THE ROLE OF PROFESSIONAL ETHICS RULES FOR ADVOCATES AND BAR SELF-GOVERNANCE IN PRESERVING ATTORNEY-CLIENT CONFIDENTIALITY: THE EXPERIENCE OF UZBEKISTAN AND OTHER COUNTRIES

Khakimova Kamola
Independent PhD researcher, Tashkent State University of Law
E-mail: khakimovak97@gmail.com
https://doi.org/10.5281/zenodo.17875474

ARTICLE INFO

Received: 08th December 2025
Accepted: 09th December 2025
Online:10th December 2025

KEYWORDS

professional ethics of advocates; code of ethics; Chamber of Advocates; self-governance; disciplinary liability; attorney-client confidentiality; confidentiality; Qualification Commission; corporate norms; international standards.

ABSTRACT

This paper examines the significance of professional ethical norms and mechanisms of bar self-governance in ensuring attorney-client confidentiality. It reviews the Rules of Professional Ethics for Advocates of the Republic of Uzbekistan (2013) (hereinafter "the 2013 Rules") and their specific provisions concerning the preservation of confidentiality (the advocate's duties, those of assistants, and restrictions on actions that could lead to disclosure of secrets). It analyses the practice of disciplinary liability for advocates who breach attorney-client confidentiality and the role of the Chamber of Advocates' Qualification Commissions in handling such cases. The paper also provides a comparative overview: it outlines the provisions of the Code of Professional Ethics for Advocates of the Russian Federation (2003, as amended 2021) and the activities of bar chambers in Russia in monitoring compliance with confidentiality, and discusses norms of professional ethics for advocates in Germany and the USA regarding the duty to preserve secrecy (for example, Germany's "Basic Principles of Lawyers' Conduct" and the American ABA Model Rules of Professional Conduct). It is emphasized that the self-regulation of the bar through ethical codes complements legislative guarantees and often establishes higher standards of conduct, thereby strengthening trust in the legal profession. The paper argues that maintaining attorney-client confidentiality largely depends on the level of professional culture and responsibility of the advocates themselves, and gives examples of how the advocate community independently resists attempts to breach confidentiality. In conclusion, ways are suggested to improve ethical norms and the work of self-governance bodies (disciplinary commissions) in order to further strengthen the institution of attorney-client confidentiality in the Republic of Uzbekistan.

Introduction

The legal profession has traditionally been a self-regulating community that sets for its members standards of conduct going beyond general legislation. One of the central such standards is the requirement of the strictest adherence to attorney-client confidentiality. If the law outlines the

