

BYLAW OF THE CHAMBER OF THE PRIVATE ENFORCEMENT AGENTS

Chapter One General Provisions

Article 1 /1/ The Chamber of the Private Enforcement Agents is an organization of the private enforcement agents in the Republic of Bulgaria, established in accordance with the Law on the Private Enforcement Agents.

/2/ The Chamber of the Private Enforcement Agents, referred to below as “Chamber” is a legal entity with headquarters in the city of Sofia.

Article 2 /1/ The symbol of the Chamber is an upright lion holding the pointing downwards sword of Themis.

/2/ The Chamber maintains its own web site and issues a newspaper.

/3/ The Chamber keeps honorary book in which are entered persons with significant merits in the enhancement of enforcement in the Republic of Bulgaria and in the strengthening of the prestige of the profession.

/4/ The Chamber prepares and provides each member with an official card and an official sign.

Article 3 All private enforcement agents are members of the Chamber by right.

Article 4 /1/ The following are not members of the Chamber:

1. the assistant-agents;
2. the persons recorded in the honorary book of the Chamber.

/2/ The persons under par.1 can be present at the General Assemblies of the Chamber.

Article 5 Each member of the The Chamber has the right:

1. to participate in the activity of the Chamber and in the work of the General Assembly;
2. to elect and be elected in the bodies of the Chamber;
3. to be informed of the activity of the bodies of the Chamber, as well as to become acquainted with the minutes of their meetings and with their decisions;
4. to make use of the services provided by the Chamber and of its property.

Article 6 Each member of the Chamber is obliged:

1. to pay the obligatory initial, annual and supplementary dues;
2. to abide the law and the Bylaw, the Code of Ethics;
3. to cooperate in the performance of the expert substantive and procedural inspections of the performed by him activity on the part of the Chamber;
4. to exercise control over the activity of his assistants and employees;
5. to provide the bodies of the Chamber with data on his activity.

Article 7 Through its bodies, the Chamber:

1. performs the functions assigned to it by the Law on the Private Enforcement Agents;
2. organizes, assists and controls the activity of the private enforcement agents;

3. exerts effort to raise the prestige of the profession and to protect the rights and interests of the private enforcement agents;
4. conducts and organizes training on enforcement issues and works to enhance the qualification of the private enforcement agents;
5. performs or assigns the performance of studies referring to the practice of enforcement, assesses this practice and designs models of good practices;
6. makes proposals to the competent bodies for the amendments of the normative acts;
7. maintains contacts with international peer organizations abroad, organizes its work and looks for the protection of its property.

Article 8 /1/ The bodies of the Chamber are the General Assembly, the Council of the Chamber, the Controlling Council and the Disciplinary Committee.

/2/ The Chamber is represented by the Chair of the Council of the Chamber, and when the Chair is absent – by his deputies by seniority of length of judicial service.

Chapter Two GENERAL ASSEMBLY OF THE PRIVATE ENFORCEMENT AGENTS

Section I

Membership and Competency of the General Assembly

Article 9 /1/ The General Assembly is the supreme body of the Chamber and it consists of all its members.

/2/ The General Assembly is regular and extraordinary.

Article 10 The General Assembly:

1. adopts, amends and supplements the Bylaw of the Chamber and the Code of Ethics;
2. elects and releases the Chairs and the members of the Council of the Chamber, of the Controlling Council and of the Disciplinary Committee, determines the amount of their remuneration, as well as the number of the members of the Council of the Chamber;
3. approves the report on the activity of the Council of the Chamber, the reports of the Controlling Council and of the Chair of the Disciplinary Committee, including on the filed complaints and objections against the actions of the bodies of the Chamber and takes decisions on them;
4. makes decisions for the filing of claims on the part of the Chamber against members of its bodies and appoints a representative to conduct lawsuits against them, or releases them from responsibility;
5. makes decisions for repeal of irregular and contradicting the bylaw decisions of the Council of the Chamber, of the Chair of the Council of the Chamber and of the Controlling Council;
6. specifies the size of the compulsory initial and annual dues;
7. takes a decision for additional cash payments, and specifies their purpose;
8. establishes a mutual fund and takes a decision for the establishment of other monetary funds;

10. discusses and approves the budget of the Chamber;

11. selects private enforcement agents – one representative per the region of each district court with length of service not less than three years as an executive judge, public or private enforcement agent – who meet the requirements of Article 32 items 1 and 2, to whom the Council of the Chamber can assign the performance of inspections on the activity of the members of the Chamber.

