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Types of legal professions

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Germany



Germany

This page provides information on legal professions in Germany.

Public prosecutor

Role and duties

The public prosecution service (*Staatsanwaltschaft*) is an independent body within the criminal justice system and is on an equal footing with the courts. It is responsible for leading preliminary investigations, bringing charges, presenting the case for the prosecution during the trial, and enforcing convictions. Except when there is legislation to the contrary, the public prosecution service is also responsible for prosecuting minor offences.

The public prosecution service has an obligation to act whenever there is an offence that can be prosecuted, provided there are sufficient grounds (principle of legality). This means that before deciding whether a public prosecution should be brought, the public prosecution service must investigate and carry out a legal examination of all the facts of which it has become aware. It is required to do this objectively and impartially: it must investigate both facts that incriminate the suspect and facts in the suspect's favour. If the conditions laid down by law are met, it must bring charges. When the proceedings relate to a minor offence, the public prosecution service may refrain from prosecution if there is a low degree of culpability and there is no public interest in prosecuting the offender. Under certain conditions laid down by law, the consent of the court with jurisdiction to try the case is also required. The offender may also have to fulfil certain conditions and follow certain instructions for the case to be closed.

When conducting investigations for criminal proceedings, the public prosecution service may seek assistance from other parties, such as police officials, tax investigators and customs officers. These parties must follow the service's instructions.

Before a criminal case can be tried, a charge must be brought against a defendant. With a few exceptions concerning petty offences, the charge must always be brought by the public prosecution service. A public prosecutor normally participates in the trial to represent the prosecution.

The public prosecution service is involved in both first-instance proceedings and appeal proceedings (appeals on points of fact and points of law).

In the trial, the public prosecutor must read out the charge. He or she has the right to question the defendant and any witnesses and submit his or her own requests for evidence. At the end of the trial, the public prosecutor presents closing arguments, assessing the substantive and legal facts and often asking the court to pass a certain sentence on the defendant or acquit the defendant.

If the public prosecution service, the court and the defendant all consent, the case can be closed at this stage of the proceedings. For instance, this can be done if, after the trial, the defendant's degree of culpability is considered to be low.

If the public prosecution service firmly believes that a court decision needs to be reviewed on a point of fact or law, it may lodge an appeal. It can even lodge an appeal in the defendant's favour.

Organisation

The public prosecution service has offices at each regional court (*Landgericht*) and higher regional court (*Oberlandesgericht*) and at the Federal Court of Justice (*Bundesgerichtshof*). It has a hierarchical structure.

Because of the federal system in Germany, there is a need to distinguish between the competencies of the Federal Government and the competencies of the *Länder*.

Public prosecutors' offices in the *Länder* (*Staatsanwaltschaften der Länder*)

The public prosecutors' offices in the *Länder* are competent to prosecute all offences other than those prosecuted by the Federal Prosecutor-General at the Federal Court of Justice (*Generalbundesanwalt beim Bundesgerichtshof*). The Federal Prosecutor-General at the Federal Court of Justice and the public prosecutors' offices in the *Länder* are distinct and separate, and operate at their own levels. There is no hierarchical link between the federal public prosecutor's office and the public prosecutors' offices in the *Länder*. However, in exceptional cases, the Federal Prosecutor-General at the Federal Court of Justice can transfer cases falling under his or her jurisdiction to the public prosecutors' offices in the *Länder* or take over cases falling under their jurisdiction.

Each of the 16 *Länder* has its own public prosecutor's office. The offices' organisation is described below.

Each regional court (*Landgericht*) has its own public prosecutor's office, which also assumes responsibility for the local courts (*Amtsgerichte*) within the judicial district of that regional court.

The public prosecutors' offices in the regional courts are each subordinate to the prosecutor-general's office in the corresponding higher regional court (*Oberlandesgericht*), which in turn answers to the ministry of justice of the *Land* in which it is located.

The prosecutor-generals' offices (*Generalstaatsanwaltschaften*) are responsible for appeals on points of law in the higher regional courts. If such proceedings fall within the jurisdiction of the Federal Court of Justice, prosecution is conducted by the Federal Prosecutor-General.

For more information about public prosecutors' offices, see the [Courts and public prosecutors' offices](#) (*Gerichte und Staatsanwaltschaften*) section of the website of the Federal Ministry of Justice and Consumer Protection. Many public prosecutors' offices also have their own websites, which can be accessed through the justice portals of the *Länder*.

