p>Yes. The Belgian Constitutional Court has ruled that the professional secrecy has to yield for other values deemed to be of greater importance (i.e. when there is a conflict of values) or when there is a so called "necessity", This will only be the case in very exceptional circumstances. A traditional example is when a lawyer gets to know that one's life is in great danger. In this situation the professional secrecy is considered as a duty for the lawyer.</p>
<p>3. To what extent does there exist an (indirect) right of third parties who have received information from a lawyer to withhold this information in the course of legal proceedings?</p>	<p>In principle the answer on this question is negative due to the fact that the client cannot exempt his lawyer from his professional secrecy and due to the fact that it is 'd'ordre public'. There are however exceptions : when there is a conflict of values, in a lawyers liability case and when there is a conflict on the legal fees between the lawyer and the client.</p>
<p>4. When is it allowed to use correspondence between lawyers in legal procedures?</p>	<p>In principle all correspondance between belgian lawyers is confidential, which means it can never be used in a court procedure. This is the opposite rule as the one in the CCBE Code. In certain cases however correspondence between lawyers can be qualified as official. These situations are described in a Regulation of the Belgian Bar Association.</p>
<p>5. Is it allowed to bring negotiation information before a judge?</p>	<p>As far as the negotiations took place between belgian lawyers these remain confidential since the correspondence between belgian lawyers is confidential. As far as it were negotiations between parties without intervanence of the lawyers, these can be brought before the judge.</p>

Country

Belgium

National Representative

Axel Naeyaert

<p>6. Can a lawyer directly address the opposing party, when he knows that this party has legal representation through a lawyer?</p>	<p>No.</p>
<p>7. Is a lawyer obliged to give prior notice to the opposing party / its lawyer before taking legal action?</p>	<p>In principle the lawyer gives prior notice to the adverse party or its lawyer before taking legal action. There is however no legal duty to do so. This is more a deontological rule.</p>
<p>8. Is it allowed to hear a (former) lawyer as a witness for any information that has come to his or her knowledge in his occupation?</p>	<p>No. Article 458 Criminal Code is applicable. Facts come to his knowledge in the exercise of his profession, cannot be revealed in a testimony. As said he must appear when summoned, but he has the right not to speak.</p>
<p>9. Is a lawyer allowed to get in contact with a witness?</p>	<p>In Belgium it is strictly forbidden for the lawyer to get in touch with a witness.</p>
<p>10. Are lawyers under an obligation to insure against professional liability?</p>	<p>All lawyers are insured for their professional liability. In most cases, when not in all cases, the local Bar takes care of the insurance contract. The minimum coverage for the Antwerp lawyers for example is 1.250.000,00 EUR.</p>
<p>11. To what extent can a lawyer limit his liability below the amount and on what conditions?</p>	<p>The Belgian lawyer cannot limit his liability below the amounts and conditions of the coverage.</p>
<p>12. Is there a compulsory requirement for continuing professional development and training?</p>	<p>All lawyers are asked to spend 16 hours per year on education. This can however also be a non-legal education in relation to the profession (e.g. IT courses).</p>

<p>1. Are there any circumstances under which a lawyer might be forced to break his or her confidentiality on information?</p>	<p>According to Danish law attorneys must not pass on or use confidential information, which the attorney has acquired on account of his duty. Violation can be punished with a fine or a custodial sentence up to 2 years. Information is regarded as confidential when it by law or other valid stipulation is defined as such or if the information is subject to secrecy in order to protect public or private interests. Attorneys must not give evidence concerning circumstances, which the attorney is aware of on account of his duty unless the party concerned approves hereof. Except from defence attorneys in criminal cases, the court can force the attorney to give evidence under special circumstances. In civil proceedings, such an enforcement notice cannot consist of evidence which the attorney has learned during a lawsuit which he has been entrusted to conduct or in which his advice has been sought. Besides the above-mentioned rules liable to punishment, Danish Marketing law prohibits disclosure or using of sensitive business secrets.</p>
<p>2. Are there any circumstances under which a lawyer can voluntarily break his confidentiality?</p>	<p>Cf. the above-mentioned, breach of professional secrecy requires the consent of the party in questions.</p>
<p>3. To what extent does there exist an (indirect) right of third parties who have received information from a lawyer to withhold this information in the course of legal proceedings?</p>	<p>According to Danish law professional secrecy applies for both the attorney and the assistant attorney (trainee). According to the ethical rules applicable for attorneys, the secrecy also applies for the attorney's partners, personnel and other employees with the law firm. Professional secrecy also applies when more attorneys or law firms have joint office. Furthermore, the common ethical rules for attorneys stipulate that an attorney shall treat all information received on account of his duty with professional secrecy, that the secrecy has no time limit, and that the attorney is not allowed to take on a case for a client if this involves a risk that secrecy in relation to a prior client can be violated or the new client will benefit considerably from this information. According to Danish law it is a common rule that exemption from giving evidence comprises the client's next of kin meaning that these persons are not obliged to give evidence in a court of law. However, the court can force the witness to give evidence under special circumstances.</p>
<p>4. When is it allowed to use correspondence between lawyers in legal procedures?</p>	<p>Correspondence between attorneys in legal procedures are not privileged and may be submitted in lawsuits unless a letter is marked as "privileged". If the correspondence shows that there has been negotiations over settlement, the correspondence can only be submitted if the opposing party agrees.</p>
<p>5. Is it allowed to bring negotiation information before a judge?</p>	<p>Cf. the answer to question 4, correspondence containing negotiations over settlement can only be submitted in a lawsuit if the opposing party agrees.</p>