Section II Holding a General Assembly

Article 11 /1/ The General Assembly is conducted if 2/3 of the members of the Chamber are present.

/2/ The presence of every private enforcement agent is obligatory, except if there are valid reasons for their absence.

/3/ Representatives of members of the Chamber are not allowed to the assembly.

Article 12 /1/ The registration of the present members and the verification of the quorum are performed by persons specified by the Chair of the Council of the Chamber.

/2/ A list of participants is prepared for the performed verification in which are filled in the data from the counting.

/3/ Members of the Chamber, who is not registered in the specified registration hour may participate and have the right to vote after recording their names in the list of participants under par.2.

/4/ The Chamber membership of the participants in the Assembly is verified by the list of oath declarations under Art.13, par.4 of the Law on the Private Enforcement Agents.

Article 13 If the verification under Article 12 determines a lack of quorum the Assembly is postponed for an hour and then it is conducted no matter of the number of members present.

Article 14 /1/ Immediately after the end of the verification under Article 12, respectively, after the expiry of the term under Article 13, the Assembly is opened by the Chair of the Council of the Chamber, and when he is absent – by another member of the Council of the Chamber.

/2/ The person having opened the Assembly also conducts the selection of counters.

/3/ The person having opened the Assembly presides it until the selection of a Chair of the Assembly.

Article 15 /1/ Prior to commencing with the Agenda, the General Assembly elects by an open vote one or more chairs of the assembly and a recorder. The recorder may be a person who is not a member of the Chamber.

/2/ The Assembly might decide there to be a shorthand record and/or sound-recording of the meeting. In this case the minutes of the Assembly are prepared on the grounds of the shorthand record and/or sound-recording, and they are enclosed with it.

/3/ The minutes of the Assembly are signed by each one of the chairs of the Assembly and by the recorder. With the minutes of the Assembly are obligatorily enclosed also the quorum verification papers under Article 12 of this Bylaw.

Article 16 New item of the Agenda is considered only after the exhaustion of the prior one.

Article 17 /1/ The requests for statements are made orally or in writing.

/2/ The word is given for statements in the order of the received requests.

Article 18 /1/ The General Assembly makes decisions with a majority of more than half of the present members. The decisions under Article 10, items 1, 2, 6 and 7 are made with a majority of more than 2/3 of the present members.

/2/ The vote is personal and open, and each member has the right to one vote.

/3/ The General Assembly might decide the voting on certain issue to be secret.

/4/ The beginning and the end of the voting are announced by the person presiding the Assembly, and a voting that has already started cannot be disrupted.

Article 19 /1/ The voting is conducted in the following way:

1. proposals repealing the proposed decision or its replacement with another one;
2. proposals for amendments, changes and supplements;
3. the basic proposal, including the voted amendments, changes and supplements.

/2/ When there are two or more proposals of similar nature, they are voted in the order they are received.

/3/ The approval of the amendments and supplements in the Bylaw are voted article by article, and at any point of the discussion the Assembly may decide separate provisions, whole sections, whole chapters or the whole text to be voted.

Article 20 /1/ The person presiding the assembly

1. manages its work, provides order in its conducting, and when necessary, appoints questors and counters;

2. gives and deprives of the word, announces the beginning and the exhaustion of each item in the agenda, as well as the beginning and the end of each voting;

3. closes the assembly at depletion of the Agenda.

