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Types of legal professions

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Malta

Malta



This page provides you with an overview of the legal professions in Malta.

Legal professions - introduction

The legal professions in Malta are those of lawyer, notary public and legal procurator.

- Lawyers have rights of audience before all courts.
- Notaries public are considered public officials, and they draft and publish public acts.
- Legal procurators have the right of audience before the lower courts: in practice, most of their work consists of following up legal acts, both those related to court cases and those related to other claims in the court registry.

The legal profession in Malta is organised as a unitary system, and public prosecutors are appointed from amongst practising lawyers.

Prosecutors

Organisation

Under Article 91 of the Constitution, the Attorney General is vested with constitutional functions and the Office of the Attorney General is established as a government agency under the Attorney General Ordinance, Chapter 90 of the Laws of Malta and as a defence counsel of the Republic.

In accordance with the provisions of the Constitution of Malta, the Attorney General has security of tenure and exercises independent judgement in matters concerning criminal prosecutions, as well as carrying out the functions prescribed by the Criminal Code in relation to criminal prosecutions.

The Attorney General is assisted by the Deputy Attorney General and other legal officers.

Role and duties

The Attorney General is the Main Prosecutor before the Criminal Courts. In accordance with the Prosecution of Offences (Transitory Provisions) Regulations, 2020 (Legal Notice 378 of 2020), that entered into force on 1 October 2020, the Attorney General has been vested with the power to decide whether a prosecution is to be instituted before the Court of Magistrates as a court of inquiry for a category of serious crimes including:

1. acts of terrorism, funding of terrorism and ancillary offences under Sub-title IV A of Title IX of Part II of Book First of the Criminal Code;
2. unlawful exaction, extortion, bribery, embracery and corruption, trading in influence, and accounting offences under Sub-title IV of Title III of Part II of Book First of the Criminal Code;
3. crimes of money laundering under Article 3 of the Prevention of Money Laundering Act, except where such crimes are prosecuted together with crimes against the Dangerous Drugs Ordinance or the Medical and Kindred Professions Ordinance;
4. cases of fraud and misappropriation where the financial loss caused is of at least fifty thousand euro (€50 000);

5. attempts or conspiracy to commit or be complicit in the abovementioned offences.

In the exercise of their powers to initiate, conduct or terminate criminal proceedings granted to them by any law that authorises the exercise of such powers, the Attorney General is not subject to the direction or control of any person or any other authority, except where a given law may provide for:

1. judicial review of a decision that no prosecution is to be conducted or any other decision on the basis of an illegality or unreasonableness; or
2. judicial review, on the basis of criteria established by law of a decision, taken by the Attorney General that the prosecution is to be conducted in a superior court of criminal jurisdiction where the applicable punishment is more severe to that which would have been applicable had the same offence been tried before an inferior court of criminal jurisdiction.

State Advocate

Organisation

The office of the State Advocate was established on 18 December 2019 as a separate legal entity, and performs certain functions and duties that formerly fell under that responsibility of the Office of the Attorney General. In accordance with Article 91A of the Constitution, the State Advocate has constitutional functions. The Office of the State Advocate is established as a government agency in accordance with the State Advocate Act, Chapter 603 of the Laws of Malta.

In accordance with the Constitution of Malta, the State Advocate has the same security of tenure in his position as the Attorney General and, in the exercise of their functions, the State Advocate must act in accordance with their own individual judgement and must not be subject to the direction or to the control of any other person or authority.

The State Advocate is assisted by a Deputy State Advocate and other legal officials.

Role and duties

The State Advocate is the Chief Legal Advisor to the Government, while the legal officials of the Office of State Advocate represent Government before the civil and constitutional courts.

The Office of the State Advocate represents the Republic of Malta before international courts, including the Court of Justice of the European Union and the European Court of Human Rights, and their officials represent Government in international meetings on legal and judicial cooperation.

Additionally, the Office assists in the drafting of legislation and in the ratification of legislation by Parliament.

Judges

Organisation

Judges and magistrates are appointed by the President of the Republic upon the recommendation of the Judicial Appointments Committee established by virtue of Article 96A of the Constitution. The Chief Justice is appointed by the President of the Republic by virtue of a resolution of the House of Representatives supported by a vote of not less than two-thirds of its members.

All judges and magistrates are independent from the executive and enjoy security of tenure. A person must have practised as a lawyer in Malta for a period of not less than seven years to qualify for appointment as a magistrate, and twelve years for appointment as a judge. Disciplinary measures concerning the judiciary, that may not lead to the removal from office of a member of the judiciary, is a prerogative of the Commission for the Administration of Justice. Decisions relating to the above may be appealed before the Constitutional Court. In the exercise of its functions, the Commission is vested with all the powers of the courts of civil jurisdiction. Where the Commission finds that the conduct under investigation may lead to the removal of an adjudicator, it should proceed by advising the President of the Republic to remove the adjudicator from office on the basis of proven misconduct or proven incapacity to perform the functions of their office. The adjudicator may appeal against this recommendation before the Constitutional Court.

