ADVOCATE AS A GUARDIAN OF RULE OF LAW IN CRIMINAL PROCEEDINGS IN THE REPUBLIC OF NORTH MACEDONIA

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“In a society founded on respect for the rule of law the lawyer fulfils a special role. The lawyer’s duties do not begin and end with the faithful performance of what he or she is instructed to do so far as the law permits. A lawyer must serve the interests of justice as well as those whose rights and liberties he or she is trusted to assert and defend and it is the lawyer’s duty not only to plead the client’s cause but to be the client’s adviser. Respect for the lawyer’s professional function is an essential condition for the rule of law and democracy in society.”

- the CCBE’s Code of Conduct for European Lawyers, article 1.1
Introduction in the advocate profession - case of N. Macedonia

Who can be an advocate in criminal proceedings

- Adversarial system
- New role

- Compulsory
- Facultative
- Defense of indigent people

Types of defense
Ethics of advocates profession

“Legal ethics,” also known as “professional responsibility” is the set of standards of minimally accepted conduct required of an advocate.

How an advocate could fulfill his duties while he is acting in the best interest of the client especially when the client intends to submit false evidence to the court?
Independence from external influences;

Independence from the client and professional detachment; and

Independence from the lawyer’s self-interest
Principles of advocates profession

- Principles of honesty, integrity and fairness
- Loyalty to the Client’s Interests
- Principle of confidentiality
- The principle of commitment / diligence
Advocates fees

Is justice expensive?
Challenges in the advocate profession in criminal proceedings

- **Justice must not only be done: it must also be seen to be done**

Equality of arms constitutes a balance of fairness reasonably adjusted to the roles and responsibilities of the participants in a criminal proceedings.
Challenge:

- Complaint against any illegal actions or measures as provided for in Article 290 of the CPC regarding the judicial control over legality?
Challenge:

- The CPC does not contain an explicit sanctioning provision in the event of a violation of the concept of a fair procedure and trial in the general sense, as protected by Article 6 of the European Convention on Human Rights.
Challenge:

- The ability for the advocate to challenge the expertise of the public prosecutor and to reduce its probative value.
Challenge:

- The real possibility to have an effective and efficient defense advocate during the course of the criminal proceeding.
Thank you for
the attention!

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