<p>6. Can a lawyer directly address the opposing party, when he knows that this party has legal representation through a lawyer?</p>	<p>An attorney must not address the opposing party directly when the attorney knows or should know that this party is represented by another attorney. However, under special circumstances the attorney is allowed to communicate a written message directly to the opposing party if his attorney is informed at the same time.</p>
<p>7. Is a lawyer obliged to give prior notice to the opposing party / its lawyer before taking legal action?</p>	<p>An attorney is obligated to give prior notice to the opposing party/its attorney before taking legal action unless the aim of taking legal action is hereby wasted (e.g. in cases of arrest or detention).</p>
<p>8. Is it allowed to hear a (former) lawyer as a witness for any information that has come to his or her knowledge in his occupation?</p>	<p>Cf. above: no.</p>
<p>9. Is a lawyer allowed to get in contact with a witness?</p>	<p>An attorney is allowed to contact his own or the opposing party's witnesses before the trial. The witness, however, is not obliged to answer and cannot be held criminally liable for his communication with the attorney at this time.</p>
<p>10. Are lawyers under an obligation to insure against professional liability?</p>	<p>In order to receive admission to practise law you have to document that you have a professional indemnity insurance of minimum EUR 162,000. The insurance covers each damage by this amount. Furthermore, it is mandatory that all attorneys contribute to an indemnity foundation. The foundations pays if the client suffers additional damage in case of the attorney's fault.</p>
<p>11. To what extent can a lawyer limit his liability below the amount and on what conditions?</p>	<p>An attorney cannot reduce his personal responsibility regardless of the form of the corporate entity.</p>
<p>12. Is there a compulsory requirement for continuing professional development and training?</p>	<p>In order to receive admission to practise law you must have worked as a trainee dealing with practical legal work in a law firm or similar for at least 3 years. Furthermore, mandatory courses must have been completed and an oral examination been passed, and finally you must have conducted yourself in a competent manner in relation to the Danish Bar and Law Society and the Danish courts.</p>

