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## Soorten juridische beroepen

Binnen de diverse rechts- en gerechtelijke stelsels van de lidstaten van de Europese Unie (EU) bestaat een breed scala van juridische beroepen, zoals advocaten, notarissen, rechters, openbare aanklagers en gerechtsambtenaren. De beoefenaren van juridische beroepen voeren niet dezelfde titels in alle lidstaten, en hun rol en status kunnen per lidstaat sterk verschillen.

Op deze pagina vindt u algemene informatie over de verschillende juridische beroepen (rol en taken).

**Klik op een van de vlaggen voor landspecifieke informatie.**

Als u voor advies een jurist zoekt in een van de lidstaten van de Europese Unie, kunt u naar de pagina [Vind een ...](#) gaan.

### Inleiding

Afgezien van advocaten is in het recht van de Europese Unie niets geregeld met betrekking tot de voorwaarden voor de uitoefening van een juridisch beroep. Deze beroepen worden doorgaans geregeld op nationaal niveau. Hoewel er uit de aard der zaak wel bepaalde overeenkomsten kunnen bestaan tussen deze nationale regelingen, verschillen ze toch aanzienlijk van land tot land omdat ze een afspiegeling zijn van veelal ver teruggaande tradities. Het Comité van Ministers van de Raad van Europa (RvE) heeft een aantal aanbevelingen over juridische beroepen uitgebracht. Een van deze initiatieven betreft de uitoefening van het beroep van advocaat. Een ander betreft de onafhankelijkheid van rechters. De RvE-aanbevelingen en andere informatie over dit onderwerp zijn te vinden op de [website](#) van de Raad van Europa.

Voorts bepaalt het [Europees Verdrag voor de rechten van de mens](#) dat eenieder tegen wie een vervolging is ingesteld wegens een strafbaar feit, het recht heeft zich zelf te verdedigen of daarbij de bijstand te hebben van een raadsman naar eigen keuze of, indien hij niet over voldoende middelen beschikt om een raadsman te bekostigen, kosteloos bijstand moet krijgen van een toegevoegd advocaat, indien de belangen van een behoorlijke rechtspleging dit eisen. Hoewel deze bepaling vooral betrekking heeft op strafzaken, heeft het [Europees Hof voor de Rechten van de Mens](#) (EHRM) de werking ervan uitgebreid tot civiele zaken.

### Rechters

De rechter, of scheidsman in rechte, is een zeer belangrijke functionaris die een rechtbank voorziet, alleensprekend rechter is of lid van een meervoudige kamer is. De bevoegdheden, taken, wijze van aanstelling en opleiding van rechters, alsmede de tuchtrechtelijke aspecten ten aanzien van deze beroepsgroep, verschillen sterk van rechtsgebied tot rechtsgebied. De rechter is vergelijkbaar met een scheidsrechter in een wedstrijd en leidt het proces onpartijdig en in alle openheid. De rechter hoort alle getuigen, neemt kennis van eventueel ander bewijsmateriaal dat door de partijen bij de zaak wordt gepresenteerd, beoordeelt de geloofwaardigheid van de partijen en doet vervolgens uitspraak in de zaak op basis van zijn of haar interpretatie van het recht en zijn of haar eigen persoonlijk oordeel.

Meer informatie over deze beroepsgroep is te vinden op de volgende websites:

[Vereniging van Europese bestuursrechters](#) (AEAJ),

Europese vereniging van rechters en openbare aanklagers (EJPA),

[Internationale vereniging van rechters](#) (met name de Europese afdeling),

[Europese Rechters voor Democratie en Vrijheid](#) (MEDEL).

### Openbaar aanklager

Het openbaar ministerie (het bureau of de dienst van de openbare aanklagers) speelt een zeer belangrijke rol in strafzaken. Ook waar het gaat om de rol, taken en bevoegdheden van de openbare aanklagers zijn de stelsels van de lidstaten zeer divers.

### Personeel van rechtbanken

De functies en titels van personeelsleden van rechtbanken kunnen zeer uiteenlopend zijn, bijvoorbeeld: "Greffier" in Frankrijk, "Rechtspfleger" in Duitsland, "Court clerk" in Engeland.

Bovendien kunnen hun taken sterk verschillen van rechtsstelsel tot rechtsstelsel: rechters of openbare aanklagers bijstand verlenen, rechtbanken beheren, taken uitvoeren in bepaalde procedures. Afhankelijk van het land, volgen zij juridische opleidingen, kunnen zij juridisch advies verstrekken en/of bijscholingen volgen.

In elk geval spelen zij een belangrijke rol in rechtbanken: zij vangen zowel slachtoffers als verweerders op en dragen bij tot de algemene efficiëntie van justitie.

De beoefenaren van dit beroep worden op Europees niveau vertegenwoordigd door de [Europese Unie van Rechtspfleger](#) (E.U.R.), een niet-gouvernementele organisatie die beroepsorganisaties uit verschillende landen samenbrengt. De E.U.R. heeft tot doel mee te werken aan de totstandbrenging, ontwikkeling en harmonisatie van wetgeving op Europees en internationaal niveau, samen te werken met de Europese instellingen, de professionele belangen van haar leden te behartigen en op te komen voor het beroep teneinde bij te dragen aan een betere werking van justitie.

### Gerechtsdeurwaarders (gerechtsambtenaren)

Deze beroepsgroep wordt geregeld door het recht van de afzonderlijke lidstaten; de regelingen verschillen van lidstaat tot lidstaat.

De beoefenaren van dit beroep worden op Europees niveau vertegenwoordigd door de [Internationale Unie van gerechtsdeurwaarders](#) (UIHJ). Doel van de UIHJ is haar leden te vertegenwoordigen in internationale organisaties en samen te werken met beroepsorganisaties op nationaal niveau. De UIHJ werkt aan de verbetering van nationaal procesrecht en internationale verdragen, en zet zich in voor de bevordering van ideeën, projecten en initiatieven die de positie van gerechtsambtenaren naar een hoger plan helpen tillen wat betreft hun onafhankelijkheid.

Ook de [Europese Kamer van gerechtsdeurwaarders](#) (bekend onder het Franse acroniem CEHJ) vertegenwoordigt gerechtsdeurwaarders. De CEHJ, een vereniging zonder winstoogmerk naar Belgisch recht, heeft tot doel gerechtsdeurwaarders nauwer te betrekken bij het gecoördineerde optreden van juridische beroepsbeoefenaren op Europees niveau.

### Advocaten

Of de rol van advocaat nu wordt vervuld door een natuurlijke persoon of via een rechtspersoon of de staat, de advocaat is de vertrouwenspersoon van de cliënt als diens adviseur en vertegenwoordiger, de door derden gerespecteerde professional en een onmisbare schakel bij de billijke rechtspleging. Al deze aspecten komen samen in de persoon van de advocaat: deze dient de belangen van zijn of haar eigen cliënt naar eer en geweten en beschermt diens rechten, maar vervult daarnaast ook de rol en taken van de advocaat in de samenleving – namelijk anticiperen op en voorkomen van conflicten,

bewerkstelligen dat conflicten worden opgelost in overeenstemming met de erkende beginselen van het civiele, publiek- of strafrecht, met een passende afweging van de in het geding zijnde rechten en belangen, bevorderen van de rechtsontwikkeling en pal staan voor de verdediging van vrijheid, rechtvaardigheid en de rechtsstaat.

Op het gebied van de beroepsuitoefening van advocaten worden regels vastgesteld door beroepsorganisaties of autoriteiten binnen hun eigen lidstaat (de balies en ordes van advocaten), die verantwoordelijk zijn voor de vaststelling van beroepsgedragsregels en voor de tuchtrechtspraak betreffende advocaten. In het recht van de Europese Unie is niets geregeld met betrekking tot de voorwaarden voor de uitoefening van een juridisch beroep. Niettemin worden in een [richtlijn](#) van 1998 de voorwaarden genoemd waaronder een advocaat die zijn of haar beroepskwalificatie in een bepaalde lidstaat heeft verworven, zijn of haar beroep ook permanent kan uitoefenen in een andere lidstaat.

Op EU-niveau worden advocaten vertegenwoordigd door de [Raad van de balies van de Europese Unie](#) (CCBE) — een in 1960 opgerichte internationale vereniging zonder winstoogmerk. De Raad vormt de schakel tussen de EU en de nationale balies in Europa en buigt zich over alle aangelegenheden van wederzijds belang betreffende de uitoefening van het beroep van advocaat.

## Notarissen

Notarissen zijn juristen die gespecialiseerd zijn in bepaalde juridische handelingen en daartoe ook bevoegd zijn. Met hun taken en verantwoordelijkheden spelen notarissen een belangrijke rol in de 22 lidstaten waar de rechtsorde volgens het Romeinse civiele recht is ingericht. Ook in de common law-stelsels van de Europese Unie zijn er notarissen actief, die een hele reeks juridische diensten aanbieden en die vooral taken uitoefenen met betrekking tot juridische handelingen en instrumenten die moeten worden gebruikt in overzeese jurisdicties. Zij spelen in hun nationale jurisdictie ook een belangrijke rol in de internationale handel.

Hun taken zijn met name:

particuliere overeenkomsten opstellen en advies verstrekken aan partijen met inachtneming van de verplichting de partijen billijk te behandelen. Wat het opstellen van officiële documenten betreft, zijn de notarissen verantwoordelijk voor de wettigheid ervan en voor het advies dat zij verstrekken. Zij dienen de partijen te informeren over de implicaties en consequenties van de aangepaste verplichtingen;

zij zijn belast met de tenuitvoerlegging van de door hen opgestelde akten. De akte kan direct officieel worden geregistreerd dan wel ten uitvoer worden gelegd indien een van de partijen haar verplichtingen niet nakomt, zonder voorafgaand ingrijpen van de rechter;

het op zich nemen van de rol van arbiter, om zo op onpartijdige wijze en met strikte inachtneming van de wet de partijen in staat te stellen tot een wederzijds aanvaardbare overeenkomst te komen.

Notarissen zijn openbare ambtenaren – overheden delegeren een deel van hun bevoegdheid om hen in staat te stellen een publieke taak te vervullen - die hun taken uitvoeren binnen het kader van een onafhankelijk beroep.

Notarissen zijn gebonden aan het beroepsgeheim. De voorwaarden voor de aanstelling van een notaris zijn sterk vergelijkbaar met die voor een magistraat: voor de notaris gelden dezelfde voorwaarden inzake onafhankelijkheid, het permanente karakter van de aanstelling, onpartijdigheid, beslissingsbevoegdheid en uitvoerbaarheid van zijn/haar handelingen, waarbij het ministerie van Justitie toezicht uitoefent op zijn/haar activiteiten.

Er zijn in de 22 lidstaten van de Europese Unie waar de rechtsorde volgens het Romeinse civiele recht is ingericht ongeveer 35 000 notarissen en er zijn in de common law-lidstaten (het Verenigd Koninkrijk en Ierland) meer dan 1 000 notarissen, die allen ten dienste staan van de burger.

In het kader van het overleg met de Europese instellingen worden de notarissen van de Romeinse rechtssystemen vertegenwoordigd door de in 1993 opgerichte [Raad van de Notariaten van de Europese Unie](#) (CNUE). De CNUE vertegenwoordigt de notariaten van alle EU-lidstaten waar de rol van notaris volgens het Romeinse civiele recht is geregeld: België, Bulgarije, Duitsland, Estland, Frankrijk, Griekenland, Hongarije, Italië, Kroatië, Letland, Litouwen, Luxemburg, Malta, Nederland, Oostenrijk, Polen, Portugal, Roemenië, Slovenië, Slowakije, Spanje en de Tsjechische Republiek. Notarissen die hun beroep uitoefenen in common law-jurisdicties (het Verenigd Koninkrijk en Ierland) hebben eigen nationale beroepsorganisaties. Internationaal worden Engeland en Wales, Schotland, Ierland en Noord-Ierland samen vertegenwoordigd door [het UK and Ireland Notarial Forum](#)

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Let op: de oorspronkelijke versie van deze pagina ([fr](#)) is onlangs gewijzigd.

Aan de vertaling in het Nederlands wordt momenteel gewerkt.

De volgende vertalingen zijn al beschikbaar

### Legal professions - Belgium

This section presents an overview of the various legal professions in Belgium.

#### Legal professions - introduction

#### The state counsel's office

#### Judges

#### Lawyers

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### Legal professions – introduction

This section presents some information relating to legal professions such as:

the law officers of the state counsel's office,

judges,

lawyers,

notaries, and

bailliffs.

## The state counsel's office

### Organisation

The **state counsel's office**, or public prosecutor's office (*ministère public/openbaar ministerie*, also known as the *parquet/parket*), which essentially brings prosecutions (see below), consists of law officers who are qualified judges (*magistrats/magistraten*), and who carry out their duties within the area of jurisdiction of the particular **court** at which they are based.

In any **judicial district** (*arrondissement judiciaire/gerechtigd arrondissement*) the officers representing the state counsel's office before the court of first instance (*tribunal de première instance/rechtbank van eerste aanleg*), and likewise before the juvenile court (*tribunal de la jeunesse/jeugdrechtbank*), which is a division of the court of first instance, are the **state counsel** (*procureur du Roi/procureur des Konings*), senior deputy state counsel (*premiers substituts/eerste substituten*) and deputy state counsel (*substituts/substituten*). They also act before the police court or police courts (*tribunal de police/politierechtbank*) and the commercial court (*tribunal de commerce/handelsrechtbank*) of their area of jurisdiction.

**Before the labour tribunals** (*tribunaux de travail/arbeidsrechtbanken*) this function is exercised by an officer known as the **labour auditor** (*auditeur du travail/arbeidsauditeur*), who is likewise assisted by deputies and possibly senior deputies. In criminal cases within their sphere of competence these officers also act before the criminal court (*tribunal correctionnel/correctionele rechtbank*), which is a division of the court of first instance, or the police court or courts.

**In each court of appeal** (*cour d'appel/hof van beroep*) and **labour court** (*cour du travail/arbeidshof*), this role is played by the **principal state counsel** (*procureur-général/procureur-generaal*), who directs and oversees the law officers of the principal state counsel's office at the court of appeal (*parquet général/parket-generaal*) and the corresponding body at the labour court (*auditorat général/arbeidsauditoraat-generaal*). In a court of appeal the principal state counsel is assisted by a senior advocate-general (*premier avocat-général/eerste advocaat-generaal*), advocates-general (*avocats-généraux/advocaten-generaal*), and deputy principal state counsel (*substituts généraux/substituten-generaal*). In a labour court the principal state counsel is likewise assisted by a senior advocate-general, advocates-general, and deputy principal state counsel.

**At the Court of Cassation** (*Cour de cassation/Hof van cassatie*) the function of the state counsel's office is performed by the **Principal State Counsel at the Court of Cassation**, assisted by a senior advocate-general and advocates-general. Although the same terminology is used, the function of the state counsel's office here is quite different. The Court of Cassation does not rule on the substance of the case, but verifies the legality and regularity of the proceedings. The state counsel's office is **independent** in the conduct of investigations and prosecutions in individual cases, subject only to the right of the responsible minister to order that a prosecution be brought and to issue binding criminal policy guidelines, including guidelines on investigation and prosecution policy.

#### Role and duties

The state counsel's office performs a number of tasks and duties. Its work consists of **casework and follow-up** in both **criminal cases** and **civil cases**.

In **criminal matters** the law officers of the state counsel's office act in the public interest, and seek to ensure the proper conduct and resolution of criminal proceedings. They do this both in the main court proceedings themselves and in the earlier inquiry and investigation proceedings (which are supervised by one of two courts, the pre-trial division (*chambre du conseil/raadkamer*) or the indictment division (*chambre des mises en accusation/kamer van inbeschuldigingstelling*)). At the hearing they ask the court to apply the criminal law; they also seek to ensure that the necessary measures are taken for appropriate enforcement of the sentences handed down. **Before the assize court** (*cour d'assises/hof van assisen*) the role of the state counsel's office is exercised by the principal state counsel at the court of appeal, who may, however, also delegate another officer.

In **civil matters** the state counsel's office intervenes on its own initiative in circumstances provided for by law and whenever public policy so requires. In such cases it submits an opinion, written or oral. The state counsel's office must be asked for its opinion in cases relating to specific matters listed in the first paragraph of Article 764 of the Judicial Code (*Code judiciaire/Gerechtigd Wetboek*). It may also ask to be informed of other cases, with a view to giving an opinion, where it judges it appropriate, and a court may bring a case to its attention of its own motion (Article 764 of the Judicial Code, second paragraph). Alongside the main tasks just described, the state counsel's office also ensures that **decisions and guidelines relating to criminal policy are monitored and properly applied in its area of jurisdiction**.

Criminal policy guidelines are issued by the Minister for Justice, after consulting a board consisting of the principal state counsel at the five courts of appeal (*collège des procureurs généraux/college van procureurs-generaal*).

This board is under the authority of the Minister for Justice and takes decisions with a view to maximum consistency in the drafting and coordination of policy and the proper functioning of the state counsel's office generally.

The board's jurisdiction extends throughout the country and its decisions are binding on the principal state counsel at the courts of appeal and on all members of the state counsel's office under their authority and direction.

More information is available on the website of the [Federal Public Service for Justice](#) (Ministry of Justice, headings (French) 'Ordre judiciaire' - 'Ministère publique' or (Dutch) 'Rechterlijke Orde' - 'Openbaar Ministerie').

## Judges

### Organisation

A distinction is made between **'sitting judges'** (*la magistrature assise/de zittende magistratuur*), who adjudicate the cases that come before them, and **'standing judges'** (*la magistrature debout/de staande magistratuur*), the law officers who serve in the state counsel's office (see above).

In general, adjudicating judges are called **juges/rechters** in the lower courts and **conseillers/raadsheren** in the appeal courts.

The **role** of the adjudicating judges is to apply the law to a situation or dispute put before them in a civil matter, or to persons who have committed an offence.

In some lower courts professional judges sit alongside non-professional or lay judges. There are **non-professional judges** in the following courts:

Commercial court: professional judges and non-professional judges (called *juges consulaires/consulaire rechters*).

Labour tribunal: professional judges and non-professional judges (called *juges sociaux/sociale rechters*).

Court for the enforcement of sentences (*tribunal de l'application des peines/strafuitvoeringsrechtbank*): professional judges and non-professional judges (called *assesseurs en application des peines/assessoren in strafuitvoeringszaken*).

### Responsible authority

The [High Council of Justice](#) (*Conseil supérieur de la justice/Hoge Raad voor de Justitie*) has a **threefold role**:

to play a decisive part in policy for the **appointment** of judges (including the law officers of the state counsel's office), on an objective and non-political basis;

to exercise **outside supervision** over the functioning of the judiciary (including the state counsel's office), and in particular the handling of complaints;

to **submit opinions** to policy-makers in order to improve the functioning of the judiciary.

**More information** is available on the website of the [High Council of Justice](#)

## Lawyers

### Role and duties

Lawyers (*avocats/advocaten*) are law and justice professionals. They are subject to rules of conduct which guarantee their **total independence**. They are also bound by professional secrecy.

Lawyers are trained to act in the different fields of law, which often overlap (company law, administrative law, town planning law, tax law, family law, etc.).

Over the course of their career, lawyers may specialise in one or more fields where they have acquired specific expertise.

Lawyers can assist you not only before the courts but in any situation where you may need legal assistance, a representative, a drafter or even moral support.

Their mission is therefore threefold:

Lawyers **advise**

Lawyers **conciliate**

Lawyers **defend**.

Any lawyer can plead and represent his or her client in any court in the country - the police court, the civil magistrate's court (*justice de paix/vrederegerecht*), the court of first instance, the commercial court, the labour tribunal, the court of appeal, the labour court, the assize court, or the Council of State (*Conseil d'État/Raad van State*) - and even in other European Union countries.

Lawyers also provide assistance in arbitration or mediation proceedings, for any alternative method of resolving conflicts, or for any meeting.

They do not act only in the event of a dispute. Through the advice they provide, or the contracts they draft or adapt, they often avoid the need to go to court.

They can also help if you need to rent or buy real estate, if you want to set up a company, if you are crippled by debt, if you want to conclude a contract with a new employer, if you have been the victim of an accident or an assault, if you are summoned to court, if you are separating from your partner, etc.

#### **Lawyers for everyone**

For people with low incomes, the law provides a legal aid service (*aide juridique/juridische bijstand*, formerly known as '*pro deo*') and court costs assistance (*assistance judiciaire/rechtsbijstand*).

Through **legal aid**, the services of a lawyer are made available completely or partially free of charge. It is a two-tier system:

**Front-line legal aid** (*aide juridique de première ligne/eerstelijnsbijstand*) is available to all, and is not linked to income. Lawyers are available on standby (*permanence/permanentie*) for brief consultations: initial advice, a request for information, etc.

The bodies responsible for the provision of front-line legal aid are known as 'legal aid commissions' (*Commissions d'Aide Juridique/Commissies voor Juridische Bijstand*).

**Second-line legal aid** (*aide juridique de deuxième ligne/tweedelijnsbijstand*) is available to persons who meet certain financial conditions or who are in certain situations. This aid - completely or partially free of charge depending on the situation - means that a lawyer will be appointed to assist you in a legal or administrative proceeding, to provide you with more detailed advice, or even as part of a mediation.

The bodies responsible for providing second-line legal aid are known as 'legal aid bureaus' (*Bureaux d'Aide Juridique/Bureaus voor Juridische Bijstand*).

**Court costs assistance** means that fees incurred during the proceeding will not be charged, or will be charged only in part (registry costs (*droit de greffe/griffierechten* or *droits d'enregistrement/registratierechten*) or the fees payable to bailiffs (*huissiers de justice/rechtsdeurwaarders*) or to notaries (*notaires/notarissen*) or for expert reports). To obtain court costs assistance clients must contact the legal aid bureau themselves or through their lawyer.

#### **Responsible authorities**

All lawyers are members of a bar (*barreau/balie*). At present there are 28 bars in Belgium.

An Association of the French-speaking and German-speaking Bars (*Ordre des barreaux francophones et germanophone/Kammer der französischsprachigen und deutschsprachigen Rechtsanwaltschaften* (AVOCATS.BE)) groups together the bars of the French-speaking and German-speaking communities in the country (13 French-speaking bars and one German-speaking).

A Flemish Bar Association (*Orde van Vlaamse Balies* (OVb)) groups together the bars of the country's Dutch-speaking community (14 bars).

Information concerning the profession of lawyer may be obtained by consulting the following internet pages:

 [Association of French-speaking and German-speaking Bars of Belgium](#)

 [Flemish Bar Association](#)

Access to these databases is **free of charge**.

#### **Notaries**

Notaries are **public officers**, appointed by the King, whose particular role is to authenticate legal instruments executed before them. By law some instruments require the involvement of a notary to record an agreement reached between the parties ('**authentic instruments**', *actes authentiques/authentieke akten*).

Thus, for example, the involvement of a notary is required when selling a property. As well as acting to draw up authentic instruments, a notary may also be asked to liquidate an estate, to draft a private agreement, to give an opinion, etc.

The sphere of responsibility of notaries covers three major areas:

**Property law** (sale of a property, borrowing, etc.),

**Family law** (marriage contracts, inheritance, divorce, etc.) and

**Business law** (setting up of companies, etc.).

There is a **National Chamber of Notaries** (*Chambre nationale des notaires/Nationale Kamer van Notarissen*). Its main **objectives** are:

to represent the notaries of Belgium in dealings with the authorities within the scope of its competence,

to lay down rules of professional conduct,

to make recommendations to chambers of notaries to help in maintaining professional discipline.

Provincial chambers are the profession's disciplinary bodies: their main tasks are to ensure that the rules of professional conduct are observed and to settle professional disputes (among other things they handle complaints).

There is also the Royal Federation of Belgian Notaries (*Fédération Royale du Notariat Belge* (FRNB)/*Koninklijke Federatie van het Belgisch Notariaat* (KFBN)), a professional association which assists notaries in their daily work by providing tailored services, and which represents the profession in a variety of cases.

More information is available on the  [website of the Royal Federation of Belgian Notaries](#).

#### **Other legal professions**

##### **Bailiffs**

Bailiffs are **public legal officials** who operate as practitioners of a **self-employed profession**. In other words, they have a dual professional identity: on the one hand, they are public officials; on the other hand, they practise their profession **independently**.

They are **public legal officials** because the State has delegated a share of official authority to them. For that reason, they cannot refuse to respond to a request to act, unless their code of professional conduct or the law does not allow it, for example where there is a conflict of interests or the request is unlawful. They never act on their own initiative, but always at the request of someone who has given them formal instructions. In each of the tasks they have to perform they must adhere to various legal requirements. They may charge fees for the acts they perform, to cover part or all of their costs.

As **self-employed professionals**, bailiffs act independently and impartially. Their professional experience is available to everyone. They do not receive any salary, compensation or other emolument from the authorities. They have to pay for everything themselves.

The steps that a bailiff may have to take fall into two broad categories: '**out-of-court**' measures (*interventions extrajudiciaires/buitengerechtelijke tussenkomsten*, such as out-of court recovery of debts or official findings of fact) and '**court**' measures (*interventions judiciaires/gerechtelijke tussenkomsten*, meaning the serving or enforcement of a decision). When the bailiff is taking a step of one of these kinds he or she will often have a duty to provide you with

information on how you can exercise your rights, and to answer your questions about the bailiff's role, regardless of whether it is you who have asked the bailiff to act, or whether the step taken by the bailiff is addressed to you.

In each **judicial district** there is an **association** (*chambre/kamer*) of all the bailiffs in the district. Its main objectives are to ensure that bailiffs in the district observe the rules of professional discipline and the laws and regulations that concern them, and to settle disputes that may arise between them.

There is also a Belgian National Association of Bailiffs (*Chambre nationale des huissiers de justice de Belgique/Nationale Kamer van Gerechtsdeurwaarders van België*), whose main **objects** are:

to ensure uniformity of discipline and rules of professional conduct among bailiffs,  
to defend the interests of its members, and  
to represent them.

More information is available on the website of the [Belgian National Association of Bailiffs](#).

#### Other

Judges and the law officers of the state counsel's office are assisted by a range of administrative and legal professionals, such as courts clerks or legal secretaries.

At every hearing the judge is assisted by a **court clerk** (*greffier/griffier*). The clerk clears the way for the work of the judge, for example by preparing the files needed for the hearing. At the hearing the clerk records the proceedings and ensures that all the necessary documents are properly drawn up. The clerk performs and coordinates the tasks of the court registry (*greffe/griffie*). Every court has a registry, headed by a chief clerk or registrar (*greffier en chef /hoofdgriffier*). There are one or more court clerks in a registry, depending on the size of the court. In their turn court clerks may be assisted by administrative staff.

**Legal secretaries** (*référéndaires/referendarissen*) are lawyers who assist the judges in the drawing up of their judgments. They help in the handling of cases, on the instructions and under the responsibility of one or more judges. They study the file, look into the legal questions raised, and draft judgments.

The officers of the state counsel's office may also engage lawyers to prepare the legal aspects of their cases. These lawyers are known as *juristes du parquet /parketjuristen*. They carry out legal research, manage investigations, or prepare the legal aspects of summonses and submissions, on the instructions and under the responsibility of one or more of the law officers of the state counsel's office.

Every state counsel's office has a secretariat headed by a chief secretary. These secretaries assist the law officers in research and documentation work and in compiling files. They keep the office's documents and registers up to date, maintain records, etc. The number of secretaries depends on the size of the office. The secretaries may also be assisted by administrative staff.

Court registries and state counsel's offices employ large numbers of administrative staff. The administrative staff manage the files on the cases being dealt with and the data entered in databases. Other administrative staff handle post and filing, and direct visitors calling at the office.

More information on these professions can be found in [this document](#) (376 Kb) [en](#).

#### Organisations providing free legal advice

All citizens can obtain **free initial legal advice**, given by law professionals. This is known as **front-line legal aid** (see above):

practical information,  
legal information,  
an initial legal opinion, or  
referral to a specialised organisation.

Here the matter will not be resolved immediately, but **initial guidance** is given. Pools of lawyers are available on standby in law courts, community law centres (*maisons de justice/justitiehuisen*), some municipal offices (*administrations communales/gemeentelijke diensten*), most public social welfare centres (*centres publiques d'action sociale/openbare centra voor maatschappelijk welzijn*), and various associations that provide a legal service.

More information is available in the online brochure: [Legal Aid: Better Access to Justice \(Un meilleur accès à la justice/Een betere toegang tot justitie\)](#).

#### Legal databases

Information is available on the [website of the Federal Public Service for Justice](#) (Ministry of Justice).

#### Portal of the Federal Public Service for Justice

##### Headings

##### Information

Justice A to Z;  
Information officer (*fonctionnaire d'information/informatieambtenaar*);  
Publications;  
Complaints;  
Court addresses;  
Press releases;  
Statistics.

##### Judiciary

Law courts;  
State counsel's office;  
Territorial jurisdiction;  
Advisory Council of the Judiciary (*Conseil consultatif de la magistrature/Adviesraad van de magistratuur*);  
Commission on the Modernisation of the Judiciary (*Commission de modernisation de l'ordre judiciaire/Commissie voor de Modernisering van de Rechterlijke Orde*);  
Reshaping the judicial landscape.

##### Related links

[Federal Public Service for Justice](#)

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## Legal professions - Bulgaria

This page provides information about the legal professions in Bulgaria.

### Legal professions: Introduction

#### Prosecutors

#### Investigators

#### Judges

#### Organisation of the legal profession: Attorneys-at-law

#### Notaries

### Other legal professions

#### Legal professions: Introduction

The main legal professions in Bulgaria are: **public prosecutor, investigator, judge, attorney-at-law, notary, private bailiff, State bailiff and registration judge.**

They are governed by the Constitution of the Republic of Bulgaria and the Judicial System Act.

#### Prosecutors

##### Organisation

The public prosecution service in the Republic of Bulgaria consists of the Prosecutor-General, the Supreme Cassation Prosecutor's Office, the Supreme Administrative Prosecutor's Office, the National Investigation Service, the appeal prosecutors' offices, the Specialised Appeal Prosecutor's Office, the Military Appeal Prosecutor's Office, the provincial prosecutors' offices, the Specialised Prosecutor's Office, the provincial military prosecutors' offices and the district prosecutors' offices. Within the structure of the provincial prosecutors' offices, there are provincial investigation departments, and within the structure of the Specialised Prosecutor's Office, there is an Investigation Department. The provincial prosecutors' offices have administrative departments whose prosecutors take part in the proceedings of administrative cases.

The public prosecution service is a unified and centralised structure. All prosecutors and investigators are subordinate to the Prosecutor-General. Each prosecutor reports to the respective superior prosecutor, and all prosecutors and investigators are subordinate to the administrative head of the respective prosecutor's office. Military prosecutors and investigators are independent of the military authorities in the performance of their duties.

The Prosecutor-General is appointed (and removed) by the President of the Republic of Bulgaria, acting on a proposal from the [Supreme Judicial Council \(Vissh Sadeben Savet\)](#) (VSS) for a period of seven years, and is not eligible for a second term in office.

Prosecutors are appointed, promoted, demoted, transferred and removed from office by decision of the Supreme Judicial Council.

Prosecutor posts and the prior experience required are as follows:

Prosecutor at the Supreme Cassation Prosecutor's Office and prosecutor at the Supreme Administrative Prosecutor's Office – at least 12 years' legal experience;

- Prosecutor at the Appeal Prosecutor's Office, prosecutor at the Military Appeal Prosecutor's Office and prosecutor at the Specialised Appeal Prosecutor's Office – at least ten years' legal experience, but for a prosecutor at the Specialised Appeal Prosecutor's Office – at least 12 years' experience, at least eight of them as a prosecutor or investigator;

- Prosecutor at a provincial prosecutor's office, prosecutor at a provincial military prosecutor's office, prosecutor at the Specialised Prosecutor's Office – at least eight years' legal experience, but for a prosecutor at the Specialised Prosecutor's Office – at least ten years' experience, at least five of them as a prosecutor or investigator;

- Prosecutor at a district prosecutor's office – at least three years' legal experience;

- Junior prosecutor – no experience required.

Subject to a positive comprehensive appraisal of performance, prosecutors acquire tenure by decision of the Supreme Judicial Council after five years in office.

##### Role and functions

The **Prosecutor-General** heads the Prosecutor's Office and issues instructions and guidance on the activities of the public prosecution service; together with ministry managers and State institutions, he or she sets up specialised inter-departmental units to assist in investigations under the procedural guidance of a prosecutor appointed by him or her. The Prosecutor-General may refer matters to the Constitutional Court.

The **prosecutor** leads an investigation as supervising prosecutor. He or she may lodge objections and request the revocation or amendment of unlawful measures within the time limits and under the conditions provided for by law. He or she may suspend the execution of a measure until an objection has been considered by the relevant authority. All acts and deeds of a prosecutor's office are open to appeal before the prosecutors' office directly above it, unless they are subject to judicial review. A superior prosecutor or a prosecutor from a superior prosecutor's office can perform actions falling within the jurisdiction of subordinate prosecutors, and can suspend or revoke their decisions in writing in cases specified by law.

In the performance of their duties, prosecutors are independent and act in accordance with legislation. Politically neutral, they base their decisions on the law and on the evidence gathered in the case at hand, and are guided by their conscience and inner conviction.

More information can be found on the website of the [Public Prosecutor's Office of the Republic of Bulgaria](#) (Prokuraturata na Republika Bulgaria).

The Association of Public Prosecutors in Bulgaria is a voluntary non-political association of magistrates who work or have worked in the country's public prosecution system. The aim of the Association is to bring together prosecution-service magistrates nationwide and provide a forum for the provision of necessary information and the exchange of views on issues relating to prosecutorial work, as well as to expand the international contacts of the public prosecution service and its prosecutors. More information can be found on the Association's website: - <http://apb.prb.bg/>.

#### Investigators

Under the Judiciary Act, investigators in the Republic of Bulgaria have the status of magistrates (judges and prosecutors).

Investigative bodies are the National Investigation Service (NSIS), the provincial investigation departments at the provincial prosecutors' offices and the investigation department at the Specialised Prosecutor's Office. The investigation department at the Sofia City Prosecutor's Office has the status of a provincial investigation department.

