

Bulgaria

National aspects

The Ordinance on the Industrial Property Representatives, adopted by the Council of Ministers, provides that patent representatives (lawyers or non-lawyers) are obliged to perform their duties and protect the interests of their clients in good faith by, inter alia, guaranteeing to keep in secret any information disclosed to them when acting as representatives. However, it fails to specify any sanctions for breach of the professional secrecy obligation. Nationals of EU Member States may also practice their attorney profession. They are deemed equal to Bulgarian attorneys and bound by the same professional confidentiality obligations, when acting before the Bulgarian authorities.

The Code of Civil Procedure stipulates that the courts may order third parties to supply documents in their possession upon written request of a party to the proceedings. Where the third party unduly fails to do so it can be fined by the court and is liable to any damages caused to the requesting party. The same code also specifies that any witness may refuse to answer certain questions, if that may result in immediate damages, disgrace or criminal prosecution for him or his relatives. The professional secrecy obligation could be invoked in such cases to justify any refusal to supply a document or testify in civil proceedings, if that may result in immediate damages to a client.

In criminal proceedings prevails the public interest of ascertaining the truth. Consequently, a witness may refuse to testify only about facts that have been disclosed to him as a defense attorney. Other persons, including patent advisors (lawyers or non-lawyers), cannot rely on this exception. The Code of Criminal Procedure does not contain specific provisions about possibilities to refuse to supply documents.

Cross-border aspects

Bulgarian national law contains no specific provision on the cross-border aspects of confidentiality of communications between clients and patent advisors. The lack of express laws and rules dealing with cross-border aspects of confidentiality brings uncertainty as to whether the courts are bound to accept confidentiality obligations arising under other jurisdictions.