

Rules and Regulations According to para 3 of the BDD[®] statutes¹

PREFACE

When doing his job, the German professional detective who, in the sense of law is a tradesman, is not entitled to any legal privileges or special rights. He neither pursues any official nor authoritative functions. His professional rights and obligations derive from common law and regulations as well as from the corresponding jurisdiction.

In view of his professional tasks and activities he, however, assumes a position of confidence with respect to law and economic life, combined with a high degree of responsibility.

All valid regulations applying to the work of detectives are of a private character. This private legal status absolves from the obligation to prosecute to which the authorities of prosecution are bound.

By doing his job, the detective serves the fair interest of his clients in finding the truth and thus justice.

The status of the detective and the execution of his profession are subject to the below stated professional rules and regulations in addition to the corresponding legal ones.

These rules of conduct reflect the current interpretation of the profession, they do, however, not claim to be complete.

These rules and regulations do not dispense the detective from his obligation to act according to his own sense of responsibility.

His conduct must comply with the rules and regulations contained in the interpretation of the profession as far as legal questions of the profession are concerned. In addition to that he should avoid acting against the present rules and regulations or even making believe to do so.

These rules and regulations also apply to employees and independent assistants of the detectives. The executive committees of the associations acknowledging the present rules and regulations will engage their members to adhere to them and will advise their members with respect to questions concerning the legal status.

A GENERAL OBLIGATIONS DERIVING FROM THE PROFESSION

§ 1 The detective undertakes to execute his job as carefully as can be expected and with the usual care of a reliable businessman.

§ 2 The detective has to look after his clients` fair interests being under his charge and must do so according to the best of his knowledge, decisively and with utmost impartiality making use of all legal means and possibilities available to him.

The detective`s commissions and omissions must always take into account the clients` interests and he has to avoid anything which might endanger the clients` judicial status.

§ 3 The detective undertakes to regularly and carefully study the relevant regulations as well as the jurisdiction but also relevant professional literature giving details on his rights and obligations while doing his job, including new findings, methods, scientific and technical means useful for the profession. A detective neglecting this, chances the endangering of his clients` interests and thus fails in his duties.

Ignorance of the obligations does not excuse infractions.

§ 4 The detective is a confidential agent. With respect to orders placed with him he will proceed with utmost discretion as long as the prevailing law is not in contrast to it.

The same will apply to confidential sources of information, brains trust and informants or references. Whenever the confidential treatment or concealment has been assured, this guarantee strictly has to be adhered to. Thus any such assurances have to be avoided should it seem possible to comply with

¹ Also accepted by the professional associations BID[®] and bbd

them. As far as matters involving proceedings or orders are concerned from which subsequent actions have to be expected, only such sources of information and informants may be assured of confidence who/which can be dispensed with as witness or evidence without endangering the clients' interests. The professional discretion even has to be adhered to after the order having been executed this also applying with respect to the detectives' relations and relatives. The detective is obliged to consider carefully to what extent assistants being involved, can be informed.

- § 5 Whenever practising the profession and on all other occasions, the making believe that an official or authoritative function is concerned has to be avoided in the own interest.
- § 6 When questioning witnesses it must also be avoided to make believe that the witness is being inadmissibly influenced.
- § 7 When the detective becomes active as an author or orator, he must do his job objectively and respectably taking into account the concerns of the whole profession.
This also applies to performances in connection with the press, broadcasting, television and further mass media.
- § 8 Whenever participating in publications (except for professional literature) concerning professional activity, the professional discretion, for reasons of loyalty to the status, has to be strictly adhered to, this also including typical procedures, methods and means.
- § 9 Inside and outside the profession, the detective, by means of impeccable conduct and appearance, must always be worth the confidence and respect paid to him and necessary for the profession.
- § 10 A client's instruction will never justify a breach of the profession code.