The National Investigation Service is headed by the Prosecutor-General, either directly or through the Service's Director, who deputises for the Prosecutor-General for the purpose of investigations. The Director of the National Investigation Service is responsible for the administrative and organisational management of the investigators and staff at the NIS and provides methodological guidance to investigators from the provincial investigations services of the provincial prosecutors' offices.

The provincial investigation departments at the provincial prosecutors' offices and the investigation department at the Specialised Prosecutor's Office are made up of investigators.

The investigators at the provincial investigation departments of the provincial prosecutors' offices and at the investigation department of the Specialised Prosecutor's Office undertake investigations into cases assigned to them by the administrative head of the respective prosecutor's office.

When carrying out their tasks in connection with criminal proceedings, the investigating authorities act under the direction and supervision of a public prosecutor.

Orders issued by investigators in the course of an investigation are binding on all State bodies, legal entities and citizens.

### **Judges**

Judges in Bulgaria are appointed, promoted and demoted, transferred and removed from office by decision of the Supreme Judicial Council.

### **Organisation**

The following positions exist for judges who possess the requisite experience:

Judge at the Supreme Court of Cassation and judge at the Supreme Administrative Court – at least 12 years' legal experience;

Judge at a court of appeal, judge at a military court of appeal, judge at the Specialised Criminal Court of Appeal – at least ten years' legal experience, but for a judge at the Specialised Criminal Court of Appeal – at least 12 years' experience, at least eight of them as a judge in criminal cases;

Judge at a provincial court, judge at an administrative court, judge at a military court, judge at the Specialised Criminal Court – at least eight years' experience, but for a judge at the Specialised Criminal Court – at least ten years' experience, at least five of them as a judge in criminal cases;

Judge at a district court – at least three years' experience;

Junior judge – no previous experience required.

Subject to a positive comprehensive appraisal of their performance, judges acquire tenure by decision of the Supreme Judicial Council after five years in office.

The **Union of Judges in Bulgaria** (SSB) was established in Sofia on 28 March 1997 by 30 founding members, including judges from the Supreme Court of Cassation and provincial and district courts across the country.

The Union of Judges in Bulgaria succeeded the Union of Bulgarian Judges, founded in 1919 and active until 1945, as an informal professional organisation bringing together the community of judges and aiming to protect its professional interests as well as to discuss and find solutions to its problems.

More information can be found on the website of the [Union of Judges in Bulgaria](#) (Sayuzat na Sadiite v Bulgaria).

**The Bulgarian Judges Association was created** to guarantee the public fairness, transparency and access to justice.

Within the framework of the judicial system, the Association strives to work in compliance with the Constitution and statutory provisions, while at the same time following the rules of professional ethics. More information can be found on the website of the Bulgarian Judges Association - <http://www.judgesbg.org/bg/>.

### **Role and functions**

The Union of Judges in Bulgaria compiles dossiers, including on disciplinary proceedings against judges, mediates in disputes between judges and other civil servants, provides assistance to the legislature during the legislative process, keeps records and issues its own journal.

### **Judicial assistants and prosecutorial assistants**

Judicial assistants are employed at the provincial and administrative courts, the courts of appeal, the Supreme Court of Cassation and the Supreme Administrative Court.

Prosecutorial assistants work at the provincial and appellate prosecutor's offices, the Supreme Cassation Prosecutor's Office and the Supreme Administrative Prosecutor's Office.

Persons who meet the requirements laid down for the position of judge, prosecutor or investigator and have passed a competitive examination for judicial officers are appointed as judicial assistants or prosecutorial assistants.

Judicial assistants are appointed by the administrative head of the relevant court. Prosecutorial assistants are appointed by the Prosecutor-General or the administrative head of the relevant prosecutor's office.

### **Organisation of the legal profession: Attorneys-at-law**

#### **Attorneys-at-law**

In Bulgaria, attorney-at-law is a profession laid down in the Constitution. Only persons who have taken an appropriate oath and are entered in the register of a bar association may be attorneys-at-law. Each judicial district of a provincial court has a bar association. These are subordinate to the Supreme Bar Council, whose seat is in Sofia. The status, rights and obligations of attorneys-at-law are governed by the Bulgarian Bar Act.

The **Supreme Bar Council** is a legal entity comprising representatives of the bar associations, the representation ratio being one delegate per 40 attorneys-at-law.

The Supreme Bar Council convenes and organises meetings of the General Assembly of Bulgarian Attorneys-at-Law, executes its decisions and prepares and submits reports to the General Assembly, determines the initial and annual contributions of attorneys-at-law to its budget, issues ordinances in line with the Bar Act, rules on appeals against unlawful decisions of general assemblies of bar associations and against the legality of election of bar councils, rules on appeals and protests against decisions of bar councils on the admission to traineeships of attorneys-at-law and against refusals to register attorneys-at-law, ensures and endorses expenditure in relation to the operation of the Supreme Control Board and the Supreme Disciplinary Tribunal.

The Supreme Bar Council keeps a register of attorneys-at-law, one of junior attorneys-at-law and of law firms, and one of foreign attorneys-at-law who have the right to appear as defence counsels before Bulgarian courts.

#### **Legal database**

More information can be found on the website of the [Supreme Bar Council](#) (Visshiyat Advokatski Savet).

### **Notaries**

#### **Organisation**

A notary is a person appointed by the State to perform the notarial activities provided for by law. In the performance of his or her functions, a notary is independent and must comply solely with the law. The Minister for Justice oversees the activities of all notaries as regards compliance with the law and the statute of the Chamber of Notaries.

The status, rights and obligations of notaries are governed by the Bulgarian Notaries and Notarial Activities Act.

#### **Role and functions**

The [Chamber of Notaries](#) (Notarialnata Kamara) is an organisation of notaries in the Republic of Bulgaria founded under the Notaries and Notarial Activities Act. All notaries are members, as of right, of the Chamber of Notaries, which has legal personality and is based in Sofia.

The governing bodies of the Chamber of Notaries are the General Assembly, the Council of Notaries, the Supervisory Board and the Disciplinary Committee.

The Chamber of Notaries is represented by the President of the Council of Notaries.

The Chamber of Notaries organises and provides support for notaries' activities, protects and promotes the prestige of the profession and maintains relations with international organisations pursuing similar activities.

More information can be found on the website of the [Chamber of Notaries](#) (Notarialnata Kamara).

### **Other legal professions**

## Private bailiffs

A private bailiff is a person to whom the State assigns the enforcement of private claims and the collection of public receivables. The area in which a private bailiff operates is the geographical jurisdiction of the relevant provincial court.

The **mission of the Chamber of Private Bailiffs** is to promote the profession and improve the enforcement process in Bulgaria, while supporting its members and protecting the public interest.

### Legal database

The [Chamber of Private Bailiffs](#) (Kamarata na Chastnite Sadebni Izpalniteli) keeps a register of private bailiffs.

The register is public and can be accessed via the Chamber's website. Everyone has the right to inspect the register and obtain extracts from it (Private Bailiffs Act).

Private bailiffs are required to submit to the Ministry of Justice six-monthly and annual activity reports, on the basis of which the Minister for Justice builds up, maintains and develops a judicial-enforcement information system. The Ministry of Justice charges a fee for the use of the information system in accordance with the schedule of fees approved by the Council of Ministers. Official access to the information system is free of charge for State authorities, local government and local administration bodies, and persons entrusted with public functions.

### State bailiffs

State bailiffs carry out the enforcement of private claims. The State may also assign to State bailiffs the task of collecting public receivables in particular cases determined by law.

The number of State bailiffs is decided by the Minister for Justice.

At district courts where there are no State bailiffs, their functions are carried out by a district judge appointed by the president of the relevant court, the Minister for Justice being notified of this fact.

State bailiffs are appointed by the Minister for Justice on the basis of a competition. The Minister for Justice may schedule a competition at the proposal of the president of a district court.

The [Bulgarian Association of State Bailiffs](#) (Asotsiatsiyata na Darzhavnite Sadebni Izpalniteli v Bulgaria) is an independent and voluntary professional organisation that defends the professional, intellectual, cultural, social and material interests of State bailiffs in Bulgaria, while promoting the profession and contributing towards raising its prestige within the State and society.

### Legal database

The [Register of State Bailiffs](#) (Registarat na Darzhavnite Sadebni Izpalniteli) can also be consulted on the website of the Association of State Bailiffs.

### Registration judges

Registration judges perform their duties at district courts as follows.

They order or refuse entries, endorsements and removals from the property register and decide whether references and certificates are issued; they perform notarial and other deeds laid down by law. Registration judges may act only in their own district.

The number of registration judges is decided by the Minister for Justice.

In district courts where there is no registration judge or where the registration judge is unable to attend to his or her duties, the registration judge's duties are performed by a district judge, with the Minister for Justice being notified of this fact.

The Minister for Justice may assign the functions of a registration judge to a State bailiff at the same court.

Registration judges are appointed by the Minister for Justice on the basis of a competition. The Minister for Justice may schedule a competition at the proposal of the president of a district court.

The Bulgarian Association of Registration Judges is an independent and voluntary professional organisation that defends the professional, intellectual, cultural, social and material interests of registration judges in Bulgaria, while also promoting the profession and contributing towards raising its prestige within the State and society. More information can be found on the Association's website: <http://www.basv.free.bg/>

More information on court staff can be found [here](#) (378 Kb) [en](#).

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Aan de vertaling in het Nederlands wordt momenteel gewerkt.

De volgende vertalingen zijn al beschikbaar

## Legal professions - Czech Republic

This page gives you an overview of the legal professions in the Czech Republic.

### Professions – Introduction

The legal professions comprise judges, public prosecutors, lawyers, notaries, and bailiffs.

### Public prosecutors

#### Organisation

Public prosecutors are legal professionals who work in a prosecutor's office. Public prosecutor's offices are public bodies that represent the state to protect the public interest in clearly defined matters. Public prosecutors handle cases that fall within the competence of the public prosecution service. No other bodies or persons may encroach on their field of activity or replace or represent them in performing their duties.

The organisation of the prosecution service mirrors the court system (district, regional, and supreme levels). At the head of the service is the Supreme Public Prosecutor's Office in Brno, which is the central public prosecutor's office and oversees the prosecution service. The government has the power to appoint and dismiss the Supreme Public Prosecutor on the recommendation of the Minister of Justice.

#### Professional association

The Czech Union of Public Prosecutors ([Unie státních zástupců České republiky](#)) is a voluntary professional association whose aim is to help prosecutor's offices in performing their tasks and to promote the rule of law in decision-making free of all influence. The Union also plays a part in training prosecutors and trainee prosecutors and represents the interests of public prosecutors.

The profession is governed by the Code of Professional Ethics for Public Prosecutors.

A list of public prosecutors, broken down by the office to which they are assigned, is available via the Justice Ministry's web page: [Ministerstvo spravedlnosti](#).

#### Role and obligations of public prosecutor's offices



Public prosecutors are public officials whose job is to represent the state in protecting the public interest, in particular by bringing criminal prosecutions, and ensuring that the law is observed as regards pre-trial detention, imprisonment, court-ordered medical treatment, youth detention centres and institutional care homes, crime prevention, and the provision of help for crime victims.

### **Powers in criminal proceedings**

Public prosecutors have the power to act at every stage in criminal proceedings. The public prosecutor enjoys certain procedural rights and is subject to corresponding procedural obligations.

The public prosecution service operates as specified in Act No 283/1993. In particular, it is responsible for bringing public criminal prosecutions and for certain other tasks under the Criminal Code. It also monitors compliance with the law as regards pre-trial detention, imprisonment, court-ordered medical treatment, youth detention centres and institutional care homes, and other instances where the law authorises restrictions on personal liberty, and it acts in non-criminal proceedings and performs other specific tasks laid down by law.

Public prosecutors ensure that the law is observed in pre-trial criminal proceedings. Under the Criminal Code (Act No 141/1961), certain steps at this stage are the sole prerogative of the public prosecutor.

Before beginning a criminal prosecution, the public prosecutor must have been notified of facts indicating that a crime has been committed (Section 158(2) of the Criminal Code).

The public prosecutor issues a formal charge (recommending a penalty), which sets in motion the procedure for an action to be brought before the relevant court. Public prosecutors must attend the main hearing, where they open proceedings by setting out the charges and end them with their closing statement. Public prosecutors also enjoy powers in reaching agreement on guilt and sentencing.

The public prosecutor can appeal on the grounds of that a wrong verdict has been given. Appeals may be in the accused's favour or to their disadvantage. A further appeal can be lodged by the Supreme Public Prosecutor.

The public prosecutor can also recommend a retrial in the accused's favour or to their disadvantage.

In proceedings against a juvenile the public prosecutor must always be present, not only at the main hearing but also at public hearings (Act No 218/2003 on judicial proceedings in juvenile cases).

Decisions on alternative settlements at the pre-trial stage are among the exclusive decision-making powers of the public prosecutor.

### **Action by the prosecution service in non-criminal cases**

The public prosecution service can also recommend bringing civil proceedings or can intervene in civil proceedings that are already under way, but only where the law permits.

The basis for the involvement of the prosecution service in civil proceedings is Article 80 of the Czech Constitution, which states that the public prosecution service may perform other tasks under the law besides bringing public prosecutions. Under the Prosecution Service Act the public prosecution service can act in other proceedings besides criminal cases. These powers are covered in more detail in the Civil Code, which specifies when the public prosecution service may intervene in ongoing civil proceedings.

Besides the possibility of becoming a party to civil proceedings, the public prosecution service can recommend that proceedings be brought by the Supreme Public Prosecutor, for instance in paternity denial cases under the Family Act.

### **Qualifications and other requirements for public prosecutors**

Public prosecutors take office upon being appointed. They are appointed by the Minister of Justice, on the recommendation of the Supreme Public Prosecutor, and appointment is for an unlimited period. A public prosecutor takes the oath before the Minister of Justice.

To be appointed as a public prosecutor a person must be a Czech citizen and must:

- enjoy legal capacity,
- have no criminal record,
- be at least 25 years of age at the time of appointment,
- have obtained a master's degree in law at a Czech university,
- have passed the final examination,
- possess the moral qualities that guarantee they will exercise their function properly, and
- accept appointment as a public prosecutor and assignment to a prosecutor's office.

Public prosecutors are appointed for an unlimited period, but they can be suspended from duty by decision of the Minister of Justice. Their tenure ceases when they reach the age of 70, when they die or are declared dead, or if, for example, they lose their legal capacity or it is restricted, if they refuse to take the oath, if they lose Czech citizenship, if they take on a function incompatible with that of public prosecutor, if they are found guilty of a crime, if they are found to be unfit to perform their duties, or if lasting ill health prevents them from performing their duties. Their tenure is also terminated if they are removed from office as a disciplinary measure or if they resign.

The Minister of Justice sets the budget of the prosecution service. The post of public prosecutor is governed by Act No 283/1993.

### **Incompatible functions**

Except where the law permits, a public prosecutor may not act as an arbitrator or mediator for the settlement of legal disputes, represent parties to judicial proceedings, or act as an agent for a claimant or party in judicial or administrative proceedings. Apart from serving as a public prosecutor, or as chief or deputy chief public prosecutor, or performing duties arising from temporary assignment to the Ministry or the Judicial Academy, public prosecutors may not hold any paid function or engage in any other gainful activity, except managing their own assets and performing academic, teaching, literary, journalistic, or artistic work, or to serve on advisory bodies to the Ministry or government or on parliamentary bodies.

### **Remuneration**

Prosecutors' remuneration is laid down by law and paid by the state.

### **Professional liability**

The state is liable, as specified in law, for any damage, injury, or loss resulting from unlawful decisions or procedural errors by public prosecutors.

Public prosecutors are liable if they commit a disciplinary offence.

## **Judges**

### **Organisation**

The basic provision governing the position of judges is Article 82(1) of the Czech Constitution, which states that judges must be independent in the exercise of their functions and that no one may seek to undermine their impartiality. Further rules are laid down in Act No 6/2002 on courts and judges.

### **Appointment and tenure**

If they fulfil all the requirements, judges are appointed by the President of the Republic and take office on taking the oath. However, there is no legal entitlement to be appointed as a judge.

Preparation to become a judge involves three years' service as a trainee judge in the courts. On completion of their preparatory service, trainees sit a special judicial examination.

Appointment as a judge is not limited in time, but judges may be released from their duties temporarily by the Minister of Justice. Judges' tenure ends at the close of the year in which they reach the age of 70, on their death or when they are declared dead, if they are officially declared unfit to perform their duties, or if they resign.

#### **Qualifications and other requirements for judges**

To be appointed as a judge a person must:

- be a Czech citizen
- enjoy full legal capacity,
- have no criminal record,
- be at least 30 years of age,
- have obtained a master's degree in law at a Czech university,
- have passed the special judicial examination,
- possess the moral qualities that guarantee they will exercise their function properly, and
- accept appointment as a judge and assignment to a specific court.

Lay judges are appointed from the general public (provided they do not have a criminal record). They take an oath before the president of the court and serve for four years.

#### **Incompatible functions**

Apart from serving as president or deputy president of a court, judges may not engage in any other form of paid activity except managing their own assets, performing academic, teaching, literary, journalistic or artistic work, or serving on advisory bodies to the Ministry or government or on parliamentary bodies.

#### **Remuneration**

The level of judges' remuneration is laid down by law.

#### **Role and obligations**

The basic right and obligation of judges is to remain independent in performing their duties and to be bound solely by the law, interpreting it to the best of their knowledge and according to their conscience. They must not allow themselves to be influenced e.g. by the interests of political parties, public opinion, or the media. Undermining or threatening the independence and impartiality of judges is forbidden.

Judges must give their rulings within a reasonable time and without undue delay and must give the parties to proceedings and their representatives the opportunity to assert their rights, but may not negotiate with them on the substance of the case or on procedural issues that could affect the case.

Even after leaving office, judges must not disclose any matters that have come to their knowledge in the course of their duties; this obligation may only be lifted in exceptional cases.

A list of judges and the courts where they work is available via the webpage of the Justice Ministry: [Ministerstvo spravedlnosti](#).

The Union of Judges [Soudcovská unie](#) does not represent all judges, as membership is voluntary. Its general assembly has adopted a code of conduct for judges setting out ethical principles to guide the judiciary.

#### **Categories and specialisation of judges**

Besides deciding on cases, judges may also serve as court presidents or vice-presidents. They are appointed by the President of the Republic (Supreme Court and Supreme Administrative Court) or by the Minister of Justice (higher, regional, and district courts). Their main tasks include administration of the courts.

A judge may also be appointed to preside a college of the Supreme Court or of the Supreme Administrative Court, or to preside a court senate.

Internally the district, regional, and higher courts are basically organised into specialised criminal, civil, and administrative divisions for the different types of cases.

#### **Professional liability of judges**

The state is liable for any damage, injury, or loss arising from a wrongful ruling, remand decision, sentence, or protective measure, or from a procedural irregularity. The judge concerned may be required to make compensation only if he is found guilty of a disciplinary or criminal offence. Judges are accountable for their professionalism in performing their duties.

### **Notaries**

#### **Organisation**

Notaries and their activities are regulated by Act No 358/1992 on notaries and their activities (Notarial Code).

Notaries must belong to the Chamber of Notaries, which is responsible for administering the profession. The Chamber also organises professional training and examinations of trainee notaries. A list of notaries, broken down by region, can be found on the webpage [Notářská komora](#).

#### **Appointment and tenure**

Notaries are appointed to a vacancy by the Minister of Justice, acting on a recommendation by the Chamber, following a competitive examination. A notary takes office once entered in the register of notaries kept by the Chamber of Notaries.

A trainee notary prepares for the profession by working under a notary. The next stage in preparation is when the trainee attains the status of candidate notary after completing at least three years' traineeship and passing the notarial examination.

A notary's tenure of office is not limited in time, but can be suspended. Notaries' tenure ceases when they reach the age of 70, on their death or if they are declared dead, on dismissal, loss of Czech citizenship, loss of legal capacity, or if, for example, they refuse to take the oath or if their state of health makes it impossible for them to perform their duties in the long term.

The number of notaries' offices in the area of each district court is laid down by the Minister of Justice after consulting the Chamber of Notaries.

Notaries are independent in the performance of their duties. They are bound only by the law. Practice as a notary is incompatible with any other paid activity (except where the law states otherwise).

#### **Qualifications and other requirements for notaries**

To be appointed as a notary, a person must:

- hold Czech citizenship,
- enjoy full legal capacity,
- have no criminal record,
- have a university degree,
- have completed at least five years' notarial practice,
- have passed the notarial examination.

In order to begin practising as a notary a person must:

be appointed as a notary,

have taken the oath before the Minister of Justice, if this has not already been done,

have obtained the official stamp of a notary,

have concluded a liability insurance policy for any damage, injury, or loss that may occur in the course of their practice.

#### **Incompatible functions**

Notaries may not engage in any other gainful activity apart from managing their own assets. However, they may perform academic, journalistic, teaching, interpreting, expert, or artistic work for remuneration.

#### **Remuneration**

Under the Notarial Code, a notary works in return for remuneration, which mainly comprises a fee, reimbursement for the time spent, and reimbursement of expenses. Payment is due from the person seeking notarial assistance. Notaries are entitled to request a reasonable advance payment in respect of their fee and expenses. Detailed rules on the remuneration of notaries are laid down in specific legislation.

#### **Role and obligations of notaries**

In performing their duties notaries must comply with acts of law and other legal provisions of generally application; in providing legal assistance they are also bound by their clients' instructions. They have the right to refuse to do what is requested only if this would conflict with generally applicable law; if they or persons close to them are involved in the case; if they have already provided legal assistance in the same case to someone else with conflicting interests; or if the person seeking assistance fails to pay a reasonable advance without good reason. A notary has the right to withdraw from a contract with a client or person seeking advice where there is a breakdown of mutual trust.

Notaries may not disclose any matters that come to their knowledge in the course of their work and that might affect the legitimate interests of their clients or persons seeking advice; only the persons concerned may relieve them of this obligation.

The legal and other services provided by notaries include:

acting as judicial commissioners, i.e. as agents of the court, for inheritance matters

drawing up notarial deeds – official records of legal acts, of annual general meetings and meetings of legal persons, of other acts and situations

drawing up contracts

notarial custody

drawing up notarial acts permitting enforcement

drawing up and depositing wills

drawing up premarital agreements (which must be in the form of notarial deed), surety agreements, and registering sureties

authenticating documents.

They also issue extracts from the Czech Land Register, etc.

#### **Professional liability of notaries**

Notaries are liable to clients, persons seeking advice, or other persons concerned for any damage, injury, or loss they may cause in performing their duties; they are also liable to their staff for any damage, injury, or loss they may suffer in the course of their work. To cover that risk, they must have a liability insurance policy.

Notaries are also liable to disciplinary action.

State supervision of notaries is the responsibility of the Ministry of Justice, the Czech Chamber of Notaries, and the individual chambers of notaries.

#### **Professional association**

The chambers of notaries, established by law in the area of each regional court and the Prague municipal court, comprise all notaries established in the corresponding area. The chamber of notaries enjoys legal personality and has its own income and organs.

The Czech Chamber of Notaries is the central self-governing professional organisation comprising the individual chambers of notaries. It enjoys legal personality and has its own income and organs. Its tasks include keeping and managing the central register of wills, which is a non-public list in electronic form comprising wills, deeds of disinheritance and acts revoking them, records of the appointment and dismissal of executors of wills. The Czech Chamber of Notaries also keeps the register of sureties.

#### **Organisation of the legal profession: legal practitioners**

##### **Lawyers**

Lawyers must be members of the Czech Bar Association ([Česká advokátní komora](#)), the central self-governing non-governmental organisation responsible for the profession.

The provision of services by lawyers is regulated by Act No 85/1996, [o advokacii](#).

##### **Requirements for lawyers**

To practise as a lawyer, a person must be entered in the register of lawyers kept by the [Czech Bar Association](#). To be entered in the register, a person must apply in writing and must:

enjoy [legal capacity](#),

have [no criminal record](#),

have obtained a [master's degree](#) in law

have served at least three years as a [trainee lawyer](#),

have passed the [bar examination](#) and

have taken an [oath](#) before the president of the [Czech Bar Association](#).

Legal services may be provided in the [Czech Republic](#) only by:

lawyers registered with the [Czech Bar Association](#)

European lawyers.

In the Czech Republic there is only one type of lawyer without any kind of distinction. Only in the course of their practice do individual lawyers build up their specialisation in one of the fields of law.

##### **Rights and obligations of lawyers**

A lawyer takes office on being entered in the register.

A prospective lawyer prepares for the profession by working as a trainee under a lawyer.

Registration is not limited in time, but the right to practice as a lawyer may be suspended, either as specified in law or following a decision by the Czech Bar Association.

The right to practice as a lawyer ceases when a lawyer is removed from the register on grounds specified by law, such as death or being declared dead, loss or restriction of legal capacity, being struck off the register as a disciplinary measure, bankruptcy, or at a lawyer's own request. The Czech Bar Association may also decide to strike a lawyer off the register.

#### **Incompatible functions**

Under the law, a practising lawyer may not at the same time be employed or hold any other similar position, except as a university teacher, and may not engage in any activity incompatible with that of a lawyer.

#### **Remuneration**

Lawyers generally act on payment of a fee by the client; the lawyer may request a reasonable advance. The method for determining lawyers' fees for legal services, reimbursement of expenses, and remuneration for time spent is governed by a generally binding provision. As a rule, the fee for providing legal services is laid down in a contract with the client ('contractual fee'). If not, it is determined in accordance with the scale of lawyers' non-contractual fees. If a lawyer is appointed to provide legal services, the fees are paid by the state.

#### **Professional association**

The Czech Bar Association, which has its seat in Prague and a branch in Brno, is the self-governing professional organisation for all lawyers. It has its own organs and issues binding professional rules for lawyers that are published in the Official Gazette of the Czech Bar Association.

These include the rules of professional ethics and rules on competition governing lawyers in the Czech Republic.

#### **Professional liability**

Lawyers are liable to their clients for any damage, injury, or loss that they, their employees, or representatives may cause in the course of their work. Lawyers must be insured against all such liability.

Lawyers are also liable if found guilty of a disciplinary offence involving serious or repeated breaches of their obligations.

#### **Legal database**

A list of lawyers can be found on the webpage of the [Chamber of Czech lawyers](#). There you can search for lawyers not only by location, but even by their specialisation and knowledge of languages.

#### **Is access to the database free?**

Yes.

#### **Commercial lawyers/legal advice**

In the Czech Republic there is only one type of lawyer.

#### **Other legal professions**

##### **Bailiffs**

A court bailiff is an [independent](#) [legal](#) professional who enforces [execution](#) in accordance with the [Enforcement Code](#). All court bailiffs must belong to the self-governing [Chamber of Bailiffs](#).

They are governed by Act No 120/2001 on court bailiffs and enforcement (Enforcement Code).

Bailiffs are appointed by the Minister of Justice..

In the Czech Republic a bailiff is a public official and his duties are deemed to be acts of the courts.

To be appointed as a court bailiff, a person must be a Czech citizen and must:

have full [legal capacity](#)

have a legal training at a Czech [university](#)

be of [impeccable character](#)

have at least three years' professional experience

have passed the [bailiffs examination](#).

##### **Appointment and tenure**

After taking an oath, a bailiff is appointed by the Minister of Justice to a vacancy following a published selection procedure. On appointment, he becomes a member of the Chamber of Bailiffs. Preparation for the office of bailiff involves first working as a trainee under a bailiff. The next stage is candidate bailiff; candidates must have completed at least three years' practice and have passed the bailiffs examination before they can be entered in the register.

The appointment is not limited in time, but the Minister of Justice can suspend a bailiff. During the period of suspension a bailiff may not act as a bailiff, and a replacement is appointed, as is the case for any other period when a bailiff is prevented from acting (e.g. sickness, vacation).

A person ceases to be a bailiff from the moment when they cease to be a member of the Chamber of Bailiffs. This happens through death or being declared dead, dismissal, loss of Czech citizenship, or loss or restriction of legal capacity.

##### **Incompatible functions**

Bailiffs may not engage in any other gainful activity apart from managing their own assets. However, they may perform remunerated academic, publishing, teaching, interpreting, expert, or artistic work.

##### **Remuneration**

Bailiffs perform enforcement and other activities for remuneration, which mainly comprises the bailiff's fee, reimbursement of expenses, remuneration for time spent, and reimbursement for delivering writs. The bailiff's fee may be agreed between the bailiff and the person concerned. If there is no such agreement, the fee is determined in accordance with the generally applicable legal provision. Bailiffs are entitled to ask for payment of a reasonable advance on the costs of enforcement.

##### **Professional liability**

Bailiffs are liable for any damage, injury, or loss caused in the course of their enforcement work, either by themselves or by their employees. They must be covered by liability insurance.

Bailiffs and candidate bailiffs are also liable for disciplinary offences involving breaches of their obligations under the law or causing serious or repeated detriment to the dignity of the profession.

Further details can be found on the webpage [Chamber of Bailiffs](#)

##### **Organisations providing legal services pro bono (for free)**

There are a number of non-governmental organisations providing public legal aid in various areas: for example [Ekologický právní servis](#), [Iuridicum remedium](#).

In certain specific cases the Czech Bar Association also provides free legal advice.

**The Czech Bar Association provides free legal advice on enforcement questions.**

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## Legal professions - Denmark

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

### Prosecutors

#### Organisation

The **Danish Prosecution Service** is the responsibility of the Minister of Justice, who supervises the public prosecutors. The service is composed of a Director of Public Prosecutions, Public Prosecutors and Chiefs of Police.

The Director of Public Prosecutions (prosecutor general) conducts criminal cases before the Supreme Court and, in addition, takes part in hearings before the **Criminal Cases Review Commission**.

The prosecutor general is senior to the other prosecutors and supervises their work. She or he also processes complaints about decisions made by public prosecutors in the first instance.

#### Role and duties

The tasks and organisation of the [Danish Prosecution Service](#) are described in Part 10 (sections 95-107) of the **Danish Administration of Justice Act**.

It is the duty of the prosecution service, in cooperation with the police, to prosecute crimes in line with the Act. Section 96(2) requires that the prosecution service proceed with a case at the speed dictated by its nature. In this connection, the prosecution service must ensure that those liable to punishment are prosecuted and not the innocent ('the principle of objectivity').

Six regional public prosecutors conduct criminal cases – appeal cases and jury cases – before the high courts and supervise the chiefs of police's handling of criminal cases. Furthermore, regional public prosecutors process complaints against decisions made by chiefs of police regarding prosecution. Finally, public prosecutors deal with cases of compensation with regard to criminal prosecution and complaints against the police.

The Public Prosecutor for Serious Economic Crime is responsible for prosecuting instances of major financial crime nationwide.

The Chief Prosecutor for Serious International Crime has national responsibility for prosecuting international criminal crimes committed abroad. This includes cases concerning genocide, crimes against humanity and war crimes.

The Chiefs of Police act as prosecutors before the city courts (first instance) and are thus – in addition to the management of the police – responsible for the inquiries and investigations conducted by the police district and the operation of the local prosecution service.

### Judges

#### Organisation

The [Danish Judicial Appointments Council](#) submits recommendations to the **Minister of Justice** for all judicial appointments except the post of president of the Supreme Court. In practice, the Minister of Justice always follows the council's recommendations.

Disciplinary matters concerning judges or other legal staff employed by the courts are dealt with by the [Special Court of Indictment and Revision](#).

The [Danish Court Administration](#) has overall responsibility for the training and education of the courts' legal staff.

#### Role and duties

**Professional judges** in Denmark do not generally specialise in one or another legal field. They may hold a permanent or temporary ('konstitueret') position. Assistant and deputy judges usually handle less comprehensive cases (such as those brought by bailiffs).

**Lay judges** participate, with some important exceptions, in all criminal cases heard by the first and second instance courts. In first and second instance civil cases, expert lay assessors can be invited to assist. Lay judges and expert lay assessors are appointed for a four-year period.

#### Legal databases

You can find further information on:

The public webpage of the [Danish Association of Judges](#)

The webpage of the [Association of Assistant Judges](#)

### Organisation of the legal profession: Lawyers

#### Barristers/ Advocates

##### Private practising lawyers

The **Danish Law and Bar Society** was founded in 1919. All Danish lawyers (advokater) are mandatory members.

##### The employed lawyer and trainee lawyers

**FAAF** is an association of employed lawyers and trainee lawyers, falling under the Danish association of lawyers and economists (DJØF). DJØF is Denmark's largest trade union and interest organisation for students and employees in the fields of law, administration, state governance, research, education, communication, economics, political and social science. It has approximately 50 000 members working in these fields. Of FAAF's approximately 1500 members, 900 are lawyers employed in private practice.

##### In-house legal advisors

In-house lawyers are not only part of the Danish Bar and Law Society, but can also choose to become members of the association of in-house legal advisors (Danske Virksomhedsjurister – DVJ). Today approximately two-thirds of the members of the DVJ association hold a lawyer's practising certificate. The DVJ generally represents the professional interests of in-house legal advisors. It also works to promote the recognition and understanding of the position and rising importance of the in-house legal adviser to the trade community, authorities, NGOs and society at large. DVJ is a member of **European Company Lawyers' Association** (ECLA).

##### Private practicing lawyers vs. in-house lawyers

In Denmark, **in-house counsel/legal advisors** with a practising certificate fall under exactly the same regulations as lawyers in private practice. The Administration of Justice Act does not distinguish between the two categories of lawyers, and both are included in the Danish Bar and Law Society.

This means that, broadly speaking, in-house lawyers have the same legal status as other lawyers in respect of code of conduct, professional secrecy, client-lawyer confidentiality, legal privilege and so on. However, the scope of the code of conduct has been increased to ensure that it applies to in-house lawyers, with modifications to cover the special conditions in which they work.

Thus, legal privilege for in-house lawyers is governed by the same rules as those applicable to private practising lawyers. However, whether the threshold applied to in-house lawyers will be the same or lower than for other lawyers has yet to be tested in court.



The only exception to the question of equal legal status concerns whom the in-house lawyer can represent under his/her practising certificate as a lawyer. The legal possibility of acting as an in-house lawyer is viewed as a tacit exception to article 124 of the Administration of Justice Act, which regulates for what type of company a lawyer may act.