<p>1. Are there any circumstances under which a lawyer might be forced to break his or her confidentiality on information?</p>	<p>No, with some exceptions.</p> <p>Obligation of confidentiality is enforced by law (Law 31/12/1971 ; art. 66-5). And violation of confidentiality is a criminal offence (Criminal Code, art. 226-13). Our Code of conduct adds also that this obligation is "general, absolute and not limited in time" (Code of conduct, art. 2-1).</p> <p>The only circumstances under which a lawyer can be forced to break his confidentiality are :</p> <ul style="list-style-type: none"> - In criminal matters, the judge may search, under strict conditions and control, the lawyer's premises and seize documents about a client, but only to prove the lawyer's participation to a criminal offence. - In personal tax controls, the lawyer can be obliged, under conditions, to give a clients listing.
<p>2. Are there any circumstances under which a lawyer can voluntarily break his confidentiality?</p>	<p>No, French lawyer cannot be discharged by anyone – including his client – of his obligation of confidentiality (Code of conduct, art. 2-1). But, when a lawyer's has been brought to justice by the client for professional liability, the lawyer may use confidential information and documents to prove he's not liable for the facts alleged by his client, but only if this information is connected with the claim.</p>
<p>3. To what extent does there exist an (indirect) right of third parties who have received information from a lawyer to withhold this information in the course of legal proceedings?</p>	<p>French lawyer must require his partners, associates and staff to respect the same obligation of confidentiality and is liable for any breach of confidentiality by these people (Code of conduct, art.2-3). It means also that these people cannot be forced to disclose any kind of confidential information known during the time of their professional activity. Other third parties are free to release any information received from a lawyer.</p>
<p>4. When is it allowed to use correspondence between lawyers in legal procedures?</p>	<p>Whatever the matter, correspondences between lawyers are confidential say the law and the Code of conduct (Law 31/12/1971 art. 66-5 ; Code of conduct, art. 3-1).</p> <p>Correspondences cannot be seized or used in Justice, and nobody - including the President of the Bar - can decide to break confidentiality of these correspondences.</p> <p>However, French lawyers Code of conduct contains exceptions to this rule : are not confidential (i) correspondences which are meant only to substitute an "act of procedure" and (ii) correspondences stamped "OFFICIEL" (Code of conduct, Art. 3-2) : according to this text, this type of correspondences between lawyers could be used in legal procedures.</p> <p>But, a recent decision of the French Supreme Court ("Cour de Cassation") dated of 04/02/2003 ruled that principle of confidentiality may not accept any exception. Since, it is not allowed any more to use correspondences between lawyers in legal procedures as mentioned above. Parliament should vote soon a law restoring the possibility to use, in legal procedures, correspondences described in Article 3-2 of the Code of conduct.</p>
<p>5. Is it allowed to bring negotiation information before a judge?</p>	<p>No. Negotiations between lawyers, to reach a settlement agreement for example, are confidential.</p> <p>There is no exception.</p>

Country

France

National Representative

François HERPE / Thomas DROUINEAU

<p>6. Can a lawyer directly address the opposing party, when he knows that this party has legal representation through a lawyer?</p>	<p>When a lawyer knows that the opposing party has legal representation through another lawyer, a lawyer can only address to his colleague (Code of conduct, Art. 8-3). Only for specific procedures, the lawyer can address directly the opposing party, by way of a written letter substituting any act of procedure, under condition that he send a copy of this letter to his opposing party's colleague.</p>
<p>7. Is a lawyer obliged to give prior notice to the opposing party / its lawyer before taking legal action?</p>	<p>If the opposing party has no legal representation through a lawyer, the lawyer will not have the obligation to give prior notice to the opposing party before taking legal action. But in practise, lawyers do most of the time, for example, in debt collection procedures.</p> <p>When the lawyer knows that the opposing party has legal representation through a lawyer, he must inform the opposing party's lawyer beforehand, but only if this prior information do not prejudice his client's interests (Code of conduct, Art. 5-4).</p>
<p>8. Is it allowed to hear a (former) lawyer as a witness for any information that has come to his or her knowledge in his occupation?</p>	<p>No, without exceptions. And duty of confidentiality is not limited in time (Code of conduct, Art. 2-1), which means that it remains after the lawyer has left his professional activity.</p>
<p>9. Is a lawyer allowed to get in contact with a witness?</p>	<p>There is no specific rule – i.e. in Code of conduct - refraining a lawyer to get in touch with a "witness", in particular with an opposing party "witness", insofar as criminal or civil procedure rules are respected. Nevertheless, Code of conduct impose that the lawyer shall, in any circumstances, abstain of using unfair behaviour, intimidation or threat with "opposing parties" (and people linked to them).</p>
<p>10. Are lawyers under an obligation to insure against professional liability?</p>	<p>Yes, the lawyer must take out, through the Bar and/or personally, a professional liability insurance (Law 31/12/1971, Art. 27). Minimum coverage is 304.890 € per year (Decree 27/11/1991, Art. 205).</p>
<p>11. To what extent can a lawyer limit his liability below the amount and on what conditions?</p>	<p>A lawyer cannot fully exclude his liability, but could limit it.</p> <p>There is no specific rule – i.e. in French Code of conduct and Law – prohibiting a limitation of liability, for example below the insured amount, if the client has accepted it.</p> <p>In practice, it is rather unusual, mainly because general terms and conditions which could include this type of provision, are almost never used by French lawyers ; but also because lawyers general practise is only to take out extended liability insurances.</p>
<p>12. Is there a compulsory requirement for continuing professional development and training?</p>	<p>French lawyers have only to comply with professional training obligations in their first 2 years of professional activity (i.e. "le stage"). After these 2 years, professional training is not compulsory (but it is currently discussed that it could become).</p>