contours of confidentiality and establishes basic prohibitions, the rules of professional ethics for advocates explain how exactly an advocate should behave in various situations so as not to permit a breach of secrecy, and provide for moral-ethical accountability for deviating from these norms. In addition, within the framework of the bar's self-governance, disciplinary bodies (Qualification Commissions) operate to monitor the fulfillment of professional duties, including the duty to preserve the client's secrecy.
The Republic of Uzbekistan has its own set of Rules of Professional Ethics for Advocates (2013), in which a significant portion is devoted to issues of attorney-client confidentiality. The relevance of this topic is obvious, since without strong ethical norms even the most perfect law will not work, because much depends on the personal integrity and professional solidarity of advocates. If within the community there is an understanding of the inviolability of secrecy, then external actors – courts, law enforcement agencies – are also forced to respect this, seeing the unity of the bar in defending its principles.
The Rules of Professional Ethics for Advocates of the Republic of Uzbekistan, approved in 2013, became an important stage in the development of the national bar, establishing unified standards of conduct. In content they largely echo the codes of ethics in other post-Soviet countries, but they also take national specifics into account. In the subsequent parts of this paper, these Rules will be examined consistently and in detail.
Already in Section I "General Provisions" of the Rules there is a norm underlining the universal applicability of the requirements on secrecy. In particular, point 1 states that the heads of advocate organizations and advocates must ensure that their employees comply with the law on the bar and the Rules, i.e. **responsibility for preserving secrecy lies at all levels** – from advocate-leaders down to rank-and-file trainees. Point 2 requires the advocate to strictly observe the law and the Rules, and point 7 stipulates that a breach of the Rules entails disciplinary liability under the Law "On the Bar". Thus, from the outset it is established that ethical duties, including confidentiality, are not just a moral imperative, but their violation is grounds for loss of status. However, it should be noted that sanctions for the violation of these norms are provided only with respect to the advocate: even if a breach is committed by another employee of an advocate organization who does not hold advocate status, under the Law of the Republic of Uzbekistan "On the Bar" the subject of disciplinary liability is considered to be the advocate themselves.
Special section on confidentiality. The most important provisions are concentrated in points 12–18 of the Rules (Section II). They detail the content of attorney-client confidentiality: trust is ensured through preservation of secrecy; secrecy is not time-limited (it is perpetual); and no one except the client can release the advocate from this duty. The Rules then describe the **permissible cases of disclosure** – these provisions constitute an ethical elaboration of those situations when an advocate is entitled to divulge information in order to protect the interests of the client or themselves. It is important to note that the Rules serve here as the exclusive source of such exceptions, since there is no regulation of these cases at the legislative level. Moreover, the provisions of the Rules are almost verbatim the same as the analogous provisions of Article 6 of the Russian Code of Professional Ethics for Advocates, which attests to a unification of approaches in the post-Soviet space.
Point 15 of the Rules lists the objects of secrecy – starting from basic personal information about persons who initially approached the advocate, as well as evidence, data, advice and other case-related information concerning the client. It is noteworthy that this list is introduced precisely in the Rules of Professional Ethics for Advocates. The Law of the Republic of Uzbekistan "On the Bar" (in particular, Article 9) provides a general definition, and the Rules develop it in more detail. In other words, the ethical code filled possible gaps by mentioning what is not directly stated in the law. Thus, the 2013 Rules serve as a clarifying standard, where by following them, advocates will by definition not violate the law, and will cover additional aspects of confidentiality.
Notably, points 16 and 17 of the Rules introduce organisational requirements such as keeping a separate file for each client's matter for the purpose of preserving secrecy, and they extend the rules of confidentiality to assistants, trainees, and other staff of advocate formations. This underlines the

role of the heads of advocate organizations: they must organize document flow such that, for example, one client's documents do not accidentally become accessible to another client or to outsiders. It is reasonable to regard this as a duty to instruct and supervise staff; in foreign legislation this is considered an important obligation of the advocate – a kind of standard operating procedure.

Aside from direct mandates to preserve secrecy, the Rules contain a number of prohibitions indirectly protecting confidentiality. For example, point 11 – in the list of what an advocate has no right to do – includes the ban **"to give witness testimony on matters related to advocate's secrecy."** This is an extremely important provision, because although the law already exempts an advocate from testifying, ethically the advocate is obliged to refuse even if an attempt is made to interrogate them. The rule is clearly designed to address pressure; that is, if an advocate is suddenly summoned to a court or authority, they must not waver – ethics demands silence. Another prohibition – **"disclosing advocate's secrecy without the client's consent"** – would seem self-evident, but the Rules of Professional Ethics for Advocates duplicate the law, reinforcing this principle in advocates' consciousness.

Interestingly, the Rules of Professional Ethics for Advocates also explicitly provide a philosophical justification for confidentiality. Point 12 stipulates that **"Professional secrecy of the advocate is the client's immunity"** and **"Trust in an advocate is measured by the trust in preservation of secrecy."** Such formulations can be called slogans of professional honor. Consequently, they serve not only as norms, but also as educational theses. As a result, by studying these Rules, advocates become imbued with the importance of confidentiality as a moral duty of their profession.