Therefore, unless the in-house lawyer has a law practice separate to his/her employment, he/she can only apply the title of lawyer when representing the employing company or organisation. That is, if the employer asks the in-house lawyer to provide legal advice to a customer or a member, the title of lawyer can not be invoked while doing so, unless the in-house lawyer has a law practice separate to his/her employment, and takes on the customer or member in her or his private practising capacity,

However, if the in-house lawyer does not have a law practice separate to his/her employment, and if he/she provides a customer or member with legal advice, and the customer or member is a consumer, and the advice is given for a commercial purpose, the law on legal advice will apply to the activity of the in-house lawyer with one exception: it will not apply to legal advice that provided by unions and non-governmental organisations. The reason for this exception is that such advice is not offered for a commercial purpose and is generally viewed as accessory to the ordinary member service, which relates to the purpose of the union.

Legal advice given to an individual consumer by the employee of a union (who holds a lawyer's practicing certificate) is therefore regulated only by the general rules of compensation in non-contractual relationships, and is only indirectly regulated by the Danish Code of conduct. This latter provides that, pursuant to section 126 (4) of the Administration of Justice Act, a lawyer must not (outside of his or her professional legal undertakings) display conduct unworthy of a lawyer in matters of a business or financial nature.

#### **The law on legal advice**

Since July 2006, legal advice provided to consumers for commercial purposes has been subject to separate regulation – regardless of the educational background of the legal adviser. The law explicitly does not apply to legal advice provided by lawyers as part of their independent law practice. Nor does it apply to legal advice provided by unions or NGOs, as such advice is not deemed to be of a commercial nature (see above). Moreover, legal advice provided by financial operators falls outside the scope of the law insofar as the financial operator is subject to codes of conduct issued by the Minister of Economic and Business Affairs.

However, as already mentioned, this is not the same as saying that legal advice provided by a person with a practicing certificate as a lawyer is not regulated by the law. If an in-house counsellor with a practicing certificate as lawyer provides legal advice to a consumer (and therefore someone other than his/her employer) and the in house counsellor does not have a law practice on the side, this service will fall under the scope of the law on legal advice if it is deemed to have been given for a commercial purpose.

#### **The main features of the law on legal advisors can be described as follows:**

A legal adviser must conduct himself/herself in a manner consistent with the code of conduct. This includes performing his/her duties thoroughly, conscientiously and consistently with due regard for the client's interests. Advice must be provided with the necessary promptness.

Agreements on the provision of legal advice must be in writing.

A legal adviser is not obliged to take out professional indemnity insurance, but information to this end must be included in the agreement on provision of legal advice.

A legal adviser must inform the client of the price of legal advice

A legal adviser may not receive trust property

A legal adviser may not assist a client when he/she has a particular personal or financial interest in the outcome of the case

A legal adviser is subject to a code of conduct issued by the Minister of Justice. His/her observance of the law and the code of conduct is subject to supervision of the Consumer Ombudsman

#### **Legal databases**

This information is available on the site of the [Danish Bar & Law Society](#).

The site provides English-language information on the Danish legal profession. It also contains a (Danish-language) directory of practising lawyers.

#### **Other legal professions**

##### **Organisations which provide legal services pro bono**

**There are legal aid clinics** throughout Denmark. Anyone seeking legal aid can contact the [Civil Affairs Agency](#), who will refer him or her to the nearest clinic. The address is:

The Civil Affairs Agency

Gyldenløvesgade 11, 2.

1600 Copenhagen V

Telephone: +45 33 92 33 34,

Fax: +45 39 20 45 05

E.mail: [civilstyrelsen@civilstyrelsen.dk](mailto:civilstyrelsen@civilstyrelsen.dk)

Mon-Thurs 10 AM to 3 PM, Fri 10 AM to 2 PM

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#### **Legal professions - Germany**

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

##### **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 ProsecutorGeneral in the Federal Court of Justice (*Generalbundesanwalt beim Bundesgerichtshof*) is the highest ranking prosecution authority in Germany in the field of national security. The ProsecutorGeneral 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 ProsecutorGeneral 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 ProsecutorGeneral 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 ProsecutorGeneral 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 ProsecutorGeneral 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 ProsecutorGeneral.

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 \(Zentralwohlfahrtsstelle der Juden in Deutschland\)](#)
- [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 \(Zentralwohlfahrtsstelle der Juden in Deutschland\)](#)
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Aan de vertaling in het Nederlands wordt momenteel gewerkt.

#### Legal professions - Estonia

This page provides you with an overview of the organisation of the legal professions in Estonia

#### Legal professions – introduction

The legal professions in Estonia are made up of:

- Prosecutors;
- Judges;
- Lay judge;
- Assistant judges and judicial clerks;
- Advocates;
- Notaries;
- Bailiffs;
- Trustees in bankruptcy

#### Prosecutors

##### Organisation

The [Prosecutor's Office](#) is a government agency that falls under the responsibility of the Ministry of Justice. It consists of two levels: the Office of the Prosecutor General (as the superior prosecutor's office) and four district prosecutor's offices.

The jurisdiction of the Office of the Prosecutor General covers the whole of Estonia and the jurisdiction of each District Prosecutor's Office corresponds to that of the police prefectures. The Prosecutor's Office is headed by the Prosecutor General, who is appointed to office for five years by the Estonian Government following a proposal of the Minister for Justice, having heard the opinion of the Estonian Parliament's Legal Affairs Committee.

Each year at Parliament's spring session the Prosecutor General presents to the Constitutional Committee of the Parliament an overview of performance during the previous calendar year of the duties assigned to the Prosecutor's Office by law.

A District Prosecutor's Office is headed by a chief prosecutor, who is also appointed to office for five years by the Minister for Justice on the proposal of the Prosecutor General.

In total there are eight types of prosecutor in Estonia: the Prosecutor General, chief state prosecutors, state prosecutors and assistant prosecutors in the Office of the Prosecutor General and chief prosecutors, senior prosecutors, special prosecutors, district prosecutors and assistant prosecutors in the District Prosecutors' Offices.

See also the [Prosecutor's Office Act](#).

### **Role and duties**

Pursuant to the Prosecutor's Office Act:

the Prosecutor's Office participates in planning surveillance required for the prevention and detection of crimes;

leads pre-trial criminal proceedings ensuring their lawfulness and effectiveness;

represents public prosecution in court;

fulfils other duties imposed on the Prosecutor's Office by law.

The Prosecutor's Office carries out its duties under the Prosecutor's Office Act in an independent manner.

As the leader of criminal proceedings, the prosecutor guides the investigating body in collecting evidence and decides whether to bring charges against a person on the basis of the facts established.

Under the Statutes of the Prosecutor's Office:

the Office of the Prosecutor General:

leads preliminary investigations and represents public prosecution in courts of all instances in acts of criminal official misconduct, economic crime, offences related to service in the Defence Forces, environmental crimes, offences against administration of justice and criminal offences related to organised crime, of cross-border nature and other particularly serious organised crimes or crimes attracting great public interest, as well as crimes against humanity and international security, more serious criminal offences against the state, criminal offences perpetrated by prosecutors and other criminal offences assigned by the chief public prosecutor;

supervises and provides advice on the activities of District Prosecutors' Offices and analyses and makes general conclusions on judicial practices and the practices of the prosecutors' offices;

performs obligations arising from international cooperation, including participation in the work of Eurojust;

participates in drafting Acts, Government of the Republic Regulations and administrative Orders, and Regulations and Orders of the Minister for Justice concerning the activities of the Prosecutor's Office.

### **Judges**

#### **Organisation**

A judge must be an Estonian citizen who has obtained a nationally recognised Master's Degree in law, an equivalent qualification within the meaning of Section 28(22) of the Republic of Estonia Education Act or an equivalent foreign qualification, is proficient in Estonian at advanced level, is of high moral character and has the abilities and personal characteristics necessary to work as a judge. Judges are appointed to office for life. The Minister for Justice has no right of command or disciplinary authority over judges. A judge can be removed from office only on the basis of a court judgement that has entered into force. Judges may serve until the age of 67, but this may be extended.

The following may not be appointed as a judge:

anyone convicted of a criminal offence;

anyone who has been removed from the office of judge, notary, sworn translator or bailiff;

anyone who has been expelled from the Estonian Bar Association;

anyone who has been released from the public service for a disciplinary offence;

anyone who is bankrupt;

anyone whose professional activities as an auditor have been terminated, except where on the basis of the application of the auditor;

anyone from whom the right to work as a patent agent has been withdrawn, except where on the basis of the application of the patent agent.

Anyone who has completed the preparatory service to become a judge or who is exempt from such service and has passed the judge's exam may be appointed as a judge in a county or administrative court. The preparatory service for becoming a judge does not have to be completed by anyone who has worked for at least two years as an attorney-at-law or as a prosecutor (but not as a prosecutor's assistant) immediately before passing the judge's exam, or by anyone who has previously worked as a judge if no more than 10 years have passed since they were released from office as a judge.

Anyone who is an experienced and recognised lawyer and has passed the judge's exam may be appointed as judge of a district court. Anyone who has worked as a judge immediately prior to their appointment does not have to take the judge's exam.

Experienced and recognised lawyers may be appointed to the office of justice of the Supreme Court.

Judges are appointed through an open competition.

A judge may not be employed other than in the office of judge, except for in a teaching or research capacity. A judge must inform the President of the Court of all employment other than in the office of judge. Any employment other than in the office of judge must not jeopardise performance of the judge's official duties or the judge's impartiality in the administration of justice. A judge may not be a member of the Riigikogu or a member of a municipality or city council, a member of a political party, a founder, managing partner or member of the management board or supervisory board of a company, a director of a branch of a foreign company, a trustee in bankruptcy, a member of a bankruptcy committee, the compulsory administrator of an immovable or an arbitrator chosen by one of the parties to a dispute.

A judge may be removed from office only by a court judgment. Criminal charges against a judge of a court of first or second instance may be brought during his or her term of office only on the proposal of the Supreme Court en banc with the consent of the President of the Republic. Criminal charges against a justice of the Supreme Court may be brought during his or her term of office only on the proposal of the Chancellor of Justice with the consent of a majority in the Estonian Parliament.

The requirements applicable to judges, their preparatory service and their obligations are laid down in the [Courts Act](#).

### **Role and duties**

The judicial profession is regulated by law. A code of ethics has been adopted by all Estonian judges sitting together (en banc). More information can be found on the Estonian [Courts](#) website and on the website of the [Supreme Court](#).

The role of a judge is to administer justice in accordance with the Constitution and legal acts, on the basis of which the judge decides on a just solution for the parties to the case. A judge develops the law by interpreting legal acts and undertaking research.



A judge performs his or her official duties in an impartial manner without self-interest and observes service interests even outside his or her professional activities. A judge must behave impeccably both in and outside his or her professional activities and refrain from acts which may damage the reputation of the court. A judge may not disclose information which becomes known to him or her at a court session held in private or in discussions held when reaching a settlement. The duty of confidentiality applies at all times, even after the judge has retired. A judge must supervise candidate judges, candidate assistant judges and university student trainees undergoing their preparatory service. No judge is required to supervise more than two candidate judges, candidate assistant judges or university student trainees at a time. A judge is required to develop his or her professional knowledge and skills regularly and to participate in training.

#### **Social guarantees for judges**

By law, judges receive various social guarantees, including an official salary, additional remuneration, a judge's pension, leave, official robes and other social guarantees.

A judge's official salary is laid down in the Act on the official salaries of state officials nominated by the Estonian Parliament and the President of the Republic. In addition to their official salary, judges are paid additional remuneration for years of service amounting to 5 % of the official salary as of the fifth year; 10 % of the official salary as of the tenth year; 15 % of the official salary as of the fifteenth year;

A judge's pension is made up of their retirement pension, a superannuation pension, invalidity pension and a survivor's pension for the judge's family members. A judge's pension is not paid during employment as a judge. If a retired judge is employed elsewhere he or she receives the judge's pension in full regardless of earnings. A judge's pension is not paid to anyone expelled from office for a disciplinary offence or convicted of an intentionally committed criminal offence. A judge's pension is withdrawn from anyone convicted of an offence against the administration of justice.

A judge's retirement pension may be paid to anyone who has been employed as a judge for at least fifteen years and who has reached pensionable age. Judges are also eligible for a retirement pension if they lose 100 %, 90 % or 80 % of their work capacity following fifteen years' employment as a judge, even if they have not reached pensionable age. Judges who have reached pensionable age have the right to receive their retirement pension after ten years of work as a judge if they lose 100 %, 90 % or 80 % of their work capacity. A judge's retirement pension is 75 % of their final salary.

A superannuation pension totalling 75 % of the judge's final salary is paid to anyone who has been employed as a judge for at least thirty years.

A judge who becomes permanently incapacitated for work during his or her employment as a judge has the right to obtain a judge's invalidity pension. A judge's invalidity pension is 75 % of the judge's final salary in the event of a 100 % loss of capacity for work, 70 % of the final salary in the event of an 80 % or 90 % loss of capacity for work and 30 % of the final salary in the event of a 40 %-70 % loss of capacity for work.

If a judge dies, a survivor's pension amounting to 30 % of the judge's final salary is paid to each family member entitled to receive a survivor's pension, but no more than 70 % of the judge's final salary is paid in total.

A judge is entitled to annual leave totalling 49 calendar days for a judge of a court of first or second instance and 56 calendar days for a justice of the Supreme Court. A judge is not entitled to the additional leave provided for in the Public Service Act.

#### **Lay judges**

Lay judges participate in the administration of justice in county courts only in criminal cases concerning a crime of the first degree. A lay judge has the same status, rights and duties as a judge in the administration of justice. A lay judge may be appointed for up to four years and must be an Estonian citizen with active legal capacity, aged between 25 and 70, resident in Estonia, proficient in Estonian at advanced level and of suitable moral character to perform the functions of a lay judge. A lay judge may not be appointed for more than two consecutive terms.

The following may not be appointed as a lay judge: anyone who has been convicted of a criminal offence, who is bankrupt, who is unsuitable on health grounds, who has had a permanent address (i.e. an address entered in the population register) for less than one year within the local government area which put the person forward as a candidate for lay judge, who works for the courts, the Prosecutor's Office or the Internal Security Service, who is in the defence forces, who is a lawyer, notary or bailiff, who is a member of the Estonian Government or a municipal or city government, or who is the President of the Republic, a Member of Parliament or a county governor. Anyone who is accused of a criminal offence may not be appointed as a lay judge during the criminal proceedings.

In essence, the role of a lay judge is to represent, in the administration of justice, the outlook of an ordinary person who regards legal proceedings more from a humane than a legal standpoint. Local government councils are responsible for electing candidate lay judges.

#### **Assistant judges and judicial clerks**

An assistant judge is a court official who performs duties laid down by law. An assistant judge is impartial, but must comply with the instructions of a judge to the extent prescribed by law. An assistant judge is competent to make entries in registers (e.g. the land register, the commercial register) and to issue regulations on the keeping of registers, including orders imposing a penalty. Assistant judges may implement an accelerated procedure for payment orders. The restrictions on holding the office of judge also apply to assistant judges.

Anyone may be appointed as an assistant judge if they have obtained a nationally recognised Master's Degree in law, an equivalent qualification within the meaning of Section 28(2) of the Republic of Estonia Education Act or an equivalent foreign qualification, are proficient in Estonian at advanced level, are of high moral character and have completed the preparatory service to become an assistant judge. A person who has not undergone assistant judge's preparatory service, but who has undergone judge's preparatory service or has been exempted from this and has passed a judge's examination may also be appointed as an assistant judge.

The following may not be appointed as an assistant judge: anyone convicted of a criminal offence; anyone who has been removed from the office of judge, notary, sworn translator or bailiff; anyone who has been expelled from the Estonian Bar Association; anyone who has been released from the public service for a disciplinary offence; anyone who is bankrupt; anyone whose professional activities as an auditor have been terminated, except where on the basis of the application of the auditor; anyone from whom the right to work as a patent agent has been withdrawn, except on the basis of an application by the patent agent. anyone removed from the office of judge due to their unsuitability for office – for three years following their appointment to office.

Assistant judges are appointed through an open competition.

The requirements for assistant judges are laid down in the [Courts Act](#)

A judicial clerk is a court official who participates, either independently or under the supervision of a judge, in the preparation and the handling of cases to the extent provided for in the Act governing the court procedure. A judicial clerk has the authority to perform all the same acts and make the same judgments as an assistant judge or other court official pursuant to the Act governing the court procedure. A judicial clerk is independent when performing his or her duties, but must comply with the instructions of a judge to the extent prescribed by law.

The requirements imposed on judicial clerks are the same as those imposed on assistant judges. A vacant position of a judicial clerk is filled by way of public competition.

The following may not be appointed as a judicial clerk: anyone who has been punished for an intentionally committed criminal offence; anyone who has been punished for an intentionally committed offence against the state, irrespective of whether the conviction details have been expunged; anyone whose right to work in the role of judicial clerk has been withdrawn under a court judgement having legal force; anyone who is the next of kin or partner of a person directly supervising a judicial clerk.

In addition to [judicial clerks](#) (371 Kb)<sup>en</sup> and [assistant judges](#) (373 Kb)<sup>en</sup>, other court officers include [directors of courts](#) (367 Kb)<sup>en</sup> and [clerks of court sessions](#) (364 Kb)<sup>en</sup>.

### **Advocates**

Lawyers include attorneys-at-law and their assistants.

Advocates are members of the Estonian Bar Association and are regulated by the Bar Association Act. Anyone who meets the requirements laid down in the Bar Association Act and has passed the bar examination may be a member of the Estonian Bar Association.

The Estonian Bar Association is a self-governing professional association established to provide legal services in both the private and public interest and protect the professional rights of lawyers. The Estonian Bar Association monitors the professional activities of its members and their compliance with requirements for professional ethics. The Estonian Bar Association also organises lawyers' professional in-service training and the provision of state legal aid. Through its members, the Estonian Bar Association ensures the provision of state legal aid.

The Estonian Bar Association acts through its bodies. These include the general assembly, the board, the chairperson, the audit committee, the court of honour and the professional suitability assessment committee.

Attorneys-at-law have the authority:

to represent and defend clients in court and in pre-trial and other proceedings both in Estonia and abroad;

to gather evidence;

to select at will and to use lawful means and measures when providing legal services;

to obtain from national and local authorities the information needed to provide legal services, to have access to documents and to obtain copies and extracts of them, unless lawyers are prohibited by law from obtaining this information and documentation;

to process the personal data of people other than their clients that were obtained in accordance with a contract or legal act, including sensitive personal data, without the agreement of those people if this is necessary to provide the legal services;

to verify signatures and copies of documents submitted to the court and other official bodies as part of the legal services provided to a client;

to act as arbitrators or as conciliators in the procedure laid down in the Conciliation Act;

to act as trustees in bankruptcy, if they are members of the Chamber.

Assistants of attorneys-at-law have the authority of an attorney-at-law within the limits provided for by law.

Assistant attorneys-at-law are not authorised to act as arbitrators or as conciliators in the procedure laid down in the Conciliation Act. They do not have the authority to represent or defend clients in the Supreme Court unless provided otherwise by law. Assistant attorneys-at-law do not have the authority to act as trustees in bankruptcy.

An assistant attorney-at-law may provide legal services only under the supervision of his or her patron, who is an attorney-at-law.

When providing legal services a lawyer acts independently and in accordance with the law, the legal acts and decisions adopted by the bodies of the Estonian Bar Association, the requirements for the professional ethics of lawyers, good practice and their conscience.

Information disclosed to a lawyer is confidential. A lawyer or an employee of the Estonian Bar Association or a law office who is being heard as a witness may not be interrogated or asked to provide explanations concerning matters of which he or she became aware in the course of providing legal services.

Data media related to the provision of legal services by a lawyer are inviolable.

The performance by a lawyer of his or her professional duties may not lead to him or her being identified with a client or the client's court case.

A lawyer may not be detained, searched or taken into custody for reasons arising from his or her professional activities, except on the basis of a ruling of a county or city court. A law office through which a lawyer provides legal services may not be searched for reasons arising from the lawyer's professional activities.

A list of lawyers and law offices and other useful information can be found on the website of the [Estonian Bar Association](#). The 'find a lawyer' function, however, makes it possible to find a lawyer throughout the European Union.

### **Legal databases**

There are no databases apart from those listed above.

### **Legal advisers**

The professional activities of legal advisers are not regulated by law in Estonia.

### **Notaries**

#### **Organisation**

All notaries in Estonia have equal competence. The profession of notary is regulated under the [Notaries Act](#). The Ministry of Justice and the Chamber of Notaries are both responsible for regulating and administering notaries' professional activities. The Chamber of Notaries is a legal entity under public law, and all notaries appointed to office are members. The tasks for which it is responsible include monitoring whether notaries are carrying out their professional activities in a conscientious and correct manner, harmonising notaries' professional activities, arranging training for notaries, organising candidate service, administering and developing the electronic information system in relation to notaries, and providing assistance to the Minister of Justice in respect of supervisory activities, etc. The website of the [Chamber of Notaries](#) provides information about notaries and notarial duties.

#### **Role and duties**

A notary holds an office in public law. He or she is empowered by the State to attest, at someone's request, facts and events that have legal meaning and to perform other notarial acts in order to ensure legal certainty.

Notaries must be impartial, trustworthy and independent in their activities. They are obliged to ascertain the actual intentions of the parties to a transaction and the circumstances required for a correct transaction to be performed and to explain to the parties the different ways of carrying out the transaction and the consequences of the transaction.

Notaries perform the following notarial acts, where so requested:

provide notarial certification (various contracts, acts of delegation, wills) and notarial authentication (copies, signatures, print-outs, etc.);

settle succession matters;

issue certificates on the preparation of notarial documents to be enforced in Estonia (which are to be enforced in Estonia and correspond to the standard forms established in Annex VI to Council Regulation (EC) No 44/2001 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (OJ L 12, 16.1.2001, pp. 1–23)).

declare authorisation documents invalid in accordance with the Notarisation Act;

declare agreements concluded through a lawyer acting as a conciliator or through another notary to be enforceable;  
issue certificates (apostilles);  
at the request of legal persons, submit their annual financial reports to the court keeping the register;  
confirm marriages and divorces and prepare marriage and divorce entries;  
accept deposits of money, securities and documents;  
enable access to the data entered in the register of the land registry department or registration department or to a document maintained in the register;  
submit notices and applications at the request of an undertaking, receive documents or other information from economic administrative authorities and deliver an administrative act to an undertaking;  
enter information in the register at the request of an undertaking;  
The client must pay the notary the fee laid down by law for these transactions.  
Notaries may offer the following official services:  
legal counselling outside of the attestation procedure;  
advice on taxation law and foreign law, whether or not as part of an attestation procedure;  
offer conciliation pursuant to the Conciliation Act;  
act as an arbitrator on the basis of the Code of Civil Procedure;  
conduct auctions, voting, lotteries and the casting of lots, and verify the results;  
preside over the taking of oaths and authenticate sworn certificates;  
forward petitions and notices not related to official duties and issue certificates concerning the forwarding or impossibility to forward such petitions and/or notices;  
accept deposits of money — with the exception of cash — securities, documents and other items if this is not a notarial act or an official duty resulting from a notarial act;  
certify the correctness of the translation of documents from a foreign language into Estonian until 2020 (as of 2015, only sworn translators are authorised to issue official translations from Estonian into a foreign language, and as of 2020 only sworn translators will be authorised to issue official translations from a foreign language into Estonian);  
respond to a request for explanation submitted by an undertaking  
Information on the official services offered by notaries can be found on the website of the [Chamber of Notaries](#). The fees for notaries' services are agreed between the client and the notary before the service is provided.

#### **Other legal professions**

##### **Bailiffs**

In Estonia, this is a liberal legal profession: bailiffs act on their own behalf and are liable for their own actions. A bailiff must be impartial and responsible in his or her duties. Bailiffs' official activities are regulated under the [Bailiffs Act](#).

A joint professional organisation for bailiffs and trustees in bankruptcy, the Chamber of Bailiffs and Trustees in Bankruptcy (hereinafter the Chamber), has been in operation since January 2010. Bailiffs' official activities, their supervision, disciplinary liability and professional association activities are regulated under the Bailiffs Act. The role of the Chamber is to develop and promote the liberal legal professions, including developing and monitoring compliance with good official and professional practice, to draw up recommendations for harmonising professional activities, to organise training, to develop information systems, etc. The Chamber also has a court of honour. Further information on the activities of the Chamber is available on its [website](#).

A bailiff's professional duties are:

1. to carry out enforcement procedures in accordance with the Code of Enforcement Procedure;
2. to serve documents in accordance with the procedural codes;
3. to make inventories of estates and administer estates in accordance with the Law of Succession Act;
4. to conduct, in the cases and pursuant to the procedure prescribed by law, an auction at the request of a court or administrative body outside enforcement proceedings.

The bailiff's fee for carrying out these official duties is laid down in the Bailiffs Act.

A bailiff's official services are:

By request from a person, a bailiff may perform the following as professional services:

- 1) conduct movable and immovable property auctions
- 2) deliver documents;
- 3) give legal advice and draw up legal documents if his or her education corresponds to the provisions of Section 47(1)(1) of the Courts Act.

Bailiffs are entitled to refuse to provide a professional service.

The terms for the provision of professional services and the procedure for remuneration shall be agreed in writing with the person requesting the service. The terms and remuneration agreed shall be in conformity with good professional practice.

In the provision of professional services, bailiffs may not exercise those rights that have been granted to bailiffs by law for carrying out their professional duties or which arise from his or her office.

Information regarding the services provided by bailiffs can be found on the Chamber's [website](#). The provision of official services is agreed in writing with the service requester before the service is provided.

State supervision of bailiffs' official duties is carried out by the Minister for Justice.

Bailiffs are liable for damage wrongfully caused in the course of his or her professional activities, including if the damage was caused by an employee of his or her office. If claims for the compensation of damage caused by the professional act of a bailiff cannot be satisfied from the assets of a bailiff or any other person liable for the damage or if such claims cannot be satisfied in full, the Chamber is liable for the damage caused. The State bears final liability for the actions of bailiffs. Both the Chamber and the State possess the right of recourse against the person responsible for the damage; the State also has the right of recourse against the Chamber.

##### **Trustees in bankruptcy**

A trustee in bankruptcy is a court-appointed person who, on the basis of his or her role, performs transactions and other acts relating to a bankruptcy estate and represents the debtor in court in disputes relating to a bankruptcy estate. The main obligation of a trustee in bankruptcy is to defend the rights and interests of all creditors and the debtor and to ensure lawful, prompt and financially reasonable bankruptcy proceedings. A trustee in bankruptcy carries out his or her duties personally. The following may act as trustees in bankruptcy: physical persons who have been granted the authority to act as trustees in

bankruptcy by the Chamber, attorneys-at-law, statutory auditors and bailiffs. The Chamber shall maintain a list of trustees in bankruptcy. The list includes data on all those entitled to act as trustees in bankruptcy and is accessible to the public on the Chamber's website. A trustee entered on the list must ensure that the data are accurate.

The main duties of a trustee in bankruptcy are:

- 1) to determine the claims of the creditors, administer the bankruptcy estate, and organise the formation and sale of the estate and the satisfaction of the claims of the creditors out of the estate.
- 2) to determine the reasons for and date of the debtor's insolvency;
- 3) to arrange, where necessary, for the business activities of the debtor to continue;
- 4) to conduct, where necessary, the liquidation of the debtor, if the debtor is a legal person;
- 5) to provide information to creditors and the debtor in the cases laid down by law;
- 6) to report on their activities and provide information concerning the bankruptcy proceedings to the court, the supervisory official and the bankruptcy committee.

Administrative supervision of the activities of trustees in bankruptcy is carried out by the Ministry of Justice, on the basis of complaints or other data sent to it regarding the trustee and which give reason to believe that the trustee has failed to meet his or her obligations. The Ministry of Justice has the right when monitoring the activities of a trustee to verify the appropriateness and lawfulness of the trustee's professional activities. The Minister for Justice may take disciplinary action against a trustee who fails to comply with the obligations arising from legal acts laying down the professional activities of trustees in bankruptcy. The Minister for Justice may not take disciplinary action against attorneys-at-law acting as trustees in bankruptcy. However, the Minister does have the right to bring court of honour proceedings in the Bar Association.

In addition to administrative supervision, the activities of trustees in bankruptcy are also monitored by the bankruptcy committee, the general meeting of creditors, the court and the Chamber within their field of competence.

#### Related links

- [Ministry of Justice](#)
- [Non-profit organisation Association of Lawyers](#)
- [Legal Services Office Foundation](#)
- [Estonian Bar Association](#)
- [Prosecutor's Office](#)
- [Chamber of Notaries](#)
- [Chamber of Bailiffs and Trustees in Bankruptcy](#)

Last update: 03/08/2017

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#### Legal professions - Ireland

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

##### Legal Professions - Introduction

The judicial arm of the state is exercised by the judiciary in accordance with Article 34 of the Constitution and certain legislation: primarily the Courts (establishment and Constitution) Act 1961 and the Courts (Supplemental Provisions) Act 1961, as amended. Judges are appointed from applicants from within the legal professions. They are completely independent in the performance of their functions. This independence is enshrined in the Constitution. The legal profession is divided between solicitors (who concentrate on direct client work) and barristers (who specialise in advocacy and litigation).

##### 1. Judges

The Judicial Appointments Advisory Board identifies and informs the Government of the suitability of persons for appointment to judicial office. The Judicial Appointments Advisory Board (JAAB) was established pursuant to the Court and Courts Officers Act 1995. The board consists of the Chief Justice, the Presidents of the Court of Appeal, High Court, Circuit Court, and District Court, the Attorney General, nominated representatives of the Bar Council and the Law Society and three persons nominated by the Minister for Justice and Law Reform. Judges are appointed by the President on the advice of the Government. The judiciary are independent and are subject only to the Constitution and the law. In accordance with the Constitution, the number of judges is fixed from time to time by legislation.

The Supreme Court comprises of the Chief Justice, who presides over the Court, and seven ordinary judges titled 'Judge of the Supreme Court'. The President of the High Court is also an ex officio member of the Supreme Court. The High Court comprises of the President of the High Court who is responsible for the general organisation of the High Court's work and ordinary judges titled 'Judge of the High Court'. The Chief Justice and the President of the Circuit Court are also ex officio members of the High Court. The High Court is comprised of a President and 35 judges. The Circuit Court comprises the President of the Circuit Court and 37 ordinary judges titled 'Judge of the Circuit Court'. The President of the District Court is also an ex officio member of the Circuit Court. The District Court comprises the President of the District Court and 63 other judges titled 'Judge of the District Court'. Salaries of judges are fixed by legislation enacted from time to time.

Judges are appointed from the legal professions of qualified solicitors or barristers with certain years of practising experience (not research). For the District Court, Section 29(2) of the Courts (Supplemental Provisions) Act 1961 provides that a person who is a practising barrister or solicitor of not less than ten years' standing is qualified for appointment as a judge of the District Court. Section 30 of the Courts and Courts Officers Act 1995 provides that a solicitor or barrister of ten years' standing is qualified for appointment as a judge of the Circuit Court. The Courts and Courts Officers Act 2002 provides that a person who is a practising barrister or solicitor of not less than 12 years' standing is qualified for appointment to the High Court, Court of Appeal and the Supreme Court. As stated earlier, the judiciary are independent in that they are only subject to the Constitution and the law and on taking office make the following declaration under Article 34.5.1 of the Constitution:

"In the presence of almighty God I do solemnly and sincerely promise and declare that I will duly and faithfully and to the best of my knowledge and power execute the office of Chief Justice (or as the case may be) without fear or favour, affection or ill-will towards any man, and that I will uphold the Constitution and the laws. May God direct and sustain me."

Under the Constitution, Judges of the High Court and Supreme Court can only be removed from office for stated misbehaviour or incapacity after resolutions have been passed through both houses of the Oireachtas (Irish for Parliament). The Courts of Justice Act 1924 and Courts of Justice (District Court) Act 1946 provide similar statutory provisions for judges of the Circuit and District Courts.

##### 2. The Attorney General and The Director of Public Prosecutions

The Attorney General is "the adviser of the Government in matters of law and legal opinion" as provided by Article 30 of the Constitution. The Attorney General is appointed by the President on the nomination of the Taoiseach (Irish for Prime Minister) and is obliged to retire from office when the Taoiseach does. The Attorney General is generally a practising barrister and a Senior Counsel. There is no rule requiring the Attorney General to cease their private practice but this has been the case in recent years.

As the government's legal adviser, the Attorney General scrutinises all draft legislation that the Government intend to put before both the Oireachtas (houses of Parliament) in order to get passed into law. The Attorney General also advises the government on international matters such as the ratification of international agreements. Another function of the Attorney General is to represent the public in the assertion of public rights. This is done by initiating or opposing legal proceedings. Although appointed by the Taoiseach, the Attorney General is independent of the Government. In terms of the Constitution, the Attorney General is always the main defendant where the constitutionality of legislation is challenged.

Before 1976, all serious criminal offences were prosecuted in the name of the Attorney General. The Constitution provides that this function can be carried out by another person authorised in law to act for that purpose. The office of the Director of Public Prosecutions was thus created by s. 2 of the Prosecution of Offences Act 1974 which came into effect in 1976 - the idea being to have an officer, independent of political connections to discharge these functions. The Director is appointed by the Government but is a civil servant so the Director does not resign when a government falls, unlike the Attorney General. This ensures continuity in the prosecution of offences. The 1974 Act also provides that the Director of Public Prosecutions is to be independent in the performance of their duties. The Director may be removed from their position by the Government, but this is only after a report has been conducted on their health or conduct by a committee comprising the Chief Justice, a judge of the High Court and the Attorney General.

☞ **The Director of Public Prosecutions** (DPP therefore makes the decision whether a person should be charged with a serious criminal offence and what the charge should be. All offences are taken in the name of the DPP but most of the less serious crimes can be prosecuted by the Gardaí (Irish police force) without sending a file to the DPP. In these cases, the DPP has the right to advise the Gardaí on how to deal with the case. Although the DPP has taken over the Attorney General's role in the prosecution of cases, the Attorney General retains it in relation to cases of an international nature such as extradition.