Country

Germany

National Representative

Thilo GRUTSCHNIG

<p>1. Are there any circumstances under which a lawyer might be forced to break his or her confidentiality on information?</p>	<p>Generally, violation of confidentiality is an criminal offence, but there are several exceptions esp. when information is needed to fight heavy crime. A lawyer is obliged to inform the police or the prosecution counsel if he receives information about serious future crimes according to § 139 III StGB (Criminal Code).</p>
<p>2. Are there any circumstances under which a lawyer can voluntarily break his confidentiality?</p>	<p>This is only possible when the client does not have any objections.</p>
<p>3. To what extent does there exist an (indirect) right of third parties who have received information from a lawyer to withhold this information in the course of legal proceedings?</p>	<p>a. The same obligation of confidentiality as for lawyers is imposed on associates and staff of a lawyer and these people can't be forced to testify or give information regarding such matters.</p>
<p>4. When is it allowed to use correspondence between lawyers in legal procedures?</p>	<p>b. <u>The obligations of third parties to testify is only limited by their own</u> Correspondence between lawyers can be used in legal proceedings when their use would not violate special agreements between the lawyers.</p>
<p>5. Is it allowed to bring negotiation information before a judge?</p>	<p>Yes, it is not forbidden to bring particulars of negotiation information before a judge, but it's unusual.</p>

<p>6. Can a lawyer directly address the opposing party, when he knows that this party has legal representation through a lawyer?</p>	<p>According to § 12 BORA, it is not allowed to address the opposing party directly, unless the lawyer of the opposing party grants permission. An exception is made when there is the danger of serious disadvantages for the own party.</p>
<p>7. Is a lawyer obliged to give prior notice to the opposing party / its lawyer before taking legal action?</p>	<p>Generally, a lawyer is not obliged to request the opposite party/its lawyer to fulfil the demanded duty before legal action is taken. But in some cases the legitimate interest to take legal action is lacking and the action is not admissible, e.g. in cases of abuse of law.</p>
<p>8. Is it allowed to hear a (former) lawyer as a witness for any information that has come to his or her knowledge in his occupation?</p>	<p>No, the duty of confidentiality still persists. There are few exemptions e.g. when information is necessary to fight serious criminality.</p>
<p>9. Is a lawyer allowed to get in contact with a witness?</p>	<p>Yes, a lawyer is allowed to contact and even to interview a witness before trial, but there is no obligation of the witness to cooperate with the lawyer. It is forbidden to use force, to threaten or to deceive a witness.</p>
<p>10. Are lawyers under an obligation to insure against professional liability?</p>	<p>Yes, lawyers will not be admitted to the bar if they haven't a professional liability insurance with a minimum coverage of € 250.000 per event (€ 2.500.000 in case of a lawyer GmbH (=limited liability company)), §§ 51, 12 II BRAO.</p>
<p>11. To what extent can a lawyer limit his liability below the amount and on what conditions?</p>	<p>Lawyers can't limit their liability below the minimum coverage, § 51a BRAO. When standard terms of business are used liability can't be limited below € 1.000.000.</p>
<p>12. Is there a compulsory requirement for continuing professional development and training?</p>	<p>There is only a general duty for lawyers to absolve continuing professional training without any prescriptions of the extent (§ 43a VI BRAO), unless they are so called "Fachanwälte", that means lawyers with a special professional development in legal branches e.g. labour law, tax law or family law. These "Fachanwälte" are obliged to absolve continuing professional training, §§ 43c IV BRAO, 14 FAO.</p>



Country

Norway

National Representative

Anne-Lise Hellebostad

<p>1. Are there any circumstances under which a lawyer might be forced to break his or her confidentiality on information?</p>	<p>Based on the law of court (domstolloven) § 218, any violation of the confidentiality is forbidden. There is however one exception concerning information about money laundering. A lawyer is obliged to give information to the police if she suspects that a transaction has connection with profit from a criminal act.</p>
<p>2. Are there any circumstances under which a lawyer can voluntarily break his confidentiality?</p>	<p>When the client agrees, the lawyer can break her confidentiality.</p>
<p>3. To what extent does there exist an (indirect) right of third parties who have received information from a lawyer to withhold this information in the course of legal proceedings?</p>	<p>Associates and staff in a law firm are all subject to the same confidentiality. The same goes for any assistent the lawyer hires for a task.</p>
<p>4. When is it allowed to use correspondence between lawyers in legal procedures?</p>	<p>This is allowed.</p>
<p>5. Is it allowed to bring negotiation information before a judge?</p>	<p>A lawyer is allowed to bring her negotiation offers before a judge. It is not allowed to bring the other party's offer before a judge.</p>