/2/ If the person presiding the Assembly is incapable of managing his responsibilities, the General Assembly may elect another person in his place

Section III

Electing and Releasing the Members of the Bodies of the Chamber

Article 21 The Chairs, the regular and reserve members of the Council of the Chamber, the Controlling Council and the Disciplinary Committee are elected for a period of 3 years, but not for more than 2 consecutive mandates, taking into consideration incomplete mandates as well.

Article 22 Proposed and elected can be only members of the Chamber, who meet the requirements of the previous article, as well as the following ones:

1. have no past due monetary liability towards the Chamber;

2. have not been deprived of the legal capacity of a private enforcement agent prior to their nomination, and the candidates for Chair and members of the Disciplinary Committee should not to have been imposed any other disciplinary sanctions under Article 68, par.1 of the Law on the Privatere Enforcement Agents during the last two years;

3. have the required by law length of judicial service.

Article 23 /1/ The mandate under Article 21 is terminated pre-term:

1. at losing their legal capacity of private enforcement agent;
2. with a decision of the General Assembly under Article 10, par.2 of the Bylaw for pre-term dismissal.

/2/ Persons with terminated mandate under par.1, item 1 are replaced by the respective deputy chair or reserve member until the holding of the next General Assembly.

Article 24 /1/ The procedure of electing the bodies of the Chamber is conducted separately for each body in the following order:

1. Council of the Chamber;
2. Disciplinary Committee;
3. Controlling Council.

/2/ The chairs are nominated and elected among the regular members after the end of the procedure of electing the members of the respective body.

/3/ For each body are made joint nominations for both regular and reserve members.

/4/ The nominated candidates should meet the requirements under Art.22 of the Bylaw. Candidates who have already been elected as members of other bodies cannot be nominated.

Article 25 The Chair of the Assembly declares the final list with the names of the candidates for each body and signs for it in the statement.

Article 26 After the end of the procedure under prior Article, the General Assembly, with open voting, elects an Election Committee consisting of a chair and two members who are not included in the list of candidates.

Article 27 /1/ The General Assembly votes for each one of the candidates for the respective body in the order they are recorded in the list.

/2/ Each participating in the assembly member of the Chamber has the right to vote “for” as many candidates as is the accepted number of members for the respective body.

/3/ A candidate is considered elected when 2/3 of the present members have voted for him. The ones having received the most votes are elected as regular members, and the remaining ones – as reserve members.

/4/ If with the conducted election the membership of the respective body is not filled in, the election for the vacant places continues only among as many of the non-elected yet having received the most votes candidates, as necessary to fill in the membership of the body plus the reserve members following the rules of par.1, 2 and 3, respectively.

/5/ The results are recorded in a statement which has to contain the number of the members present and the number of the ones who have voted.

Chapter Three COUNCIL OF THE CHAMBER

Section I Membership and Competency of the Council of the Chamber

Article 28 /1/ The Council of the Chamber is the managing body of the Chamber and it is elected in a membership of at least five regular and two reserve members, and the Chair and his Deputy Chair are elected among the regular members.

/2/ The Chair, the other regular members and the reserve members of the Council of the Chamber are elected and dismissed by the General Assembly, and the Deputy Chair are elected and dismissed by the Council itself. In case of larger membership, the Council of the Chamber elects two Deputy Chairs from the regular members.

Article 29 /1/ As members of the Council of the Chamber can be elected members of the Chamber, who have at least five years of judicial service and meet the other requirements under Article 22 of the Bylaw.

/2/ Members of the Council of the Chamber that are prevented to participate, until the obstacle is eliminated, respectively, until the holding of the next General Assembly, are replaced by the reserve members in terms of length of their judicial service.

/3/ The reserve members replace the Chair and his deputies only in their capacity of members of the Council of the Chamber.