### **3. Employees of the Courts Service**

Court Registrars and **Court Clerks** are employed by the Courts Service

Clerks of the Court are responsible for the general administration of the courts. A Court Registrar's main function is to assist the judge during the course of a court sitting and ensures that the administration necessary for the smooth running of the courts is managed efficiently.

The Courts Service is an independent corporate body that came into existence in November 1999 and was established by the Government under the Courts Service Act, 1998. The Courts Service is accountable to the Minister for Justice and Equality and, through the Minister, to the Government.

The Courts Service has five mandates:

To manage the Courts

To provide support services for the judges

To provide information on the Courts system to the public

To provide, manage and maintain Court buildings

To provide facilities for users of the Courts

### **4 The Sheriff**

Each county in Ireland has a Sheriff who is a public servant and part of their responsibility is to take and sell goods in order to discharge a debt after a court judgment has been obtained. Sheriffs are appointed under the Court Officers Act 1945 and s.12(5) of the Act limits the appointment of the position to persons who are barristers or solicitors who have practised for five years or to those who have acted for not less than five years as managing clerk or principal assistant to an under-sheriff or sheriff. Section 12(6) (g) of the Act states that the conditions of employment of every Sheriff subject to foregoing sections of the Act are determined from time to time by the Minister for Finance after consultation with the Minister for Justice and Equality.

### **5. Solicitors**

☞ **The Law Society of Ireland** has control over the education of students who want to become solicitors and has disciplinary powers over qualified solicitors. To become a solicitor, individuals must complete the Final Examinations (FE-1s) which are held twice a year, normally in Spring and Autumn. The FE-1 examination consists of eight papers; Company Law, Constitutional Law, Contract Law, Criminal Law, Equity, European Union Law, the Law of Real Property and Tort Law. Individuals must then find a suitable (practising) solicitor to act as a training solicitor in order to commence the Professional Practice Course I (PPC I). PPC I runs from September to March and the following subjects are covered throughout the course; Applied Land Law, Probate & Tax, Business Law, a Foundation Course, Litigation (Civil & Criminal), Legal Practice Irish (LPI) and skills including (Civil and Advocacy, Interviewing & Advising, Legal Research, Legal Presentation Skills, Legal Writing & Drafting, Negotiation & Professional Development) The candidates training contract then commences 14 days after the final examination on PPC I. Before you can be admitted onto the PPC II course you must have been declared by the Education Committee to have passed PPC I. After 11 months into the 24-month training period, the trainee returns to the Law School to attend PPC II. The subjects covered on the PPC II are Professional Practice, Conduct and Management (compulsory) and a range of elective choices under the three headings of Business, Practice & Procedure, and Private Client. It usually commences in April each year and runs for 11 weeks, inclusive of examinations. Having completed PPC II, individuals must return to the office of the training solicitor and complete the outstanding period of time - ten months if the trainee has not gained credit for work done prior to PPC I, or six months if credit has been obtained.

Trainees may apply to have their names entered in the Roll of Solicitors when:

they have passed all the examinations

they have successfully completed the training period, and

the training solicitor has sworn that the trainee is a fit and proper person to become a solicitor.

Finally, a practising certificate may be applied for once the individual's name has been admitted to the Roll of Solicitors.

Every qualified solicitor is subject to the disciplinary powers of the Law Society. Under the Solicitors Acts 1954 to 1994, the Disciplinary Tribunal of the Law Society is empowered to investigate allegations of misconduct such as the misappropriation of monies. Where there is a finding of misconduct, the Tribunal can itself impose a sanction on the solicitor (which can include a direction to pay restitution of a sum not exceeding €15,000 to any aggrieved party) or the Tribunal may refer its finding and recommendation to the President of the High Court, who ultimately will decide on the nature of the sanction to be imposed on the solicitor. The President has the power to suspend a solicitor from practice and to lift the suspension. The Disciplinary Tribunal has the power to require repayments of funds to clients if they find a solicitor has overcharged.


Statutory Instrument 732 of 2003, the European Communities (Lawyers' Establishment) Regulations 2003, provides that member state lawyers who wish to pursue the professional activities of a barrister or solicitor shall apply to the Bar Council or Law Society for registration to do so. The application is considered and if accepted a registration certificate is issued. An appeal from a refusal of the Bar Council or Law Society lies with the High Court.

### **6. Barristers**



The Honorable Society of King's Inns provides post-graduate legal training, leading to the award of the degree of barrister-at-law, for those who wish to practice at the Bar as the profession is collectively known. The King's Inns operates as a voluntary society under the control of the Benchers of the Honorable Society of King's Inns who are members of the judiciary and senior barristers. Entrance to the degree course is by means of an entrance examination for graduates of the King's Inns Diploma in Legal Studies or law graduates. The length of the Diploma in Legal Studies course is two years (part-time) and the Barrister-at Law Course is a full-time one-year course or a modular two-year course. On successful completion of the degree course, students are called to the Bar in the Supreme Court by the Chief Justice and the barristers called sign the roll of members of the Bar after the ceremony. However, there are further requirements before they can engage in paid legal work.

Barristers must be members of the Law Library in order to practice. The Law Library provides a place to work from and access to legal texts and materials in return for an annual fee. Before becoming a member of the Law Library, a barrister has to select a master - an established barrister with at least five years' experience. While under the master's guidance, which is generally for a year, the newly qualified barrister is known as a devil. The master introduces the devil to the practical work of a barrister and will usually ask the devil to assist with the drafting of court pleadings, legal research and to attend court on their behalf.

 **The General Council of the Bar of Ireland**, which is a non-statutory body, oversees the conduct of barristers. The Council is elected annually by members of the Bar and issues a Professional Code of Conduct, which is amended from time to time by members of the Bar. This Code of Conduct lays down what is required of barristers.


Allegations of breaches of the Code of Conduct are investigated by the Professional Practices Committee of the Bar Council, which includes non-members of the Bar. The Committee has the power to issue fines and admonishments and to suspend or exclude a member from the Law Library. Appeals from their decisions can be made to the Appeals Board, which includes a Circuit Court judge and also includes a lay member.

A barrister was traditionally required to receive instructions from a solicitor and direct access to barristers was prohibited. This practice was examined by the Fair Trade Commission who in its 1990 report recommended that the blanket ban on direct access was a restrictive practice and should be deleted from the Code of Conduct. The Commission did accept that in certain cases the continued involvement of a solicitor was desirable. The Commission recommended that there should be no statutory or other rules requiring the physical attendance of a solicitor in court to instruct a barrister. These recommendations have not been implemented in full but a number of amendments were made to the Code of Conduct to allow direct access from certain Approved Professional Bodies.

Barristers are either junior or senior counsel. The tradition is for members of the Bar to practice as junior counsel for a number of years before considering whether to become senior counsel. It is not a matter of automatic promotion, and some junior counsel will choose never to apply. In general, most barristers consider becoming senior counsel after 15 years' practice. Those who wish to become senior counsel apply to the Attorney General for approval but the actual appointment is made by the Government on the advice of the Attorney General who also liaises with the Chief Justice, the President of the High Court and the Chairman of the Bar Council.

In general, junior counsel draft and prepare pleadings and conduct some court cases, generally in the lower courts but not exclusively so. A senior counsel's functions would include scrutinising draft pleadings prepared by junior counsel and conducting the more difficult cases in the High and Supreme Court.

## 7. County Registrars

 **County registrars** are qualified solicitors and are appointed by the government. They perform quasi judicial functions in relation to the circuit court, and are responsible for the management of the circuit court offices.

They also act as County Sheriff (except in Dublin and Cork).

## 8. Notaries

Notaries Public are appointed by the Chief Justice sitting in open court. The Notary Public discharges the following principal functions:

Authentication of documents

Attesting and verifying of signatures on documents

Execution of notarial protests in respect of commercial documents such as bills of exchange and promissory notes, and of maritime matters

Taking of affirmations, declarations and (save in respect of proceedings before the Irish courts) affidavits.

Applications are made by petition showing the residence and occupation of the Petitioner, the number of Notaries Public in the district, the population of the district and the circumstances showing the necessity for a Notary Public and/or how a vacancy has occurred. The Petition must be verified by affidavit of the Petitioner in which is exhibited a certificate of fitness generally signed by six local solicitors and six leaders of the local business community. The petition is brought before the Chief Justice by Notice of Motion which is served through the Supreme Court Office on the Registrar of the Faculty of Notaries Public in Ireland, The Secretary of the Law Society and all Notaries Public practising in the applicant's counties and adjoining counties.

The general practice is to appoint Solicitors only as Notaries Public. When a person, who is not a Solicitor, applies to be a Notary Public, the Law Society will require that an undertaking be given by the Petitioner to the Chief Justice not to engage in conveyancing or in legal work usually performed by a solicitor. For all petitioners to be appointed a Notary Public, they must first pass an exam set by the Faculty of Notaries Public in Ireland.

### Note:

Queries on the current remuneration of the Attorney General, Director of Public Prosecutions, Clerks of the Court and Sheriffs can be

 **emailed** or

posted to:

Human Resources

Department of Finance

Merrion Street

Dublin 2

Barristers are self-employed and their earnings vary greatly.

Solicitors can be self-employed (by owning their own practices) or employees and their earnings vary greatly as well.

Notaries charge a fee per document notarised. There is no legislation governing the fee charged but notaries generally charge on the basis of time, travel and the amount a professional would be expected to charge for a service.

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## Legal professions - Greece

This page provides an overview of the legal professions in Greece.

### Prosecutors

#### Judges

#### Lawyers

#### Solicitors/Legal Advisors

#### Notaries

#### Bailiffs

#### Clerks

### Prosecutors

#### Organisation

As judicial authorities, public prosecutor's offices (*εισαγγελίες*) belong to the judicial branch of government and participate in the administration of justice. Public prosecutors (*εισαγγελείς*) enjoy operational and personal independence.

Each court, except district criminal courts (*παισιματοδικεία*), has a public prosecutor's office operating as an independent judicial authority, whose duties consist essentially in preparing criminal proceedings. A public prosecutor's main duty is to start legal proceedings, supervise investigations and lodge appeals.

In Greece, public prosecutors do not specialise in any field.

The Ministry of Justice, Transparency and Human Rights is responsible for the general conditions of service for public prosecutors.

There is no special website for public prosecutors. Information on their conditions of service is kept at the Ministry of Justice, Transparency and Human Rights.

#### Role and principle duties

Public prosecutors are responsible for:

- (a) carrying out preliminary investigations;
- (b) initiating legal proceedings;
- (c) questioning persons involved in a case;
- (d) supervising law enforcement authorities for crime prevention and prosecution;
- (e) submitting proposals to judicial councils and courts;
- (f) lodging appeals;
- (g) enforcing criminal judgments and helping to enforce enforcement orders;
- (h) supervising prisons;

and all other matters established by law.

Public prosecutors are reviewed by Supreme Court judges and senior public prosecutors, as defined by law.

### Judges

#### Organisation

Justice is administered by courts composed of ordinary judges (*τακτικοί δικαστές*) enjoying operational and personal independence.

In exercising their duties, judges (*δικαστές*) are subject only to the Constitution and laws and are not required to comply with any provision violating the Constitution.

Ordinary judges are reviewed by senior judges and by the Public Prosecutor and Deputy Public Prosecutors (*Αντεισαγγελείς*) of the Supreme Court (*Άρειος Πάγος*), as defined by law.

The Ministry of Justice, Transparency and Human Rights is responsible for the conditions of service for judges.

There is no special website for judges. Information on their conditions of service is kept at the Ministry of Justice, Transparency and Human Rights.

#### Organisation of the legal profession: Lawyers

#### Barristers/Advocates

In Greece, lawyers (*δικηγόροι*) are unpaid civil servants and are not required to specialise in any field.

The Ministry of Justice, Transparency and Human Rights is responsible for the conditions of service for the profession.

There are 63 bar associations (*δικηγορικοί σύλλογοι*) in Greece – one at the seat of each court of first instance (*πρωτοδικείο*).

The Ministry of Justice, Transparency and Human Rights supervises all bar associations in the country.

#### Legal databases

Information is available on the website of the [Athens Bar Association](#), but access is restricted to the members of each Association.

#### Solicitors/Legal Advisers

In Greece, lawyers also serve as legal advisers (*νομικοί σύμβουλοι*)

#### Legal databases

Information is available on the website of the [Athens Bar Association](#), but access is restricted to the members of each Association.

### Notaries

Notaries (*συμβολαιογράφοι*) are unpaid civil servants whose main duty is to prepare and store written legal recommendations and evidentiary acts and statements by interested parties when such documents are required by law or when the parties wish to make such documents official.

In Greece, notaries are not specialised in any field.

By Presidential Decree, there is at least one notarial post at the seat of each district civil court (*ειρηνοδίκηιο*).

The Ministry of Justice is responsible for the conditions of service for notaries.

There are nine notary associations (*συμβολαιογραφικοί σύλλογοι*) in Greece, operating at the seats of the courts of appeal (*εφετεία*).

The notary associations are supervised by the Ministry of Justice, Transparency and Human Rights.

Information on notaries may be found on the website of the <http://www.hellenicnotaryassociation.gr/> Hellenic Notary Association (*Συντονιστική Επιτροπή Συμβολαιογραφικών Συλλόγων Ελλάδας*) and on the European Directory of Notaries website of the [Council of the Notariats of the European Union](#) (CNUE).

### Other legal professions

#### Bailiffs

Bailiffs (*δικαστικοί επιμελητές*) are unpaid civil servants

Bailiffs are responsible for:

- (a) serving judicial and extrajudicial documents;

(b) enforcing enforcement orders as mentioned in Article 904(2) of the Code of Civil Procedure, i.e. (a) final judgments and judgments passed by and declared to be provisionally enforceable by a Greek court, (b) arbitration awards, (c) records of Greek courts containing a settlement or setting court costs, (d) notarised documents, (e) payment orders issued by Greek judges 'and eviction orders', (f) foreign acts declared to be enforceable and (g) orders and acts legally recognised as being enforceable; and  
(c) any other duty established by law.

The Ministry of Justice, Transparency and Human Rights is responsible for the conditions of service for bailiffs.

There are eight bailiff associations (*σύλλογοι δικαστικών επιμελητών*) in Greece.

#### Clerks

The Ministry of Justice, Transparency and Human Rights is responsible for the conditions of service for employees of Greek courts.

[Bailiffs](#) (378 Kb) [en](#)

[Clerks](#) (379 Kb) [en](#)

#### Related links

[Athens Bar Association](#)

[Piraeus Bar Association](#)

[Ministry of Justice, Transparency and Human Rights](#)

[Hellenic Notary Association](#)

[Notary Association of Thessaloniki](#)

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#### Legal professions - Spain

In Spain, a legal profession means a profession that can only be practised by someone who has undergone special legal training, given that their work has to do with applying the law.

[Judges and senior judges](#)

[Public prosecutors](#)

[Court registrars](#)

[Lawyers](#)

[Legal advisers](#)

[Notaries](#)

[Registrars](#)

[Legal representatives](#)

[Advisers on labour law and social security matters](#)

#### Legal professions - introduction

In Spain, a legal profession means a profession that can only be practised by someone who has undergone special legal training, given that their work has to do with applying the law.

The main legal professions in Spain are public prosecutors (*fiscales*), judges (*jueces*) and senior judges (*magistrados*), lawyers (*abogados*), notaries (*notarios*), court registrars (*letrados de la administración de justicia*), land and business registrars and legal representatives (*procuradores*).

#### Judges and senior judges

##### Organisation

Justice emanates from the people and is dispensed on behalf of the monarch by the judges and senior judges constituting the judiciary. Only judges can dispense justice, i.e. only they can hand down judgments and have them enforced.

Judges are independent of the other powers of the state and are subject only to the constitution and the law.

Admission to careers in the judiciary is based on the **principles of merit and ability**. The selection process is objective and transparent, guaranteeing equal opportunity for everyone who meets the criteria and who has the necessary skills, professional competence and qualifications to serve as a judge.

The Organic Law on the Judiciary lays down three career categories:

Supreme Court judge (*magistrado del Tribunal Supremo*),

Senior judge (*magistrado*),

Judge (*juez*).

The category for which there are most candidates is that of judge. Under the Organic Law on the Judiciary, in order to become a judge, candidates must pass a competitive examination for law graduates and take a course at law school (*Escuela Judicial*).

A smaller number of candidates also enter the judiciary via the senior judge and Supreme Court judge route.

Finally, Supreme Court judges are appointed by the General Council of the Judiciary (*Consejo General del Poder Judicial*) from senior judges with at least 15 years' service, including 10 years as a senior judge, while one fifth of Supreme Court judges are appointed from lawyers of recognised ability with at least 15 years' experience

##### Functions and tasks

The courts and tribunals will only hear cases where jurisdiction is conferred on them by the Organic Law on the Judiciary or some other law.

To find out more about the various jurisdictions, see 'Courts in Spain'.

Judges and senior judges exercise their judicial power independently of all the judiciary's judicial and governing bodies.

Judges and senior judges may be liable under criminal or civil law in the cases and in the manner laid down by law, and are liable to disciplinary action in accordance with the Organic Law on the Judiciary.

For more information, see the website of the [General Council of the Judiciary](#).

#### Public prosecutors

##### Organisation

The Public Prosecutor's Office (*Ministerio Fiscal*) is a constitutionally important body with its own legal personality, which has functional autonomy within the judiciary. It exercises its functions through its own structures, in accordance with the principles of unity of action and hierarchical subordination, and subject in all cases to the principles of legality and impartiality.

The Prosecutor General (*Fiscal General del Estado*) is the head of the Public Prosecutor's Office and represents it throughout Spain. He is responsible for issuing the necessary orders and instructions concerning the Office and its internal workings, and for its general management and supervision.

Public prosecutors are civil servants selected by a competitive examination for holders of law degrees and doctorates. In organisational terms they come under the Prosecutor General's Office and the respective Public Prosecutor's Offices of the autonomous communities.

#### Functions and tasks

Article 124 of the Spanish Constitution of 1978 states that the Public Prosecutor's Office 'without prejudice to functions entrusted to other bodies, has the task of promoting the operation of justice in defence of the rule of law, citizens' rights, and the public interest as safeguarded by the law, whether *ex officio* or at the request of interested parties, as well as that of protecting the independence of the courts and securing before them the satisfaction of social interest'.

Its functions include:

ensuring that the judicial function is performed effectively in accordance with the laws and within the stipulated time limits through the necessary actions, appeal procedures and other measures;

acting in the criminal process by ensuring that the judicial authority takes the appropriate precautionary measures and carries out investigations aimed at establishing the facts;

acting in civil proceedings specified by law that affect the public interest or the interests of minors, the disabled or the underprivileged until the normal representation mechanisms are provided;

performing the functions assigned to them by the relevant legislation in cases involving the criminal liability of minors, in order to serve the best interests of the minor.

For more information, see the website of the [Public Prosecutor's Office](#).

#### Court registrars

##### Organisation

Court registrars constitute a senior body in the justice administration system. They are civil servants who come under the Ministry of Justice, and they act as an authority in their own right.

Court registrars must hold a law degree and pass a competitive examination followed by a course at the Centre for Legal Studies (*Centro de Estudios Judiciales*), entry to which is also by competitive examination.

Court registrars form a hierarchical body under the Ministry of Justice and the Court Administrators (*Secretarios de Gobierno*) of each of the high courts, and they are subject to practically the same rules on incompatibilities and prohibitions as judges.

##### Functions and tasks

The functions of court registrars include ensuring that all decisions of the judges or courts for which they are responsible. They must at all times observe the principles of legality and impartiality, of autonomy and independence in authenticating judicial instruments, and of unity of action and hierarchical subordination when exercising all their other functions.

Court registrars are responsible for documentation and record-keeping. They must keep a record of court decisions and are responsible for initiating and ensuring the proper conduct of legal proceedings and for managing court staff. They are also responsible for cooperating with other bodies and public administrations, and for drawing up court statistics.

For more information on court staff in Spain, go to:

[Court registrars \(\*letrados de administración de justicia\*\)](#) (381 Kb) [es](#)

[Procedural agents \(\*gestores procesales\*\)](#) (371 Kb) [en](#)

[Legal documentalists \(\*tramitadores procesales\*\)](#) (371 Kb) [en](#)

[Court assistants \(\*auxilio judicial\*\)](#) (374 Kb) [en](#)

#### Organisation of the legal professions

##### Lawyers

Lawyers are independent members of a liberal profession who provide a service to society. They are not civil servants and practise on the basis of free and fair competition (Article 1 of the General Statute of Spanish Lawyers —*Estatuto General de la Abogacía Española*).

The role of lawyers is basically to direct and defend parties in all kinds of legal proceedings, to provide legal advice and to represent their clients unless this task is reserved by law to other professions.

##### In order to practise as a lawyer, a person must:

be a Spanish national or a national of a Member State of the European Union or of a country that is a party to the Agreement on the European Economic Area of 2 May 1992;

be of age and must not be disqualified from practising as a lawyer for any reason;

be a qualified lawyer or hold a Spanish law degree (in cases not regulated by Law 30/2006 of 30 October 2006 on admission to the professions of lawyer or legal representative and related implementing regulations) or an equivalent foreign degree that has been officially approved under the rules in force;

be a member of the bar (*Colegio de Abogados*) for the district in which the sole or main professional domicile is located, in order to practise anywhere in Spain.

Lawyers charge **fees** for the services they provide, in the form of a fixed fee, hourly fee, or periodic payments. The amount of the fee can be agreed freely between the client and the lawyer provided it does not go against the professional code of ethics or the rules of fair competition.

For more information, see the website on the [General Council of Lawyers in Spain](#).

##### Legal databases

For legislation: [Official State Gazette](#).

For case-law: [Legal Documentation Centre](#).

##### Is access to these databases free of charge?

Yes, access is free of charge.

#### Legal advisers

See the section on 'lawyers'.

#### Notaries

##### Organisation, functions and tasks

Notaries have two indissociable roles: they are public officers and legal professionals whose main public function is to witness legal instruments and other extrajudicial documents; they must draw up these documents in accordance with the wishes of the parties and in line with the law, which they must check and interpret, while informing the parties of its effects.

The notary's role as a public officer means that documents authorised or certified by him/her (notarial acts – *escrituras publicas*; commercial agreements – *pólizas mercantiles*; or authenticated copies – *testimonios*) have special judicial or extrajudicial effects, depending on the type of document.

All aspects of the role of notaries in Spain are strictly regulated (appointment by the Ministry of Justice; admission through competitive examinations; limited number of places; remuneration in the form of fees fixed by the government; retirement; disciplinary measures). Promotions are based on seniority or on competitions for notaries organised by the Ministry of Justice.

Only law graduates or postgraduates may take part in competitions for admission as notaries.

Notaries are grouped into Associations of Notaries (*Colegios Notariales*), with one for each autonomous community, and these are coordinated by the General Council of Notaries (*Consejo General del Notariado*), which has been assigned certain supervisory powers by the State.

Notaries come under the direct authority of the Ministry of Justice in the shape of the Directorate-General of Registers and Notaries (*Dirección General de los Registros y del Notariado*), which is in charge of inspecting and monitoring notary services.

For more information, see the website of the General Council of Notaries ([www.notariado.org](http://www.notariado.org)).

## Other legal professions

### Registrars

The land, business and moveable property registers serve as public records of certain legal rights, instruments or acts with substantive effect *erga omnes*, which permits a presumption of legitimacy, correctness, completeness and accuracy. This means that no other guarantees are required (title deeds, guarantees, etc.) to prove that such rights are held; it thus constitutes a more secure and cost-effective system, since there is only a one-off registration fee and it has immediate and permanent effect.

Land, business and moveable property registrars are public officers in charge of keeping the land, business and property registers in Spain. They are both public officers and legal professionals: acting on their own responsibility, they perform certain public functions assigned to them by law, in particular by mortgage, business and administrative law; and in their capacity as public officers under the Mortgage Act (*Ley Hipotecaria*), they exercise the powers conferred on them by administrative law.

The government regulates all matters relating to their admission, the number of places, remuneration, disciplinary measures and retirement. To become registrars, law graduates or postgraduates must take part in competitions organised by the State.

Their remuneration is in the form of fees fixed by the government.

Land, business or moveable property registrars are members of the National Association of Registrars in Spain (*Colegio Nacional de Registradores de España*), which has been assigned certain supervisory powers by the State.

They come under the direct authority of the Ministry of Justice in the shape of the Directorate-General of Registers and Notaries (*Dirección General de los Registros y del Notariado*), which is in charge of inspecting and monitoring the registers.

Registrars' functions are: classifying the documents submitted for entry in the registers for which they are responsible; advising the public on matters relating to registers and providing public access to the information entered; checking, where necessary, that persons requesting access have a legitimate interest and duly protecting sensitive data.

For more information, see the website of [National Association of Registrars in Spain](#).

### Legal representatives

Legal representatives (*procuradores*) represent the rights and interests of parties before the courts through a power of attorney granted for this purpose, ensure that communications between the courts and the parties are duly authenticated, and perform any other duties required by law.

To practise as a legal representative, a person must hold a qualification as legal representative or court legal representative (the latter in accordance with Law 34/2006 of 30 October 2006 on admission to the professions of lawyer or legal representative), must be registered with the Association of Legal Representatives (*Colegio de Procuradores*), must provide security and must swear an oath or make an affirmation.

Legal representatives come under the authority of the Association of Legal Representatives, whose governing body ensures that members perform their duties properly.

Their remuneration is in the form of fees fixed in advance by the Ministry of Justice.

For more information, see the website of the [General Council of Legal Representatives in Spain](#).

### Advisers on labour law and social security matters

Advisers on labour law and social security matters (*graduados sociales*) are specialists who can act in labour and social security proceedings before the courts.

They may appear in proceedings before the lower and higher courts, and may lodge appeals. However, to lodge an appeal with the Supreme Court, the presence of a lawyer is necessary.

In Spain, there are over 25 000 advisers in this area assisting both businesses and employees.

### Related links

[MINISTRY OF JUSTICE IN SPAIN](#)

[GENERAL COUNCIL OF THE JUDICIARY IN SPAIN](#)

[PUBLIC PROSECUTOR'S OFFICE IN SPAIN](#)

[NATIONAL ASSOCIATION OF COURT REGISTRARS IN SPAIN](#)

[GENERAL COUNCIL OF LAWYERS IN SPAIN](#)

[GENERAL COUNCIL OF LEGAL REPRESENTATIVES IN SPAIN](#)

[GENERAL COUNCIL OF NOTARIES IN SPAIN](#)

[NATIONAL ASSOCIATION OF REGISTRARS IN SPAIN](#)

[GENERAL COUNCIL OF ADVISER ASSOCIATIONS IN SPAIN](#)

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De volgende vertalingen zijn al beschikbaar

## Legal professions - France

In this section you will find an overview of the different legal professions.

### The legal professions – introduction

#### Judges



## Organisation

Professional judges in France (*magistrats*) are **career judges**, and are divided into **adjudicating judges**, who try law cases, and the **law officers who work for the State Counsel's Office** (*ministère public* or *parquet*). The adjudicating judges are often referred to as 'judges of the bench' (*magistrats du siège*), while the 'judges' who work for the State Counsel's Office are known as 'standing judges' or 'judges of the well of the court' (*magistrats du parquet*).

**Adjudicating judges decide the disputes** that come before them; **the State Council's Office represents the interests of society** in legal proceedings, and **brings prosecutions** to ensure that the law is applied. The rules governing the profession of judge are laid down in Order (*ordonnance*) No 58-1270 of 22 December 1958 enacting the institutional Act (*loi organique*) on the status of the judiciary. At different stages in the same judge's career he or she can be appointed as an adjudicating judge or to the State Counsel's Office. This is known as the principle of the unity of the judiciary (Section 1), a principle that has been reaffirmed by the Constitutional Council, notably in a decision of 11 August 1993. All judges form part of the judicial branch, which is required by Article 66 of the Constitution to protect individual freedoms. Nevertheless, there are certain differences in the rules that govern them: adjudicating judges are not subject to instructions from any higher authority, and enjoy security of tenure, in that they cannot be given a new posting without their consent. Most judges are **recruited by competitive examination**. In order to take the first competitive examination open to students, candidates must hold a degree confirming that they have had at least four years of further education, up to master's level. Successful candidates are appointed as judges' assistants (*auditeurs de justice*), and they all then receive the same training, given by France's national college of the judiciary (*École nationale de la magistrature* — ENM). There are also channels for entering the judiciary direct. At the end of their training at the ENM, judges' assistants are appointed to a court or office by order (*décret*).

In addition to their main functions, **presidents of courts and heads of offices** also have administrative duties, for example regarding the scheduling of hearings. On 1 January 2009 there were **8 090 judges**, of whom 7 769 were serving in the courts or the State Counsel's Office.

### The Supreme Council of the Judiciary

The Supreme Council of the Judiciary (*Conseil supérieur de la magistrature* — CSM) is provided for in **Article 65 of the Constitution**. The Constitutional Act of 23 July 2008 changed the composition of the Council and its powers in respect of appointments, and made provision for cases to be referred to it by litigants. The President of the Republic is now no longer a member of the CSM.

The **division of the Council with jurisdiction over adjudicating judges** is chaired by the First President of the Court of Cassation. It also includes five adjudicating judges, one law officer of the State Counsel's Office, one member of the Council of State (*Conseil d'État*) designated by the Council of State, one lawyer (*avocat*), and six qualified persons who do not belong to the legislature, to the ordinary courts or to the administrative courts. The President of the Republic, the chairman of the Lower House (*Assemblée nationale*) and the chairman of the Senate each designate two qualified persons.

The **division of the Council with jurisdiction over the law officers of the State Counsel's Office** is presided over by the Principal State Counsel (*procureur général*) at the Court of Cassation. It also includes five law officers of the State Counsel's Office and one adjudicating judge, along with the member of the Council of State, the lawyer and the six qualified persons already referred to.

The **division of the Council with jurisdiction over the adjudicating judges** puts forward nominations for the posts of adjudicating judges at the Court of Cassation, first presidents of the courts of appeal (*cours d'appel*), and presidents of the regional courts (*tribunaux de grande instance*). Other adjudicating judges can be appointed only with its **assent**.

This division acts as a **disciplinary board** for adjudicating judges. In that capacity it includes the adjudicating judge who sits in the division of the Council with jurisdiction over the law officers of the State Counsel's Office.

The division of the Council with jurisdiction over the law officers of the State Counsel's Office gives its opinion on appointments of such law officers. It also gives its opinion on disciplinary measures taken in respect of law officers. In that capacity, in addition to the members referred to in the third paragraph of Article 65, it includes the law officer of the State Counsel's Office who sits in the division of the Council with jurisdiction over adjudicating judges.

### The State Counsel's Office

#### Organisation

The **law officers of the State Counsel's Office** are required to act in the interests of society, which they represent in seeking that the law be applied.

With the exception of the office of the Principal State Counsel (*procureur général*) at the Court of Cassation, which is separate, France's State Counsel's Offices make up a hierarchical pyramid 'under the authority of the Minister of Justice'. Article 30 of the Code of Criminal Procedure provides that the Minister of Justice is to conduct the policy determined by the government with regard to public legal actions. The Minister is to ensure that this policy is applied consistently throughout the country. To this end, the Minister may give general instructions to the law officers of the State Counsel's Office regarding the public legal actions they bring.

At each **Regional Court**, there is a State Counsel's Office, headed by a **State Counsel** (*procureur de la République*) and made up of several law officers answerable to him or her. The State Counsel manages the office, distributing tasks and departments among the deputy state counsel (*procureurs adjoints*), the vice state counsel (*viceprocureurs*) and the assistant state counsel (*substituts*). The State Counsel heading that office in turn works under the supervision and direction of the Principal State Counsel.

Despite this hierarchical structure, the State Counsel's Office is regarded as an **indivisible unit**, in that an assistant does not need authority from a superior to act, and all of his or her acts bind the State Counsel's Office as a whole.

#### Role and functions

The functions of the State Counsel's Office are essentially concerned with the enforcement of **criminal law**. It directs **investigations**, and itself takes all steps necessary to prosecute offences, or sees to it that steps are taken to do so. It has discretion to decide what action should be taken in criminal cases (e.g. initiating a preliminary judicial inquiry (*ouverture d'une information judiciaire*), committing a matter for trial in court (*renvoi devant une juridiction de jugement*), or discontinuing proceedings (*classement sans suite*). It is required to appear at the court hearing; the law officer appearing is free to make such oral submissions as he or she considers most conducive to the proper administration of justice (on the facts, the character of the accused, and the sentence).

The State Counsel's Office also ensures that sentences are enforced.

The State Counsel's Office is responsible for **protecting minors** who are at risk, and it has certain civil functions (concerning, for example, the status of individuals in the registers of births, marriages and deaths), administrative functions (e.g. in relation to public houses, the periodical press, or direct marketing), and commercial functions (e.g. in relation to some insolvency proceedings).

The role and functions of adjudicating judges are explained in the page on the ordinary courts.

### Non-career judges (*juges non professionnels*)

#### The judges of the local courts

The judges of the local courts (*juges de proximité*) were introduced by the Justice System Framework and Planning Act (*loi d'orientation et de justice*) of 9 September 2002, supplemented by Act No 200547 of 26 January 2005; they are appointed by order (*décret*), with the assent of the Supreme Council of the Judiciary, for a term of seven years, which may not be renewed. With a few reservations their terms and conditions are governed by Order (*ordonnance*) No 581270 of 2 December 1958, referred to above.

They perform some of the **functions of judges of the ordinary courts. In civil matters**, they have jurisdiction to try personal and movable property actions up to a value of €4 000, save for matters which are reserved to the district court (*tribunal d'instance*). **In criminal matters**, they have jurisdiction to try minor offences that come within the first four classes of offence, to sit as assessors (*assesseurs*) in the criminal court (*tribunal correctionnel*), which deals with intermediate offences, and to approve penalties agreed by State Counsel and the accused without a trial (*composition pénale*).

On 1 January 2013 there were 452 such judges.

