

## Legal professions - Germany



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This page provides information on the legal profession in Germany.



### Prosecutor

#### Role and duties

The **public** prosecution service (Staatsanwaltschaft) is an independent organ of criminal jurisdiction, structured in the same way as the courts themselves. The Public Prosecutor's Office shall be responsible for conducting the investigation, collecting the charges and representing them in the main proceedings, as well as the execution of criminal penalties. Unless a law provides otherwise, the prosecution is also an administrative offence for the prosecution in the course of criminal proceedings.

The Public Prosecutor's Office is obliged, where there are sufficient elements of evidence to intervene, to intervene in all prosecutions (legality principle). This means that, prior to its resolution, the Public Prosecutor's Office should investigate any facts that it has become aware of. The Public Prosecutor's Office is bound to be objective and impartial. It shall identify both the incriminating and exculpatory facts. If the legal requirements are fulfilled, he or she has to bring charges. Where the proceedings involve an offence, the public prosecutor's office may, with the agreement of the court competent for the opening of the main proceedings, waive prosecution if the perpetrator's debt is considered to be small and there is no public interest in the prosecution. The defendant may also be given obligations and instructions in addition to the appointment.

In the investigation of criminal proceedings, the Public Prosecutor's Office shall be entitled to serve other investigators. These include police officers, tax investigators and customs officers. These latter must follow the office'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 be brought by the public prosecutor's office. In the following main proceedings, a public prosecutor usually takes part as a representative of the Office of the Prosecutor.

The Public Prosecutor's Office will act both at first instance and in the appeal bodies (appeal and revision).

In criminal proceedings, the prosecution must be read by the public prosecutor or the public prosecutor. They shall have the right to question the accused and the witnesses. You can also submit your own requests for evidence. At the end of the hearing, the public prosecutor holds a plea in which the factual and legal situation is assessed. The conviction of the accused person is regularly applied for on the basis of a penalty or acquittal.

With the consent of the public prosecutor, the court and the defendant, the proceedings may also be terminated at this stage of the trial, for example if the accused's guilt is deemed to be low after the trial has been conducted.

If the public prosecutor is satisfied that the decision of the court has to be verified in factual or legal terms, the public prosecutor may lodge an appeal, including in favour of the defendant.

### Organisation

The Public Prosecutor's Office has its seat at the Regional Court, the Higher Regional Court and the Federal Court of Justice and is hierarchically organised.

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.

### State Prosecutors' Offices of the Länder

With the exception of offences for which the federal lawyer is responsible for the Federal Court of Justice, the prosecution offices of the Länder are responsible for prosecution. The General Prosecutor in the Federal Court of Justice at federal and provincial public prosecutors at Länder level are different and separate authorities. There is no hierarchical link between the national level and those of the Länder. However, the General Prosecutor in the Federal Court of Justice may, in exceptional circumstances, transfer proceedings from his field of competence to the provincial public prosecutor's offices or draw up procedures in the latter area.

All 16 Länder have their own prosecution service, organised as follows:

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 prosecutor's offices in the regional courts are each subordinate to the prosecutor-general's office in the corresponding higher regional court (Oberlandesgericht), which in turn answer to the respective ministry of justice of the Land.

The General Prosecutor's Office is responsible for auditing procedures in the Higher Regional Courts. If such proceedings fall within the jurisdiction of the Federal Court of Justice, the prosecution is conducted by the Federal Prosecutor-General.

More information on the Public Prosecutor's Office can be found under the [courts and public prosecutors' offices](#) on the website of the Federal Ministry of Justice and Consumer Protection. Many public prosecution services also have their own websites, which can be accessed via the Länder justice portals.

General Federal Prosecutor in the Federal Court of Justice ('Bundesanwaltschaft')

The judiciary in the Federal Republic of Germany is fundamentally a matter for the Länder (Article 30, 92, 96 of the Basic Law).

'The General Prosecutor in the Federal Court of Justice' is the only federal public prosecutor's office. It is also referred to as the 'Bundesanwaltschaft' (Federal Prosecutor's Office). In addition to the Generalbundesanwalt, he consists of other federal lawyers, senior prosecutors and prosecutors, as well as other employees. The Federal lawyer is in charge of the Federal Prosecutor's Office at the Federal Court of Justice.

