

Legal professions - Poland

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Prosecutors

Organisation

The structure described below concerns the public prosecution service and other relevant departments under the Act of 9 October 2009.

The public prosecution service of Poland comprises:

- **The Prosecutor General;**
- **prosecutors in ordinary units of the prosecution service and military prosecutors answerable to the Prosecutor General;**

- **prosecutors of the Institute of National Remembrance and the Commission for the Prosecution of Crimes against the Polish Nation.**

The Prosecutor General is the highest authority in the public prosecution service and is appointed by the President of Poland from a shortlist of candidates recommended by the National Council of the Judiciary and the National Council of Public Prosecutors. The Prosecutor General provides the Prime Minister with annual reports on prosecution activities. Ordinary and military prosecutors are appointed by the Prosecutor General from a shortlist of candidates proposed by the National Council of Public Prosecutors.

The ordinary units of the public prosecution service are divided into **four levels**:

- **Office of the Prosecutor General;**
- **Office of the Appellate Prosecutor;**
- **Office of the Regional Prosecutor;**
- **Office of the District Prosecutor.**

The military units of the public prosecution service operate at three levels:

- Office of the High Military Prosecutor;
- district offices of the military prosecutor;
- garrison offices of the military prosecutor;

Public prosecutors at the Institute of National Remembrance and the Commission for the Prosecution of Crimes against the Polish Nation operate in the following organisational units:

- the Commission for the Prosecution of Crimes against the Polish Nation;
- the departments of the Commission for the Prosecution of Crimes against the Polish Nation;
- the Vetting Office;
- the departments of the Vetting Office.

Polish law distinguishes between public prosecutors appointed by the Prosecutor General and private prosecutors who are parties to criminal proceedings and who, according to the rules of procedure, may assist public prosecutors in their work.

Polish law provides for a variety of professional associations. These include the National Council of Public Prosecutors within the Office of the Prosecutor General, and prosecutors' assemblies and boards at appellate prosecutors' offices. However, these bodies are strictly internal and organisational in character, and do not have websites or provide e-services.

For further information on public prosecution service in Poland, see the website of the [Office of the Prosecutor General](#).

Roles and responsibilities of the public prosecutor service:

The main tasks of the public prosecution include **enforcing the law and overseeing prosecutions in criminal cases**.

In particular, public prosecutors perform their duties by:

- conducting or overseeing pre-trial proceedings in criminal cases;
- acting as the public prosecutor in the courts;
- initiating proceedings in criminal and civil cases, submitting applications and participating in court proceedings in civil, labour and social security cases if necessary in order to protect the rule of law, the public interest, property or citizens' rights;
- taking the measures provided for by law to ensure the correct and uniform application of the law;
- conducting research into crime and taking action to combat and prevent crime;
- collecting, processing and analysing data from proceedings conducted or overseen pursuant to the Act;
- cooperating with the authorities to prevent crime and other infringements of the law;
- cooperating with and participating in proceedings coordinated by international organisations for the purposes of law enforcement and crime prevention.

Rights and responsibilities of public prosecutors:

Public prosecutors are required to act within the law, in accordance with the principle of impartiality and equal treatment of all citizens. Irrespective of the hierarchical organisation of the public prosecution service, public prosecutors discharge their official duties in an independent fashion. Public prosecutors may not be involved in politics or take on other employment and are required to constantly improve their qualifications.

Public prosecutors deal primarily with criminal cases. On occasion they also participate in civil cases concerning in particular the establishment of paternity, termination of parental rights or legal incapacity and in administrative cases usually involving real estate and construction law. In every regional prosecutor's office there is a public prosecutor specialising in international cooperation in criminal matters.

Ordinary courts

Organisation

The ordinary courts in Poland are:

- district courts;
- regional courts;
- appeal courts.

Ordinary courts dispense justice (in cases outside the jurisdiction of administrative courts, military courts and the Supreme Court) and discharge other justice-related duties conferred upon them by law. Court judgments are supervised by the Supreme Court in accordance with the law.

District courts have jurisdiction over one or more municipalities (in justified cases, more than one district court may operate within a single municipality, e.g. in big cities).

The regional court is the court of appeal for district courts and also the court of first instance in specific cases. It has jurisdiction over at least two district courts (its court administrative district).