#### **Members of the employment tribunals**

The members of the employment tribunals (*les conseillers prud'hommes*) are chosen every **five years**. They are elected by electoral colleges representing employers and employees in agriculture, industry, commerce, management, and miscellaneous activities, by proportional representation, on a closed list system with no ticket-splitting or preferences for individual candidates. Candidates must be French nationals, must be aged 21 years or more, and must not have been sentenced to any ban, disqualification or deprivation with regard to their civil rights.

All employees and employers aged at least 16 years of age who carry on a trade or occupation, or who have an apprenticeship contract, or who are involuntarily unemployed, are entitled to vote.

#### **Assessors at the social security tribunals**

Assessors at the social security tribunals (*tribunaux des affaires de la sécurité sociale*) are appointed for **three years** by the first president of the court of appeal with jurisdiction in the area, from a list submitted for the particular tribunal by the regional director for young people, sport and social cohesion following nominations by the most representative trade and professional organisations.

#### **Assessors at the disability tribunals**

Assessors at the disability tribunals (*tribunaux du contentieux de l'incapacité*) are appointed for **three years** by the first president of the court of appeal with jurisdiction in the area, by the regional director for young people, sport and social cohesion from lists drawn up following nominations by the most representative trade and professional organisations.

#### **Assessors at the juvenile courts**

Assessors at the juvenile courts (*tribunaux pour enfants*) are appointed for four years by the Minister for Justice. They must be noted for their interest and competence in the field of child welfare; the assessors at each juvenile court are chosen from a list of candidates submitted by the first president of the court of appeal.

#### **Assessors at the agricultural land tribunals**

The assessors at the agricultural land tribunals (*tribunaux paritaires des baux ruraux*) consist of an equal number of landlords who are not also tenants, and tenants who are not also landlords; they are elected by their peers from lists of candidates which are drawn up by a committee for the preparation of electoral lists and finalised by the prefect of the *département*.

#### **Judges of the commercial courts**

Judges of the commercial courts (*tribunaux de commerce*), sometimes known as *juges consulaires*, are **volunteer traders** elected by other traders.

They are chosen by a twostage election process laid down in Articles L. 7231 to L. 72314 and R. 7231 to R. 72331 of the Commercial Code.

The voters at the second stage are current judges, former judges, and traders' delegates. Traders' delegates (*délégués consulaires*) are themselves traders who are elected for five years for the sole purpose of electing the judges of the commercial courts.

The judges are elected for an initial term of two years and then for terms of four years. A judge may not serve more than four terms successively. A judge who has served four successive terms is ineligible for one year thereafter.

Elections to fill any vacancies at the commercial courts are held every year in the first half of October.

#### **Court clerks**

The court clerk (*greffier*) is a **specialist in legal procedure**. The clerk assists the judge or judges in drawing up court documents and is responsible, where the law so requires, for authenticating and certifying the acts of the court, which will otherwise be null and void.

The court clerk works hand in hand with the judge, helping to prepare cases for hearing and conducting documentary research. The clerk may greet the public and provide public information, and may also give professional training at the National School of Court Registers (*École nationale des greffes*).

Most of a court clerk's duties are performed **in the different offices of the courts**. Depending on the size and structure of the court, the court clerk may be given management responsibilities as head or deputy head of the court register or as head of a department.

#### **Lawyers**

Lawyers (*avocats*) are officers of the court and members of an independent selfemployed profession. The rules that govern them are in the main laid down in Act (*loi*) No 71-1130 of 31 December 1971 reforming certain judicial and legal professions, and Order (*décret*) No 911197 of 27 November 1991 structuring the profession of lawyer. Act No 901259 of 31 December 1990, which amended the 1971 Act, with its implementing orders, created a new profession of lawyer (*avocat*) by amalgamating the existing professions of lawyer (*avocat*) and legal adviser (*conseil juridique*).

In their daily business lawyers advise and represent clients.

Under Section 4(1) of the Act of 31 December 1971, lawyers have a virtual monopoly on assisting and representing parties, and acting and pleading before courts, judicial authorities and disciplinary tribunals of all kinds.

There is no national association of lawyers, as lawyers wish to retain a proper representation of all bar associations. There are 161 bar associations (*barreaux*) in mainland and overseas France, each attached to a regional court (*tribunal de grande instance*) and each headed by a chairman (*bâtonnier*) and directed by a bar council (*conseil de l'ordre*); the role of the bar council is to deal with all issues concerning the practice of the profession, to ensure that lawyers fulfil their responsibilities, and to protect their rights.

The National Council of Bar Associations (*Conseil national des barreaux* — CNB), created by the Act of 31 December 1990 (Section 15), is a body recognised as being of public utility (*établissement d'utilité publique*), and has legal personality; it is responsible for representing the legal profession in dealings with public authorities and seeking to ensure that the rules and usages of the profession are harmonised.

The National Council of Bar Associations has a website which allows everyone to have free access to information on the structure of the profession, current issues concerning the profession, and a directory of all the lawyers registered with French bar associations. Most of the larger bars have their own websites, which are free and accessible to all; their addresses appear in the bar associations directory available on the CNB website.

Lawyers at France's two supreme courts, the Council of State and the Court of Cassation, form a separate profession: they are public officials appointed to their posts by order of the Minister for Justice, and when parties must be represented before those courts they have the sole right to plead. The rules governing them are laid down essentially in the Order (*ordonnance*) of 10 September 1817 establishing the Order of Lawyers at the Council of State and the Court of Cassation, Order (*décret*) No 91-1125 of 28 October 1991 relating to the conditions for entering the profession, and Order (*décret*) No 200276 of 11 January 2002 on the disciplinary rules governing the profession.

An Order (*ordonnance*) of 10 July 1814 set the number of lawyers at the supreme courts at sixty. However, an Order (*décret*) of 22 April 2009 now allows the Minister for Justice to create new offices of lawyer at the supreme courts, on grounds of the proper administration of justice, having regard in particular to changes in the workload of cases coming before those courts.

The lawyers at the supreme courts form a separate bar or order, headed by a president, who is assisted by a bar council of 11 members. This body is responsible for ensuring professional discipline, and represents the profession.

The website of the [Order of Lawyers at the Council of State and the Court of Cassation](#) provides more details.

#### Is there a database for this area?

There is a database, managed by the National Council of Bar Associations, which covers the **list of lawyers appearing on the rolls of every bar association in France**.

#### Is access to this information free of charge?

Access to the database on the website of the [National Council of Bar Associations](#) is free.

### Notaries

#### Organisation

The notary (*notaire*) is a **public legal official** appointed by order (*arrêté*) of the Minister of Justice. Notaries nevertheless operate as practitioners of an independent selfemployed profession. The rules governing the profession are laid down mainly in the Act (*loi*) of 25 Ventôse Year XI (dated according to the French Republican Calendar); Order (*ordonnance*) No 452590 of 2 November 1945; Order (*décret*) No 45-0117 of 19 December 1945 relating to the organisation of the profession of notary; Order (*décret*) No 73-609 of 5 July 1973 relating to professional training and the conditions for entering the profession of notary; and Order (*décret*) No 78-262 of 8 March 1978 fixing the schedule of notaries' fees.

The profession is organised into **chambers of notaries** at the level of *départements* and into **councils** at regional level, which are responsible for regulating and disciplining the notaries from their own areas. In dealings with national authorities the profession is represented by the **Supreme Council of Notaries** (*Conseil supérieur du notariat*).

In addition to its role in representing the profession in dealings with public authorities, the Supreme Council of Notaries has the task of preventing and resolving professional disputes between notaries who do not belong to the same regional council. [The Supreme Council of Notaries](#) has a free website which sets out the principal characteristics of the profession and contains a **directory of notaries and their chambers and councils in the départements and regions**.

#### Role and functions

Notaries are empowered to **issue authenticated documents**, which are then enforceable without having to obtain a court order.

They also have the task of **advising** individuals and businesses, whether or not in connection with the drafting of official documents, and alongside their main business they may play a part in the **administration of assets and property transactions**.

#### Other legal professions

##### Court bailiffs

The court bailiff (*huissier de justice*) is a public legal official appointed by order (*arrêté*) of the Minister of Justice. Bailiffs nevertheless operate as Practitioners of an independent selfemployed profession. The rules governing the profession are laid down mainly in the Act (*loi*) of 27 December 1923, Order (*ordonnance*) No 45-2592 of 2 November 1945, Order (*décret*) No 56-222 of 29 February 1956, and Order (*décret*) No 75-770 of 14 August 1975. They alone are permitted to serve court papers and to execute court orders and enforceable orders or instruments. In addition they may, either on commission from the courts or at the request of individuals, draw up reports making official findings. Alongside their main business they are also allowed to act as mediators, property administrators or insurance agents, provided they first inform their regional bailiffs' chamber and the principal state counsel (*procureur général*) at the court of appeal for their area.

For the steps they take in civil and commercial matters within their remit, bailiffs are remunerated at fixed rates set out in Order (*décret*) No 96-1080 of 12 December 1996.

The profession is represented by chambers at the level of the *départements* and regions in the geographical jurisdiction of each court of appeal. There is a national chamber that represents the entire profession in dealings with the public authorities, and resolves disputes between chambers and between bailiffs who do not belong to the same regional chamber. The [National Chamber of Court Bailiffs](#) has a free website which sets out the principal characteristics of the profession and contains a **directory of court bailiffs**.

##### Other officers of the court

The **clerks of the commercial courts** (*greffiers de tribunaux de commerce*) are public legal officials whose main task is to assist the members of the commercial court during hearings and to assist the president of the court in all his or her administrative tasks. They manage the court registry and see to it that the register of commerce and companies (*registre du commerce et des sociétés* — RCS) and the court directories and files are properly maintained. They issue official copies, are responsible for affixing the court seal, take care of money lodged at the registry, and draw up registry documents and other formal documents within their area of responsibility.

The profession is regulated by Articles L.741-1 *et seq.* to R.741-1 of the Commercial Code.

The profession is represented in dealings with the authorities by the **National Council of Clerks of the Commercial Courts** (*Conseil national des greffiers des tribunaux de commerce* — CNGTC). This is a body recognised as being of public utility (*établissement d'utilité publique*), and has legal personality; it is responsible for representing the collective interests of the profession. It organises the initial and ongoing training of court clerks and court staff and the professional examinations, and facilitates traineeships and ensures that they are followed up. The website of the [National Council of Clerks of the Commercial Courts](#) has more information on these matters.

##### Legal advisers/in-house lawyers

The profession of **legal adviser** (*conseil juridique*) was merged with the profession of lawyer (*avocat*) under Act No 90-1259 of 31 December 1990.

**Lawyers (*juristes*) who do not practise as independent lawyers (*avocats*) but instead work inhouse for businesses** are not subject to any specific professional regulation.

#### Related links

[Legal professions](#)

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## Legal professions - Croatia

### Lawyers in judicial bodies

#### Judges (*suci*; sing. *sudac*).

Education requirements: Have been awarded a university degree or master's degree in law and passed the national bar examination.

A person who is a Croatian citizen may be appointed judge.

A person who has graduated from the State School for Judicial Officials (*Državna škola za pravosudne dužnosnike*) may be appointed judge of a misdemeanour court (*prekršajni sud*), a municipal court (*općinski sud*), a commercial court (*trgovački sud*) or an administrative court (*upravni sud*).

A person who has worked as a judicial official for at least eight years may be appointed judge of a county court (*županijski sud*), the High Misdemeanour Court of the Republic of Croatia (*Visoki prekršajni sud Republike Hrvatske*), the High Commercial Court of the Republic of Croatia (*Visoki trgovački sud Republike Hrvatske*) and the High Administrative Court of the Republic of Croatia (*Visoki upravni sud Republike Hrvatske*).

In order to be appointed judge of the Supreme Court of the Republic of Croatia (*Vrhovni sud Republike Hrvatske*), a person must have worked for at least 15 years as a judicial official, attorney, notary or university professor of law (in the last case the relevant work experience is that following the bar examination), or be a renowned lawyer who has passed the national bar examination, has at least 20 years' work experience and has proven himself/herself through his /her work in a particular field of law and by his/her professional and academic works.

📄 [Courts Act \(\*Zakon o sudovima\*\)](#)

📄 [State Judicial Council Act \(\*Zakon o državnom sudbenom vijeću\*\)](#)

📄 [Act on the Remuneration of Judges and Other Judicial Officials \(\*Zakon o plaćama sudaca i drugih pravosudnih dužnosnika\*\)](#)

#### Court staff

The number of court staff and assistant staff required for the performance of professional, clerical and technical tasks is decided by the Minister for Justice.

The employment of state staff and assistant staff in courts, their remuneration and other work-related rights, obligations and responsibilities and their liability for professional misconduct are governed by the regulations on state staff and assistant staff and the general regulations on work.

Court vacancies may be filled only with the approval of the Ministry of Justice.

When court staff and assistant staff are recruited to a court, account must be taken of the representation of persons who belong to national minorities.

Regulations on the educational requirements for court staff and assistant staff, traineeships, the conditions for taking the specialist state examination, the curriculum and the method of taking that examination and other related matters are adopted by the Minister for Justice.

Court staff may be transferred to another court by decision of the Minister for Justice in accordance with the needs of the service. A court may have court counsellors (*sudski savjetnici*; sing. *sudski savjetnik*) and senior court counsellors (*viši sudski savjetnici*; sing. *viši sudski savjetnik*).

A person who has a university degree in law and who has passed the national bar examination may work as a court counsellor.

A person who has a university degree in law, has passed the national bar examination and has worked for at least two years as a court counsellor, judicial official, attorney or notary, or a person who has worked for at least five years on other legal affairs after passing the national bar examination may be appointed to a post of senior court counsellor or to a post of court counsellor at the Supreme Court of the Republic of Croatia.

A person who has worked for at least four years as a court counsellor, judicial official, attorney or notary or a person who has worked for at least 10 years on other legal affairs after passing the national bar examination may be appointed to a post of senior court counsellor at the Supreme Court of the Republic of Croatia.

#### Powers of court counsellors and senior court counsellors

Court counsellors and senior court counsellors take part in trials and are authorised to conduct certain court proceedings independently, to assess evidence and to establish facts.

On the basis of such proceedings, a court counsellor or senior court counsellor submits a draft to a judge authorised for that purpose by the president of the court, on the basis of which the judge adopts a decision. The court counsellor or senior court counsellor publishes that decision by authorisation of the judge. If the judge does not accept the draft submitted by the court counsellor or senior court counsellor, he/she will conduct proceedings himself/herself.

Under the applicable provisions of the Courts Act, court counsellors and senior court counsellors are authorised to conduct proceedings and propose draft decisions, as follows:

in civil proceedings in disputes concerning the payment of a monetary claim or compensation where the amount at issue does not exceed HRK 100 000.00 and in trade disputes where the amount at issue does not exceed HRK 500 000.00,

in labour disputes stemming from collective agreements,

in administrative disputes which concern legal action relating to matters on which a ruling is being adopted on the basis of a final judgment in a model dispute, or legal action against an act or omission committed by a body governed by public law, and in administrative disputes in which the amount at issue does not exceed HRK 100 000.00,

in enforcement proceedings,

in succession proceedings,

in land register proceedings,

in misdemeanour proceedings,

in non-contentious proceedings, except in proceedings concerning deprivation of operational capacity, dissolution of a coownership association, settlement of boundaries and proceedings under the Family Act (*Obiteljski zakon*),

in registration proceedings,

in shortened insolvency proceedings,

concerning the costs of court proceedings.

Court counsellors and senior court counsellors are authorised to act and to take decisions in particular proceedings where this is provided for by specific legislation.

In second-instance proceedings and proceedings under extraordinary legal remedies court counsellors and senior court counsellors report on case progress and draw up a draft decision.

#### Trainee judges (*sudački vježbenici*; sing. *sudački vježbenik*)

Each year the Ministry of Justice decides the number of trainee posts in courts in accordance with the available funding earmarked in the national budget.

The conditions governing the recruitment of trainee judges to courts, the way in which this is done and the duration of, and arrangements for, traineeships are governed by a separate law.

**Expert associates (*stručni suradnici*; sing. *stručni suradnik*)**

Courts may also have staff who have completed relevant vocational studies or an undergraduate or graduate university study programme and have the requisite work experience in defectology, sociology, education, economics, book-keeping and finance or another relevant field.

expert associates and expert assistants (*stručni pomoćnici*; sing. *stručni pomoćnik*) assist judges in work on cases which require expert knowledge.

**Lay judges (*suci porotnici*; sing. *sudac porotnik*)**

In order to be appointed lay judge, a person must be an adult Croatian citizen who is fit to occupy such a post.

Lay judges are appointed for a term of four years and may be reappointed at the end of that term.

If no lay judge has been appointed by the end of the term of office of an existing lay judge, the latter shall continue to perform his/her duties until an appointment is made.

Lay judges of municipal and county courts are appointed by the county assembly (*županijska skupština*) or, in the case of Zagreb, by the City Assembly of Zagreb (*Gradska skupština Grada Zagreba*) following the submission of proposals from the municipal or city council, trade unions, employers' association and the Chamber of the Economy.

Lay judges of the Supreme Court of the Republic of Croatia are appointed by the Croatian parliament, on the basis of a proposal from the Minister for Justice, in such a way that all counties are represented.

Before lay judges are appointed, it is necessary to obtain the opinion of the president of the court concerned about the proposed candidates.

**Director of court administration (*ravnatelj sudske uprave*)**

A court that has more than 40 judges may have a director of court administration.

Several courts of different instance and type which are located in the jurisdiction of a county court and which have more than 40 judges in total may have a joint director of court administration who performs tasks for those courts. Courts which have a joint director of court administration conclude an agreement on the joint performance of the tasks for which the director of court administration is responsible.

The director of court administration is responsible for the proper and timely performance of expert, administrative, technical and other work in the court, as follows:

taking care of maintenance of the court building, premises and work equipment, and investment,  
organising and coordinating the drafting of the annual procurement plan in accordance with the law and the needs of the court,  
being responsible for conducting public procurement procedures,  
monitoring material and financial operations and carrying out clerical and ancillary technical tasks,  
taking care of and monitoring the use of the court's budgetary and own resources,  
taking part in the preparation and implementation of projects of the court administration and supervising the implementation of such projects,  
taking care of and being responsible for the proper functioning of the computer system at the court,  
making sure that statistics on the court's work are produced properly and on time,  
cooperating with local and regional authorities on the purchase of equipment and the provision of resources for the specific activities of courts,  
performing other tasks that are assigned to him/her by the president of the court.

The director of court administration is accountable to the president of the court for his/her work.

In order to be appointed director of court administration, a person must have a university degree in law or economics and relevant experience in organisational and financial work.

**Court registrar (*tajnik suda*)**

A court that has more than 15 judges may have a registrar. The court registrar assists the president of the court in the performance of the tasks of the court administration. A person who has a university degree in law may be appointed court registrar.

In order to be appointed registrar of the Supreme Court of the Republic of Croatia, the High Commercial Court of the Republic of Croatia, the High Administrative Court of the Republic of Croatia and the High Misdemeanour Court of the Republic of Croatia, a person must meet the conditions to be a senior court counsellor in the court in question.

The court registrar is responsible for the proper and timely performance of clerical and other technical work in the court, as follows:

organising and being responsible for the work of court staff and assistant staff,  
monitoring and planning the training of staff and assistant staff, and supervising their performance,  
with the consent of the president of the court, adopting decisions on the assignment of court staff and assistant staff,  
on the basis of a delegation from the president of the court, being responsible for petitions and complaints from parties about the work of the court,  
performing other tasks for which the court administration is responsible and which are assigned to him/her by the president of the court,  
performing other tasks laid down by specific legislation.

The court registrar is accountable to the president of the court for his/her work.

**Court spokesperson (*glasnogovornik suda*)**

A court has a spokesperson.

A court's spokesperson is a judge, court counsellor or a person designated by the president of the court in the annual work schedule.

The president of a county court may designate one judge from that court to be spokesperson for that court and for the municipal courts within its jurisdiction.

A deputy spokesperson may be appointed.

The court spokesperson provides information about the work of the court in accordance with the Courts Act, the Court Rules of Procedure (*Sudski poslovnik*) and the Freedom of Information Act (*Zakon o pravu na pristup informacijama*).

**State Attorneys (*državni odvjetnici*; sing. *državni odvjetnik*)**

Education requirements: Have been awarded a university degree or master's degree in law and passed the national bar examination.

A state attorney is responsible for performing tasks relating to the area of competence of the State Attorney's Office (*državno odvjetništvo*) that he/she represents and manages.

The State Attorney's Office is an autonomous and independent judicial body that is authorised and obliged to take action against perpetrators of crimes and other punishable offences, to take legal action to protect the assets of the Republic of Croatia and to use remedies to protect the Constitution and legislation.

The State Attorney's Office exercises its powers on the basis of the Constitution, legislation, international treaties that form part of the legal order of the Republic of Croatia and other regulations that have been adopted in accordance with the Constitution, an international treaty or a law of the Republic of Croatia.



The State Attorney's Office of the Republic of Croatia has been established to cover the entire territory of the Republic of Croatia, municipal state attorney's offices (*općinska državna odvjetništva*; sing. *općinsko državno odvjetništvo*) have been set up to cover the territory of one or more municipal courts, and county state attorney's offices (*županijska državna odvjetništva*; sing. *županijsko državno odvjetništvo*) have been set up to cover the territory of a county court or commercial court and the jurisdiction of an administrative court.

**STATE ATTORNEY'S OFFICE OF THE REPUBLIC OF CROATIA**  
**OFFICE FOR THE PREVENTION OF CORRUPTION AND**  
**ORGANISED CRIME (*URED ZA SUZBIJANJE KORUPCIJE I ORGANIZIRANOG KRIMINALITETA*) [USKOK]**  
**COUNTY STATE ATTORNEY'S OFFICES (15)**  
**MUNICIPAL STATE ATTORNEY'S OFFICES (33)**

State Attorney's Office of the Republic of Croatia  
Gajeva 30a, 10 000 Zagreb

<http://www.dorh.hr/>

State Attorney-General of the Republic of Croatia (*glavni državni odvjetnik*)

tel.: +385 1 459 18 88

fax: +385 1 459 18 54

email: [tajnistvo.dorh@dorh.hr](mailto:tajnistvo.dorh@dorh.hr)

Criminal Law Division (*kazneni odjel*)

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fax: +385 1 459 18 05

e-mail: [tajnistvo.kazneni@dorh.hr](mailto:tajnistvo.kazneni@dorh.hr)

Civil and Administrative Affairs Division (*građansko upravni odjel*)

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fax: +385 1 459 19 12

e-mail: [tajnistvo.gradjanski@dorh.hr](mailto:tajnistvo.gradjanski@dorh.hr)

Municipal State Attorney's Offices (370 Kb) [hr](#)

County State Attorney's Offices (284 Kb) [hr](#)

[State Attorney's Office Act \(\*Zakon o državnom odvjetništvu\*\)](#)

[\(Territories and Registered Offices of State Attorney's Offices Act \(\*Zakon o područjima i sjedištima državnih odvjetništava\*\)\)](#)

*The new Territories and Registered Offices of State Attorney's Offices Act streamlining the network of municipal state attorney's offices enters into force on 1 April 2015.*

[Act on the Office for the Prevention of Corruption and Organised Crime \(\*Zakon o Uredu za suzbijanje korupcije i organiziranog kriminaliteta\*\)](#)

**Attorneys (*odvjetnici*; sing. *odvjetnik*)**

Education requirements: Have been awarded a university degree or master's degree in law and passed the national bar examination.

The legal profession is an independent service that provides legal assistance to natural and legal persons so that they can exercise and defend their rights and legal interests. The legal profession is governed by the Legal Profession Act (*Zakon o odvjetništvu*).

The autonomy and independence of the legal profession is ensured by attorneys exercising their liberal profession autonomously and independently.

Attorneys are organised within the Croatian Bar Association (*Hrvatska odvjetnička komora*), which is an autonomous and independent association of attorneys in the territory of the Republic of Croatia.

Attorneys may be organised as a law office (*odvjetnički ured*), a joint law office (*zajednički odvjetnički ured*) or a law firm (*odvjetničko društvo*), in the last case specifically as a public trading company (*javno trgovačko društvo*) or a limited liability company (*društvo s ograničenom odgovornošću*). Attorneys provide the attorney's service as a profession and may not perform other duties.

Attorneys must join the Croatian Bar Association, which is an autonomous and independent organisation with the characteristics of a legal person. The Croatian Bar Association represents the legal profession of the Republic of Croatia as a whole. The Association's bodies are the Assembly (*Skupština*), Management Board (*Upravni odbor*), Executive Board (*Izvršni odbor*), President (*Predsjednik*) and other bodies defined by its Articles of Association.

Attorneys may offer any kind of legal assistance, in particular:

give legal advice,

draft documents (contracts, wills, statements, etc.) and draw up actions, complaints, motions, requests, applications, extraordinary legal remedies and other pleadings,

represent their clients.

An attorney may carry out his/her legal practice autonomously or in a joint office or a law firm.

Only attorneys may offer legal assistance on a professional basis, except where the law provides otherwise. Professors and assistant professors (*docenti*) teaching legal subjects at a university in the Republic of Croatia may give legal advice and opinions for payment. This does not include the drafting of documents (contracts, wills, statements, etc.) or the preparation of actions, complaints, motions, requests, applications, extraordinary legal remedies and other pleadings. Such persons are not authorised to offer other forms of legal assistance, and they are obliged to inform the Croatian Bar Association of their intention to offer legal assistance so that it can be recorded.

A person acquires the right to work as an attorney in the territory of the Republic of Croatia by being enrolled on the list of attorneys and upon taking an oath. The special decision to enter a person on the list of attorneys is made by the Croatian Bar Association.

Croatian Bar Association

Koturaška 53/II, 10 000 Zagreb

tel.: +385 1 6165 200

fax: +385 1 6170 686

email: [hok-cba@hok-cba.hr](mailto:hok-cba@hok-cba.hr)

<http://www.hok-cba.hr/>

[Legal Profession Act](#)

**Notaries (*javni bilježnici*; sing. *javni bilježnik*)**

Education requirements: Have been awarded a university degree or master's degree in law and passed the state examination for the notarial profession.

Notaries do not represent clients. They are experienced experts commissioned by clients. Their aim is to help their clients to manage their affairs as well as possible in order to avoid lengthy and costly disputes. Moreover, they are impartial, since they act in order to protect legal security, rather than in the interests of a particular client, and they may not refuse to perform official duties unless they have a valid reason. They are obliged to treat as confidential the information that they obtain in the performance of their work.

The notarial service comprises the official drafting and issuing of public documents on legal transactions, statements and facts on which rights are based, the official certification of private documents, the acceptance for safe keeping of documents, money and valuables with a view to handing them over to other persons or competent bodies, and the conduct of procedures laid down by law following an instruction from a court or other public body. The organisation and functioning of notaries as a public service are laid down by the Notaries Act (*Zakon o javnom bilježništvu*).

Notarial services are provided by notaries as autonomous and independent professionals vested with public trust. Notaries are appointed by the Minister for Justice. The registered office of notaries in the territory for which they are appointed is determined by the Ministry, and the official territory covered by notaries corresponds to the territory laid down by law for the municipal court on whose territory they have their registered office. A notary is authorised to represent a client before courts and other public bodies in a non-contentious case if such a case is directly linked to any of his/her documents, in which case he/she has the rights and duties of an attorney.

In the Republic of Croatia notaries must join the Croatian Chamber of Notaries (*Hrvatska javnobilježnička komora*). The Chamber's registered office is in Zagreb. The Chamber seeks to protect the reputation and honour of notaries and to defend their rights and interests, and it decides on their rights, obligations and responsibilities. The bodies of the Chamber are its Assembly (*Skupština*), Management Board (*Upravni odbor*) and President (*Predsjednik*). The work of notaries is monitored by the Ministry of Justice and the Chamber.

Croatian Chamber of Notaries

Radnička cesta 34/II, 10 000 Zagreb

tel.: +385 1 4556 566

fax: +385 1 4551 544

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<http://www.hjk.hr/Uredi>

[Notaries Act \(\*Zakon o javnom bilježništvu\*\)](#)

[Act on Notaries' Fees \(\*Zakon o javnobilježničkim pristojbama\*\)](#)

#### **Lawyers in national, local and regional authorities**

Education requirements: Have been awarded a university degree or master's degree in law and passed the national bar examination (for posts representing an employer).

The position of state staffs (including lawyers) in national authorities is governed by the State staff Act (*Zakon o državnim službenicima*), whereas the position of staff (including lawyers) of local and regional authorities is regulated by the Local and Regional Self-Government Act (*Zakon o lokalnoj i područnoj (regionalnoj) samoupravi*).

#### **Lawyers in trading companies**

Education requirements: Have been awarded a university degree or master's degree in law and passed the national bar examination (for posts representing an employer).

Lawyers in trading companies are authorised to represent the trading company concerned, in their capacity of authorised representative by virtue of employment, before all authorities and in all legal relationships, such as civil proceedings, the conclusion of contracts, matters of labour law, property and status, misdemeanour and criminal proceedings, etc. Lawyers who work in business are authorised to take the national bar examination under the conditions laid down by law.

The Republic of Croatia has no chamber of lawyers who work in trading companies. For that reason a certain number of lawyers who work in trading companies belong to civil society organisations which have been set up to promote the interests of the legal profession in business and to obtain advanced professional training for lawyers in such companies.

The position of lawyers in trading companies in the Republic of Croatia is not regulated by separate regulations.

#### **Lawyers in institutions and academia**

Education requirements: Have been awarded a university degree or master's degree in law and passed the national bar examination (for posts representing an employer).

Education requirements for work in academia or for exercising scientific and educational occupations: The person concerned must have been awarded a university degree or master's degree in law or a doctor's degree, have made public presentations at scientific or academic gatherings in the field concerned and published scientific and academic works.

#### **National Judicial Council (*Državno sudbeno vijeće*)**

The **National Judicial Council** is an autonomous and independent body that ensures the autonomy and independence of the judiciary in the Republic of Croatia. It decides autonomously, in conformity with the Constitution and law, on the appointment, promotion, transfer, dismissal and disciplinary responsibility of judges and presidents of courts, except in the case of the President of the Supreme Court of the Republic of Croatia. The President of the Supreme Court is elected and dismissed by the Croatian Parliament on the basis of a proposal from the President of Croatia once the General Assembly (*Opća sjednica*) of the Supreme Court of the Republic of Croatia and the competent committee of the Croatian Parliament have given their opinion. The President of the Supreme Court of the Republic of Croatia is elected for a term of four years.

The National Judicial Council has 11 members, of whom seven are judges, two are university professors of law and two are members of Parliament, one of whom must be from the ranks of the opposition.

[National Judicial Council Act \(\*Zakon o državnom sudbenom vijeću\*\)](#)

#### **State Attorneys' Council (*Državnoodvjetničko vijeće*)**

The State Attorneys' Council appoints and dismisses, and decides on the disciplinary responsibility of, state attorneys, apart from the State Attorney-General of the Republic of Croatia, and of their deputies. The State Attorney-General of the Republic of Croatia is appointed for a term of four years by the Croatian Parliament, on the basis of a proposal from the Government of the Republic of Croatia, once the competent committee of the Croatian Parliament has given its opinion.

The National State Attorneys' Council has 11 members, of whom seven are deputy state attorneys, two are university professors of law and two are members of Parliament, one of whom must be from the ranks of the opposition.

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Aan de vertaling in het Nederlands wordt momenteel gewerkt.

De volgende vertalingen zijn al beschikbaar

## Legal professions - Italy

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

### Legal professions – introduction

The main legal professions in Italy are those of *magistrato* (including the functions of judge (*giudice*) and law officer of the public prosecution service (*ministero pubblico*)) and lawyer and notary.

### Judges and public prosecution service

The system by which judges and law officers of the prosecution service discharge their **judicial functions** is set out in the Constitution.

#### Judges

Justice is administered in the name of the people. Judges are subject only to the law. **(Article 101 of the Constitution)**.

The system by which judges discharge their judicial functions is laid down and regulated by the laws on the judicial system.

No 'extraordinary' or 'special' courts may be set up, only special chambers attached to ordinary courts. The law lays down how and when the public may take part directly in the administration of justice.

Access to the judiciary is through public competition. However, honorary judges may be appointed to carry out all the functions of an individual ordinary judge.

#### Autonomy and independence

The judiciary is an **autonomous body**, independent from any other branch of government **(Article 104 of the Constitution)**.

This independence is upheld by the Higher Judicial Council (*Consiglio Superiore della Magistratura*), a self-governing body charged with judicial appointments, assignment of duties and transfers, promotions and disciplinary measures (Article 105 of the Constitution).

The only difference between judges is the nature of their work.

Their appointment is permanent and they cannot be dismissed or suspended without a decision to that effect by the *Consiglio Superiore della Magistratura* pursuant to the laws on the judiciary and with the guarantees laid down therein, or with the consent of the judge concerned.

#### Law officers of the prosecution service

##### Organisation

The Constitution also enshrines the principles of the **independence and autonomy** of the public prosecution service **(Article 107)**.

Article 112 lays down the principle of mandatory prosecution of crimes: once the competent public prosecutor has been informed of a criminal offence, they must conduct investigations and submit the results of these investigations to a judge for appraisal, along with the relevant requests. The obligation to institute criminal proceedings helps to ensure the independence of the public prosecution service in carrying out its work and also underpins the equality of all people before the law.

The offices of the public prosecution service are attached to the Court of Cassation, the appeal courts, ordinary courts and juvenile courts.

##### Role and duties

The prosecution service is involved in all **criminal proceedings** and acts on behalf of the **state**. Offices of the prosecution service participate in civil proceedings where this is provided for in law (e.g. in certain family disputes, cases involving persons lacking legal capacity, etc.).

#### Organisation of the legal profession: lawyers and notaries

##### Lawyers

A lawyer is an independent professional called upon to represent and assist their clients – who may be an individual, a company or a government body – before a civil, criminal or administrative court.

A lawyer defends clients on the basis of an agreement to represent them and upon payment of a fee.

Attached to each court is a council composed of local lawyers (*Consiglio dell'ordine*).

At national level there is the National Bar Council (*Consiglio Nazionale Forense*).