Country

Norway

National Representative

Anne-Lise Hellebostad

<p>6. Can a lawyer directly address the opposing party, when he knows that this party has legal representation through a lawyer?</p>	<p>This is not allowed unless special reasons makes this necessary, and there has not been possible to get in touch with the lawyer. The lawyer shall as soon as possible be informed about the communication with the other party and the reason for it.</p>
<p>7. Is a lawyer obliged to give prior notice to the opposing party / its lawyer before taking legal action?</p>	<p>No, but normally the parties will try to solve the problem without taking legal action. If there is no time to give prior notice to the opposing party, it is OK to take legal action directly.</p>
<p>8. Is it allowed to hear a (former) lawyer as a witness for any information that has come to his or her knowledge in his occupation?</p>	<p>No, the confidentiality exists even after a task is completed. If the client agrees, the lawyer can witness.</p>
<p>9. Is a lawyer allowed to get in contact with a witness?</p>	<p>Yes, but if there is a witness with special connection to the other party, the contact should first take place after consulting the other party's lawyer.</p>
<p>10. Are lawyers under an obligation to insure against professional liability?</p>	<p>Yes. The coverage should be minimum NOK 5 000 000 (EUR 603 000)</p>
<p>11. To what extent can a lawyer limit his liability below the amount and on what conditions?</p>	<p>In practice Norwegian lawyers do not limit their liability. There is however no legal restrictions about this. The liability can however not be limited so that the lawyer is not responsible for gross negligence and fraud.</p>
<p>12. Is there a compulsory requirement for continuing professional development and training?</p>	<p>Yes, the Norwegian Bar Association requires that a Norwegian lawyer accomplishes professional development with 80 hours during a period of 5 years.</p>



Country

Sweden

National Representative

Maria RYDNER

<p>1. Are there any circumstances under which a lawyer might be forced to break his or her confidentiality on information?</p>	<p>Yes. A lawyer can be forced by law to break his or her confidentiality on information, for example if he is called as a witness in a case concerning a serious crime. The counsel of the suspect however cannot be forced to reveal such information.</p>
<p>2. Are there any circumstances under which a lawyer can voluntarily break his confidentiality?</p>	<p>Only when the client does not have any objections.</p>
<p>3. To what extent does there exist an (indirect) right of third parties who have received information from a lawyer to withhold this information in the course of legal proceedings?</p>	<p>According to the rules of the Swedish association for lawyers a lawyer is required to impose the same obligation of confidentiality on their associates and staff. Such a person can however be forced by a court to give testimony and reveal the information</p>
<p>4. When is it allowed to use correspondence between lawyers in legal procedures?</p>	<p>In principle it is always allowed to use correspondence between lawyers in legal procedures. The exception is negotiation information.</p>
<p>5. Is it allowed to bring negotiation information before a judge?</p>	<p>No, it is not allowed.</p>

Country

Sweden

National Representative

Maria RYDNER

<p>6. Can a lawyer directly address the opposing party, when he knows that this party has legal representation through a lawyer?</p>	<p>This is not allowed unless it is a measure that legally has to be taken against the opposing party directly or if the lawyer of the opposing party does not answer letters and phonecalls which makes it necessary to make direct contact with the opposing party. In these cases the other lawyer should be notified in writing.</p>
<p>7. Is a lawyer obliged to give prior notice to the opposing party / its lawyer before taking legal action?</p>	<p>Normally yes. There are however exceptions such as seizure of goods before judgement.</p>
<p>8. Is it allowed to hear a (former) lawyer as a witness for any information that has come to his or her knowledge in his occupation?</p>	<p>No not unless the lawyer is obliged by law to reveal the information.</p>
<p>9. Is a lawyer allowed to get in contact with a witness?</p>	<p>Yes, in fact it is recommended that the lawyer contacts the witnesses before going to trial. It is however not allowed to try to influence the witnesses.</p>
<p>10. Are lawyers under an obligation to insure against professional liability?</p>	<p>Yes, with a minimum coverage of 327. 064,00 euros per event.</p>
<p>11. To what extent can a lawyer limit his liability below the amount and on what conditions?</p>	<p>It is not permitted.</p>
<p>12. Is there a compulsory requirement for continuing professional development and training?</p>	<p>Yes, a Swedish lawyer is required to spend at least 15 hours a year receiving education and/or teaching and/or writing articles.</p>