Where a case is heard in first instance in the regional court, any appeals are heard in the appeal court. The appeal court has jurisdiction over at least two regional courts (its appellate area).

A court is presided over by the Presiding Judge. He/she is appointed for a fixed term (four years in district courts and six years in regional courts and appeal courts).

Legal professions in courts


In Poland, ordinary courts dispense justice (in cases outside the jurisdiction of administrative courts, military courts and the Supreme Court) and discharge other justice-related duties conferred upon them by law. The dispensation of justice is the preserve of judges. Justice-related duties other than the dispensation of justice are discharged by judicial clerks and senior judicial clerks (and may also be discharged by judges if judicial clerks cannot do so).

Judges

Polish law distinguishes between **professional judges** and **lay judges**.

Judges discharge duties relating to the dispensation of justice. They are appointed for an indefinite period by the President of the Republic on a proposal from the National Council of the Judiciary.

In performing their duties judges are independent and are subject only to the Constitution and the law.

The independence of the courts and of judges is guaranteed by the  **National Council of the Judiciary**, which is a constitutional body.

Judges' independence is guaranteed by judicial immunity and security of tenure as enshrined in the Constitution.

Judges are subject to disciplinary action for any breaches of professional duty. Disciplinary matters involving judges are heard: in the first instance, in the appeal courts, and in the second instance, in the Supreme Court.

Lay judges

The role of lay judges in dispensing justice is enshrined in the Polish Constitution. Lay judges are independent and, like professional judges, are subject only to the Constitution and the law. Lay judges have equal rights with judges when resolving cases. Unlike judges, however, lay judges may not preside over a trial or session or (in principle) discharge duties outside a trial.

In both civil and criminal proceedings, as a rule, hearings take place in the presence of a single judge, i.e. without the involvement of lay judges. However, both the laws covering both types of procedure provide for categories of cases which, in view of their social importance, are heard with the involvement of lay judges.

Lay judges are appointed by the municipal councils operating within the jurisdiction of the courts concerned. Their term of office is four years.

Judicial clerks

Judicial clerks are employed at district and regional courts to discharge the justice-related duties conferred upon the courts by law. Judicial clerks are appointed to their posts as of the date indicated in the instrument of appointment. They are appointed by the presiding judge of the appeal court.

In civil proceedings, judicial clerks exercise the powers of the court within the framework of the duties assigned to them, unless the law stipulates otherwise. However, in proceedings involving criminal cases, minor offences and tax offences, judicial clerks are authorised to hand down recommendations and, in the cases stipulated by law, decisions and orders.

As such, judicial clerks are court staff authorised to discharge justice-related duties who act on behalf of the courts within the framework of the remit conferred upon them. Within the framework of their remit, judicial clerks are independent as regards the substance of court decisions and orders enshrined in law. This independence implies that their judicial activities are organisationally and functionally separate from those of other bodies to ensure that they perform the actions enshrined in law in an independent fashion.

[Information sheet on judicial clerks.](#)

Judicial assistants

Judicial assistants discharge duties in court with a view to preparing court hearings and to ensuring the smooth internal operation of the court (involving the dispensation of justice and other justice-related duties). Candidates are selected by way of a competition.

[Information sheet on judicial assistants.](#)

Court secretaries

Court secretaries are employed in all ordinary courts and discharge duties associated with administrative support for the courts other than those reserved to other professional groups, e.g. they take minutes at hearings, manage judges and organise the court secretariat. Their rights and obligations and conditions of employment are laid down by the Court Staff Act and by the public prosecutor. Candidates are selected by way of a competition.

[Information sheet on court staff.](#)

Organisation of legal professions

Advocates

Advocates in Poland provide legal services with a view to protecting citizens' rights and freedoms. They offer legal assistance and prepare legal opinions. They also ensure that parties are represented in criminal, civil, family-law and juvenile cases, cases involving labour and social security law and proceedings before the Supreme Administrative Court.

Professional specialisation is not imposed in Poland - advocates are free to choose the field in which they specialise. However, because Polish law guarantees state-appointed counsel for financially disadvantaged parties, advocates must be able to provide legal services in cases involving different areas of the law.