Law No 247 of 31 December 2012 brought in new provisions governing of the practice of law.

##### Notaries

A notary is a professional who exercises a  **public function**: their role is to authenticate acts signed in their presence.

The profession of notary is governed by Law No 89 of 16 February 1913 on the rules governing the notarial profession and notarial archives.

The national body is the National Council of Notaries (*Consiglio Nazionale del Notariato*).

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De volgende vertalingen zijn al beschikbaar

## Legal professions - Cyprus

### Legal professions - Introduction

#### Profession of advocate – Introduction

The profession of advocate in the Republic of Cyprus (Κυπριακή Δημοκρατία) is governed by the various provisions of the Advocates Law (Ο περί Δικηγόρων Νόμος) Chap. 2, as amended from time to time.

Under the provisions of the Advocates Law, any person wishing to practise as an advocate must:

hold a law degree or diploma recognised by the Legal Council (Νομικό Συμβούλιο);

have completed a one-year training period at a law firm at which at least one advocate has been practising for at least five years at the material time;

have passed the examinations held by or under the supervision of the Legal Council.

#### Other related professions

There are no related professions in Cyprus, such as, for example, the profession of notary public. Anything to do with legal acts is legal material and only members of the Cyprus Bar Association (Παγκύπριος Δικηγορικός Σύλλογος) are allowed to practise under the relevant laws. Retired advocates may continue to work as internal legal consultants both in existing law firms and in other organisations.

One profession which might be said to be a related profession is that of paralegals (δικηγορικοί υπάλληλοι), for which there is separate legislation. Persons wishing to become a paralegal must have completed secondary school education, must have worked for at least 6 consecutive months in a law firm and must be of impeccable character and must apply to the Registrar of the District Court in whose district the law firm in which the candidate works is located.

## **Prosecutors (Δημόσιοι Κατηγοροί)**

### **Organisation**

#### **General**

In addition to his capacity as legal advisor to the state, the Attorney General (Γενικός Εισαγγελέας) of the Republic also heads the Law Office (Νομική Υπηρεσία) and acts as the Director of Public Prosecutions (Υπευθύνου της Υπηρεσίας Διαχείρισης Ποινικών Υποθέσεων).

The Law Office headed by the Attorney General is staffed by advocates, some of whom specialise in criminal law and handle the cases tried by the Assize Courts. In all cases, the Attorney General is informed and issues the relevant guidelines.

In addition to the members of the Law Office, members of the Cyprus Police Force (Αστυνομική Δύναμη Κύπρου) with a law degree and the qualifications to practise as advocates also act as public prosecutors. Although they are police officers, these persons report and answer to the Attorney General while acting as public prosecutors. The Attorney General has the same powers in relation to work carried out by these persons as he does for the work carried out by the officers of the Law Office.

In exceptional cases, the Attorney General has the authority to instruct eminent practising advocates to handle specific cases.

#### **Role and duties of public prosecutors**

The prosecution service (Κατηγορούσα Αρχή) before the district criminal courts is directed by the advocates (lawyers) working in the police prosecution departments, although this does not of course preclude the possibility in specific cases of a member of the Law Office being instructed to carry out this work.

The prosecution service before the Assize Courts is directed by advocates in the Law Office. Regardless of who directs the prosecuting authority, they all come under the jurisdiction of the Attorney General, who may intervene at any given moment and may occasionally discontinue criminal proceedings.

The Law Office is headed by the Attorney General, assisted by the Deputy Attorney General (Βοηθός Γενικός Εισαγγελέας), followed by the Attorneys of the Republic (Εισαγγελείς της Δημοκρατίας), Senior Counsels of the Republic (Ανώτεροι Δικηγόροι της Δημοκρατίας) and Counsels of the Republic (Δικηγόροι της Δημοκρατίας). One of the Attorneys of the Republic heads the Criminal Law Section (Τμήμα Ποινικού Δικαίου), again reporting to the Attorney General. Hearings take the form of oral argument. The prosecution service presents its evidence and the witnesses called by the prosecution service undergo examination, cross-examination and re-examination. Once all witnesses have been called by the prosecution service, the court is required to rule on whether the prosecution service has a prima facie case. If it does, then the accused is called to enter a plea and the court advises him that he can call his own witness and testify under oath, in which case both the accused's witnesses and the accused are cross-examined by the prosecution service. Otherwise, he may give an unsworn statement from the dock, in which case there is no cross-examination.

The court hands down judgment at the end of the hearing. In the case of an acquittal, the accused is acquitted and released. In the case of a conviction, the defence is given the opportunity to plead for a reduced sentence and, once the proceedings have been completed, the court hands down an appropriate sentence.

## **Judges**

### **Organisation**

The structure of the courts in Cyprus is very straightforward.

#### **Supreme Court (Ανώτατο Δικαστήριο)**

The Supreme Court was created on the basis of the provisions of the Administration of Justice (Miscellaneous Provisions) Law 1964 (Ο περί Απονομής της Δικαιοσύνης (Ποικίλοι Διατάξεις) Νόμος του 1964) [Law 33/1964] after the Presidents of both the Supreme Court and the Supreme Constitutional Court (Ανώτατο Συνταγματικό Δικαστήριο) had resigned, thereby basically dissolving the two courts in question, as the representatives of the Turkish Community in the various bodies of state failed to attend and consent to the necessary decisions.

The members of the Supreme Court are appointed by the President of the Republic of Cyprus. There are currently 13 members, one of whom is appointed as President. Persons of impeccable character with at least 12 years' commendable service as member of the legal profession can be appointed as members of the Supreme Court.

#### **Assize Courts (Κακουργιοδικεία)**

The Assize Court is the supreme criminal court of first instance in the Republic and comprises three judges (the President, a Supreme District Court Judge and a District Court Judge). The members of the Assize Court are appointed by the Supreme Court for a two-year term of office from the Presidents of the District Court, the Supreme District Court Judges and the District Court Judges respectively).

#### **District Courts (Επαρχιακά Δικαστήρια)**

There is a District Court in every province of the Republic of Cyprus with unlimited jurisdiction, with the exception of course of matters that fall within the jurisdiction of the Supreme Court and the specialised courts referred to below. District Court Judges are divided into Presidents of the District Courts, Supreme District Court Judges and District Court Judges. District Court Judges are appointed, transferred and promoted by the Supreme Court.

#### **Family Courts (Οικογενειακά Δικαστήρια)**

The Family Courts, which were set up on the basis of the Families Court Law (Ο περί Οικογενειακών Δικαστηρίων Νόμος) (Law 23/90), are composed of three members (a president and two lay members), all of whom have a legal background and successfully practised law prior to their appointment.

#### **Rent Control Tribunal (Δικαστήριο Ελέγχου Ενοικιάσεων)**

This specialised court is composed of three members, a president and two lay members. The president of the court must be a lawyer who has successfully practised law for at least the same number of years as that required for appointment to the bench of the District Court.

#### **Industrial Disputes Tribunal (Δικαστήριο Εργατικών Διαφορών)**

As with the Rent Control Tribunal, the Industrial Disputes Tribunal is composed of three members, a president and two lay members. The president must be a lawyer who has practised for 5 years prior to his appointment to the bench of the court.

#### **Military Court (Στρατιωτικό Ποινικό Δικαστήριο)**

The last specialised court is the Military Court, which is presided by a reputable lawyer with the qualifications at the time of appointment which are required for appointment to the bench of the District Court. The president of the Military Court must be a commissioned army officer of at least the rank of colonel. The lay members of the Military Court must be professional military personnel.

### **Directory (Ευρετήριο)**

There is a directory on the Supreme Court website containing some general information on the courts in Cyprus.

## **Roles and duties**

### **Supreme Court**

The Supreme Court acts as a court of appeal against judgments by all the lower courts in the Republic of Cyprus and as a court of first instance on various matters such as administrative law and admiralty issues. It also issues certiorari, mandamus and other orders and supervises all the lower courts in the Republic of Cyprus to ensure that they operate smoothly and exercises disciplinary control over the members of the judiciary.

#### **Assize Courts**

With the exception of certain very serious offences, each Assize Court has the jurisdiction to try at first instance all offences punishable under the Penal Code (Ποινικός Κώδικας) or any other law committed within the borders of the Republic or in the Cypriot parts of the Sovereign Bases and involving Cypriots either as offender or victim, or in any other country while the accused was in the service of the Republic, or on a ship or aeroplane in the Republic, or in such other places and under such circumstances as may be provided for by law.

#### **District Courts**

District Courts composed of a president have the jurisdiction to hear and rule at first instance on any action which comes within their local jurisdiction. Every Supreme District Judge or District Judge has jurisdiction (subject to certain exceptions) to rule on any action in which the sum contested or the value of the difference at issue does not exceed €500,000.00 for a Supreme District Judge and €100,000.00 for a District Judge.

The criminal jurisdiction of the District Courts extends to all offences committed within the limits of the district of the court and for which the punishment provided for by law does not exceed five years' imprisonment or a fine of €50,000.00 and/or both and which for which the court may order compensation of up to €6,000.00 to be paid to the victim.

All judgments handed down by the District Courts, in both criminal and civil cases, are open to appeal before the Supreme Court without restriction.

#### **Specialised courts**

The jurisdiction of the Family Courts extends to almost all marital disputes. The jurisdiction of the Rent Control Tribunal is limited to disputes involving buildings subject to rent control. The jurisdiction of the Industrial Disputes Tribunal only extends to relations between employer and employee, especially in cases of alleged unfair dismissal. The Military Court has jurisdiction to try criminal cases involving members of the National Guard (Εθνική Φρουρά) or where National Guard regulations have been infringed.

All judgments handed down by the above courts are open to appeal before the Supreme Court.

#### **Organisation of legal professions: Advocates (Δικηγόροι)**

There is a standard system for the provision of legal services in the Republic of Cyprus and everyone involved in offering such services is referred to as an advocate, regardless of the country where they studied and the university degree which they acquired during the course of their legal studies.

There is certainly a directory of lawyers on the Internet to which advocates and judges have free access and which the public can access on payment of a subscription free.

#### **Legal databases**

The [leginetcy](#) website contains legislation, case-law and regulations and is free for advocates, judges and government departments. Anyone else wishing to access this website must pay a subscription. The [cylaw](#) website contains court judgments and is free for everyone wishing to access it.

#### **Advocates/Legal Advisors (Νομικοί Σύμβουλοι)**

There is a standard system under which advocates/legal advisors practise.

#### **Notaries public (Συμβολαιογράφοι)**

The profession of notary public is unknown in Cyprus. Work usually carried out by a notary public is carried out by an advocate in Cyprus.

#### **Other legal professions**

The following professions in the Republic of Cyprus are related to the legal profession.

#### **Registrars (Πρωτοκολλητές)**

Registrars are appointed by the Supreme Court and are court officers who are usually advocates and have a legal background. Registrars have specific duties, as provided for under the relevant law. The most senior registrar is the registrar appointed by the Supreme Court over the court staff and responsible for their general supervision.

#### **Bailiffs**

There are two types of bailiffs: private-sector bailiffs whose authority is limited to the service of various court documents and the bailiffs on the court payroll who are employed mainly in enforcing court judgments.

#### **Paralegals (Δικηγορικοί Υπάλληλοι)**

The title of paralegal is acquired on completion of 6 months' work in a law firm and an application must be filed with the registrar of the District Court in whose district the law firm in which the candidate works is located.

#### **Related Links**

[Attorney General's Office](#)

[Supreme Court](#)

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Aan de vertaling in het Nederlands wordt momenteel gewerkt.

De volgende vertalingen zijn al beschikbaar

#### **Legal professions - Latvia**

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

#### **Prosecutors**

##### **Organisation**

[The Office of the Public Prosecutor \(Prokuratūra\)](#) is a unified, centralised **judicial authority** in a three-tiered system. The Office is headed by the **Prosecutor-General (ģenerālprokurors)**. Its purpose is to **react to infringements of the law and ensure that cases related to those infringements are decided on** in accordance with the law.



The Office of the Public Prosecutor comprises institutions in the following tiers:

Office of the Prosecutor-General (*Ģenerālprokuratūra*);  
regional public prosecutors' offices (*tiesu apgabalu prokuratūras*);  
district or city public prosecutors' offices (*rajona vai republikas pilsētu prokuratūras*);  
specialised public prosecutors' offices (*specializētas prokuratūras*).

If necessary, the Prosecutor-General can establish a specialised sectoral public prosecutor's office having the same status as a district or regional public prosecutor's office. There are currently **five specialised public prosecutors' offices** in Latvia:

a specialised public prosecutor's office for organised crime and other sectors (*Organizētās noziedzības un citu nozaru specializētā prokuratūra*);

a specialised multi-sectoral public prosecutor's office (*Specializētā vairāku nozaru prokuratūra*);

Riga Road Transport Public Prosecutor's Office (*Rīgas autotransporta prokuratūra*);

a public prosecutor's office for investigating financial and economic crime (*Finanšu un ekonomisko noziegumu izmeklēšanas prokuratūra*); and

a public prosecutor's office for investigating crimes involving the illegal circulation of narcotics (*Narkotiku nelegālas aprites noziegumu izmeklēšanas prokuratūra*).

The Prosecutor-General's Office may also supervise the work of public bodies that, while not themselves acting as prosecutors, do help achieve certain tasks in criminal proceedings that fall within their remit. These bodies are established, reorganised and disbanded by the Prosecutor-General. The Prosecutor-General also determines the structure and number of staff of these bodies in accordance with the amount of funds allocated from the State Budget. Only one such body has been established to date: [The Anti-Money-Laundering Service](#) (*Noziedzīgi iegūtu līdzekļu legalizācijas novēršanas dienests*).

Public Prosecutor's Offices form part of the courts system. This means that they operate independently of the legislative and executive branches. The Saeima (Latvian Parliament), Cabinet and President may instruct a Public Prosecutor's Office to verify facts relating to infringements and receive explanations from the Prosecutor-General's Office. They may not, however, interfere with the work of the Public Prosecutor's Office in question even when it is investigating infringements of major national importance.

Public prosecutors may enter objections to legislation adopted by the Cabinet and public authorities which is not in accordance with the law. The Prosecutor-General and Chief Prosecutors of departments of the Prosecutor-General's Office may attend Cabinet meetings and express their opinion on the matters under discussion.

### **Role and duties**

The tasks of the Office of the Public Prosecutor in a pre-trial investigation are laid down in Article 2 of the [Law on the Office of the Public Prosecutor](#).

The Office of the Public Prosecutor:

- supervises the investigative field-work of the investigative authorities and other bodies;
- arranges, leads and carries out pre-trial investigations and gives the investigative authorities instructions for the conduct of their criminal investigations;
- initiates and conducts criminal prosecutions;
- protects the rights and legitimate interests of persons and the state;
- in cases prescribed by law, submits a document instituting proceedings or an application in court.

According to Article 36(1) of the [Law on Criminal Procedure](#), a public prosecutor supervises and carries out investigations, prosecutes, argues accusations on behalf of the state and performs other functions in criminal proceedings.

### **Supervising prosecutor**

The supervising prosecutor supervises the investigation of a particular criminal case and may:

- overturn the decisions of an officer conducting proceedings or of members of an investigation team;
- request that an investigator's immediate superior replace the officer conducting the proceedings or make changes to the composition of the investigation team in the event of non-compliance with instructions or a breach of procedure which jeopardise the course of criminal proceedings;
- consider complaints against the actions or decisions of an officer bringing proceedings or a member of an investigation team, an investigator's immediate superior or a person performing tasks in relation to the proceedings;
- take decisions initiating criminal proceedings or referring the matter to another investigative authority;
- perform actions related to the proceedings after informing the officer conducting the proceedings thereof.

### **Officer conducting the proceedings**

The supervisory prosecutor (or another prosecutor, on the instructions of a senior prosecutor) may become the officer conducting the proceedings (*procesa virzītājs*). This involves taking over the conduct of the criminal proceedings and taking a decision on whether or not to initiate a criminal prosecution. In exceptional circumstances the Prosecutor-General, the Criminal Law Department of the Prosecutor-General's Office or the Chief Prosecutor of a regional court may appoint a public prosecutor as officer conducting the proceedings at the investigation stage.

As the officer conducting the proceedings, the prosecutor may:

- come to an agreement with the accused regarding an admission of guilt;
- take a decision to refer a criminal case to court;
- submit a case for prosecution under a special procedure;
- terminate criminal proceedings on compelling legitimate grounds.

The officer conducting the proceedings may adopt any procedural decision and perform any procedural action, or refer these to a member of the investigation team or person performing other tasks in relation to the proceedings.

### **Senior prosecutor**

Under the law, a senior prosecutor checks whether a public prosecutor performs the functions with which he or she has been entrusted and takes decision on complaints and reprimands with regard to the decisions and actions of the supervisory prosecutor and prosecutor/officer conducting the proceedings. A senior prosecutor may, for example, take a decision on a proposal by the supervisory prosecutor to change an investigator's immediate superior or investigative body, or on whether a dismissal of an accusation is justified and legitimate.

A senior prosecutor may:

- overturn the decisions of an investigator, member of an investigation team or junior prosecutor;
- appoint or replace a supervisory prosecutor or prosecutor/officer conducting the proceedings, if supervision and prosecution are not fully guaranteed, or assume responsibility himself or herself;
- establish an investigation team, if the volume of work jeopardises completion of the criminal proceedings within a reasonable time-frame;
- request that another immediate superior be appointed for the investigator, or assign the criminal investigation to a different investigative body.

By decision of a senior prosecutor, a prosecutor may be included within an **investigation team**; the officer conducting the proceedings may require the prosecutor to perform one or more tasks in relation to the proceedings.

## Judges

### Organisation

The constitutional foundation for the judiciary is Articles 82 to 86 of the [Latvian Constitution](#), pursuant to which justice is rendered solely by the courts. Judges are independent and answerable only to the law. The judiciary is governed by [the Law on judicial power](#). Under Latvian laws and regulations, judges are national civil servants.

Public authorities, social and political organisations and other legal and natural persons must respect and abide by the independence of the courts and the immunity of judges. Nobody has the right to request that a judge give account of or provide explanations for how a particular case has been considered, or to interfere in the administration of justice, irrespective of the purpose for which this is done. While fulfilling his or her responsibilities in respect of the administration of justice, a judge is inviolable. The office of judge is incompatible with membership of any political party or other political organisation.

### Role and duties

The task of a judge is to administer justice in civil, administrative and criminal cases in accordance with the law.

**In civil cases**, judges hear and decide disputes relating to the protection of natural and legal persons' civil, labour, family and other rights and legitimate interests.

**In criminal cases**, judges hear accusations brought against persons and take decisions on the validity of those accusations. Judges may acquit innocent persons or declare persons guilty of a criminal offence and impose a penalty on them.

**In administrative cases**, judges exercise judicial review over the lawfulness of the actions of the executive (the administrative acts they issue or the conduct they adopt) and consider disputes arising from any relationship governed by public law. Judges also clarify the legal rights and obligations of private individuals under public law. In administrative infringement cases, judges hear and decide matters relating to the commission of administrative infringements. The professional obligations of judges cover all the obligations of judges and courts under procedural law.

### Legal databases

The judiciary has its own [National Courts Portal](#), the content of which is currently available only in Latvian. It contains information on the Latvian courts system, a list of Latvian courts and judges, court statistics, a brief description of the procedures applicable in various court proceedings, highlighting their main characteristics and the main differences between them, and information on how to bring cases before the judicial authorities. It provides access to a selection of topical court judgments, a schedule of court hearings and other information.

By entering the reference number of a case or writ of summons in the 'e-services' (*epakalpojumi*) section of the portal, information can be obtained on the progress of the prosecution, in which court and at which level the case is being heard, a schedule of upcoming court hearings, any decisions delivered and objections submitted in the case, and the results of proceedings.

**Court reports** are also published on the website of the [Courts Office](#).

Information on current **policy issues relating to the courts system** are also published on the website of the [Ministry of Justice](#).

**E-information on the Supreme Court and its activities** is available on the [Supreme Court](#) website.

All of these portals are also available in English.

## Organisation of the legal profession: lawyers

### Lawyers

Lawyers are considered to be officers of the courts system; they are independent legal professionals who:

act in cases in any court and at the pre-trial investigation stage if chosen to do so by parties to a dispute, accused persons, or other interested parties (their clients) and on their behalf and, in certain cases provided for [in law](#), on behalf of the Chief Justice of a court, the head of a pre-trial investigative body or the Latvian Council of Certified Lawyers (*Latvijas zvērinātu advokātu padome*);

provide legal consultations;

draw up legal documents;

provide other forms of legal assistance.

In Latvia the following may practise as lawyers, subject to certain conditions:

certified lawyers (*zvērināti advokāti*);

certified lawyers' assistants (*zvērinātu advokātu palīgi*);

citizens of European Union Member States that have obtained qualifications to practise as a lawyer in any European Union Member State ;

foreign lawyers other than lawyers from EU Member States that can practise in Latvia in accordance with international agreements on legal assistance binding on Latvia.

All certified lawyers in Latvia are independent members of the legal profession who have joined together to form the Latvian Bar Association (*Latvijas Zvērinātu advokātu koleģija*), an independent national professional body. The bodies comprising the Latvian Bar Association are **the general assembly of certified lawyers, the Latvian Council of Certified Lawyers, the Audit Committee and the Disciplinary Committee**.

### Legal databases

Information on **the activities of the Latvian Bar Association and the Latvian Council of Certified Lawyers**, laws and regulations on lawyers and the courts in which they practise (including contact information) and information on other issues concerning **the legal profession in Latvia** can be found on the website of the [Latvian Council of Certified Lawyers](#).

## Notaries

### Organisation

Certified notaries (*zvērināti notāri*) are entrusted with oversight of notarial matters under the supervision of the courts, in accordance with procedures laid down in [law](#). Latvia's certified notaries are considered to be officers of the court system who fulfil obligations laid down in law and associated with the exercise of public authority.

According to the [Law on notaries](#), notaries are authorised to:

draw up notarial deeds;

draw up notarial certificates;

accept money, securities and documents for safekeeping;

accept an item that is the subject of an obligation for safekeeping;

conduct inheritance cases;

draw up proposals for the division of property in cases duly provided for in law;

conduct divorce cases (on condition that both spouses have agreed to this in writing and there is no outstanding dispute);

perform actions provided for in other laws.

All certified notaries are members of the legal profession. However, in the exercise of their profession, certified notaries are considered to be public officials. Certified notaries are officers of the courts system, practise in regional courts and fulfil the obligations laid down for them in law. In the exercise of their profession, certified notaries are financially independent, and their fees are fixed by the Cabinet.

All of Latvia's certified notaries have joined together to form the **Latvian Certified Notaries Association** (*Latvijas Zvērinātu notāru kolēģija*), an independent national professional body for certified notaries. **The Latvian Council of Certified Notaries** (*Latvijas Zvērinātu notāru padome*) is the representative and supervisory body for certified notaries and the administrative and executive body for the Latvian Certified Notaries Association. Its tasks are set out in Article 230 of the Law on notaries.

#### Legal databases

Information on the activities and number of certified notaries, the location of their practices, and other issues relating to the Latvian notarial system can be found on the official [Latvian notaries website](#).

#### Other legal professions

##### Certified bailiffs

**Certified bailiffs** (*Zvērināti tiesu izpildītāji*) are considered to be officers of the courts system. Certified bailiffs are attached to regional courts, implement the decisions of judicial and other institutions and perform acts prescribed in other laws.

Certified bailiffs are members of the legal profession, but when performing the function of certified bailiff are considered equivalent to public officials. Certified bailiffs perform their functions independently and are answerable only to the law. The demands and orders issued by certified bailiffs in implementing court judgments and other rulings are enforceable within Latvia.

Certified bailiffs perform their duties within the territorial jurisdiction of the regional court to which they are affiliated. The number of certified bailiffs, their posts, jurisdictions and jurisdictional boundaries are laid down by the Cabinet.

In the performance of their duties, certified bailiffs apply the [Law on civil procedure](#) and other laws and regulations, and use the methodology approved by the Latvian Council of Certified Bailiffs (*Latvijas Zvērinātu tiesu izpildītāju padome*, the representative and supervisory body for certified bailiffs in Latvia) and recommendations arising from case-law.

#### Legal databases

Information on the locations of certified bailiffs' offices, the laws and regulations governing the profession of certified bailiff and the laws and regulations governing the activities of the Latvian Council of Certified Bailiffs can be found on [the website of the Latvian Council of Certified Bailiffs](#). The portal is currently only available in Latvian.

#### Organisations providing pro bono legal services

There is no list of such organisations in Latvia.

#### Links

[Office of the Public Prosecutor](#), [Anti-Money-Laundering Service](#), [National Courts Portal](#), [Courts Administration](#), [Latvian Council of Certified Lawyers](#), [Latvian Notaries](#), [Latvian Council of Certified Bailiffs](#), [Ministry of Justice of the Republic of Latvia](#)

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#### Legal professions - Lithuania

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

#### Legal professions – introduction

Legal professions in Lithuania include:

Prosecutors (prokurorai)

Judges (teisėjai)

Advocates (advokatai)

Notaries (notarai)

Bailiffs (antstoliai)

#### Prosecutors

##### Organisation

In Lithuania, there are 56 territorial prosecutors' offices:

51 Regional

5 District

The [Prosecutor General's Office](#) (Generalinė prokuratūra) is responsible for the territorial prosecutors' offices (teritorinės prokuratūros). She or he is appointed for a seven year term by the **President of the Lithuanian Republic** (Lietuvos Respublikos Prezidentas), with the consent of the Parliament (Seimas). The prosecutor general is accountable to the Parliament and the President. Types of prosecutors are:

Prosecutor general (generalinis prokuroras)

Chief territorial (district or regional) prosecutors (vyriausieji (apylinkių arba apygardų) prokurorai)

Other prosecutors.

There is no relationship between the Ministry of Justice and the prosecution – of subordination, common jurisdiction or any other specific relationship.

##### Role and duties

The functions of the prosecutors' offices are to:

Organise and direct pre-trial investigations

Uphold charges on behalf of the state in criminal cases

Protect the public interest

Ensure justice

Assist the judiciary in the administration of justice

Prosecutors participate in all criminal cases and in civil or administrative cases, in the order indicated by the claim.

#### Judges

##### Organisation

There are no different types of judges in Lithuania; all are **professional judges** (profesionalūs teisėjai).

The general principles of the judiciary are set out in the Constitution and in the parliamentary act governing the courts. Courts are independent, with the following self-governing bodies:

General meeting of judges (Visuotinis teisėjų susirinkimas)

The judicial council (Teisėjų taryba)

The judicial court of honour (Teisėjų garbės teismas)

Courts are assisted with their activities by the [National courts administration](#) (Nacionalinė teismų administracija).

## Organisation of the legal profession: Lawyers

### Barristers/ Advocates

There are advocates (advokatai) and apprentices of advocates (advokatų padėjėjai) in Lithuania. Apprentices of advocates can represent their clients in civil proceedings and defend them in criminal proceedings – with the permission of the supervising advocate and when allowed by law.

Advocates and apprentices of advocates are not classified by type. Advocates are free to choose the field of law in which they wish to specialise (specialisation of advocate).

### Legal databases

You can find more information on the website of the [Lithuanian Bar Association](#) (Lietuvos advokatūra).

#### Is access to this database free of charge?

Yes, access to the website of the Lithuanian Bar Association is free of charge.

### Solicitors/ legal advisers

There are no solicitors or legal advisers in Lithuania.

## Notaries

### Organisation

There is only one type of classification for notaries (notarai) in Lithuania. The number of notaries, their offices and the territory of their jurisdiction are determined by the **Minister of Justice** (Teisingumo ministerija). Notaries are appointed and dismissed by the Minister.

Notaries fall under the **Chamber of Notaries** (Notarų rūmai). Each year, the chamber of notaries submits to the Ministry of Justice a detailed **annual report** about its activities, together with an outlook and guidelines for the activities of notaries in the coming year.

The regulatory acts governing notaries are approved by the Minister of Justice, with regard to the opinion of the Presidium of the Chamber of Notaries (Notarų rūmų prezidiumas).

If the Minister of Justice is of the opinion that a resolution or decision of the Chamber of Notaries contravenes the laws of the Republic of Lithuania, she or he may file an appeal with the Vilnius Regional Court (Vilniaus apygardos teismas) for a reversal of those resolutions or decisions.

You can find more information on the website of [Lithuanian chamber of notaries](#).

### Role and duties

The major duties of the **Chamber of Notaries** are:

**Coordination** of the activities of notaries

Taking care of the professional **advancement** of notaries

**Protection** and **representation** of the interests of the notaries in the institutions of state governance and administration

Designing **draft regulatory acts** on issues relating to the notariate, and their submission to the Ministry of Justice

**Uniformity** of notarial practice

**Supervision** of how notaries perform their functions and comply with the requirements of professional ethics

Ensuring **preservation** and use of the instruments drawn up in the practice of the notarial profession

Ensuring notarial **traineeship**

Carrying out other tasks provided for in the **Statute of the Chamber of Notaries** (Notarų rūmų statutus).

## Other legal professions

### Bailiffs

There is only one type of classification for bailiffs (antstoliai) in Lithuania.

You can find information on bailiffs on the [website of the bailiffs' profession](#) and on the website of the [Chamber of bailiffs](#) (Antstolių rūmai).

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## Legal professions - Luxembourg

In this section, you will find an overview of the different legal professions.

### Legal professions – introduction

This section contains information on professions in the legal field (description of the profession, conditions for access, etc.).

### Overview of the legal system

In Luxembourg, the courts are organised into two branches, **the ordinary courts and the administrative courts**. This organisational structure is based on the nature of the dispute.

The **ordinary courts** (*l'ordre judiciaire*) consist of three justices of the peace (*Justices de Paix*), two district courts (*Tribunaux d'arrondissement*), a Court of Appeal (*Cour d'Appel*) and a Court of Cassation (*Cour de Cassation*). These courts are essentially competent to hear disputes relating to civil law, commercial law, criminal law and labour law. In the ordinary court system there are adjudicating judges (known as *magistrats du siège*, 'sitting judges') and public prosecutors (*substitués* and *procureurs*, known as *la magistrature debout*, 'standing judges'), who are both regarded as belonging to the same profession of judge.

The **administrative courts** (*l'ordre administratif*) comprise an Administrative Court of First Instance (*Tribunal administratif*) and an Administrative Court (*Cour administrative*). These courts deal with disputes in administrative and tax-related matters (direct taxes).

The **Constitutional Court** (*Cour constitutionnelle*) is composed of judges from the ordinary courts and the administrative courts. It ensures that the laws comply with the Constitution, which is the supreme law of the land.

## Judges

There are two ways to become a judge:

## Recruitment by competitive examination

Future judges, namely junior judges (*attachés de justice*), are recruited by competitive examination. To be admitted to the competitive examination, a candidate must meet the following conditions:

- be a national of Luxembourg;
- enjoy full civil rights and political rights and present the necessary guarantee of good repute;
- hold a full Luxembourg university law degree corresponding to a recognised master's degree or a full foreign law degree corresponding to a master's degree accepted and recognised by the minister responsible for higher education under the amended Act of 18 June 1969 on higher education and recognition of foreign degrees and diplomas;
- have an appropriate knowledge of the Luxembourgish, French and German languages;
- have followed a judicial or notarial traineeship for at least twelve months;
- meet the requisite conditions of physical and mental aptitude, which are verified by a medical examination and a psychological examination.

The competitive examination for the recruitment of judges is organised by the commission for the recruitment and training of junior judges ('the commission'). This competitive examination comprises three written tests concerning civil law and civil procedure, criminal law and criminal procedure and administrative law and administrative disputes. The tests basically involve drafting a judgment or ruling. Successful candidates must obtain at least three fifths of the points available for the three tests and at least half the points available for each test. Candidates are ranked by the commission according to their final scores. Candidates are recruited in order of their ranking.

## Paper-based recruitment

This is a subsidiary recruitment procedure that is organised only if the competitive examination fails to deliver the number of junior judges set each year by the Minister for Justice.

To be eligible to apply, a candidate must:

- meet certain conditions required for admission to the competitive examination, namely 1, 4 and 6;
- hold the diploma marking completion of the traineeship;
- have practised as a lawyer for a total of at least five years.

The commission invites candidates to an individual interview. A psychology expert takes part in the individual interview and submits a reasoned opinion on each candidate. The criteria for selecting candidates are the results of final examinations on additional courses in Luxembourg law and the traineeship final examination, professional experience, any additional qualifications and any publications. Candidates are selected by the commission.

The Constitution guarantees the political independence of adjudicating judges. Their appointment is permanent. An adjudicating judge can be deprived of his or her position or suspended only by a court judgment. Moreover, an adjudicating judge can be transferred only by appointing him or her to a new position and only with his or her consent. Nevertheless, in the event of disability or misconduct, adjudicating judges can be suspended, dismissed or transferred, in accordance with the conditions laid down by the law.

The office of judge is incompatible with being a member of the Government, member of parliament, mayor, alderman or municipal councillor, holding any public or private salaried position, being a notary or bailiff, holding a military or ecclesiastical office or being a lawyer. Judges are impartial and are bound to professional secrecy. Their remuneration is set by law.

For more information, please refer to the [page on the profession of judge](#) on the Ministry of Justice website.

## Lawyers

The profession of lawyer (*avocat*) is regulated by the **amended Act of 10 August 1991** on the profession of lawyer.

Lawyers are members of an **independent self-employed profession**. Lawyers can practise on an individual basis or form law firms with legal personality. Only lawyers may assist or represent parties and plead on their behalf before judicial bodies of whatever nature, take receipt of their documents and certificates in order to present them in court, draw up and sign the instruments necessary for the regularity of the procedure, and prepare cases for court.

Lawyers alone are entitled to give **legal advice** on a regular basis for remuneration or to draft private acts on behalf of others. Lawyers also assist or represent their clients before international courts, such as the Court of Justice of the European Union or the European Court of Human Rights. Lawyers are bound by professional secrecy, which is a matter of public policy and violation of which is a criminal offence.

In order to practise in Luxembourg, **lawyers must be registered with a bar association established in the Grand Duchy of Luxembourg**. This also applies to European lawyers wishing to practise in Luxembourg under their home-country professional title.