Federal Prosecutor-General at the Federal Court of Justice (*Generalbundesanwalt beim Bundesgerichtshof*)

In the Federal Republic of Germany, justice is, in principle, a matter for the *Länder* (under Articles 30, 92 and 96 of the Basic Law). The office of the Federal Prosecutor-General at the Federal Court of Justice is the Federal Government's only public prosecutor's office. It is also referred to as the federal public prosecutor's office (*Bundesanwaltschaft*). Alongside the Federal Prosecutor-General, it is staffed by other federal public prosecutors, senior public prosecutors, public prosecutors and other employees. The Federal Prosecutor-General heads the federal public prosecutor's office at the Federal Court of Justice.

The Federal Prosecutor-General at the Federal Court of Justice acts as counsel for the prosecution in all cases of serious crimes against the state that significantly compromise Germany's internal security (particularly acts of terrorism) or external security (treason and espionage). The Federal Prosecutor-General at the Federal Court of Justice can assume responsibility for prosecuting other crimes against the state under certain conditions laid down in Section 120(2) of the Courts Constitution Act (*Gerichtsverfassungsgesetz*, GVG). This is known as the 'right of evocation'. The Federal Prosecutor-General is also responsible for prosecuting offences under the Code of Crimes Against International Law (*Völkerstrafgesetzbuch*) and appears in appeal and complaint proceedings before the criminal divisions of the Federal Court of Justice (*Bundesgerichtshof*).

The Federal Prosecutor-General is nominated by the Federal Minister for Justice and Consumer Protection and appointed by the Federal President. The nomination must be approved by the *Bundesrat* (the upper house of the German Parliament). The work of the Federal Prosecutor-General is supervised by the Federal Minister for Justice

and Consumer Protection. However, the Minister cannot exercise supervisory rights over the public prosecutors of the *Länder* or give them instructions.

Judge

Organisation

The main legislation governing the profession of judge in both national and regional courts is the German Judges Act (*Deutsches Richtergesetz, DRiG*). Further provisions can also be found in legislation at *Land* level.

The ministries of justice of the *Länder* supervise the work of judges at *Land* level. The work of judges in federal courts (with the exception of the judges of the Federal Constitutional Court (*Bundesverfassungsgericht*)) is supervised by the relevant federal ministry.

Role and duties

Professional and lay judges (*Berufsrichter und Laienrichter*)

Professional judges (*Berufsrichter*) serve in either national or regional courts. Judges at *Land* level officiate in a local court (*Amtsgericht*), a regional court (*Landgericht*) or a higher regional court (*Oberlandesgericht*). Most judges work at *Land* level.

Federal judges (*Bundesrichter*) may serve on the Federal Constitutional Court (*Bundesverfassungsgericht*), the Federal Court of Justice (*Bundesgerichtshof*), the Federal Labour Court (*Bundesarbeitsgericht*), the Federal Fiscal Court (*Bundesfinanzhof*), the Federal Social Court (*Bundessozialgericht*), the Federal Administrative Court (*Bundesverwaltungsgericht*) or the Federal Patent Court (*Bundespatentgericht*).

In criminal proceedings, professional judges are joined by lay judges (*Laienrichter*). Lay judges are called by the authorities to perform this service and are not paid a salary. In theory, a person may even be appointed as a lay judge without their consent and can refuse service only under exceptional circumstances. Lay judges participate in local court hearings and criminal and juvenile hearings at regional courts.

In principle, lay judges have the same voting rights as professional judges, i.e. they decide jointly with the professional judges whether the defendant is guilty and what sentence to apply.

Under Section 36 of the Courts Constitution Act (GVG), lay judges are elected every five years. Only German nationals may act as lay judges (Section 31 GVG) and the following persons are excluded (Section 33 GVG):

- persons under 25 or over 70, and persons who would be over 70 on the date of assuming duty;
- persons not residing in the district concerned;
- persons unfit for the role on health grounds;
- persons unfit for the role due to insufficient knowledge of the German language;
- persons who are financially insolvent.

The following persons cannot act as lay judges:

- persons who have been deemed by court order to be unfit for public office or who have been sentenced to a term of imprisonment exceeding six months for an intentional offence; or
- persons who are under investigation for an offence that could result in them being deemed unfit for public office (Section 32 GVG).