There are 24 **regional bar councils** and the **Polish Bar Council** operating at national level. These professional associations are responsible for representing and protecting the professional rights of advocates, developing their professional skills, providing training to trainees and establishing, promoting and enforcing rules of professional conduct.

Legal databases

For further information, see the webpage of the [Polish Bar Council](#).

Attorneys at law (radcowie prawni)

Attorneys at law provide legal services to companies, other businesses, organisational units and natural persons. They offer legal assistance and prepare legal opinions. Unlike lawyers, they can be employees of other parties. Since 1 July 2015 lawyers and attorneys at law have enjoyed the same procedural rights - attorneys at law can act as counsel for the defence in criminal proceedings unless they are employees of other parties. They can also act in cases involving minor offences and act as counsel for the defence in disciplinary proceedings.

The professional association of attorneys at law consists of 19 **regional chambers of attorneys at law** and the **National Chamber of Attorneys at Law** operating at national level. These professional associations are responsible for representing and protecting the professional rights of attorneys at law, developing their professional skills, providing training to trainees and establishing, promoting and enforcing rules of professional conduct.

Legal databases

For further information, see the webpage of the [Attorneys at law in Poland](#).

Notaries

Organisation

The Minister for Justice appoints notaries and assigns their office further to an application from the persons concerned after consulting the council of the relevant chamber of notaries. The Minister for Justice is also empowered to dismiss notaries.

The Minister for Justice keeps a register of notaries' offices and lays down the maximum rates for notarial transactions.

Notaries form a professional association comprising 11 **notarial chambers** and the **National Chamber of Notaries**.

Role and responsibilities

Notaries are appointed to perform transactions which must be processed by notarial deed (e.g. transfers of property ownership), or in cases where the parties elect to do so.

The notarial profession is a profession of public trust. As persons of public trust acting on behalf of the State, notaries are required to guarantee the security of real estate transactions.

Notaries perform the following notarial duties: drawing up notarial deeds, certificates of inheritance and other certificates, lodging declarations, writing minutes, drawing up protests concerning promissory notes and cheques, storing cash, securities, documents and data on a data storage medium, making entries in and producing copies and excerpts of documents, drafting deeds, declarations and other documents at the request of parties and carrying out other activities under separate provisions.

Notarial transactions effected by a notary in accordance with the law are deemed to constitute official documents.

Notaries conduct their business in individual notary offices. A notary may operate only one office, whereas several notaries may jointly operate one office in accordance with the rules governing civil-law partnerships. In that case, however, each notary performs their duties on their own behalf and bears responsibility for the transactions they have processed.

Legal databases

For further information, see the webpage of the [National Chamber of Notaries](#) (not available in English).

Other legal professions

Polish law makes provision for the following legal professions: **bailiffs**.

Bailiffs

Under Polish law, bailiffs are judicial enforcement officers. They also have civil servant status, because that status alone confers sufficient legitimacy on the duties they discharge, which impinge to a significant extent on civil rights and freedoms. These duties include, first and foremost, coercive measures necessary for the enforcement of court rulings and implementation of the constitutional right to a fair trial.

Bailiffs' powers include carrying out enforcement proceedings in civil cases.

Bailiffs are appointed by the Minister for Justice from a shortlist of candidates who must meet the requirements laid down in the Bailiffs and Enforcement Act. These include possessing a law degree, completing an apprenticeship, passing the bailiff examination and completing a probation period of at least two years as a probationer assessor bailiff.

Supervision of bailiffs is carried out by the Minister for Justice and presiding judges in the courts where bailiffs operate and by bailiffs' associations - **the National Council of Bailiffs** and **the councils of chambers of bailiffs**.

See the webpage of the [Ministry of Justice](#) and [the National Council of Bailiffs](#).

Organisations providing pro bono legal services (free of charge)

A large number of organisation provide pro bono legal services in Poland. These include:

- **'Blue Line'**, which operates under the aegis of the Ministry of Family, Labour and Social Policy to combat domestic violence. For further information, see the webpage of [Blue Line](#); it can also be contacted on: +48 22 668 70 00;
- Pro bono legal assistance is also provided by **the Law Clinics**, run by students belonging to associations operating at the law faculties of all the main universities in Poland.

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