

Confidentiality of Communication between Clients and their Patent Advisors

The Republic of Chile

The Chilean law does not provide for IP professionals as it does for doctors, lawyers etc. IP practitioners are neither the subject of a specific examination nor qualification for practicing. The practice indicates that most of the IP practitioners are lawyers in Chile.

The Professional Code of Ethics of the Bar Association provides certain ethical obligations for lawyers. Lawyers are bound by professional secret obligation, according to which third parties cannot force disclosure of communications between lawyers and their clients, third parties or other attorneys. The Political Constitution of Chile states that professional associations should be empowered to hear complaints against the ethical conduct of their members, and their decisions may be appealed to the respective court of appeals. Lawyers who are not associated will be tried by the ordinary courts. The Chilean law provides for a criminal offense relating to the lawyer's professional secrecy. Article 231 of the Chilean Criminal Code refers to lawyers or legal procurators who, with malicious abuse of their post, harm their client or discover their secrets. This particular disposition protects the value associated with the trust that the client places in his lawyer / procurator and contemplates both a pecuniary sanction, alongside the prohibition of exercising the profession, either temporary or permanent. The reserved nature of the documents that are exchanged under the professional secrecy of lawyers is guaranteed by the Supreme Court of Justice in its rulings.

The non-lawyer practitioners will be ruled by the civil mandate, and eventually by the confidentiality clauses of a contract with their clients and/or employers.