The General Prosecutor in the Federal Court of Justice exercises the function of prosecutor in all serious criminal offences affecting internal security (in particular acts of terrorism) or external security (treason or espionage). In the case of other offences of state protection, the General Prosecutor in the Federal Court of Justice takes over the proceedings under certain conditions laid down in Section 120 (2) of the Judicial Systems Act (hereinafter referred to as 'evocation right'). The general federal lawyer's remit in the Federal Court of Justice also includes the prosecution of offences in accordance with the International Criminal Code and involvement in the review and appeal procedures in front of the sentences of the Federal Court of Justice.

The General Prosecutor shall be appointed by the Federal President on a proposal from the Federal Minister or the Federal Minister for Justice and Consumer Protection. The proposal is subject to the approval of the Bundesrat. The General Prosecutor shall work under the authority of the Federal Minister or the Federal Minister for Justice and Consumer Protection. However, the Federal Minister, or the Federal Minister, shall not exercise any supervision or authority over the prosecutors of the federal states.

### Judges

#### Organisation

The main legislation governing the profession of judge in both national and regional courts is the German Judges Act ( **Deutsche 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) is supervised by the relevant federal ministry.

## Role and duties

### Professional judges and lay judges

**Professional** or career judges (Berufsrichter) serve either in national or in regional courts. Judges in the Land service carry their duties at a local court, district court or higher regional court, for example. 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 Finance 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, this can be done without the consent of the person concerned. A citizen who is appointed as a bulwark can only be released from this duty in special circumstances. Lay judges participate in local court hearings and criminal and juvenile hearings at regional courts.

In principle, shoffers have the same voting rights as professional judges. This means that they will decide jointly on the issue of the guilt of the accused and the level of sanctions.

According to **Section 36 of the Courts Act (Gerichtsverfassungsgesetz, GVG)**, lay judges are elected every five years. The office of opening can only be provided by a German (**§ 31 GVG**). It is not necessary to appoint the opening office (**§ 33 GVG**) "who:

- the age of 25 years or the age of seven years or completed at the beginning of the term of office;
- 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,
- in the case of a fall in property prices

Incapable of opening a shoveler,

- any person who, as a result of a judge's rights, does not have the ability to hold a public office or has been convicted of an intentional act of imprisonment of more than six months; or
- Or against whom an investigation is pending because of an offence which may result in the loss of the ability to hold a public office (**§ 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 information leaflets informing lay judges of their obligations. These brochures are also published on the Internet. The Länder also offer training for lay judges.

### Judicial officer (Rechtspfleger)

'Rechtspfleger' are officials of the German judiciary. They assume — as the 'second pillar of third violence' — mainly tasks in the area of 'voluntary justice' (including in succession matters, care matters, children and adoptions, land registry, commercial, cooperative and partnership registers, merger cases, property register law, register of goods, vessels register, etc.), but are also responsible for a wide range of other judicial activities, for example in the area of the court order for payment procedure, legal aid, enforced recovery, compulsory auction and receivership, insolvency proceedings, the execution of costs, the execution of penalties, the execution of proceedings before the Federal Patent Court and international legal transactions.

There are now more 'Rechtspfleger' than judges in the District Courts. Their tasks and responsibilities are set out in the Rechtspfleger Act (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:

- Website of the [Federal Ministry of Justice and Consumer Protection](#)
- The websites of the Ministries of Justice of the Länder (e.g. [Hamburg](#), [Berlin](#) or [Bavaria](#))
- individual courts that make information available via the internet
- The European [e-Justice Portal and the Länder](#)

Information can also be found on the websites of the [Deutscher Richterbund \(Deutscher Richterbund\)](#) or the [Bund Deutscher Rechtspfleger \(Deutscher Rechtspfleger\)](#).

## Lawyer

In Germany there are approximately 166.000 lawyers. They complete the same legal training as judges and can advise and represent their clients in every form of legal matter. They are allowed to act in the courts as well as out of court; there are no special lawyers for the representation under German law. In principle, the judicial power of representation exists for all courts in Germany without distinction. The only exception is when lawyers wish to represent their client in a civil case before the Federal Court of Justice, where there are specific admission prerequisites. A further exception is for syndicate rights lawyers (who are employed by a non-lawyer employer to advise and represent the employer in its legal affairs). These are not allowed to represent their employer in 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). The remuneration of lawyers is determined by the Lawyers' Remuneration Act (Rechtsanwaltsvergütungsgesetz, RVG).