B BEHAVIOUR TOWARDS COLLEAGUES AND THE ASSOCIATION

- § 11 Owing to the professional obligation of loyalty, the detective may under no circumstances imperil the standing of the profession through his behaviour and/or deficient execution of an order. In case of any conflict between the consideration of colleagues and the interests of the client, the latter's interest will be given priority. Prejudiced attacks upon a colleague will mean a breach of the rules and regulations.
- § 12 The obligation of loyalty requests orders from colleagues to be executed with the same care and on time just as own matters and at the same time, the concession of sharing the costs which is usual among colleagues.
Even when dealing with colleagues, an adequate advance payment will be made with the order if necessary.
As a matter of principle, settlement of a colleague's bill is due once the order has been executed. Different arrangements are admissible.

Taking steps against Colleagues

- § 13 Each detective undertakes to watch that no breach of rules is committed by any other colleague. Whenever a detective thinks that a colleague proceeds in a way offending the rules, he should make him get aware of that offence.
- § 14 Should the hint not entail any success, a written complaint asking for remedy or disciplinary measures may be sent to the executive committee of the association.
- § 15 The corresponding bodies of the association undertake to immediately check the state of affairs and see to adequate remedy.
- § 16 Before laying an information against a colleague or taking legal steps, the detective will inform the executive committee of the association so that the latter may interfere if possible, the same applying to law-suits among colleagues.

Differences or misunderstandings among colleagues

- § 17 For all further differences among colleagues, those involved undertake to come to an amicable settlement and if necessary ask for advice from colleagues who are in their confidence. Should the effort to reach an amicable settlement be in vain, the parties involved will have to ask the executive committee of the association for conciliation.

Grievances Procedure

- § 18 As far as matters of supervision and complaint are concerned, detectives being under the obligation of the rules and regulations, will inform the executive committee on time and submit the available file on request.
- § 19 Should either a colleague or client complain of the execution of an order, the price or behaviour of a detective, the complainer - before starting any investigations - will be requested to dispense the detective complained of from the professional discretion before the executive committee of the association appealed to.
- § 20 The examining bodies undertake to conceal any facts which might get known during the investigation and which range under the professional discretion of the detective involved towards his corresponding employer or which represent a business-secret.
- § 21 Whenever, in dealings with colleagues, failures in the execution of orders get noticed, which evidence insufficient skill, breach of the rules and regulations or negligence in the execution of the placed order, the executive committee of the association will be informed in writing and at the same time requested to remedy in the interest of the profession.
- § 22 As far as dealings with colleagues are concerned, failures in the adequate execution of orders, behaviours unlike a colleague, actions endangering the reputation and consideration of the profession, as well as differences which could not be settled according to § 17 of the rules and regulations, will justify the complaint and request of disciplinary measures.
- § 23 Complaints about colleagues have to be sent in writing, officially signed and in Triplicate to the executive committee of the association. Concerning all complaints (about colleagues and of third parties), the relevant bodies of the executive committee undertake to inform the colleague in question of the contents of the complaint, asking him to comment on it within a given period of time and to check the state of affairs objectively and impartially.
- § 24 Should there be any founded professional or personal failures, the competent bodies of the executive committee will be obliged to determine whether the person of the colleague complained of, his experience and execution of the profession can guarantee the immediate remedy to the failures. The investigation evidencing severe, mainly very negligent, partly deliberate or deliberate breaches of the professional duty to be careful and/or loyal with respect to contrasts or the like endangering the repute of the profession, the exclusion from the association will be admissible.

C CONDUCT WITH RESPECT TO AUTHORITIES AND COURT

- § 25 Whenever dealing with authorities and courts personally or in writing concerning orders or personal matters, the detective will always take into account that he does not only represent himself but also the profession.
The same will apply even more when the detective has no witness before court. He must then always take into consideration that court and the public will have higher expectations concerning his statements than those of other witnesses as far as truth, precision and complement are concerned.
- § 26 In requests for information to courts, authorities, officials and persons of a comparable status, lawyers and doctors, the relevant obligations and rules obliging them to discretion and professional secrecy will be respected.

