

Representation in National Proceedings for Patent Matters (draft)

/updated: February 04, 2010/

Table of Representation /ToR/ by CNIPA and *epi*

	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17
	PA title protected	Membership of Institute compulsory for a PA	PA must have tech.or science degree	PA must pass exam.	Anyone can rep. applic. before P.O.	PA can rep. pat. applic. before P.O.	Atty-at-law can rep. pat. applic. before P.O.	Any-one can rep. in Court	PA can rep. in all Court	PA can rep. in some Courts	PA with higher qual. can rep. in all Courts	PA can plead as of right in Court (where not allowed rep.)	PA can assist as of right in Court (where not allowed rep)	Privilege for atty-at-law	Privilege for PA	PA and atty-at-law can practise together	Poss. to cumulate titles
AT	Yes	Yes	Yes	Yes	No	Yes	Yes	No	No	Yes ¹	-	Yes	Yes	Yes ²	Yes ²	No	Yes
BE	Yes	No	No ³	Yes	No	Yes	Yes	No	No	No	-	No	No	Yes	No	No	Yes
BG	Yes	No	No ³	Yes	No	Yes	No	No	No	No	-	No	No	Yes	No	No	Yes
CH	No ⁴	No	No ⁴	No ⁴	Yes	Yes	Yes	No	No	No ⁴	-	No ⁴	No ⁴	Yes	No ⁴		
CY	Yes	Yes	No	Yes ⁵	No	Yes ⁵	Yes	No	Yes ⁵	Yes ⁵	-	Yes ⁵	Yes ⁵	Yes	Yes ⁵	Yes	Yes
CZ	Yes	Yes	No ³	Yes	No	Yes	Yes	No	No ⁶	Yes ⁶	-	-	-	Yes	Yes	No	Yes
DE	Yes	Yes	Yes	Yes	No	Yes	Yes	No	No	Yes ¹	-	No	Yes	Yes	Yes	Yes	Yes
DK	No	No	No	No	Yes	Yes	Yes	No	No	No	-	No	No	Yes	Y/N ¹⁹	No ¹⁴	Yes
EE	Yes	No	No ³	Yes	No	Yes	No	No	No ⁸	Yes ⁸	-	No	Yes ⁸	Yes	Yes	No ¹⁴	Yes
ES	Yes	Yes	No	Yes	No	Yes	No	No	No	No	-	No	Yes	No	No	Yes	Yes
FI	Yes	No	No	No	Yes	Yes	Yes	No	No	No	Yes	No	Yes	Yes	No	No ⁷	Yes
FR	Yes	Yes	Yes	Yes	No	Yes	Yes	No	No	No	-	No	No	Yes	Yes	No ⁴	Yes
GB	Yes	No	Yes	Yes	Yes	Yes	Yes	No	No	Yes ¹⁰	Yes ¹¹	No	No	Yes	Yes ¹²	No ⁴	Yes
GR ⁹	-	-	-	-	No	-	Yes	No	-	-	-	-	-	Yes	-	-	-
HR	Yes	Yes	No	Yes	No	Yes	Yes	Yes	Yes	Yes	Yes	-	-	Yes	No	Yes	Yes
HU	Yes	Yes	Yes	Yes	No	Yes	Yes	No ¹³	Yes	-	-	-	-	Yes	Yes ²	No ¹⁴	Yes
IE	Yes	No	Yes	Yes	Yes	Yes	Yes	No	No	No	-	No	No	Yes	Yes	No ¹⁴	Yes
IS	No	No	No	No	Yes	Yes	Yes	No	No	No	-	No	No	Yes	No	Yes	-
IT	Yes	Yes	No	Yes	No	Yes	Yes	No	No	No	-	No	No	Yes	Yes	No	Yes
LI	Yes	No	Yes	Yes	No	Yes	Yes	No	No ⁸	Yes ⁸	-	-	-	Yes	Yes	No ¹⁴	Yes
LT	Yes	No	No ³	Yes	No ¹⁵	Yes	No	Yes	No	No	-	No	Yes	No	No	No	Yes
LU	Yes	No	Yes	Yes	No	Yes	Yes	No	No	No	-	No	No	Yes	No	No	No
LV	Yes	No	No ³	Yes	No	Yes	No	Yes	Yes	-	-	-	-	Yes	No	No ¹⁴	Yes
MC					Yes	Yes	Yes	No	No	-	-	-	-	Yes	No		
MT	No	No	No	No	Yes	Yes	Yes	Yes	Yes	-	-	-	-	Yes	No	Yes	Yes
NL	Yes	Yes	Yes	Yes	No	Yes	Yes	No	No	Yes ¹⁶	-	Yes	Yes	Yes	Yes	Yes	Yes
NO	No	No	No	No	Yes	Yes	Yes	No	No	No	-	No	Yes	Yes	No	Yes	Yes
PL	Yes	Yes	No ³	Yes	No	Yes	No	No	Yes ¹⁸	-	-	-	-	Yes	Yes	No	Yes
PT	Yes	No	No ³	Yes	No	Yes	Yes	No	No	No	-	No	No	Yes	No	Yes	Yes
RO	Yes	Yes	No	Yes	No	Yes	Yes ¹⁶	No	No	Yes ¹⁶	-	No	Yes	Yes	Yes ⁴	Yes	Yes
SE	No	No	No	No	Yes	Yes	Yes	Yes	Yes	-	-	-	-	Yes	No	No ¹⁴	-
SI	Yes	No	Yes	Yes	No	Yes	No	No	No	No	Yes	No	Yes	Yes	Yes	No	Yes
SK	Yes	Yes	Yes	Yes	No	Yes	Yes	No	No	No	-	No	No	Yes	No	Yes	Yes
TR	Yes ¹⁷	No	No	Yes	No	Yes	No	No	No	No	-	No	No	Yes	No	Yes	Yes
EP	Yes	Yes	Yes	Yes	No	Yes	No	-	-	-	-	-	-	-	Yes	-	-
	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17

