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njemački

Types of legal professions

Njemačka

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

Službeni prijevod nije dostupan u jezičnoj verziji koju tražite.

Ovdje možete pristupiti strojnom prijevodu ovog sadržaja. Imajte na umu da je svrha tog prijevoda samo pružiti kontekst. Vlasnik ove stranice ne prihvaća nikakvu odgovornost ni obvezu u pogledu kvalitete strojno prevedenog teksta.

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Legal professions

Prosecutor (*Staatsanwalt*)

Role and duties

The public prosecution service (*Staatsanwaltschaft*) is an independent organ of criminal jurisdiction, structured in the same way as the courts themselves. It is responsible for leading preliminary investigations, presenting the case for the prosecution in criminal cases, and enforcing convictions. Except when there is legislation to the contrary, the public prosecution service is also responsible for conducting prosecutions for administrative offences.

The public prosecution service has an obligation to act whenever there is an offence that can be prosecuted, provided there are sufficient grounds. This means that a prosecutor is required to charge and prosecute every suspect if the legal conditions are fulfilled.

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

The court proceedings in which the public prosecution service plays a part are essentially criminal proceedings. This applies to both first instance and appeal proceedings.

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. A public prosecutor participates in the subsequent trial to represent the prosecution.

In first instance proceedings, the public prosecutor must read out the charge, and he or she has the right to question the defendant and any witnesses. At the end of the trial, the public prosecutor presents a final case analysis, assessing the substantive and legal facts, and asks the court to convict the defendant or indeed to find him or her not guilty.

In doing so, the public prosecutor must act impartially, and must consider the incriminating evidence and the evidence in the defendant's favour. If the public prosecutor's office is convinced that a court decision needs to be reviewed on a point of fact or law, it may lodge an appeal – even in favour of the defendant.

Organisation

The public prosecution service is hierarchically organised. Consequently, the officials of the public prosecution service must follow the instructions of their superiors.

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*.

Federal public prosecutor's office (*Bundesanwaltschaft*)

The Prosecutor General in the Federal Court of Justice (*Generalbundesanwalt beim Bundesgerichtshof*) is the highest ranking prosecution authority in Germany in the field of national security. The Prosecutor General acts as counsel for the prosecution in all cases of serious crimes against the state that significantly compromise the internal or external security of the Federal Republic of Germany (i.e. politically motivated offences, particularly acts of terrorism, treason or espionage).

The Federal Prosecutor General is also responsible for prosecuting offences against the Code of Crimes Against International Law (*Völkerstrafgesetzbuch*) and appears in appeal and complaint proceedings before the criminal division of the Federal Court of Justice (*Bundesgerichtshof*).

The Federal Prosecutor General heads the public prosecutor's office in the Federal Court of Justice. He or she supervises and directs the federal public prosecutors (*Bundesanwälte*), senior public prosecutors (*Oberstaatsanwälte*) and the lower public prosecutors.

In turn, the work of the Federal Prosecutor General is supervised by the Federal Minister for Justice. The Minister does not exercise supervisory rights over the public prosecutors of the *Länder*, and cannot give them instructions.

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

All other cases (ordinary offences) are prosecuted by the public prosecutors' offices in the *Länder*. The Federal Prosecutor General and the public prosecutors' offices of the *Länder* are distinct and separate, and operate at their own levels. There is no hierarchical link between the national level and those of the *Länder*.

Each of the sixteen *Länder* has its own public 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 prosecutorgeneral's office in the corresponding higher regional court (*Oberlandsgericht*), which in turn answer to the respective ministry of justice of the *Land*.

The prosecutorgeneral's offices (*Generalstaatsanwaltschaften*) are responsible for appeals on points of fact or law 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.

For further information on public prosecution, please see the [Courts and public prosecution](#) section of the Federal Ministry of Justice's website. Many public prosecution services also have their own websites, which can be accessed via the *Länder* justice portals.

Judge (*Richter*)

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 and lay judges (*Berufsrichter und Laienrichter*)

Professional or career judges (*Berufsrichter*) serve either in national or in 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 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, a person may even be appointed 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.

According to Section 36 of the Courts Act (*Gerichtsverfassungsgesetz*, 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:

persons under 26 or over 70 on the date of assuming duty (Section 33 GVG),

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 at risk of financial insolvency,

persons previously convicted or subject to ongoing criminal investigation (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, which are also available online. The *Länder* also offer training for lay judges.

Judicial officer (*Rechtspfleger*)

'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, insolvency, 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, the fixing of costs, enforcement of convictions, and proceedings before the Federal Patent Court and in the international legal order.

There are now more judicial officers than judges in the local courts. Their tasks and responsibilities 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 brought against their decisions in accordance with the general procedural laws in force.

Legal databases

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

The website of the [Federal Ministry of Justice](#)

The websites of the ministries of justice of the *Länder* (e.g. [Hamburg](#), [Berlin](#), [Bavaria](#))

Individual courts that make information available via the internet

The [joint justice portal](#) of the Federal Government and of the *Länder*.