Article 30 The Council of the Chamber:

1. manages the activity of the Chamber;
2. convenes the General Assembly, implements its decisions and reports in front of it, and when required, in front of the Controlling Council as well;
3. elects the deputy chairs;
4. specifies the staff schedules and the Administrative Secretary of the Chamber;
5. establishes supplementary bodies – councils of experts, committees and others, as needed in the activity of the Chamber;
6. organizes and adopts rules for the keeping of a register of the Chamber and performs the necessary actions in case a private enforcement agent loses his legal capacity;
7. offers to the competent bodies proposals for the amendments and supplements of the normative acts;
8. appoints private enforcement agents for participation in the Competition Committee;
9. makes the decisions for the right of the Chamber to acquire title and other real estate rights, as well as for expropriation, encumbrance and land charges upon such property owned by the Chamber, after coordination with the Controlling Council
10. manages the mutual and other monetary funds and concludes group insurance policies;
11. monitors the fulfillment of the obligations of the private enforcement agents by performing inspections of their activity through its members and/or through persons under Article 10, item 11, assesses the results from the inspections, makes decisions and requests for commencing of disciplinary proceedings against private enforcement agents

in the prescribed cases, participates in the disciplinary proceedings through its representatives;

12. requests information from the private enforcement agents for the performed actions, keeps statistics on them, studies or/and orders the conducting of studies referring to the enforcement practice, assesses the last and prepares models of the best practices;

13. conducts and organizes training on enforcement matters, manages and carries out the activity on the enhancement of the professional qualification of the private enforcement agents and the assistant agents and provides protection of their rights;

14. makes decisions for contesting, on the part of the Chamber in the provisioned by the law cases, the issued sublegislative and administrative acts issued under the Law on the Private Enforcement Agents.

15. specifies the amount of the fees for the provided by the Chamber services;

16. carries out all responsibilities and makes the decisions on all issues that in terms of the law, the bylaw or of a decision of the General Assembly are not in the competency of another body;

Article 31 /1/ The Council of the Chamber takes decision with a majority of more than half of the regular members, and the present reserve members have a right only to a deliberative vote. The reserve members have a right to vote when they are attracted to replace regular members of the Council.

/2/ The decisions under Art.30, item 9 of the Bylaw are taken with a majority of 2/3 of the regular members of the Council.

/3/ A decision of the Council of the Chamber can be taken also in the absence of the members, if a sufficient number of them with the right to vote agree with the decision and sign it.

Chapter Four CONTROLLING COUNCIL

Article 32 /1/ The Controlling Council is the controlling body of the Chamber and is elected to consist of at least three regular and one reserve member, and the Chair is elected from the regular members.

/2/ The Chair, the other regular members and the reserve member of the Controlling Council are elected and dismissed by the General Assembly.

Article 33 /1/ As members of the Controlling Council can be elected members of the Chamber, who have at least 5 years of judicial service and meet the requirements of Article 22 of the Bylaw.

/2/ For the members of the Controlling Council are applied, respectively, the provisions of Article 29, par. 2 and 3.

Article 34 /1/ The Controlling Council controls the financial and economic activity of the Chamber and renders an account of its work to the General Assembly.

/2/ Each one of the members of the Controlling Council can attend the meetings of the Council of the Chamber and to request an account of all the actions on the acquisition, management and disposal of the property of the Chamber, regardless of who has performed these actions.

/3/ If it finds out violations of the law, Bylaw of the Chamber, decisions of the General Assembly or of the Council of the Chamber, related with the property of the Chamber, the Controlling Council prepares a report and submits it to the Council of the Chamber, respectively, to the General Assembly.

Article 35 Each one of the regular members of the Controlling Council is obliged to convene it to a meeting when there is sufficient data for a committed financial and economic violation under Article 34, par. 3.

Chapter Five

Section I DISCIPLINARY COMMITTEE

Article 36 /1/ The Disciplinary Committee consists of eight regular members, and the Minister of Justice and the Chamber each appoint half of them.

/2/ The General Assembly of the Chamber elects half of the regular members of the Disciplinary Committee, and two reserve members, and the Chair is elected from the regular members.

/3/ The Chair, the regular and reserve members from the quota of the Chamber are elected and dismissed by the General Assembly.

Article 37 /1/ As members of the Disciplinary Committee from the quota of the Chamber can be elected members of the Chamber, who have at least five years of judicial service and meet the requirements of Article 22 of this Bylaw.