COMMENTS ON THE COLUMNS OF THE TABLE:

Column 1: the answer is YES if registration is necessary to obtain the title of PA and if it is an offence to use the title without being registered.

Column 2: "Institute" means any institute (bar, association etc.) of PAs.

Column 3: if another type of university degree is accepted, please add a note to the response "NO" (see note 3 below).

Columns 5 and 8: "anyone" means local citizen (if a foreigner is also allowed to represent, please add a note to the response "YES"). Moreover, please note that the applicant can be foreigner or local (i.e. all types of applicants are embraced).

Columns 9 and 10: If a PA cannot represent in all courts (at own right!), the response is "NO" in column 9 but, if a PA is allowed to represent (at own right!) before some courts, the details of it should be given as a note to the "YES" of column 10.

Column 11: "higher qualification" means a special qualification only for PAs (i.e. it does not include obtaining the Attorney at Law /AaL/ title).

Column 12: "plead as of right" means that an AaL must be formally entered as the representative but a PA can act instead of the AaL (who need not to be at the trial at all).

Column 13: "assist as of right" means that an AaL must be formally entered as the representative and speak in court but a PA can also speak in court though in the presence of the AaL.

Columns 14 and 15: "privilege" means that, even before a Court, AaL or PA is obliged to keep secret information, data etc. which were obtained during the representation of the client (of course, the client can disclose it but the Court cannot enforce the disclosure of the secret information, data etc.).

Answer is YES, if privilege is explicitly provided in a legal source.

If there is no privilege in criminal proceedings for patent infringement (where such is possible), then add a note to the response YES (see note 2 below).

Column 16: The question relates to the formation of a common firm. See note 14 as a possible ("usual") remark to the response NO.

Column 17: a person can have both titles (he/she can PA and AaL)

MEANINGS OF SIGNS (apart from YES and NO): blank: no information; - : the question cannot be interpreted (i.e.: it is meaningless in the system of the country).

NOTES:

1 In validity, ownership, inventorship, prior user right actions, and declaratory actions for infringement and non-infringement cases.

2 Except in criminal proceedings (and patent infringement can be a criminal offence).

3 Other type of degree is also accepted (but without any degree the title cannot be obtained).

4 The relating law will enter into force on January 1, 2011 (which will change the situation remarkably).

5 Attorneys at Law are by law also PAs attorneys in Cyprus.

6 Not on appeal.

7 An exception could be made by the Society of Attorneys-at-Law.

8 PA can represent before first and second instances [not in third instance (cassation) where a PA can represent jointly with an AaL)].

More specific comment to LI: The representation of PAs is restricted to IP related matters and for the highest court a supporting AaL is needed at least for some actions.

9 PA title does not exist in Greece for National Proceedings regarding patent matters. Only Attorneys at Law can act in the field of IP rights in Greece.

10 Only before the Patent County Court (PCC).

11 Title: Patent Agent Litigator (PAL) . Note: no rights of audience in High Court or Court of Appeal and no rights at all in House of Lords.

12 Limited to advice on IP matters.

13 The representation is limited in litigation cases.

14 A mere cooperation among independent AaLs and PAs is acceptable. However, there are restrictions regarding the formation of one common firm. For AaLs it is only allowed to establish and run a firm with other AaLs

15 (1) Patent attorney (2) An applicant having his residence or principal place of business, registered branch office or representative office in Lithuania, any other state of the European economic area or in one of the Contracting States to the European Patent Convention, may be represented by an employee authorised in accordance with the procedure laid down by the legal acts.

16 PAs can represent in administrative proceedings (against an adverse decision from the PO); PAs cannot represent (but merely assist) in civil litigation regarding infringement / revocation.

17 The PA title is used only by PAs registered with the Turkish Patent Institute, but there is no specific text or regulation concerning the profession (i.e. the result of a legal debate is questionable).

18 Except before the Supreme Court.

19 In Denmark there is privilege by law for European work, but not yet for work with national rights.