A **bar association register** comprises **six lists**:

list I: full lawyers (*avocats à la Cour*)

list II: lawyers (*avocats*)

list III: emeritus lawyers (*avocats honoraires*)

list IV: European Union lawyers practising under their home-country title

list V: law firms qualified as full lawyers

list VI: other law firms

To be registered with a bar association in Luxembourg, lawyers have to satisfy **the following conditions**:

- present the necessary guarantee of good repute;
- show that they have fulfilled the entry requirements for the legal traineeship, or that they have passed the aptitude test established for lawyers from another Member State of the European Union by the amended Act of 10 August 1991 laying down for the legal profession the general system of recognition of higher education diplomas confirming the successful completion of at least three years of professional training, or that they satisfy the conditions for registration as a lawyer practising in the Grand Duchy of Luxembourg under their home-country professional title, in application of the amended Act of 13 November 2002 transposing into Luxembourg law European Parliament and Council Directive 98/5/EC of 16 February 1998 on facilitating practice of the profession of lawyer on a permanent basis in a Member State other than that in which the qualification was obtained; and demonstrate a good command of the language of legislation and the languages of administration and the courts within the meaning of the Act of 24 February 1984 on the use of languages;
- be a Luxembourg national or a national of another Member State of the European Union;
- have a good command of the language of legislation and the languages of administration and the courts within the meaning of the Act of 24 February 1984 on the use of languages, without prejudice to Article 31-1 of the amended Act of 10 August 1991. For Luxembourgish and German the level of proficiency required is level B2 of the Common European Framework of Reference in oral comprehension, level B1 in oral expression and, for German only, level B2 in written comprehension. For French the level required is level B2 in comprehension and written and oral expression.



Notwithstanding the previous paragraph, on their admission to list I of a bar association, European lawyers referred to in Article 10 of Directive 98/5/EC need only demonstrate a sound knowledge of the language of legislation within the meaning of the Act of 24 February 1984 on the use of languages, provided they restrict their professional activities to those not requiring a command of the other languages referred to in the Act. The level of language knowledge required is as indicated in the previous paragraph.

**Further clarification as regards the language requirements:**

Lawyers registered on an individual basis must demonstrate a good command of the language of legislation within the meaning of the Act of 24 February 1984 on the use of languages, and of any other language required in order to pursue their professional activities, without prejudice to the above.

Lawyers registered on list II must in addition have a good command of the languages of administration and the courts in Luxembourg that may be required in order to fulfil the obligations ensuing from their legal traineeship.

Any lawyer who takes on a case must possess the required professional and language skills, failing which they may be subject to disciplinary measures.

The bar council, having heard the opinion of the Minister of Justice, may, upon proof of the reciprocity of a **non-Member State of the European Union** of which a **candidate** is a national, waive the nationality requirement. The same applies to candidates who have political refugee status and enjoy the right of asylum in Luxembourg.

**Only lawyers included in list I** are entitled to use the title '*avocat de la Cour*' (full lawyer). **To be entered in list I they must:**

as lawyers registered on list II, have completed a two-year legal traineeship and have successfully completed the traineeship final examination, or have passed the aptitude test established for lawyers from another Member State of the European Union by the amended Act of 10 August 1991 laying down for the legal profession the general system of recognition of higher education diplomas confirming the successful completion of at least three years of professional training,

or, for European lawyers permitted to practise under their home-country professional title, prove active and regular activity over a period of at least three years in Luxembourg and in Luxembourg law, including European Union Law, or be subject to Article 9(2) of the amended Act of 13 November 2002 transposing into Luxembourg law European Parliament and Council Directive 98/5/EC of 16 February 1998 on facilitating practice of the profession of lawyer on a permanent basis in a Member State other than that in which the qualification was obtained.

Only full lawyers are allowed to perform the acts for which laws and regulations require a full lawyer, namely to represent the parties before the Constitutional Court, before the administrative courts, before the Supreme Court of Justice and before the district courts sitting on civil matters, and to plead on their behalf, take receipt of their documents and evidence in order to present them to the courts, and to ensure the proper signature of the documents necessary to ensure the regularity of the proceedings and to prepare the case for trial.

**Lawyers on list II** and European lawyers entitled to practise under their home-country professional title **on list IV** may not perform these tasks unless assisted by a full lawyer included in list I. As there are no restrictions regarding the representation of parties in courts where there is no mandatory requirement for a full lawyer, lawyers on lists II or IV are permitted to represent parties in those courts without the assistance of a full lawyer.

**Access to training for lawyers**, which is regulated by the Grand-Ducal Regulation of 10 June 2009 on the organisation of legal traineeships and the regulation of access to the profession of notary, consists in a professional traineeship comprising a period of additional courses in Luxembourg law followed by a work experience placement.

Having obtained the certificate of additional training in Luxembourg law, trainees are admitted to list II of one of the bars of Luxembourg.

The aim of the legal traineeship is to learn the profession of lawyer. University study enables trainees to acquire in-depth knowledge of the law, and the additional courses in Luxembourg law (CCDL) supplement this knowledge by teaching the specific characteristics of Luxembourg law. During the legal traineeship, the emphasis is placed mainly on learning the profession of lawyer both by practising under the aegis of the trainee's mentor and by following courses specifically designed for learning the profession.

The work experience placement of a period of at least two years ends with a final traineeship examination. On successful completion of this examination, the candidate becomes a full lawyer and is registered on list I.

On presentation of a reasoned and substantiated application, a trainee may be permitted by the steering committee to carry out a minimum of three and a maximum of six months of their legal traineeship in a law firm in another European Union Member State. This duly authorised traineeship counts towards the legal traineeship period.

Lawyers form a bar association (*ordre des avocats*), which is a body independent of the public authorities and the judiciary. There is **a bar association in Luxembourg** and **a bar association in Diekirch**. Each bar association has legal personality. The bar associations comprise the following bodies: an assembly, a bar council, a chairman of the bar, and a disciplinary and administrative council covering the entire profession.

For more information, please refer to [the page on the profession of lawyer](#) on the Ministry of Justice website.

**Notaries**

**The number of notaries is fixed by Grand-Ducal regulation** pursuant to Article 13 of the amended Act of 9 December 1976 concerning the organisation of the profession of notary (*notaire*). Currently, **there are 36 notaries** serving the whole country.

Notaries are public officers authorised to record any instrument or contract which the parties are obliged, or may wish, to invest with the authenticity associated with instruments having public authority, and to authenticate their date, keep them safe and issue principal and additional copies.

It is prohibited for notaries themselves directly or indirectly, or through an intermediary: to engage in trade; to be managers, general partners, managing directors or liquidators of a commercial company or an industrial or commercial establishment; to be involved in the administration and supervision of companies, businesses or agencies whose business activity is buying, selling, allotment of land or construction of buildings, or to have any interest therein; to have close relations with the aforesaid companies, businesses or agencies, which might interfere with the free choice of notary by parties; to engage on a regular basis in banking, discounting and brokerage transactions or in stock exchange speculations, with the exception of discounting transactions carried out in the performance of their duties; to take funds on deposit, with the exception of funds received in the performance of their duties or in the course of the settlement of an estate; to provide their services for any matter in which they might have an interest; to have acts that they cannot complete themselves performed in the names of others; to have business or property agents working on their behalf in any capacity whatsoever.

Notarial acts are authentic documents in accordance with the provisions of the Civil Code; they are enforceable when they contain a clause granting authority to enforce. Notaries are obliged to use French or German to prepare acts, as required by the client.

Notaries exercise their functions throughout the entire country. In performing their duties they participate in the exercise of public authority.

The **Chamber of Notaries** (*Chambre des Notaires*) has seven members elected from amongst the notaries in the country by the General Assembly of Notaries.

In addition to the powers entrusted to it by the country's laws and regulations, the Chamber has inter alia the following **responsibilities**:

to maintain discipline amongst notaries and to exercise disciplinary powers through its Disciplinary Council; to prevent or settle any disputes between notaries and, if settlement cannot be achieved, to give its opinion on the dispute;

to settle any disputes between notaries and third parties;

to give its opinion on difficulties regarding professional fees, emoluments, salaries, payments, expenses and disbursements charged by notaries as well as any disputes submitted in this respect to the civil courts;

to take deposit of records of minutes; to inspect notaries' accounts;

to represent notaries of the Grand Duchy in defence of the rights and interests of the profession.

The **Disciplinary Council** is composed of the President of the District Court of Luxembourg or the judge replacing him or her as president, and four members of the Chamber of Notaries appointed according to their seniority in the profession.

The Disciplinary Council exercises disciplinary power over all notaries in respect of: breach of legal and regulatory requirements relating to the practice of the profession; professional misconduct and negligence; actions contrary to professional discretion and dignity and to honour and probity; all without prejudice to any legal action which might arise as a result of such conduct. The decisions of the Disciplinary Council may be appealed either by a notary who has been censured or by the State Prosecutor-General. Appeals are filed with the civil division of the Supreme Court of Justice, which gives a final judgement on the matter.

To be allowed to practise as a notary, a candidate must:

be a Luxembourg national or a national of another Member State of the European Union,

enjoy full civil rights and political rights,

be over 25 years old and have obtained either a candidate notary's diploma in accordance with Luxembourg legislation (under the present system) or a [traineeship completion certificate](#) needed to be admitted to practice as a notary (under the previous system),

have a good command of the language of legislation and the languages of administration and the courts within the meaning of the Act of 24 February 1984 on the use of languages.

For more information, please refer to [the page on the profession of notary](#) on the Ministry of Justice website.

### Other legal professions

#### Bailiffs

Bailiffs (*huissiers de justice*) are public officers who have sole power to:

serve acts and writs and to perform notifications prescribed by laws or regulations where the law does not lay down any other method of notification;

enforce court judgments and other documents that are directly enforceable.

Bailiffs may engage in:

judicial or out-of-court recovery of all types of debt; this power includes the right to sign applications on behalf of claimants to obtain orders for payment or attachment orders on periodic payments;

the valuation and public sale of furniture, household effects and seized goods, in conformity with the laws and regulations in this respect.

They may be appointed by the court to draw up:

purely material reports, excluding any opinion as to the factual or legal consequences to which they may give rise;

reports of the same nature on application by private parties; in both cases, these reports are authentic until proven otherwise.

The **fees of bailiffs are determined by Grand-Ducal regulation**.

The **Chamber of Bailiffs** (*Chambre des huissiers de justice*) represents the profession at national level. The Chamber is administered by a Board of three members: a chairman, a secretary and a treasurer. The chairman represents the Chamber of Bailiffs in judicial and other matters.

For more information, please refer to [the page on the profession of bailiff](#) on the Ministry of Justice website.

#### Registrars

The **chief registrar** (*greffier en chef*) heads the registry and the court staff. A chief registrar's administrative tasks include issuing copies to lawyers and private individuals (e.g. divorce certificates for transcription abroad), issuing copies of procedural documents, accepting the deposit of holograph wills and declarations of succession, swearing in registrars, preparing general assemblies and statistics and supervising the archives. A registrar also takes receipt of challenges to the impartiality of judges.

The role of **registrars** is to assist judges with all relevant acts and records, namely during hearings, the appearance of parties, investigations, on-the-spot visits, autopsies, bankruptcy inventories, the drafting of judgments and hearings of persons under guardianship or custodianship. A judge cannot act without a registrar.

Registrars' duties are laid down in Articles 78 et seq. of the amended Act on the organisation of justice.

[Recueil des lois spéciales](#) pp. 7-40.

Access to the profession is governed by the amended Act of 16 April 1979 establishing the general staff regulations of civil servants.

[http://www.fonction-publique.public.lu/fr/publications/Reformes/Recueils/1\\_Statut.pdf](http://www.fonction-publique.public.lu/fr/publications/Reformes/Recueils/1_Statut.pdf)

#### Related links

[Ministry of Justice](#)

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### Legal professions - Hungary

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

#### Legal professions – introduction

[Prosecutors](#)

[Judges](#)

[Lawyers](#)

[Notaries](#)

#### Other legal professions

#### Legal professions - introduction

The chapter provides an overview on legal professions in Hungary, on prosecutors, judges, advocates, solicitors, notaries and bailiffs.

In Hungary representatives of legal professions (advocates, notaries, bailiffs) act independently, but with professional self-governance in a system of chambers. The membership in a chamber is the prerequisite for pursuing their activity, and chambers have the right to exercise professional control over their members, which aims to ensure that members of the professions provide services of an appropriate level.

#### Prosecutors (ügyész)

#### Organisation

Hungarian constitutional rules stipulate that the **Office of the Public Prosecutor** (Ügyészség) exercises rights specified by law in connection with investigations, conducts prosecutions in court, and is responsible for verifying the legality of penal measures.

The Office of the Public Prosecutor helps ensure that everybody complies with the law, and acts to uphold the law when it is violated in such cases and in the manner specified by law.

The Public Prosecution Service (Ügyészség) is a centralised organisation directed by the General Prosecutor (legfőbb ügyész), who is accountable to Parliament. Prosecutors are appointed and removed by the General Prosecutor.

Prosecutors are first appointed for three years and thereafter for an indeterminate period of time.

The regulations pertaining to the Office of the Public Prosecutor are determined by law.

#### Role and duties

The tasks, responsibilities and legal status of prosecutors are regulated by law. The prosecution service is a uniform body and all prosecutors have the same legal status.

The Prosecutor's Office (ügyészség):

Investigates in cases defined by the law on criminal proceedings;

Verifies that investigations are conducted in conformity with the relevant legal provisions;

Exercises other competences in connection with investigations;

Prepares and submits indictments and conducts prosecution in criminal proceedings, exercises rights of appeal defined by law;

Verifies that the execution of penalties is carried out in conformity with the relevant legal provisions;

Participates in other civil, employment, administrative and commercial proceedings: the prosecutor participates in proceedings regulated by the Code of Civil Procedure (polgári perrendtartás) if the rights-holder is not capable of defending his or her rights for any reason;

In the framework of the general review of legality (általános törvényességi felügyelet), ensures that the law is obeyed;

In the framework of the general review of legality (általános törvényességi felügyelet), ensures that the law is obeyed;

Initiates the necessary child protection measures in relation to crimes committed against minors;

Performs tasks arising out of international obligations; particularly legal assistance;

Performs tasks in relation to Eurojust - Contributes to ensuring that all social organisations, governmental bodies and citizens observe the law, and acts to uphold the rule of law where laws are violated.

#### Legal databases

You can find more information on the website of the [Prosecution Service of the Republic of Hungary](#) (Magyar Köztársaság Ügyészsége).

#### Judges

##### Organisation

The Constitution stipulates that judges are independent; they make decisions on the basis of the law and in harmony with their convictions, and they may not be influenced and directed in making their judgments.

The right to **appoint judges lies with the President of Hungary** (köztársasági elnök).

A person who wishes to be appointed as a judge must satisfy the following criteria:

Be a Hungarian citizen;

Have no criminal record;

Have the right to vote;

Hold a university law degree;

Pass the Hungarian Bar Exam (szakvizsgával rendelkezik) ;

Make the financial disclosure statement as specified by law; and

Have at least one year's experience as a court clerk (bírószági titkár) or district attorney clerk (ügyészségi titkár), or as a constitutional court judge, military judge, prosecutor, notary public, attorney at law or legal counsel, or in a position at a central administrative agency (központi közigazgatási szerv) for which a bar examination is required..

#### Assises

According to constitutional rules **lay judges/assises** (nem hivatásos bíró/ülnök) may also participate in **judicial proceedings**.

Candidates must have no prior criminal record, the right to vote, be Hungarian citizens and be over the age of 30. In addition to these requirements military associate judges (katonai ülnök) must serve in the professional staff of the Hungarian armed forces (Magyar Honvédség) or the law enforcement agencies.

Assises are elected for **four year terms**.

In **criminal proceedings** local courts comprise **one professional judge** (hivatásos bíró) and **two associate judges** in circumstances where the criminal offence under consideration is punishable by a term of imprisonment of eight or more years. The county court (megyei bíróság) acting as a court of first instance may conduct its procedure by means of a panel (tanács) consisting of **one professional judge** and **two assises**.

In **civil proceedings** a panel consisting of **one professional judge** and **two associate judges** may sit in cases defined by law.

#### Court clerks, court assistants

Graduates of law schools are employed at courts in the position of court clerks or court assistants to gain knowledge and experience for a **future career as a judge**. They may act as judges only in procedures and under conditions defined by law.

Information sheets on judicial staff can be found under the following links:

[office-holders](#) (407 Kb) [en](#)

[court clerks](#) (382 Kb) [en](#)

[court assistants](#) (286 Kb) [hu](#)

[physical workers](#) (280 Kb) [hu](#)

#### Lawyers

##### Barristers/ Advocates (ügyvéd/ügyvéd)

In the course of practising their profession, **attorneys-at-law** (ügyvéd) help their clients to assert their rights and perform their obligations. Attorneys (ügyvéd) can provide **legal representation** in all cases and **before all authorities**. Attorneys are independent in the course of their professional work, which means that they may not be influenced and may not undertake such liabilities that would endanger this independence.

**Activities subject to fees** that may be performed only by attorneys include:

Representation and defence in criminal cases;

Legal consultation;

The preparation and editing of legal documents;

The handling of money and valuables on deposit in relation to the activities noted above.

Although these do not fall exclusively within the scope of attorneys' activities, due to the requirements of today's economic life, attorneys may also provide services such as **tax advice**, **real estate agency operations** and out-of-court **mediation** (peren kívüli közvetítés).

Attorneys' activities can be conducted by any person who has been admitted to the bar (kamara) and taken the lawyer's oath (ügyvédi eskü).

**In order to obtain admission to the bar, a person must have:**

Citizenship of a member state of the European Economic Area (Európai Gazdasági Térség);

No criminal record;

A university degree and Hungarian professional examination in law (jogi szakvizsga);

Liability insurance and a suitable office space.

**Attorneys from the Member States of the European Union** may conduct attorneys' activities in three basic forms in Hungary: as **providers of ad hoc services, on a regular basis** and as a **member admitted to the bar**. Providers of ad hoc services are obliged to notify their services to the bar association (ügyvédi kamara) having competence in the place in which the services are provided, while those wishing to provide regular attorney's services must register with the competent bar association.

European Union lawyers (európai közösségi ügyvéd) entered in the register can seek admission to the bar if they meet the requirements prescribed by law [e. g. the practice period prescribed by law has passed, they prove their competence in Hungarian law (as well as European Union law), they have adequate command of the Hungarian language to conduct their activities, etc.].

A European Union lawyer who has been admitted to the bar is entitled to use the professional title of attorney (ügyvédi cím) and is subject to the same rules as Hungarian attorneys.

Attorneys have a **confidentiality obligation** in relation to all facts and data provided to them in the course of carrying out their professional activities.

As a general rule, attorneys' **compensation** is subject to **free agreement** between attorneys and their clients. Attorneys' fees are only regulated if they act as public defenders (kirendelt védő) in court proceedings.

#### Legal databases

You can find more information on the website of the [Hungarian Bar Association](#) (Magyar Ügyvédi Kamara).

#### Solicitors (jogtanácsos)

The fundamental task of solicitors is to facilitate the operation of the organisation by which they are employed. Solicitors **conduct legal representation within the organisation employing them**, provide legal advice and information; prepare applications, contracts and other documents; and participate in organising legal work. As a general rule, solicitors – in contrast to attorneys – discharge their duties (which are not as extensive as those of attorneys) **as employees**.

**Solicitors' compensation** is based on the regulations concerning employment.

Any person entered in the **register maintained by the county court** – in Budapest (that is, the Metropolitan Court of Budapest) (Fővárosi Bíróság) – can become a solicitor. Applicants must:

Hold citizenship in one of the member states participating in the Agreement on the European Economic Area (az Európai Gazdasági Térségről szóló megállapodás);

Have no criminal record;

Hold a university degree;

Have passed the Hungarian professional examination in law; and

Be entered in the register.

In certain cases the **Minister for Justice** (az igazságügyért felelős miniszter) **can grant exemption from the citizenship condition**.

#### Notaries (közjegyző)

Acting within the powers defined by law, the **notary public** (közjegyző) performs official administration of justice as part of the State judicial system.

The **aim of their activities** is to prevent the development of legal disputes, and they are only entitled to work in this field if admitted to membership of the **Notaries' Association** (Közjegyzői Kamara). On the basis of law, notaries are **appointed by the Minister of Justice** to work at **given headquarters** and **for an indeterminate time**.

Notaries are obliged to obtain liability insurance and maintain it during the period in which they are conducting their professional activities.

Notaries' **exclusive range of activities** includes registering legal transactions, legal statements and facts in public instruments (közokirat). One of the notary's traditional tasks is to conduct probate and other non-litigious proceedings. Another important task performed by notaries is keeping records of chattel mortgages as well as handling deposits, in the framework of which they receive money, valuables and securities on the basis of the authorisation received from the parties involved with the purpose of delivering them to the party entitled.

For activities which may be deemed average in terms of duration, requirement for the exercise of legal judgement and responsibility conducted in their offices, notaries are entitled to the **amount of fee defined by law**. In exceptional cases (e.g. concerning difficult cases calling for a higher level of skill) the fee may differ from the usual amount. If the value represented by the subject of the notary's activity can be stated, the notary's fee is defined on the basis of this. If the value represented by the subject of the notary's activity cannot be stated, the notary's fee must be determined on the basis of the time devoted to the professional activity. The price of authenticating copies of documents by notaries is set.

As **Hungarian citizenship** is a fundamental requirement for judges, prosecutors, court clerks, bailiffs and notaries, foreign citizens may not be appointed to hold these offices in Hungary.

#### Legal databases

You can find more information on the website of the [Hungarian National Chamber of Notaries](#) (Magyar Országos Közjegyzői Kamara).

#### Other legal professions

##### Bailiffs

Enforcement measures are executed by **bailiffs** (independent court bailiffs (önálló bírósági végrehajtó) and county court bailiffs (megyei bírósági végrehajtó)).

As a general rule, **claims included in court decisions** (bírósági határozat) made in civil cases are executed by independent court bailiffs. Independent court bailiffs are **appointed by the Minister for Justice to join a given local court (helyi bíróság) in a given area of competence**.

Independent court bailiffs **are not employed by the State; their income is paid by clients** as consideration for their work.

Their range of activities is the following:

Execution is based on a certificate of enforcement (végrehajtási lap) issued by the court;

Execution is based on a document with a writ of execution (végrehajtási záradék) issued by the court;

Execution is based on a judicial order or restraint of enforcement, or order of transfer (végrehajtást elrendelő, letiltó, átutalási végzés), furthermore, a decree of direct judicial notice (közvetlen bírósági felhívás).

**Regional court** bailiffs are active at regional courts and the Budapest-Capital Regional Court (Fővárosi Törvényszék). A regional court bailiff shall be appointed by the president judge of the regional court for an indefinite period of time, to serve under a specific regional court. A tender for the office of a regional court bailiff shall be announced by the president judge of the regional court. The regional court bailiff is the court office-holder employed by the regional court, receiving benefits based on this labour relation.

Regional court bailiffs shall execute 'judicial claims' (when the rightful owner of the claim is the state); judicial claims are the costs of civil or criminal proceedings prepaid by the state. The collection of the costs of a criminal procedure, the confiscation of property and other penalties which are of a pecuniary nature are the task of county court bailiffs. The child support advanced by the court is qualified as judicial claims and its execution is also under the purview of county court bailiffs. In addition, regional court bailiffs shall execute if the rightful owner of the claim is the court, the National Judicial Council, the National Judicial Office, the Ministry of Justice, an institute of judicial experts or the state.

Bailiffs' area of competence coincides with the area of competence of the court.

#### Legal databases

You can find more information on the website of the [Hungarian Court Bailiffs' Chamber](#) (Magyar Bírósági Végrehajtói Kamara).

#### Organisations which provide legal services pro bono

**Legal clinics** operate at universities and at several non-governmental Hungarian and international organisations active in the field.

#### Related links

[Homepage of the Hungarian National Chamber of Notaries](#) (A Magyar Országos Közjegyzői Kamara honlapja)

[Homepage of the Hungarian Court Bailiffs Chamber](#) (A Magyar Bírósági Végrehajtói Kamara honlapja)

[Homepage of the Prosecution Service of the Republic of Hungary](#) (A Magyar Köztársaság Ügyészségének honlapja)

[Homepage of the Hungarian Bar Association](#) (A Magyar Ügyvédi Kamara honlapja)

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#### Legal professions - Malta

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

[Legal professions – introduction](#)

[Prosecutors](#)

[Judges](#)

[Barristers / Lawyers](#)

[Notaries](#)

[Other legal professions](#)

[Registrar and staff of the Courts](#)

#### 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.

In accordance with the Constitution of Malta, the Attorney General has the same security of tenure as a judge 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, the Assistant Attorney General and other legal officers.

##### Role and duties

The Attorney General is the **public prosecutor** before the **Criminal Court and the Court of Criminal Appeal**. Certain prosecutions initiated by the police require the prior consent of the Attorney General.

In exercising the powers to launch, perform or discontinue criminal proceedings as conferred on him or her by any law authorising the exercise of such power, the Attorney General is not subject to the direction or control of any other person or authority.

The Attorney General also acts as **legal advisor** to the Government and legal officers from the Office of the Attorney General also **represent the Government** before the civil and constitutional courts.

The Office of the Attorney General is also the competent authority in most matters concerning **legal cooperation** in the civil, commercial and criminal law fields.

The Office of the Attorney General **represents the Republic of Malta** before international courts and represents the Government at international meetings concerning legal and judicial cooperation.

The Office also **drafts legislation** and assists in its passage through Parliament.

#### Judges

##### Organisation

**Judges and Magistrates** are appointed by the President of the Republic on the advice of the Prime Minister. They are independent of 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. They can be removed from office by the President in the event of proven inability to perform the functions of their office (whether arising from infirmity of body or mind or from any other cause) or proven misbehaviour, upon an address by the House of Representatives supported by the votes of not less than two-thirds of all members thereof.

#### 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, the President of the Chamber of Advocates and other members of the judiciary, as well as other 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 into two parts: the part accessible to the general public contains details of all lawyers who are members of the Chamber of Advocates, while a private members' area 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 website of the [Malta Chamber of Advocates](#) provides information on the corps, including news, a calendar of events, and a **lawyer database**. There is also an area restricted to members which provides additional services for lawyers.

#### Is access to this database free of charge?

Yes, access to this database is free of charge.

#### 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) contains information about the **Notarial Council**, general information useful for the public and for notaries as well as a directory containing details of Notaries Public who practise 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 magistrates' courts and special tribunals and boards, and are able to give advice.

The **Commission for the Administration of Justice** is the body responsible for regulation of this profession in Malta. A [section](#) on the website of the Maltese Ministry for Home Affairs and National Security is dedicated to the profession of legal procurators and is accessible to the general public.

##### Registrar and staff of the Courts

The **Registrar of the Courts** is responsible for the registries and the officers attached to them, the filing and service of judicial acts, execution of executive titles, such as judgments, and warrants through Court appointed marshals, judicial sales by auction, trials by jury and other criminal court procedures.

Deputy Registrar (377 Kb) [en](#)

Judicial Assistant (374 KB) [en](#)

Registry Clerk (378 Kb) [en](#)

##### Related links

[Malta Chamber of Advocates](#)

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

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## Legal professions - Netherlands

This section provides you with an overview of the legal professions in the Netherlands.

### Prosecutors

#### Judges

#### Barristers/Advocates

#### Notaries

#### Other legal professions

### Prosecutors

#### Organisation

The Public Prosecution Service (*Openbaar Ministerie*, or OM) is a national organisation with offices in all regions. There is also a national Public Prosecutor's Office that focuses on combating (international) organised crime, and a Functional Public Prosecutor's Office to combat environmental and financial crime and fraud.

There are 10 district prosecutor's offices, where public prosecutors, assisted by administrative and legal experts, handle several hundred thousand cases a year. If an appeal is lodged, the case will be referred to one of the four regional prosecutor's offices. The OM's representative at these offices is called the advocate-general or *Advocaat-Generaal*. Chief Public Prosecutors and chief advocates-general are in charge of these offices. At national level the OM is governed by the Board of Procurators General (*College van Procureurs-generaal*) in The Hague. Political responsibility for the OM lies with the Minister of Justice. Together with the Board of Procurators General, he or she decides on priorities for investigation and prosecution.

#### Role and duties

Anyone who is suspected of committing a criminal offence will have to deal with the OM. The OM is the only body in the Netherlands that can bring suspects to trial. It ensures that criminal offences are investigated and prosecutions brought.

It works in collaboration with the police and other investigation services. The Public Prosecutor is in charge of investigations. The OM also oversees the proper enforcement of court rulings; fines must be paid, prison sentences served, and community service carried out. The OM and the judges are part of the judiciary. The OM is therefore not a Ministry in the usual sense of the word at all.

### Judges

#### Organisation

Anyone wishing to become a judge must have at least seven years' professional experience. This experience can be acquired through an internal training course with the judiciary or elsewhere in the justice system. The judiciary system provides the necessary training.

Judges are appointed by the **Crown**, under the aegis of the **Minister for Security and Justice**. Only Dutch nationals can be appointed to the office of judge. Candidates must hold a law degree from a Dutch university.

Individuals can be nominated for appointment to the judiciary only on recommendation by a national selection committee, made up of members from the various courts, the public prosecutor's office and individuals active in society.

A judge is appointed to administer justice at a specific court. Such an appointment can take place only if the court in question nominates the prospective judge. These conditions are designed to make the appointment system as objective as possible.

The judge is a government official with special status. Following the appointment, the judge may not accept an appointment elsewhere.

Judges can remain in office until the age of 70. Before that, they can be removed from office against their will only by the highest court in the Netherlands, the **Supreme Court of the Netherlands** (*Hoge Raad der Nederlanden*), at the instigation of the procurator general (*procureur-generaal*) of this court. This system provides appropriate protection against political influence on appointments and removal from office.

#### Role and duties

The task of the judge is to give an unbiased decision in **legal disputes** – including cases to which the government is party. To guarantee impartiality in respect of the government, a special selection and appointment system is in place. Hence the legal status of judges differs from that of other government officials. The Dutch Constitution requires the judiciary to render decisions on disputes, and contains provisions governing the legal status of members of the judiciary. Guided by the prevailing legislation, judges may hear cases at their own discretion. They also determine, to a large extent, the practical progress of proceedings (for instance, the length of certain parts of the proceedings).

If a party to a proceeding has doubts about the impartiality of the judge, the law provides her or him with an opportunity to object to the judge hearing the case. Sometimes, one party to a lawsuit is dissatisfied with the work of the judge. Here a distinction is made between the decision handed down by the court and the behaviour of the judge.

If the dissatisfaction relates to the judgment, the party complaining usually has the option of lodging an appeal;

Complaints about the behaviour of a judge may be filed with the board of the court where the judge in question holds office. Every court has a complaints procedure that sets out the rules on dealing with complaints.

There are several statutory provisions governing the behaviour of judges. Their purpose is to guarantee that judges do their work impartially.

Judges must gain expertise in at least two fields. Thus they are usually required to hear one case in a certain field, after which they switch to another. This rule is designed to prevent judges from focusing for too long and too much on one area of expertise.

Judges work in district courts (*rechtbanken*). These cover a minimum of four sectors: the civil-law sector, the criminal-law sector, the administrative-law sector and the sub-district court sector. Judges working in the latter sector are called *kantonrechter*, the others are referred to as *rechter*. The judges working in the **courts of appeal** and the Supreme Court are called *raadsheer*.

The composition of the courts when hearing cases is as follows:

*Kantonrechters* hear cases on their own.

District court judges usually hear cases on their own, but some cases must be heard by a three-judge panel.

Judges in the courts of appeal hear cases with a panel of three, except where such a case can be heard by one judge. The law provides rules for this.

The Supreme Court hears every case with five judges.

The governmental body responsible for regulation of the profession is the Dutch Judiciary (*rechtspraak*).

### Legal database

For further information, see the website dedicated to the [administration of justice](#) in the Netherlands, which is accessible to the general public.

### Organisation of the legal profession: Barristers/Advocates

#### Barristers/Advocates

The [Netherlands Bar Association](#) (*de Orde*) is the public law professional body for all advocates in the Netherlands. The statutorily-regulated core activity of the Bar is to oversee the quality of services by advocates. This quality is ensured by, among other things:

A comprehensive education programme for the legal profession

Drawing up by-laws and other binding rules for advocates

Disciplinary proceedings

Information and services to the members

Advice to the Dutch government about policy plans and enactments.

By law, an advocate must become a member of the Bar. In 2014, there were 17 000 advocates registered.

#### **Solicitors/ Legal Advisers**

There is no centralised body regulating these professions.

#### **Notaries**

##### **Organisation**

See the website of the [Royal notarial professional body](#) (*Koninklijke Notariële Beroepsorganisatie*).

##### **Role and duties**

The law requires a **notarial instrument** for a number of agreements and legal transactions. The most important are:

Conveying real property in the Netherlands

Creating or cancelling mortgages

Incorporating public or private limited liability companies (NVs and BVs) or altering their articles of association

Establishing foundations or associations (including cooperatives) or altering their constitution

Drawing up, altering and executing wills

Drawing up or altering marriage contracts and registered domestic partnership agreements

Transferring registered shares

Authorising signatures

Providing for gifts and donations in a notarial instrument.

For practical reasons, a notary often also performs other types of legal transactions and may draft other kinds of agreement. These include, for example, partnership agreements (commercial, civil and limited partnerships), agreements between cohabitants and provisions to protect private limited liability companies from third parties.

##### **Other legal professions**

The [Royal Professional Organisation of Judicial Officers](#) (the *Koninklijke Beroepsorganisatie van Gerechtsdeurwaarders* or KBvG) was incorporated in the Judicial Officers Act, which became effective on 15 July 2001. This gives the KBvG – which all judicial officers in The Netherlands are required to join – the task of fostering good practice within the profession.

Dutch **judicial officers** are responsible for receiving and transmitting documents in line with Council Regulation (EC) No 1348/2000 of 29 May 2000 on the service in the Member States of judicial and extrajudicial documents in civil or commercial matters. Documents to be served in the Netherlands must be sent directly to one of its judicial officers. Requests for this service must be submitted in Dutch or in English.