- § 27 Except for the punishable non-accusation of imminent crimes according to § 138 of the Penal Code, the detective is not obliged to inform the authorities of prosecution (police, public prosecutor's office) of any delicts in the sense of the Penal Code or other laws, provided the facts of the case do not mean assistance subsequent to offences or crimes (§ 257 of the Penal Code).
When dealing with any authorities of prosecution the binding regulations of § 163 of the Code of Cr. Procedure are to be taken into account. Whenever informing official belongings to the authorities of prosecution, it must be checked whether the logic consequences which the information may entail are in the client's interest. Should that not be the case, any information will have to be avoided which might place the official concerned in a personal conflict.
- § 28 In case of official objections to the execution of the profession which seem unjustified as well as in case of important misunderstandings between the authorities and the detective with respect to professional matters, the detective will confidently, but at the same time objectively and impeccably stand for his rights. If necessary he can appeal to the association for settlement and conciliation.

D RELATIONS WITH CLIENTS

- § 29 Any terms of contract or arrangements in connection with an order which do not comply with the principles of loyalty and trust or good manners are to be considered a breach of profession. It seems appropriate to make use of the terms authorized by the association. In cases of doubt, the executive committee of the association will give information.
- § 30 The detective executes a „job subject to remuneration“ as part of a contract of service. With respect to the order and its execution §§ 611 and subs. Of the Civil Code (contract of service) and §§ 663 and subs. Of the Civil Code (order) will apply.
For information (special information) a labour contract as per § 631 of the Civil Code may exist.
- § 31 The power of attorney given to the detective for his activity will exclusively depend on the fair interest of the mandator. The power of attorney will never exceed the extent of the fair interests of each particular mandator.
- § 32 The fair interest of the client has to be checked with utmost care.
- § 33 It will be inadmissible and severely contrary to the professional etiquette to execute orders which show the risk of illegal and/or unconstitutional use of the reporting even when applying the usual care and precaution.
When receiving the order, the detective has to make sure by corresponding agreements that his activities, information and reports will not be misused.
- § 34 Orders generally have to be confirmed with reference to the terms of business.
- § 35 The detective undertakes to immediately notify the client, should he not accept the order.
- § 36 Whenever the detective perceives that he might not be able to execute an order expertly as a result of lack of special knowledge, skill, personal or technical means necessary for the order, it is up to him to get in touch with adequate colleagues (on a co-operation basis) or to refuse acceptance of the order.
Any detective acting differently, chances to endanger the client's interests in a severely negligent if not deliberate way. Such behaviour is contrary to the professional etiquette.
- § 37 Agreements must be complied with punctually. Periods and dates agreed to, particularly with respect to legal cases have to be adhered to with strict accuracy.
- § 38 Professional discretion: please refer to § 4 and also § 26.
- § 39 The relationship between the detective and his client is subject to loyalty, thus acceptance or continuance of an order will be excluded in any case in which loyalty cannot be maintained.
- § 40 The detective may not become active whenever having already been or being so for another party concerning one and the same matter but opposite interests.
The detective also has to avoid any probable conflict of interests.

E REPORTING

- § 41 The detective has to be strictly true and loyal towards his clients, however taking into account the obligation to protect confidential sources of information (see § 4/II, III).
- § 42 The wording of reports has to be objective and to the point, so that it will withstand any examination by judges and that the facts contained in them can be affirmed by oath in the case of action.
On principle, reports have to be in writing, exceptions being admissible.
The reporting must be clear, distinct, impeccable in style and without mistakes.
Reports on inquiries and information should be clear and unmistakable so that even individuals without special skill can understand their contents.
Conclusions and suppositions must clearly differ in style from determinations of facts.
- § 43 For observations and supervisions, exact time-reports have to be issued in any case allowing the disclosure of the whole course of the action. Names of places, names and addresses must be given completely and exactly. Should it be necessary, photos and other evidences will have to be enclosed or attached.