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

Lawyer (*Rechtsanwalt*)

In Germany there are approximately 160 000 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 exercise their profession both inside and outside the courtroom; under German law there is no category of lawyers devoted specifically to pleading in court. Their entitlement to act in court is valid for all forms of court in Germany; 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.

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).

Lawyers are divided between twenty-seven regional Chambers of Lawyers (*Rechtsanwaltskammern*) and the Chamber of Lawyers of 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.

Legal databases

Comprehensive information on the legal profession can be found on the website of the [Federal Chamber of Lawyers](#) (*Bundesrechtsanwaltskammer*, BRAK).

Furthermore, the [German Lawyers' Association](#) (*Deutscher Anwaltverein*, DAV), the largest independent association of German lawyers, provides a wide range of information on the legal profession (also available in English and French).

The following websites also offer help to find a lawyer: the [German official lawyers' directory](#) (*Bundesweites Amtliches Anwaltsverzeichnis*), which lists all lawyers (content in German and English), and the [Federal lawyer information service](#) (*Deutsche Anwaltsauskunft*).

Patent agent (*Patentanwalt*)

There are approximately 3 000 practicing patent agents in Germany. Patent agents have generally completed university-level studies in sciences or technical affairs, followed by subsidiary 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, industrial designs and trademarks), 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, 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.

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

Legal databases

The website of the [Chamber of Patent Agents](#) provides information on the profession and a directory of patent agents.

Notary (Notar)

In Germany there are currently almost 8 000 practicing notaries, who generally need to have completed the same legal training as judges. 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 ('singleprofession notaries', *Nurnotariat*). However, in some *Länder*, notary duties are performed alongside work as a lawyer (*Anwalt*), ('lawyer-notarial work, *Anwaltsnotariat*). In Baden-Württemberg there are also notaries who are civil servants (*Amtsnotare*; this applies until 2017). 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.

Legal databases

Comprehensive information on diverse topics related to the notary profession can be found on the website of the [Federal Chamber of Notaries](#) (*Bundesnotarkammer*). On that website, the [Notaries' directory](#) (*Verzeichnis der Notare*) can also help you to find 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 collectors and pension consultants may also represent their clients before a court of law. The prerequisite is that they must be registered to perform this activity (approval is obtained from the court on request). 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. The professions of debt collector and pension consultant are partially coordinated by a range of professional bodies. The largest bodies are the German Association of Debt Collection Agencies (*Bundesverband Deutscher Inkassounternehmen*), the German Association of Legal Executives/Legal Service Providers (*Bundesverband Deutscher Rechtsbeistände/Rechtsdienstleister*) and the German Association of Pension Consultants (*Bundesverband der Rentenberater*).

Legal 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. A wide range of further information is available on the websites of the following organisations:

[Bundesverband Deutscher Inkassounternehmen](#) (German Association of Debt Collection Agencies),

[Bundesverband Deutscher Rechtsbeistände/Rechtsdienstleister](#) (German Association of Legal Executives/Legal Service Providers),

[Bundesverband der Rentenberater](#) (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). Some of the most important of these are:

[German Workers' Welfare Association \(Arbeiterwohlfahrt Bundesverband\)](#)

[Catholic Social Welfare Association \(Caritas\)](#)

[Protestant Social Welfare Association \(Diakonie\)](#)

[Jewish Social Welfare Association \(Zentralwohlfahrtstelle der Juden in Deutschland\)](#)

[German Red Cross \(Deutsches Rotes Kreuz\)](#)

[Non-denominational Social Welfare Association \(Paritätischer Wohlfahrtsverband\)](#)

Related links

[Joint justice portal of the Federal Government and of the Länder](#)

[Federal Ministry of Justice \(Bundesministerium der Justiz\)](#)

[German Federal Ministry of Justice \(Deutsches Bundesministerium der Justiz\)](#)

[Hamburg Ministry of Justice \(Justizministerium Hamburg\)](#)

[Berlin Ministry of Justice \(Justizministerium Berlin\)](#)

[Bavarian Ministry of Justice \(Justizministerium Bayern\)](#)

[German Association of Judges \(Deutscher Richterbund\)](#)

[German Bar Association \(Deutsche Rechtsanwaltskammer\)](#)

[German official lawyers' directory \(Bundesweites Amtliches Anwaltsverzeichnis\)](#)

[German Lawyers' Association \(Deutscher Anwaltverein\)](#)

[Federal lawyer information service \(Deutsche Anwaltsauskunft\)](#)

[Chamber of Patent Agents \(Patentanwaltskammer\)](#)

[List of civil law notaries](#)

[Federal Chamber of Notaries \(Bundesnotarkammer\)](#)

[Information point for registered legal service providers](#)

[German Workers' Welfare Association \(Arbeiterwohlfahrt Bundesverband\)](#)

[Catholic Social Welfare Association \(Caritas\)](#)

[Protestant Social Welfare Association \(Diakonie\)](#)

[Jewish Social Welfare Association \(Zentralwohlfahrtstelle der Juden in Deutschland\)](#)

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Last update: 27/03/2013

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