The lawyers are organised in 27 regional bar associations and the Bar Association at the Federal Court of Justice. The Chambers are responsible for admission to the legal profession. They are also responsible inter alia for monitoring that lawyers comply with their professional obligations.

### Databases

Full **details of the legal profession** are available on the [Bundesrechtsanwaltskammer \(BRAK\)](#) website. In addition, the [Deutscher Anwaltverein \(DAV\)](#), the largest German lawyer free of interest for lawyers, offers a wide range of information on the profession of lawyer, including in English and French.

Assistance in finding a lawyer is available in the [Federal Register of Lawyers, which lists all lawyers \(available in German and English\)](#), as well as the [German Bar Association](#).

## Patent agent

There are approximately 3.500 practicing patent agents in Germany. Patent agents have generally completed university-level studies in sciences or technical affairs, followed by subsidiary legal training. Their competence extends to the provision of advice and representation in the field of industrial property rights (in particular: Patents, utility models, trademarks, design), in particular their registration and monitoring. Patent agents are entitled to represent their clients before the German Patent and Trademark Office, the Federal Patent Court and, under specific circumstances, before 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.

The activities of patent attorneys are subject to the provisions of the Code of Patent Attorneys (PAO). The patent attorneys are organised in the Chamber of Patent Attorneys.

### Databases

Information on the patent office can be found on the website of the [Chamber of Patent Attorneys](#). The Federal Official Patent Attorneys' [Register](#) is also made available there.

## Notary

In Germany, there are currently almost 7.000 notaries who, in principle, have to have the same training as a judge. They provide independent, impartial and objective advice and support for important legal transactions and the handling of legal matters in such a way as to avoid litigation. Their most important task is certifying legal transactions.

Due to Germany's federal structure, there are different forms of notary. In most of the Länder, notaries exercise their duties as their main professional occupation ('single-profession notaries', Nurnotariat). In some Länder the profession of notary is exercised in

addition to the profession (lawyer's notarial). All notaries are appointed and supervised by their respective regional judicial authority (Landesjustizverwaltung).

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

Notaries belong to their respective regional Chamber of Notaries.

### Databases

Comprehensive information on various topics of notaries is available on the Federal Chamber of [Notaries](#) ' website. The [register of notaries](#) in that Member State is also an aid to search for 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 makes it possible for debt collectors, pension consultants and legal service providers with a specialisation in foreign law to provide extrajudicial legal services. In certain cases, debt-collection services providers and pension advisors are also entitled to represent their clients in court. The activity is subject to registration at the request of the court. The names of persons registered are [listed in the Legal Services Register](#).

There is no legal requirement for these registered service providers to belong to a Chamber or specific professional association. Collection services providers and pension advisors are partly organised in professional associations; the largest associations are the Federal Association of German Debt Collection Agencies (Bundesverband Deutscher Abkunghozentren), the German Association of Legal Agents/Legal Services and the Bundesverband der Rentenberater (Federal Association of Pension Advisors).

### Databases

It is possible to consult the Legal Services Register, which includes the list of legal service providers and the courts responsible for registration, via the German judicial portal. The websites of the [Federal Association of German debt-collection agencies](#), the [German Association of Legal counsels/Legal Service Providers](#) and the [Association of Pensions Consultants](#), provide a variety of further information.

### Organisations that provide free legal services

In Germany, numerous charitable organisation provide free legal advice (in accordance with **Sections 6 and 8 of the Legal Services Act**). Some of the most important of these are:

- [Arbeiterwohlfahrt Bundesverband e.V.](#)
- [Charities](#)
- [Welfare organisations](#)
- [Centre for Welfare of Jews in Germany](#)
- [Deutsches Rotes Kreuz](#)
- [Joint Welfare Association](#)

### Related links

[The Justice Portal of the Federal Government and the Länder](#)

[Information on the courts and prosecution offices, the 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](#)

[German Federal Bar Association](#)

[Nationwide Official Register of Lawyers](#)

[Deutscher Anwalt Verein](#)

[German law reference information](#)

[Chamber of Patent Lawyers](#)

[List of notaries](#)

[Federal Chamber of Notaries](#)

[Register of Legal Services](#)

[Arbeiterwohlfahrt Bundesverband e.V.](#)

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[Deutsches Rotes Kreuz](#)

[Partitätischer Wohlfahrtsverband](#)

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