Lay judges are entitled to compensation for loss of earnings, the amount being determined by the Legal Remuneration and Compensation Act (*Justizvergütungs- und -entschädigungsgesetz*) (Section 55 GVG). The *Länder* provide explanatory brochures to inform lay judges about their duties. These brochures are also available online. The *Länder* offer training for lay judges too.

Judicial officer

Judicial officers (*Rechtspfleger*) are officials of the German judiciary. Their role – as the ‘second pillar of the third

branch of government' – is mainly confined to non-contentious matters (including probate, custody, various matters concerning children and adoption, land registry, commerce, cooperative societies and partnerships, registration of associations, of matrimonial property, of ships, and so on). Their responsibilities extend to a number of other judicial activities, e.g. in relation to debt recovery orders, legal aid, writs of execution, forced sales and receiverships, insolvency, the fixing of costs, enforcement of convictions, and proceedings before the Federal Patent Court and in the international legal order.

There are currently more judicial officers than judges in the local courts. The tasks and responsibilities of judicial officers are set out in the Judicial Officers Act (*Rechtspflegergesetz*, RPfLG). In exercising their duties and taking decisions, judicial officers, like judges, are impartial and independent and bound only by law and statute. As a matter of principle, appeals may be made against their decisions in accordance with the general procedural laws in force.

Databases

Internet websites dedicated to the judicial professions and accessible to the general public are:

- the website of the [Federal Ministry of Justice and Consumer Protection](#);
- the websites of the ministries of justice of the *Länder* (e.g. [Hamburg](#), [Berlin](#) and [Bavaria](#));
- individual courts that make information available over the internet;
- the joint [justice portal of the Federal Government and the Länder](#).

Information is also available on the web pages of the [German Association of Judges](#) (*Deutscher Richterbund*) and of the [Association of German Judicial Officers](#) (*Bund Deutscher Rechtspfleger*).

Lawyer

There are approximately 166 000 lawyers in Germany. They must complete the same legal training as judges and are authorised to advise and represent their clients in all legal matters. They are allowed to exercise their profession both inside and outside the courtroom: in German law, there is no special category of lawyers who plead cases in court. In principle, lawyers are entitled to represent their clients in any court in Germany; the only exception is when lawyers wish to represent their clients in a civil case before the Federal Court of Justice, which has specific conditions for admission. There is also an exception for in-house lawyers (*Syndikusanwälte*), who are lawyers employed by a non-lawyer to advise and represent the employer in legal affairs; in-house lawyers are not allowed to represent their employer before some courts.

Lawyers are subject to the statutory provisions of the Federal Lawyers Act (*Bundesrechtsanwaltsordnung*, BRAO). The legal profession is also self-regulated by further professional rules, more specifically, the Lawyers' Professional Code of Conduct (*Berufsordnung der Rechtsanwälte*, BORA) and the Code of Conduct for Specialist Lawyers (*Fachanwaltsordnung*, FAO). Lawyers' remuneration is determined by the Lawyers' Remuneration Act (*Rechtsanwaltsvergütungsgesetz*, RVG).

Lawyers may belong to one of the 27 regional bar associations (*Rechtsanwaltskammern*) or to the bar association of the Federal Court of Justice. The bar associations are responsible for admission to the legal profession. Among other things, they are also responsible for monitoring lawyers' compliance with their professional obligations.

Databases

Comprehensive information on the profession of lawyer can be found on the website of the [Federal Bar Association](#) (*Bundesrechtsanwaltskammer*, BRAK). The [German Lawyers' Association](#) (*Deutscher Anwaltverein*, DAV), which is the largest independent association of German lawyers, also provides a wide array of information on the profession of lawyer (also available in English and French).

The following websites provide help with finding a lawyer: the [German official directory of lawyers](#) (*Bundesweites Amtliches Anwaltsverzeichnis*), which lists all lawyers (content in German and English), and the [federal lawyer information service](#) (*Deutsche Anwaltauskunft*).

Patent agent

There are approximately 3 500 practising patent agents in Germany. Patent agents have generally completed university-level studies in a scientific or technical subject, followed by additional legal training. The scope of their activity is limited to advising and representing clients within the field of industrial property rights (in particular, regarding patents, utility models, trademarks and designs), with a specific focus on application and monitoring procedures. Patent agents are entitled to represent their clients before the German Patent and Trademark Office, the Federal Patent Court and, under specific circumstances, the Federal Court of Justice. Before the regional and higher regional courts, however, they may only deliver opinions on their clients' cases and cannot conduct actions themselves.

