

## Confidentiality of Communication between Clients and their Patent Advisors

### Ecuador

Article 20 of the Constitution of Ecuador provides:

“The State shall guarantee the conscience clause for all persons as well as professional secrecy and confidentiality of sources for those who provide information, express their opinions through the media or other forms of communication, or who work in any communication activity”. Article 83 of the Constitution also provides that “Ecuadorians have the following duties and responsibilities, without prejudice to others enshrined in the Constitution and in the law, namely: [...] 12. Practice their profession or trade in accordance with the rules of ethics”.

Regarding patent attorneys, in addition to the provisions of Andean Community law, there are regulations governing confidentiality of communications. For instance:

- Article 335 of the Organic Code of the Judicial Function provides: “Prohibitions Binding on Attorneys in the Management of Cases – In the management of cases, attorneys shall not: 1. disclose the secrets, documents or instructions of their clients.”

- The Comprehensive Penal Code penalizes attorneys who disclose professional secrets by stipulating the following in article 269:

“Breach of legal duty by attorneys – Any attorney, defense counsel or prosecutor who discloses the secrets of his/her client to the opposing party in the course of trial or who, after representing one party and learning of its defenses, then abandons that party to represent the opposing party, shall be punished with imprisonment of one to three years.”

- Article 12 of the Code of Professional Ethics authored by Doctor Enrique Avellan Ferres states:

“It is a right and a duty of an attorney to maintain professional secrecy. With respect to clients, professional secrecy involves a duty that lasts absolutely, even after the attorney has ceased to provide services to the client; it also is a right before judges and other authorities if called to testify as a witness – the attorney must attend the summons, if it is of law, and refuse to answer the questions that might lead to a violation of professional secrecy or expose the attorney to the prospect.”