Country

Switzerland

National Representative

Martin Lenz

<p>1. Are there any circumstances under which a lawyer might be forced to break his or her confidentiality on information?</p>	<p>In principle no (art. 321 Criminal Code). The exceptions to this principle could be neglected in this survey.</p>
<p>2. Are there any circumstances under which a lawyer can voluntarily break his confidentiality?</p>	<p>Yes, if the client agrees or a supervisory authority allows it on demand of the lawyer.</p>
<p>3. To what extent does there exist an (indirect) right of third parties who have received information from a lawyer to withhold this information in the course of legal proceedings?</p>	<p>As long as the third party is not ancillary staff of the lawyer or belonging to another profession which has to withhold information (e.g. doctors, etc.), there is no right to withhold information.</p>
<p>4. When is it allowed to use correspondence between lawyers in legal procedures?</p>	<p>If the correspondence does not concern the search for an amicable agreement, it is allowed to use it.</p>
<p>5. Is it allowed to bring negotiation information before a judge?</p>	<p>see question 4</p>



Country

Switzerland

National Representative

Martin Lenz

6. Can a lawyer directly address the opposing party, when he knows that this party has legal representation through a lawyer?	No.
7. Is a lawyer obliged to give prior notice to the opposing party / its lawyer before taking legal action?	No, but usually you send the other lawyer a copy of it.
8. Is it allowed to hear a (former) lawyer as a witness for any information that has come to his or her knowledge in his occupation?	see question 1
9. Is a lawyer allowed to get in contact with a witness?	In principle no, except it is necessary for preparing legal action.
10. Are lawyers under an obligation to insure against professional liability?	Yes.
11. To what extent can a lawyer limit his liability below the amount and on what conditions?	It is not possible to limit the liability for wilful and heavy ("grobe") negligence (art. 100 Code of Obligations). Eventually it is possible for low ("leichte") negligence.
12. Is there a compulsory requirement for continuing professional development and training?	No.



Country

UK

National Representative

Richard John / Nich WOOD

<p>1. Are there any circumstances under which a lawyer might be forced to break his or her confidentiality on information?</p>	<p>No. Any violation of client confidentiality is an offence.</p>
<p>2. Are there any circumstances under which a lawyer can voluntarily break his confidentiality?</p>	<p>Only if his client has offered no objection to this in the first instance.</p>
<p>3. To what extent does there exist an (indirect) right of third parties who have received information from a lawyer to withhold this information in the course of legal proceedings?</p>	<p>The same confidentiality issues are imposed on all members of the law firm - from partners and associates through to all staff members.</p>
<p>4. When is it allowed to use correspondence between lawyers in legal procedures?</p>	<p>In principle it is not allowed to use legal correspondence in litigation matters.</p>
<p>5. Is it allowed to bring negotiation information before a judge?</p>	<p>No.</p>



Country

UK

National Representative

Richard John / Nich WOOD

<p>6. Can a lawyer directly address the opposing party, when he knows that this party has legal representation through a lawyer?</p>	<p>This is not allowed unless the solicitor acting for the other party permits this. On occasion a letter will be written directly to the opposing party but must always be copied to his/her legal representative at the same time.</p>
<p>7. Is a lawyer obliged to give prior notice to the opposing party / its lawyer before taking legal action?</p>	<p>Yes. A 'letter before action' is written in litigation matters setting out the nature of the proposed action.</p>
<p>8. Is it allowed to hear a (former) lawyer as a witness for any information that has come to his or her knowledge in his occupation?</p>	<p>Not as far as I am aware - a lawyers duty of client confidentiality is of paramount importance.</p>
<p>9. Is a lawyer allowed to get in contact with a witness?</p>	<p>No.</p>
<p>10. Are lawyers under an obligation to insure against professional liability?</p>	<p>Yes. The minimum level of cover is £1million for a legal firm in the United Kingdom. The amount is less for Licensced Conveyancers who practice in the UK.</p>
<p>11. To what extent can a lawyer limit his liability below the amount and on what conditions?</p>	<p>A lawyer in the United Kingdom cannot limit his liability below the amounts detailed above. Indeed many law firms have 'top up' cover for additional sums.</p>
<p>12. Is there a compulsory requirement for continuing professional development and training?</p>	<p>Yes , an English lawyer is required to contine their professional development and training. It is compulsory to receive at least 16hours a year of training. This can be in the form of lectures received or given or articles written.</p>