Patent agents are subject to the statutory provisions of the Patent Agents Act (*Patentanwaltsordnung*, PAO) and belong to the Chamber of Patent Agents (*Patentanwaltskammer*).

Databases

The website of the [Chamber of Patent Agents](#) provides information on the profession. The [German official directory of patent agents](#) (*Bundesweites Amtliches Patentanwaltsverzeichnis*) can be found there too.

Notary

There are currently almost 7 000 practising notaries in Germany. In principle, they need to have completed the same legal training as judges. Notaries provide independent, impartial and objective advice and support for carrying out important legal transactions and handling legal matters in such a way as to avoid litigation. Their most important task is certifying legal transactions.

Because of Germany's federal structure, there are different types of notary. In most of the *Länder*, notaries exercise their duties as their main professional occupation ('single-profession notaries', *Nurnotariat*). However, in some *Länder*, notaries perform notarial duties while also working as lawyers ('lawyer-notaries', *Anwaltsnotariat*). All notaries are appointed and supervised by their respective regional judicial authority (*Landesjustizverwaltung*).

The provisions governing the notarial profession can be found in the Federal Notaries Act (*Bundesnotarordnung*, BNotO). The remuneration of notaries is determined by the Fees Order (*Kostenordnung*, KostO).

Notaries belong to their respective regional Chamber of Notaries.

Databases

Comprehensive information on various topics related to the notarial profession can be found on the website of the [Federal Chamber of Notaries](#) (*Bundesnotarkammer*). The [directory of notaries](#) (*Verzeichnis der Notare*) on that website also provides help with finding a notary. The content is available in German, English, French and Spanish.

Other legal professions

Legal professions defined in the Legal Services Act (*Rechtsdienstleistungsgesetz*, RDG)

The Legal Services Act allows debt collectors, pension consultants and legal service providers specialising in foreign law to provide extrajudicial legal services. In certain cases, debt collectors and pension consultants may also represent their clients in court. They must be registered in order to do so (approval is obtained by applying to the court). The names of all registered persons are listed in the [Legal Services Register](#).

There is no legal requirement for these legal service providers to belong to a chamber or a specific professional association. Some debt collectors and pension consultants belong to professional bodies, the largest of which are the German Association of Debt Collection Agencies (*Bundesverband Deutscher Inkassounternehmen*), the German Association of Legal Advisers/Legal Service Providers (*Bundesverband Deutscher Rechtsbeistände/Rechtsdienstleister*) and the German Association of Pension Consultants (*Bundesverband der Rentenberater*).

Databases

It is possible to consult the Legal Services Register, which features a list of legal service providers and a list of courts responsible for registration, through the German justice portal. A wealth of further information is available on the websites of the following organisations: the [German Association of Debt Collection Agencies](#), the [German Association of Legal Advisers/Legal Service Providers](#), and the [German Association of Pension Consultants](#).

Organisations that provide free legal services

In Germany, numerous charitable organisations provide free legal advice (in accordance with Sections 6 and 8 of the Legal Services Act (*Rechtsdienstleistungsgesetz*)). The main associations providing such advice include:

- [the German Workers' Welfare Association \(*Arbeiterwohlfahrt Bundesverband e.V.*\)](#);
- [Caritas](#);
- [Diakonie](#);
- [the Jewish Social Welfare Association \(*Zentralwohlfahrtstelle der Juden in Deutschland*\)](#);
- [the German Red Cross \(*Deutsches Rotes Kreuz*\)](#); and
- [the Parity Welfare Association \(*Paritätischer Wohlfahrtsverband*\)](#).

Related links

[Justice portal of the Federal Government and the *Länder*](#)

[Information about courts and public prosecutors' offices, Federal Ministry of Justice and Consumer Protection](#)

[Federal Ministry of Justice and Consumer Protection](#)

[Ministry of Justice of Hamburg](#)

[Ministry of Justice of Berlin](#)

[Ministry of Justice of Bavaria](#)

[German Association of Judges](#)

[Federal Bar Association](#)

[German official directory of lawyers](#)

[German Lawyers' Association](#)

[Federal lawyer information service](#)

[Chamber of Patent Agents](#)

[Directory of notaries](#)

[Federal Chamber of Notaries](#)

[Legal Services Register](#)

[German Workers' Welfare Association](#)

[Caritas](#)

[Diakonie](#)

[Jewish Social Welfare Association](#)

[German Red Cross](#)

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