Overall, the 2013 Rules of Professional Ethics for Advocates of the Republic of Uzbekistan regarding the protection of secrecy correspond to similar documents in other countries. For example, the Code of Professional Ethics for Advocates of the Russian Federation devotes Article 6 to confidentiality, containing almost the same list of prohibited actions and the situations when secrecy can be disclosed. It also speaks of the absence of any time limitation and the extension of the duty to assistants. The differences are only in details of wording: the Russian Code, for instance, separately clarifies that an advocate must not even hint at client information in private conversations. But the essence is identical: the corporate norm duplicates and strengthens the statutory one, ensuring a uniform understanding among all practising advocates.

The disciplinary process in the Uzbek bar is initially described in the Law "On the Bar" (Article 14), which establishes that an advocate may be held to disciplinary liability for violating the requirements of the law on the bar and the rules of professional ethics. The specific measures are a warning, suspension of licence or termination of licence (i.e. revocation of status). The authority to impose these penalties is vested in the Qualification Commission under the territorial office of the Chamber of Advocates of the Republic of Uzbekistan. The procedure stipulates the following rules: disciplinary proceedings may be initiated on the basis of a complaint by individuals or legal entities, a private ruling of a court, or a submission by the justice authority, or on the initiative of the Chamber of Advocates itself (via its territorial administration) on the basis of identified facts.

In cases of breach of attorney-client confidentiality, the trigger is usually a complaint by the client – for example, the client discovered that the advocate, without consent, divulged confidential information (told it in the presence of third parties, passed it to journalists, or other careless acts). Another scenario is that information about such a violation could come from a judge; in particular, if an advocate in a court hearing disclosed data that constitute the client's personal secret without the client's permission, and the client complained about this.

When the Qualification Commission considers a disciplinary case, it acts according to a defined procedure: the advocate is given an opportunity to explain themselves, witnesses may be called, documents examined. If the fact of a breach of secrecy is confirmed, the Commission issues a decision on the measure of penalty.

As foreign practice shows, the disclosure of attorney-client confidentiality is one of the gravest disciplinary offenses, because it undermines the foundation of the profession. In accordance with amendments introduced into the Regulation "On Qualification Commissions under the Territorial Administrations of the Chamber of Advocates of the Republic of Uzbekistan" as of 1 July 2025, the disclosure of advocate's secrecy is now deemed a one-off gross violation committed by the advocate, and liability may be imposed for this act alone, not in conjunction with other misconduct. Therefore, strict measures are often applied. In Uzbekistan, official data on such cases are not published widely. However, it is logical to assume that if a violation is proven, then at a minimum a suspension of the licence or even its revocation would result, especially if it caused significant harm to the client.

The role of bar self-governance in disciplinary matters lies in the fact that disciplinary liability is not a criminal or administrative process, but an **internal affair of the bar**. Accordingly, the advocate community itself can choose to be strict or lenient. If the culture of confidentiality is high, the community of advocates will regard a violator extremely negatively. This forms a certain professional environment in which cases of disclosure are isolated incidents.

In Germany, disciplinary authority is held by the regional bar chambers; for a breach of secrecy the consequence is usually at least a substantial fine, and in severe cases – a ban on practising law. In addition, in Germany criminal liability is possible for such breaches.

Formally, there is no separate "code of ethics" for German advocates in the same form as ours, since their key rules are embedded in the **BRAO** (Federal Lawyers' Act) and in professional statutes (**BORA**). BORA contains § 2 **"Verschwiegenheit"**, which translates as "Duty to Maintain Secrecy." It states briefly that an advocate must preserve secrecy regarding everything that became known to them in their professional activity. Exceptions apply where the breach of secrecy is permitted or provided for by law (for example, the client's consent). No special elaboration is given, because much is already set out in § 203 of the Criminal Code (StGB).