Organisation of the legal profession: Lawyers

Barristers/Lawyers

Role and duties

Lawyers are professionals authorised to provide legal advice and opinions as well as to represent their clients before courts, tribunals or other legal forums.

To be able to practise as a lawyer in Malta, individuals must be in possession of a warrant issued by the President of the Republic and under the Public Seal of Malta. Those holding such a warrant must, before beginning to practise, take an oath of allegiance and an oath of office before the Court of Appeal in a public sitting.

Organisation

The Malta Chamber of Advocates represents advocates admitted to the Bar of Malta. It is a voluntary, non-political, non-governmental organisation funded by the fees payable by members and from funds raised from the activities it organises, and is legally recognised as the consultative and participatory organ of advocates in matters relating to the organisation and administration of justice.

There is only one type of lawyer in Malta, and the terms 'lawyer' and 'advocate' are used interchangeably. The profession is regulated by the Commission for the Administration of Justice, which is composed of the President of Malta, the Chief Justice, two judges, two magistrates, the President of the Chamber of Advocates, and two legal professionals. All complaints against lawyers are handled by a committee of five lawyers which then makes recommendations to the Commission for the Administration of Justice on the disciplinary action to be taken. Three of the five lawyers are appointed by the Chamber of Advocates, thus giving the Chamber effective powers of regulation over the profession.

The Chamber of Advocates maintains an informative website dedicated to the profession, which also includes a directory. The directory is divided in two parts: the part accessible to the general public that contains details of all lawyers who are members of the Chamber of Advocates, while the private members' part contains details of all lawyers known to the Chamber of Advocates.

Over the past years the Chamber has organised a number of academic conferences and seminars, as well as a series of monthly lectures in a drive to promote a culture of continuous legal development of all lawyers.

Legal databases

The Government website lawyersregister.gov.mt provides an official list of lawyers giving the name and other details of warranted lawyers who gave their consent for the publication of their professional details in this registry. The registry is accessible to the public.

Notaries

Role and duties

Notaries are public officers warranted to receive acts done by any person during his/her lifetime and wills, and to attribute public faith thereto. As a result of such obligation and duty, they are also responsible for the custody of these same documents and may issue copies of these documents. Chapter 55 of the Laws of Malta (Notarial Profession and Notarial Archives Act) delineates what other powers and functions a notary has.

Notaries take an oath of allegiance and an oath of office before the Court of Appeal prior to commencing the practice of this profession.

The supervision over all Notaries, Notarial archives and the Public Registry is exercised by a special court called the Court of Revision of Notarial Acts. This Court is composed of members appointed by the Minister responsible for notarial matters from amongst retired judges and magistrates and from among advocates and notaries public.

The Court may, whenever it considers it to be expedient and without giving notice, visit and inspect the Archives, the Public Registry or the office of any notary.

In January each year, the Malta Government Gazette publishes the details of all notaries practising in Malta.

Organisation

The Notarial Council is the general body overseeing the notarial profession, and is entitled, either on its own initiative or following the receipt of a complaint, to investigate the conduct of any notary considered to be acting in a manner that is at variance with the decorum of the notarial profession. The Council may also deal with any accusation of negligence or abuse made against any notary in the course of his or her professional conduct or in connection with professional matters, unless the power to do so is vested in some other authority as set out in Articles 85 and 94 of Chapter 55: Notarial Profession and Notarial Archives Act of the Laws of Malta, or in any other law.

Legal databases

The [official website of the Notarial Council](#) (Malta) includes information about the Notarial Council, general information which is useful both for the public and for notaries, and a directory containing details of Notaries Public practicing in Malta. The database is accessible to the general public and is free of charge.

Other legal professions

Legal procurators

To be able to practise as a legal procurator in Malta, individuals must be in possession of a warrant issued by the President of the Republic and under the Public Seal of Malta. Those holding such a warrant must, before beginning to practise, take an oath of allegiance and an oath of office before the Court of Appeal in a public sitting.

The principal duty of the legal procurator is to assist the lawyer by whom he or she is retained in relation to court proceedings. They are thus involved in filing written pleadings to court registries on behalf of clients and generally performing other services in connection with the preparation of lawsuits by lawyers.

Legal procurators have rights of audience before the magistrate courts and special tribunals and boards. They may also give advice.

The Commission for the Administration of Justice is the entity responsible for the regulation of this profession in Malta.

Court Services Agency

The [Court Services Agency](#) is responsible for the administration of the Law Courts of Malta. The Agency is responsible for the registries and the officers attached to them, the filing and service of judicial acts, the execution of executive titles, such as judgments and warrants via Court-appointed marshals and other officials, sales by auction, trials by jury and other criminal court procedures.

[Deputy Registrar](#)  (489 Kb) 

[Judicial Assistant](#)  (382 Kb) 

[Registry Clerk](#)  (390 Kb) 

Related links

[Malta Chamber of Advocates](#)

[Official website of the Notarial Council \(Malta\)](#)

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