/2/ To the members of the Disciplinary Committee from the quota of the Chamber are applied, respectively, the provisions of Article 29, par.2.

Article 38 The Disciplinary Committee through its own teams considers and decides disciplinary cases filed against private enforcement agents pursuant the way provisioned in the Law on the Private Enforcement Agents, the Bylaw and the rules for its activity.

Article 39 The Chair of the Disciplinary Committee opens the disciplinary proceedings and appoints the Chair of the disciplinary team from the quota of the Chamber and two members of the disciplinary team – one from the quota of the Chamber and one from the quota of the Minister of Justice, and assigns the hearing of the disciplinary case to them.

Section II Rules for the Activity of the Disciplinary Committee

Article 40 /1/ During the first meeting the Disciplinary Committee elects a Deputy Chair from the regular members of the quota of the Chamber. The meetings are managed by the Chair of the Disciplinary Committee, and in his absence, by a Deputy Chair, and are they held following an announced in advance agenda.

/2/ The decisions of the Disciplinary Committee are taken with simple majority of the votes of the regular members, and if a regular member is absent, a reserve member takes part in the voting.

/3/ The Disciplinary Committee takes minutes and files these in a minutes book.

Article 41 /1/ The disciplinary proceedings are opened by the Chair of the Disciplinary Committee at the request of the Minister of Justice or of the Council of the Chamber.

/2/ The request, respectively, the decision for opening of disciplinary proceedings, together with the materials, are sent to the Chair of the Disciplinary Committee, after the fulfillment of the obligation for notification and the expiry of the term under Article 70, par. 2 of the Law on the Private Enforcement Agents.

/3/ The circumstances related with the opening, movement and the decisions in the disciplinary proceedings and cases are reflected in a special diary.

Article 42 The Chair of the Disciplinary Committee:

1. verifies whether the conditions under Article 70, par.2 of the Law on the Private Enforcement Agents have been met and sends back the materials if the conditions have not been fulfilled;

2. appoints a team for the hearing of the disciplinary case, including a chair from the quota of the Chamber and two members, one from the quota of the Chamber and one from the quota of the Minister of Justice.

3. In case a member of the team appointed to participate in the hearing of the disciplinary case is incapable to do so /due to a challenge, because he begs to be struck from the list, long-term absence, illness or another objective incapability/, the Chair of the Disciplinary Committee appoints a replacement for him from the regular or reserve members of the quota of the replaced person;

4. assigns the hearing of the disciplinary case to the specified team.

Article 43 The Chair of the Disciplinary team:

1. appoints meeting for a specific date, hour and place;

2. invites, pursuant to the way specified in the CPC, the parties to participate in the set meeting, and sets a term for them to present their written evidence and evidential requests;

3. manages the meetings of the team.

Article 44 /1/ The hearing of the disciplinary cases is conducted in camera.

/2/ The private enforcement agent has the right to an attorney.

/3/ The body having initiated the filing of the disciplinary proceedings can be represented by a duly authorized representative.

/4/ The non-appearance of any of the appropriately invited persons is not an obstacle for the hearing of the case.

Article 45 /1/ If there is a request for a temporary removal of a private enforcement agent, the disciplinary team pronounces itself on this first.

/2/ The decision for temporary removal is subject to appeal in front of the Supreme Cassation Court within 7 days from the notification of the parties.

Article 46 /1/ The Disciplinary team hears and resolves the disciplinary case within a one month term from its assignment.

/2/ In a regulatory meeting the disciplinary team pronounces itself on all evidential requests.

/3/ Substantive law disputes and circumstances engaging property, civil and/or criminal liability of the private enforcement agent are not a subject of disciplinary proceedings.

Article 47 The burden to prove the disciplinary violation lies on the body that has initiated the opening of the disciplinary proceedings.

Article 48 /1/ All material to the case evidence provisioned for in the CPC are provisioned for in the disciplinary proceedings.