In the USA, ethical norms are established by each state's Rules of Professional Conduct, but all of them are based on the ABA Model Rules of Professional Conduct. Rule 1.6 prohibits disclosing information related to the representation of a client without consent or another permitted reason. An interesting feature is that the **comments** to this rule clarify, for example, that "any information related to the representation is confidential, even if it is not from the client or is otherwise publicly known." The comments also explain that a lawyer must make reasonable efforts to prevent disclosure (e.g. keep documents out of reach of family members, etc.). The American system of ethics is the most detailed and precedent-based.

Conclusion

In conclusion, regular review and updating of the Rules of Professional Ethics for Advocates can protect attorney-client confidentiality even more effectively. The world changes and new situations arise, so it is worthwhile to periodically supplement the Rules with new norms or clarifications, and to introduce provisions on the confidentiality of electronic communications as needed.

Professional ethics and self-regulation play a decisive role in maintaining and developing the institution of attorney-client confidentiality. In the Republic of Uzbekistan, the 2013 Rules of Professional Ethics for Advocates have complemented legislation by creating a detailed set of norms obligating the advocate and all employees of advocate organizations to strictly preserve the confidentiality of the client's information. The bar's disciplinary system, as a mechanism of self-control, ensures the implementation of the principle of inevitability of responsibility for breaching secrecy. International experience confirms that the guarantee of confidentiality rests on the internal conviction of advocates of its value. Neither threats of punishment nor external barriers can substitute for personal responsibility and corporate solidarity. Where the advocate community is united, it is capable of withstanding any attempts to violate confidentiality – be it overly zealous investigators or new laws requiring the disclosure of information.

References:

1. Rules of Professional Ethics for Advocates of the Republic of Uzbekistan (2013) – [Link to text (National Database of Legislation)](

https://nrm.uz/contentf?doc=549534_pravila_professionalnoy_etiki_advokatov_(prilojenie_n_8_k_resheniyu_ii_konferencii_palaty_advokatov_ruz_ot_27_09_2013_g_)&products=1_vse_zakonodatelstvo_uzbekistana)
2. Code of Professional Ethics for Advocates of the Russian Federation (approved by the I All-Russian Congress of Advocates on 31 January 2003, as amended 2021) – https://fparf.ru/en/documents/regulations-of-the-rfcl/code-of-professional-ethics-of-lawyers/
3. Law of the Republic of Uzbekistan On advocacy" (27 December 1996, No. 349-I) – https://legislationline.org/sites/default/files/documents/fd/UZB_on%20bar%20association.pdf
4. Order of the Minister of Justice of the Republic of Uzbekistan "On Approving the Regulation on Qualification Commissions under the Territorial Administrations of the Chamber of Advocates of the Republic of Uzbekistan", registered by the Ministry of Justice of the Republic of Uzbekistan on 7 July 2025, Reg. No. 3637, Paragraph 58 – https://lex.uz/docs/7619714#7622253
5. Federal Code for Lawyers (Bundesrechtsanwaltsordnung – BRAO, Germany) – https://www.gesetze-im-internet.de/englisch_brao/englisch_brao.html
6. Rules of Professional Practice (BORA, Germany) – https://www.brak.de/fileadmin/02_fuer_anwaelte/berufsrecht/bora-stand-01.06.2022_en.pdf
7. Criminal Code (StGB, Germany), § 203 – https://www.gesetze-im-internet.de/englisch_stgb/englisch_stgb.html
8. American Bar Association Model Rules of Professional Conduct – https://www.americanbar.org/groups/professional_responsibility/publications/model_rules_of_professional_conduct/model_rules_of_professional_conduct_table_of_contents/
9. ABA Model Rule 1.6: "Confidentiality of Information" (with Comment) – https://www.google.com/search?client=safari&rls=en&q=9.+ABA+Model+Rule+1.6%3A+%E2%80%9CConfidentiality+of+Information%E2%80%9D+(&ie=UTF-8&oe=UTF-8