F PRICES AND INVOICING

- § 44 In general, the price or amount is subject to agreement between the detective and his client.
- § 45 Upon acceptance of an order, unmistakable and clear agreements have to be made as far as the costs are concerned. Those agreements should be made in writing.
The detective is entitled to make the acceptance and execution of an order dependent on the settlement of an adequate advance payment.
- § 46 Usually payment is based on the time needed plus expenses and charges involved which will be evidenced or on a lump sum to be agreed upon. It is also admissible, however somehow unnatural, to agree upon a contingent fee as the detective cannot guarantee any „success“ of his activity.
- § 47 Any agreement exploiting the need, levity or inexperience of the client means a breach of professional etiquette.
The same breach would be concerned should the detective, i. e. he himself or third parties except or accept financial or property advantages the value of which would exceed the services rendered to such an extent that, in view of the circumstances, those advantages would mean an obvious incongruity with respect to the services.
- § 48 The agreement concerning price and remuneration has to be „adequate“ to the services rendered.
The principles established in proceedings for the refund of charges and the amount considered „adequate“ by the jurisdiction may serve as a yard stick.
- § 49 As far as the quotation and invoicing are concerned the following must be clearly differentiated
- a) remuneration,
 - b) relevant expenses,
 - c) charges involved (food, accommodation) and travelling expenses. The relevant expenses include the use of a vehicle and technical means as well as cash expenses and charges in connection with trustworthy charges.
- § 50 With respect to the use of vehicle, a rate for each kilometre/mile driven has to be agreed upon. For the use of parked vehicles, a lump sum based on the time of use, is admissible should such use not have already been taken into account for the rate per hour.
Additional costs of vehicles are not admissible.
- § 51 The charging for the use of technical appliances (e. g. camera, tape recorder, radio equipment etc.) has to be agreed upon.

G PRACTICAL LIFE

- § 52 Advertising: The detective may make use of all the available media, however has to obey strict trustworthiness as far as the content of such advertisements is concerned, i. e. adverts must be serious and objective. Unfair advertising is not allowed, this also applying to the use of inadequate, misleading and questionable firm-names or trade marks.
The same will also apply to the outlay of sheets of letter-paper, cards and dies as well as telegram and telex addresses.
- § 53 For purposes of publicity and business relationships it will always be inadmissible to make reference to offices held in professional associations.
- § 54 It is admissible and also wanted that reference is made to the membership in any such associations, including foreign, complying with the local legal regulations (entry in the register of associations and the like).
- § 55 On principle, it is forbidden to hold and use inadmissible and imaginary titles (particularly home and foreign ranks used by the army and police) as well as the expression „certified detective“.

H RELATION TO STAFF AND ASSISTANTS

- § 56 The detective must always maintain his full personal and financial freedom and independence as far as his relation to staff and his assistance is concerned.
- § 57 The detective undertakes to be careful and conscientious when selecting, training and supervising his staff and assistants.
- § 58 The assistants and staff members will, preferably in writing, be obliged to comply with the legal regulations and regulations of the profession. The detective is asked to supervise the professional activities of his assistants with the care of a diligent businessman.
- § 59 Liability: With respect to the relationship to his staff and assistants, the instructions and regulations of §§ 278 and 831 of the Civil Code will be applied.
- § 60 The detective must at any time be a good example to his staff and assistants and also be fair and benevolent superior, this including the responsible care and prudence in the training and continued training of employees.
- § 61 The detective undertakes to carefully comply with all his obligations serving the social security of his staff, including the arrangements necessary to protect life and health. The legal regulations concerning safety measurements have to be respected and complied with.
- § 62 The loyalty of employees and independent assistants in connection with the detective is subject to serve requirements. This loyalty which may only be justified for occasional co-operations, engages the assistant to honourable conduct and careful performance. He undertakes to avoid detrimental actions, to pay respect, keep secret, warn of dangers, report and renounce to competition.
The obligation to keep secret and safeguard business-secrets will be maintained subsequent to the execution of a job.
- § 63 Accounting and filing:
The detective undertakes to comply with and adhere to the current national rules and regulations on „Accounting and the obligation of supplying information of inquiry agencies and reference agencies incl. Detectives“ in the up-dated edition.
- § 64 The clear preparing and maintaining of files and records is a must. The arrangement of files and records is considered clear when an expert third party can find his/her way in an adequately short period of time.
- § 65 Order files and their corresponding correspondence and documentation have to be kept in such a way that access is only possible to authorized persons.