/2/ The expenses on subpoenaing witnesses and the remuneration of legal experts are borne by the party that has requested them.

Article 49 /1/ Minutes are taken for each meeting of the disciplinary team. The minutes contain the place and date of the meeting, the parties who have appeared, the nature of the statements, the requests and statements of the parties, the presented written evidence, the evidence of the witnesses and of the other persons in the case and the findings and definitions of the disciplinary team.

/2/ The minutes are prepared under the dictation of the Chair of the disciplinary team and is signed by him and by the technical assistant.

/3/ The meeting is sound-recorded on tape.

/4/ The Chair makes amendments in the minutes at a request of a party based on the sound recording.

/5/ The minutes of the hearing of the case are evidence for the performed actions.

Article 50 /1/ The disciplinary team considers all the evidence and arguments in the case at its own discretion, and justifies its decision in terms of the adopted by it circumstances in the case and of the law.

/2/ The disciplinary team renders a motivated decision after a secret vote with a majority of the members of the team.

/3/ Each member of the disciplinary team has a right to one vote.

/4/ No member of the disciplinary team is allowed to abstain from voting.

/5/ A member of the disciplinary team, who does not agree with the opinion of the majority, signs the decision with reservation and motivates his opinion.

Article 51 /1/ The decision should contain:

1. the data and place of its ordinance;
2. specified body, names of the members of the disciplinary team and of the technical secretary;

3. the disciplinary case to which the ordinance refers;

4. what is ordained by the disciplinary team;

5. is it subject to appeal, in front of which court and within what term;

6. the full name of the private enforcement agent, against whom is the disciplinary proceedings opened, the number as per the register of the Chamber and the region of activity.

/2/ The disciplinary team encloses with the decisions the motives supporting its ordaining.

/3/ The decision is signed by all members of the disciplinary team.

Article 52 With the decision the disciplinary team:

1. imposes a disciplinary sanction;

2. does not impose a disciplinary sanction;

3. suspends the disciplinary proceedings on the grounds of Article 69, par.1 or Article 71, par.7 of the Law on the Private Enforcement Agents.

Article 53 /1/ In determining the disciplinary sanction are taken into consideration the weight of the violation, the circumstances under which it was committed, other circumstances mitigating and aggravating the guilt, by following the principle of proportionality and adequacy of the sanction to the violation.

/2/ The decision on the disciplinary case is announced as provisioned in the CPC to the private enforcement agent, the Council of the Chamber and the Minister of Justice.

Article 54. The decision on the disciplinary case can be appealed against by the private enforcement agent, the Council of the Chamber and the Minister of Justice before the SCC within a 14 days term from its announcement.

Article 55. /1/ The decision enters into force:

1. if a complaint has not been filed in time or the filed one has been withdrawn;
2. if the filed complaint has not been honored.

/2/ A copy of the enacted decision is issued to the private enforcement agent, the Council of the Chamber and the Minister of Justice.

Chapter Six **PROPERTY OF THE CHAMBER**

Article 56 The property of the Chamber consists of:

1. compulsory initial, annual and supplementary dues of the members;
2. fees for the services;
3. donations and wills;
4. other sources.

Article 57 /1/ The payments of the dues under Article 56, item1 is done by a bank transfer, a postal order or a cash payment to the Administrative Secretary within seven days from the day they have become executable.

/2/ The dues become executable as of the day pointed out in the decision of the General Assembly.

/3/ With valid reasons the private enforcement agent can request the Council of

/4/ After the expiry of the dead-line, the Chair of the Council of the Chamber files a request in the Regional Court for the issuance of a writ of execution against the private enforcement agent in favor of the Chamber.

Article 58 The donations and wills made in favor of the Chamber under certain condition or weight are accepted, if the condition or weight does not contradict the law, bylaw or a decision of the General Assembly. This is done at the discretion of the Council of the Chamber.

ADDITIONAL PROVISIONS

§ 1. As present, within the meaning of this Bylaw, are considered the registered in the respective forum and personally present members prior to each voting.