

## Confidentiality of Communication between Clients and their Patent Advisors

### Dominican Republic

Legal assistance is not a requirement in Dominican Republic legislation, except where the applicant is not domiciled in the Dominican Republic. In such cases, management of all information is strictly the responsibility of the agent, who is responsible for the management and receives communication of all results of formal and technical examinations concerning the pending application.

In general, professional secrecy is covered by Decree Nº 1290, which ratifies the Code of Ethics of the Bar Association of the Dominican Republic.

#### CHAPTER II PROFESSIONAL SECRECY

##### ARTICLE 15.

Professional secrecy is a both a duty from which legal professionals may not be exempt and a right before judges; such professionals may not, therefore, entertain confidential information if they know that they might be compelled to reveal it. A legal professional who is called as a witness must obey the summons, but must, when testifying, proceed with absolute independence of mind and must refuse to answer questions if the answers would, in his/her opinion, breach professional secrecy.

##### ARTICLE 16.

The secrecy obligation encompasses confidential information provided by third parties to legal professionals by reason of their profession. Such professionals must, therefore, maintain the confidentiality of conversations held for a transaction that has failed and of facts known solely by such means. Professional secrecy also covers unguarded confidential disclosures by colleagues.

##### ARTICLE 17.

The obligation of secrecy yields to the self-defense requirements of a legal professional who is wrongly accused by a client. The professional may then disclose what is essential to his/her defense and provide for that purpose documents entrusted to him/her by the client.

##### ARTICLE 18.

The attorney shall maintain the strictest professional secrecy. This fundamental duty remains wholly intact after he/she ceases to provide services to the client. The attorney has the right to refuse to testify against his/her client and may decline to answer any question that would entail the disclosure of a secret or a breach of the confidence that his client has placed in him/her. Nor may the attorney communicate to third parties any information known on account of his/her profession. Professional secrecy shall encompass all of an attorney's dealings with the attorney representing the opposing party.

##### ARTICLE 19.

The duty to maintain professional secrecy shall cover confidential information imparted by third parties to the attorney professionally, and confidential information derived from conversations necessary for reaching an agreement that has not been implemented. Secrecy shall also cover confidential disclosures by colleagues. The attorney shall not intervene in

matters that could lead him/her to divulge a secret or use, either for his/her own or for a client's gain, confidential information received in the exercise of his/her profession, save with the prior express consent of the confidant. The obligation to maintain professional secrecy further covers matters known to the attorney as a result of working together or in association with others or through employees or their dependants.

#### ARTICLE 20.

An attorney sued by a client shall be discharged from the obligation of maintaining professional secrecy within the limits necessary and indispensable for his/her self-defense. Where a client communicates to the attorney an intention to commit a crime, the attorney may, according to his/her conscience, make the necessary disclosures with a view to preventing the commission of the crime in order to avoid the moral or material damage that might arise from the commission of the crime.

Accordingly, it may be inferred that between the attorney and the client, there is a pre-contractual agreement on the confidential treatment of the information contained in the application, which covers the rights and obligations of each of the parties. The attorney is prohibited from disclosing, by any means whatsoever, the information that he knows about his client and that he has obtained from the client or third parties. The current regulations stipulate that "attorneys shall maintain the strictest professional secrecy", and that "professional secrecy is also a duty from which they cannot exempt themselves (...)".