It is not possible to send such a request to the Dutch central body, the **Royal Professional Organisation of Judicial Officers**. Its aid can be requested only in the exceptional circumstances defined in Article 3(c) of the aforementioned European Regulation.

##### **Pro bono legal services**

For primary legal advice, you can ask for help at one of the Legal Services Desks. Here you can request clarification on legal matters, information and advice. This is the first port of call in the provision of legal aid.

If necessary, you will be referred to a private lawyer or mediator, who acts as the secondary line of legal aid.

All information services at the Legal Services Desks are free of charge. They are provided on the spot or as part of a consultation (maximum 60 minutes).

You can contact these Desks with problems concerning civil, administrative, criminal and immigration law.

A total of 30 Legal Services Desks have been established. They have been evenly set up geographically, so that every Dutch citizen is within easy reach of legal services.

See the website of the [Legal Services Desk](#) for further information.

#### **Links**

[Public Prosecutor's Office \(OM\)](#), [Administration of justice and the Supreme Court of the Netherlands \(Nederlandse rechtspraak en de Hoge Raad der Nederlanden\)](#), [Netherlands Bar Association \(Nederlandse Orde van Advocaten\)](#), [Royal notarial professional body \(Koninklijke Notariële Beroepsorganisatie\)](#), [Royal Professional Organisation of Judicial Officers \(Koninklijke Beroepsorganisatie van Gerechtsdeurwaarders\)](#), [Legal Services](#)

[Desk \(Het Juridisch Loket\), Fact sheet Court Staff \(389 Kb\)](#)[en](#)

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Aan de vertaling in het Nederlands wordt momenteel gewerkt.

#### **Legal professions - Austria**

This page provides an overview of the legal professions in Austria.

##### **Legal professions – Introduction**

At present there are 1 693 professional judges for whom the Austrian Federal Ministry of Justice is responsible (data as per 1 November 2012, representing active full-time equivalent positions, including at the Supreme Court).

Judges are also appointed outside the justice system, for example to the Administrative Court (approximately 63) and the Asylum Court.

In addition, lay persons are assigned to specific cases and work on a voluntary basis. They act as lay judges or jury members in criminal cases and as associate judges with special expertise in commercial, labour and social law cases.

There are 375 public prosecutors (data as per 1 November 2012, representing active full-time equivalent positions, including at the office of the director of public prosecutions) and 4 864 officials and contract staff (data as per 1 November 2012, representing active full-time equivalent positions, including at the Supreme Court and the office of the director of public prosecutions), who help maintain the proper operation of the courts and the offices of public prosecution.

Altogether 3 631 people are employed in the penitentiary system (data as per 1 November 2012, representing active full-time equivalent positions, including members of the Prisons Directorate); this figure includes a total of 3 098 prison wardens (including 127 responsible for teaching prisoners).

## **1. Judges**

### **Education and appointment**

After completing their law studies, followed by court practice within the framework of judicial preparation service, judges undergo their practical training. Every year, about 60 - 80 candidate judges are appointed. Judicial preparation service (including court practice) lasts in principle for four years and is carried out at district courts, regional courts, a public prosecutor's office, a prison or a centre for victims' protection or assistance, or at the office of an attorney at law, a notary or a prosecutor representing the Federal Ministry of Finance. Part of the training service can also be completed at the Higher Regional Court, the Supreme Court, the Federal Ministry of Justice, the Prisons Directorate, probation services centres, associations of legal trustees or youth welfare offices, the office of the citizens' rights ombudsman or appropriate undertakings, or in the financial sector. Judicial preparation service concludes with the judicial office examination.

Once they have passed the judicial office examination, candidate judges can apply for vacant permanent positions as judges.

Appointments as judges are made by the Federal President who, where most positions are concerned, will have delegated this task to the Federal Minister for Justice. Only Austrian nationals can be appointed judges.

Lay persons on the bench must be distinguished from professional judges. They do not need any legal training and work on a voluntary basis. They may be either lay judges or jury members in criminal proceedings, or associate judges with special expertise in labour and social law cases.

### **Status of judges**

Professional judges have a public-law employment relationship with the Federal State. In addition to the Federal Constitutional Act, the Judges Service Act is the main legal source for the training and professional status of judges. (The full name of this legal source is Judges and Public Prosecution Service Act; in particular, numerous provisions to which judges and public prosecutors are subject and that govern, for example, disciplinary procedures and service descriptions are determined similarly.)

Professional judges are appointed for an unlimited period of time and retire at the end of the year in which they reach the age of 65.

According to Articles 87 and 88 of the Federal Constitutional Act, judges act as independent agents of the state in interpreting the law and adjudicating cases. This independence is expressed in judges' freedom from instruction (material independence) and in the impossibility of removing them or transferring them to another position (personal independence). Judges are bound only by the law and decide on the basis of their own legal convictions. Likewise, they are not bound by earlier decisions of other courts on similar legal issues (precedents).

Apart from when they retire permanently after reaching the statutory age limit, judges can be removed from office or transferred to another position or retired against their will only in the circumstances and in the manner provided for by law and on the basis of a formal judicial decision (Article 88 of the Federal Constitutional Act).

The special status of judges under the Constitution comes into play only in the exercise of their judicial office (in conducting all judicial business allocated by law or under the system of allocation of business). An exemption exists for 'administration of justice' matters (measures to maintain the operation of the judicial system). But in such cases, judges are independent only if they deal with these matters (such as the allocation of judicial business and proposals for appointments to judicial positions) on panels or in commissions. Otherwise, they are bound by instructions from above. The fixed allocation of judicial business ensures that the right to a judge under the legal system, which is guaranteed by the constitution, is upheld.

### **Role and duties**

Judges are responsible for adjudicating civil and criminal law cases. In administrative and constitutional law matters, they act as a check on the administration and as guardian of the constitution.

### **Responsibility before the law**

Disciplinary Court: A judge who culpably contravenes his professional obligations is answerable to the disciplinary court, which is established at the Higher Regional Court or the Supreme Court and consists solely of judges (the disciplinary court is also competent in the matter of misconduct by public prosecutors).

Criminal Court: A judge who, in culpable breach of his professional obligations, also commits a criminal offence is answerable to the criminal court (for example, in the event of abuse of official power).

Civil Court: A party who has suffered a loss as a result of unlawful and culpable conduct by a judge (or, if applicable, a public prosecutor) can assert this loss only against the State. The State can have recourse against the judge (or, if applicable, a public prosecutor) in the event of intentional acts or gross negligence.

## **2. Public prosecutors**

### **Organisation**

Basically, the hierarchical organisation of the public prosecutor's office corresponds to the courts' organisation.

At each of the trial courts with jurisdiction over criminal cases (i.e. 17 courts in all) there is a public prosecutor's office. In addition, there is a Central Service for the Prosecution of Economic Crimes with competence for the whole of Austria. At each Higher Regional Court there is a senior public prosecutor's office, and the office of the director of public prosecutions is at the Supreme Court. The senior public prosecutor's offices and the office of the director of public prosecutions are directly subordinate to the Federal Minister for Justice.

### **Education and appointment**

The education of a public prosecutor corresponds to that of a professional judge.

Anyone who fulfils the requirements for appointment to the position of judge can also be appointed a public prosecutor.

Vacant permanent positions for public prosecutors, like permanent positions for judges, must be advertised publicly to be filled. It is the Federal President who has the right to appoint public prosecutors but, as in the case of judges, he will have delegated the right of appointment in respect of most permanent positions for public prosecutors to the Federal Minister for Justice.

### **Status of public prosecutors**

Public prosecutor's offices are judicial authorities separate from, but not independent of, the courts. They have a hierarchical structure and are bound by the instructions of senior public prosecutor' offices and ultimately of the Federal Minister for Justice.

There are precise statutory rules governing the right to issue instructions. Instructions from a senior public prosecutor's office or from the Federal Minister for Justice may be issued only in written form and must be accompanied by a statement of reasons. Moreover, instructions received have to be recorded in the criminal case file. The Federal Minister for Justice bears ministerial responsibility and is thus obliged to provide information to Parliament, to which he or she is accountable.

Staff members of individual public prosecutor's offices must comply with instructions given by the office director. However, if they consider an instruction to be contrary to the law, they may demand a written order concerning the instruction and may even arrange to be released from handling the criminal case in question. Public prosecutor's offices are therefore hierarchically organised with subordinate and superior levels. This is also necessary on account of the fact that – contrary to court rulings – their decisions cannot be contested by means of any legal remedy.

#### **Role and duties**

Public prosecutor's offices are special bodies separate from the courts. Their role is to safeguard the public interest in the administration of criminal justice. This primarily involves laying charges against persons and presenting the indictment in criminal proceedings. They are therefore also called indictment agencies. In criminal proceedings they are also in charge of preliminary proceedings.

Public prosecutors are responsible for filing and presenting indictments, both before the regional court and before the district courts of the respective regional court district. As a rule, district prosecutors will present the indictment before the district courts. District prosecutors are officials with special expertise, but they are not required to have an academic degree.

A special position is occupied by the Central Service for the Prosecution of Economic Crimes, whose country-wide jurisdiction now extends to the fields of malfeasance by civil servants and economic crimes involving amounts in excess of EUR 5 000 000. Also falling within its competence are financial crimes involving amounts of more than EUR 5 000 000, eligible cases of social fraud, action by a debtor that is detrimental to the creditors, and offences under the Law on Public Limited Companies or the Law on Private Limited Companies committed at correspondingly large undertakings (with a share capital of at least EUR 5 000 000 or more than 2 000 employees).

Senior public prosecutor's offices are hierarchically superior to public prosecutor's offices and support the Higher Regional Courts in Vienna, Graz, Linz and Innsbruck. In addition to acting for the prosecution before the Higher Regional Court, they are also responsible for supervising all public prosecutor's offices in their district and are directly subordinate to the Federal Minister for Justice.

The office of the director of public prosecutions, established at the Supreme Court, in turn occupies a special position. It is directly responsible to the Federal Minister for Justice and does not itself have the right to issue any instructions to public prosecutor's offices and senior public prosecutor's offices. Nor does it issue any indictments, but is in charge of supporting the Supreme Court. It is especially authorised to lodge what are known as nullity appeals for observance of the law in criminal matters in which the parties have no (further) possibility of appeal. The office of the director of public prosecutions thus performs an important function in that it preserves the unity of the law and ensures legal certainty in criminal law matters.

#### **Responsibility before the law**

The disciplinary, criminal and civil responsibility of public prosecutors is regulated in the same way as that of judges.

### **3. Registrars**

#### **Organisation**

In Austria, registrars are an essential pillar of the judicial system. More than 80% of all trial court decisions in civil law cases are now taken by the 662 registrars (data as per 1 November 2012, representing active full-time equivalent positions, including in the staff deployment group).

#### **Education**

To be admitted for training as a registrar, the candidate has to have passed the diploma examinations and/or obtained the school-leaving certificate, or been awarded the vocational school-leaving certificate (in other words, be in possession of the secondary school leaving certificate). The examinations concerned may be replaced by an apprenticeship or by the successful completion either of studies at a technical academy or of studies for the university entrance examination.

Before being admitted for training as a registrar, the relevant person must work in the court office for at least two years and must pass the court office examination intended for court office employees, as well as the specialist service examination. Only then is it possible for the court employee to be admitted for training as a registrar by the presiding judge of the higher regional court.

The training to become a registrar lasts three years and includes the following:

employment at one or more courts, preparing to deal with matters in the intended work area

taking part in a basic course and a work area course and

taking the registrar's examination, to be passed in two parts.

After passing the registrar's examination, the candidate registrar receives a diploma issued by the Federal Minister for Justice.

This diploma must be distinguished from the registrar's certificate, which is only issued after the three-year training programme and confirms the authorisation to practise the profession of registrar. The registrar's certificate gives the relevant court officer the fundamental authorisation to deal with the judicial business that comes within his or her area of activity in respect of the federal territory.

The presiding judge of the Higher Regional Court must subsequently determine the court at which the relevant court officer is to be employed as a registrar and, if applicable, for what period. Within the court concerned, the registrar is allocated by the court manager to a court department managed by a judge or, if applicable, to a number of court departments. Within the court department, the relevant judge is responsible for the allocation of business.

#### **Status of registrars**

Registrars are specially trained court officials to whom the handling of specifically circumscribed business in civil matters at first instance has been transferred on the basis of the Austrian Federal Constitutional Act (Section 87(a)) and the Austrian Registrars Act. They are bound only by the instructions of the judge responsible for the case according to the allocation of court business. The judge may at any point and at any stage re-assign the handling of the case to him- or herself. Registrars may issue only court orders. Judges may grant leave to appeal against these orders. The legal remedy of requiring submission of the case to a judge also exists.

In practice, registrars work independently to the greatest possible extent. Instructions from the judge are not usual and are issued extremely rarely.

#### **Role and duties**

Registrars are used in the following work areas:

Civil procedure, enforcement and insolvency matters ('debt settlement proceedings')

Non-contentious matters

Land register and ship register matters

Companies register matters.

Each of these work areas requires special training and special appointment as a registrar in respect of the relevant work area.

#### **Division of responsibilities between judges and registrars**



A registrar's sphere of activity does not include all work and decisions arising in the above-mentioned work areas. The business that comes within the registrar's sphere of activity is specifically set out in the Austrian Registrars Act, and the extent of the sphere of activity varies widely from one work area to another.

The scope of competences of registrars comprises, inter alia:

default actions

the confirmation of the legal effect and enforceability of rulings by judges in their field of work

decisions on applications for legal aid in court-clerk proceedings

the performance of official acts on the basis of a request for judicial assistance by a domestic court or a domestic authority.

#### **4. Attorneys at law**

##### **General points**

Attorneys at law are called upon and authorised to represent parties in all court and out-of-court proceedings in all public and private matters before all courts and public authorities of the Republic of Austria.

No official appointment is required by anyone wishing to practise as an attorney at law in Austria; however, professional practice is conditional upon the requirements set out below.

The substantive legal bases comprise the Austrian Code of Lawyers, Imperial Law Gazette No 96/1896, the Disciplinary Statute for Attorneys at Law and Candidate Attorneys at Law, Imperial Law Gazette No 474/1990, the Federal Act on the Lawyers' Tariff, Imperial Law Gazette No 189/1969 and the Law on the Examination for Lawyers, Imperial Law Gazette No 556/1985.

##### **Requirements for professional practice**

After studying Austrian law, anyone wishing to enter the profession of attorney at law has to prove that he or she has spent a total of at least five years engaged in professional legal work, of which at least five months are to have been spent at a court or a public prosecutor's office and three years at the office of an Austrian attorney at law as a candidate attorney at law.

The attorney at law examination, the passing of which is a condition of being able to practise, can be taken after practical employment of three years, of which at least five months are spent at a court and at least two years at the office of an attorney at law. In order to sit the examination, it is also a requirement to take part in the training courses mandatorily prescribed for candidate attorneys at law by the Chamber of Lawyers.

A person who meets the stated requirements can arrange to be entered on the list of those Chambers of Lawyers in whose area his or her practice is to be.

Under certain circumstances, a foreign attorney at law, a citizen of a Member State of the European Union or of another contracting state of the European Economic Area Convention or of Switzerland may, in Austria:

carry out work as an attorney at law on a temporary basis

apply to be entered on the list of attorneys at law of the responsible Chamber of Lawyers, after sitting an aptitude examination, or

set up a practice in Austria immediately without any prior aptitude examination under the professional title used in the country of origin and become fully integrated into the Austrian legal profession after a three-year 'effective and regular' professional practice in Austria.

Under certain circumstances, a member of a Chamber of Lawyers of a GATS member state can temporarily perform certain precisely delimited work as an attorney at law in the Republic of Austria.

##### **Responsibility before the law**

Attorneys at law who breach professional obligations or bring the profession into disrepute are answerable to a disciplinary council selected by the local Chamber of Lawyers. The penalties that may be imposed by the disciplinary council extend to the striking of the individual concerned off the list of attorneys at law. Decisions at second instance are made by the Supreme Appeal and Disciplinary Committee in four-person divisions consisting of two judges from the Supreme Court and two attorneys at law.

Additionally, attorneys at law are obviously also subject to criminal and civil liability.

##### **Bar Association, Austrian National Bar Association**

A federal province's attorneys at law and candidate attorneys at law entered on the list concerned together form a bar association. Bar associations are corporations governed by public law and autonomous self-governing bodies.

For the purpose of coordinating their tasks, delegates from the bar associations of the individual federal provinces form a joint representative body at federal level, the Austrian National Bar Association (<http://www.rechtsanwaelte.at/>).

#### **5. Notaries**

##### **General points**

Notaries, as an independent and impartial institution of the precautionary administration of justice, are available to the law-seeking public for the purposes of regulating their private legal relationships.

Their main duty is to participate in legal processes and to provide legal assistance to the public. Notaries execute public deeds, keep third-party objects safe, draw up private deeds and represent parties, mainly in the non-contentious area. Notaries are additionally responsible for work as agents of the court in non-contentious procedure. In particular, they are consulted as 'court commissioners' to conduct probate procedures.

Notaries must ensure that a deceased person's assets are secured and passed to the persons entitled. This work requires special knowledge of the law of inheritance and of non-contentious procedure, which also means that notaries are constantly consulted by the public to assist in drafting wills and especially to give advice and provide representation in inheritance matters.

Notaries hold a public office, but are not civil servants. They bear the commercial risk of running the practice's office, but do not run a business. They are similar to persons practising one of the liberal professions, but as court commissioners they are judicial officers. Work as a notary is a main occupation and cannot be combined with work as an attorney at law.

Changes in the number of notarial positions and in the locations of their offices are made by regulation of the Federal Minister for Justice. At present there are 490 notarial offices in Austria.

The substantive legal bases for this activity comprise the Code of Notaries, Imperial Law Gazette No 75/1871, the Law on Notarial Deeds, Imperial Law Gazette No 76/1871, the Law on Notaries' Fees, Imperial Law Gazette No 576/1973, the Law on the Examination for Notaries, Imperial Law Gazette No 522/1987, the Law on Commissioners of the Courts, Imperial Law Gazette No 343/1970 and the Law on the Fees of Notaries as Commissioners of the Courts, Imperial Law Gazette No 108/1971.

##### **Education**

Anybody who has completed his or her law studies (studies of Austrian law) and is interested in the profession of notary must look for a notary who will accept them as an employee and have their name entered on the list of candidate notaries.

Entry on the list of candidate notaries maintained by the responsible Chamber of Notaries is permissible only if the relevant person has had five months' court practice as a legal practitioner at a court or in a public prosecutor's office and has not yet reached the age of 35 when first entered in the list of candidates.

In order to be admitted to the notarial examination, the candidate notary must attend training events mandatorily prescribed by the Chamber of Notaries.

The notarial examination must be sat in two parts.

The candidate notary can sit the first part of the examination after 18 months' candidacy, but must pass the first part no later than at the end of the fifth year of candidacy; otherwise, his or her name is to be removed from the list of candidate notaries.

The second part can be sat following further practical employment of at least a year as a candidate notary. The second part of the notarial examination must be passed no later than before the end of a ten-year candidacy; otherwise, the candidate's name is removed from the list.

#### **Appointment**

Notarial positions that have become vacant or that have been newly created are to be advertised publicly before they are filled. The law (Section 6 of the Austrian Rules for Notaries) requires, inter alia, that applicants for a notarial position are:

citizens of an EU or other EEA Member State or of Switzerland

have successfully completed studies in Austrian law

have passed the notarial examination and

are able to prove seven years of employment in the legal profession, including at least three years as a candidate notary after sitting the notarial examination.

These basic requirements do not, however, give any right to be appointed as a notary. In the appointment procedure, the applicants are assessed and ranked by the Chamber of Notaries that has geographical jurisdiction, and subsequently by the personnel divisions of the responsible Regional Court and of the Higher Regional Court, the length of the practical employment being of decisive importance. The Chamber of Notaries and the two personnel divisions each submit a three-person proposal to the Federal Minister for Justice. Although the Minister is not bound by the proposals, he or she in practice appoints only one of the ranked applicants.

He or she can practise as a notary until 31 January of the calendar year following his or her 70th birthday. An official transfer of a notary to a different notarial position is not permissible.

#### **Supervision of notaries; Responsibility before the law**

Because of their duties in drawing up public documents and as court commissioners, notaries are subject to particular supervision. The supervision of notaries is the responsibility of the Federal Minister for Justice, the Justice Administration Department and, directly, the Chambers of Notaries.

Notaries have their own disciplinary law. Disciplinary offences are punished at first instance by the Higher Regional Court as the disciplinary court for notaries, and at second instance by the Supreme Court as the disciplinary court for notaries, and the tribunals that hear the cases must in each case also have notaries as members. The list of penalties that can be imposed by the disciplinary court extends to removal from office. Penalties for ordinary infringements of the rule of law are imposed by the Chamber of Notaries.

In addition to their disciplinary liability, notaries are obviously also liable under criminal and civil law.

Where notaries act as court commissioners, they are deemed to be civil servants for criminal law purposes and are therefore liable for 'crimes of office', which include in particular the abuse of official power. Their liability under civil law is regulated differently. If they act as court commissioners, they are subject to the same liability provisions as judges and public prosecutors. Claims cannot therefore be brought directly against them by the parties, who must instead direct their claims for compensation to the State. The State can bring a recourse action in the event of intentional acts or gross negligence. Apart from their activity as court commissioners, they are directly answerable to the parties under civil law.

#### **Bar Associations, Austrian National Bar Association**

Notaries who have their practices in a federal province or who are entered as candidate notaries in that federal province's list of candidate notaries constitute a Bar Association. The federal provinces of Vienna, Lower Austria and Burgenland have their joint Association, as do the federal provinces of Tirol and Vorarlberg.

The Association is responsible for preserving the honour and dignity of the profession and for representing its interests.

Each Bar Association has to elect a Chamber of Notaries from among its members. The Chamber of Notaries consists of a notary as President and of six other notaries (twelve in Vienna) and three candidate notaries (six in Vienna) as members.

**The Austrian National Bar Association (<http://www.notar.at>) is formed from the federal provinces' Chambers of Notaries.** The Austrian National Bar Association is called upon to represent notaries, and to defend their rights and concerns, on matters concerning Austrian notaries as a whole or on matters whose scope extends beyond that of an individual Chamber of Notaries.

#### **Related links**

[Legal professions – Austria](#)

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#### **Legal professions - Poland**

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

[Prosecutors](#)

[Ordinary courts](#)

[Legal professions in courts](#)

[Judges](#)

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[Judicial clerks](#)

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[Organisations providing pro bono legal services \(free of charge\)](#)

#### **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 eservices.

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 [EN](#) **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.](#) (374 Kb) [en](#)

### 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](#) (374 Kb) [en](#)

### 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.](#) (379 Kb) [en](#)

### 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 [EN](#) **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 [EN](#) **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: **bailliffs**.

#### Bailliffs

Under Polish law, bailliffs 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.

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

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

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

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

#### 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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Let op: de oorspronkelijke versie van deze pagina ([pt](#)) is onlangs gewijzigd.

Aan de vertaling in het Nederlands wordt momenteel gewerkt.

#### Legal professions - Portugal

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

[Judicial court judges and administrative and tax court judges](#)

[Prosecutors in the Public Prosecution Service](#)

[Lawyers](#)

[Legal advisers](#)

[Legal agents](#)

[Enforcement agents](#)

[Notaries](#)

[Registrars](#)

[Court officials](#)

[Mediators](#)

[Judicial administrators](#)

[Industrial property officer](#)

[Organisations that provide free legal services \(pro bono\)](#)

#### Judicial court judges and administrative and tax court judges

As set out in the Portuguese Constitution, judges belong to a sovereign body - the Courts.

Bound only by the law, judges administer justice on behalf of the people.

Judicial court judges are governed by the Constitution and the Statute of Judicial Court Judges (*Estatuto dos Magistrados Judiciais*). In accordance with the hierarchy of the respective courts, there are three types of judicial court judge:

Judges of the Supreme Court of Justice (*Supremo Tribunal de Justiça*), designated as *Conselheiros*;

Judges of the Appeal Courts (*Tribunais das Relações*), designated as *Desembargadores*;

Trial court judges at courts of first instance, designated as *Juízes de Direito*.

Administrative and tax court judges are governed by the Constitution, the Statute of the Administrative and Tax Courts (*Estatuto dos Tribunais Administrativos e Fiscais*) and on a subsidiary basis by the Statute of Judicial Court Judges (*Estatuto dos Magistrados Judiciais*). In accordance with the hierarchy of the respective courts, there are three types of administrative and tax court judge:

Judges of the Supreme Administrative Court (*Supremo Tribunal Administrativo*), designated as *Conselheiros*;

Judges of the Central Administrative Courts, designated as *Desembargadores*;

Circuit administrative court and tax court judges, designated as *Juízes de Direito*.



Access to the profession of judge is a three-stage process comprising a public competition, a theoretical and practical training course undertaken at the Centre for Judicial Studies (*Centro de Estudos Judiciários*), and an apprenticeship. If they successfully complete all three stages, they will be appointed *Juízes de Direito*.

Judges continue their training throughout their career.

The High Council for the Judiciary (*Conselho Superior da Magistratura*) conducts regular inspections at the courts of first instance, and the High Council for the Administrative and Tax Courts (*Conselho Superior dos Tribunais Administrativos e Fiscais*) does the same for judges at these courts. Following each inspection, judges are ranked by merit, using the categories very good, good with distinction, good, sufficient and poor. If a judge is ranked in the 'poor' category, they will be suspended from duty and an inquiry will be launched to assess their suitability for the job.

The High Council for the Judiciary and the High Council for the Administrative and Tax Courts are responsible for appointing, assigning, transferring, promoting and taking disciplinary action in respect of judges of the judicial courts and the administrative and tax courts.

To ensure that judges are independent and impartial, the Constitution lays down that practising judges may not carry out any other duties, be they public or private, with the exception of unpaid teaching or scientific research in the field of law. Judges can only be transferred, suspended, retired or dismissed in the cases provided for by law; they may not be held accountable for their decisions, other than where the law provides for exceptions.

#### **Prosecutors in the Public Prosecution Service (*Ministério Público*)**

Prosecutors in the public prosecution service are responsible for representing the State, carrying out prosecutions and defending the democratic rule of law and the interests determined by law. Public prosecutors have their own statute and autonomy as provided for by the law.

Access to the profession of public prosecutor is by public competition, consisting of knowledge tests, a CV evaluation and a psychological selection test, all undertaken at the Centre for Judicial Studies (*Centro de Estudos Judiciários*).

Candidates who are admitted are appointed as trainees (*auditores de justiça*). On successfully completing theoretical and practical training at the Centre for Judicial Studies, they are appointed apprentice deputy prosecutors.

The career of a public prosecutor consists of five levels, listed in hierarchical order:

Prosecutor-General (*Procurador-Geral da República*);

Vice-Prosecutor-General (*Vice-Procurador-Geral da República*);

Deputy Prosecutor-General (*Procurador-Geral Adjunto*);

District Prosecutor (*Procurador da República*);

Deputy District Prosecutor (*Procurador da República Adjunto*).

The Prosecutor-General's Office (*Procuradoria-Geral da República*) is the highest body in the Public Prosecution Service and is presided over by the Prosecutor-General. It also comprises the High Council of the Public Prosecution Service (*Conselho Superior do Ministério Público*), the Consultative Council, official legal advisers and support services.

The High Council of the Public Prosecution Service is responsible for appointing, assigning, transferring and promoting public prosecutors and taking disciplinary action against them.

#### **Lawyers (*Advogados*)**

Lawyers are legal professionals who, once they have registered with the Bar Association, provide legal representation and legal advice, consisting in the interpretation and application of the rules of the law at the request of a third party.

Registration with the Bar Association (*Ordem dos Advogados*) is required to practise as a lawyer in Portugal.

In order to access the profession, it is necessary to:

hold a Portuguese law degree or a university-level law qualification from outside Portugal, if this qualification is deemed to be equivalent to a degree or has been recognised as being of the same level;

complete a traineeship lasting 18 months, comprising two stages of training: the first training stage, lasting six months, and the additional training stage, lasting 12 months;

pass the written and oral Bar exam.

Foreign citizens who have obtained their degree in Portugal may register with the Portuguese Bar Association in the same way as Portuguese citizens, provided that their country of nationality grants identical rights to Portuguese citizens.

Lawyers from other EU Member States wishing to establish themselves permanently, with a view to practising in Portugal under the professional title of their country of origin, must register with the Bar Association. In such cases, they may provide legal representation in court only under the guidance of a lawyer who is registered with the Bar Association. If they want to practise as lawyers with the same rights and obligations as Portuguese lawyers, they must register with the Bar Association and sit a written and oral exam in Portuguese.

The Bar Association is the public association representing professionals who are practising lawyers acting in accordance with the Association's statute. It ensures access to the law, regulates the profession and takes disciplinary action against lawyers and trainee lawyers (the only body that does so), protects the social role, dignity and prestige of the profession and promotes access to knowledge and application of the law.

#### **Legal Advisers (*Consultores jurídicos*)**

In the Portuguese legal system, there is no distinction between lawyers and legal advisers.

#### **Legal agents (*Solicitadores*)**

Legal agents are independent professionals who provide their clients with legal advice and legal representation in court, within the limits imposed by their statute and procedural legislation. They may represent the parties in court whenever legal representation by a lawyer (*advogado*) is not mandatory.

Legal agents may also provide citizens and businesses with legal representation outside of court, for instance, before the tax administration, notary offices, registrar offices and public administration bodies.

In order to access the profession, it is necessary to:

hold an officially recognised law degree and not be registered with the Bar Association, or hold an officially recognised degree in legal agent studies. Foreign nationals of another EU Member State must hold the academic and professional qualifications legally required to exercise the profession in their respective State of origin;

complete a traineeship lasting between 12 and 18 months;

obtain appropriate references during the traineeship, provided by the trainer and traineeship centres, and pass a national examination set in accordance with the relevant rules.

Professionals from another EU Member State or the European Economic Area can register with the College of Legal Agents (*Colégio dos Solicitadores*) in accordance with Law No 9/2009 of 4 March 2009, amended by Law No 41/2012 of 28 August 2012 and Law No 25/2014 of 2 May 2014.

The Order of Legal Agents and Enforcement Agents (*Ordem dos Solicitadores e dos Agentes de Execução*, OSAE) is the public association representing these legal professionals. It is responsible, among other things, for exercising disciplinary powers over its members and giving opinions on draft legislation relating to its competences.

More information is available here <http://www.osae.pt>.

#### **Enforcement agents (*Agentes de execução*)**

Enforcement agents are professionals to whom powers are granted at national level to carry out civil enforcement activities. They are independent and impartial professionals and do not represent any of the parties, but are responsible for carrying out all the formalities for enforcement, including seizure, service of documents, notices and sales of seized assets. In some cases their duties may be carried out by a court official.

Enforcement agents are appointed by the party seeking enforcement or by the court.

Enforcement agents must hold a degree in legal agent studies or in law and must:

be Portuguese nationals;

not be covered by any of the restrictions laid down in the Statutes of the Order of Legal Agents and Enforcement Agents or the Bar Association;

not have been included on the official public list of debtors in the last ten years;

have successfully completed the enforcement agent traineeship;

sit the exam for legal assistants after having worked for more than three years as an enforcement agent and receive a favourable opinion from the Commission for Legal Assistants (*Comissão para o Acompanhamento dos Auxiliares de Justiça*, CAAJ);

register with the relevant professional association within three years of successfully completing their traineeship;

have the minimum IT structures and resources as laid down by a regulation approved by the general assembly.

The Order of Legal Agents and Enforcement Agents and the Specialised College of Enforcement Agents (*Colégio de Especialidade dos Agentes de Execução*) are the bodies responsible for regulating the profession.

The CAAJ, which is independent from the Order of Legal Agents and Enforcement Agents, is the body responsible for supervising and exercising disciplinary action over enforcement agents.

More information is available on the following websites: <http://www.osae.pt> and <http://www.caaj-mj.pt>.

#### **Notaries (*Notários*)**

Notaries are specialist professionals authorised to perform duties in certain legal contexts. They play a major role in commerce, both nationally and internationally.

Notaries are empowered to:

draw up private contracts and advise the parties, while treating each party fairly; draw up official documents, taking responsibility for the legality of the document and for any advice given; inform the parties of the implications and consequences of the commitments that they plan to enter into (notaries are duty bound to do this);

carry through legal transactions agreed in their presence. The act can be entered directly in the official register or, if one of the parties fails to meet their obligations, it can be enforced without the intervention of a judge;

act as mediators, in an impartial way and in full compliance with the law, to enable the parties to reach a mutually acceptable agreement;

draw up documents for and the terms of inventory proceedings, except for those matters that must not be decided in inventory proceedings, due to the nature or legal or factual complexity of the matter; such matters must be decided by the judge in the district court (*tribunal de comarca*) that has jurisdiction for the notary's office where the proceedings were lodged (Law No 2/2013 of 5 March 2013, which approved the Legal Framework for Inventory Proceedings, granted notaries this power, thereby creating a system of shared powers).

The reform of the profession of notary and the consequent privatisation of the sector mean that notaries have a dual role: they are public officials and also liberal professionals but are no longer civil servants.

As public officials, notaries come under the auspices of the Ministry of Justice, which has regulatory powers, and also has the power to take disciplinary action against notaries. Given the profession's new liberal status, the Order of Notaries has been regulating notaries' activities, in conjunction with the Ministry of Justice, since 2006, ensuring that notaries abide by the code of ethics that they are required to observe and guaranteeing the pursuit of the public interest as is incumbent on notaries; this does not affect the Ministry's power to intervene, which, given the nature of the profession, is conferred upon it by law.

#### **Registrars (*Conservadores*)**

Registrars are public officials with responsibility for registering and publicising legal acts and facts relating to immovable property, moveable property that must be registered, business activity and events in people's lives. Their role essentially involves carrying out legal checks in respect of the above and the related documents and ensuring that the rights contained in the documents attesting to the facts to be registered are correctly defined and comply with the legally stipulated order of registration; they are also responsible for publicising this information and may decide whether or not to enter the legal act or fact into the register.

Depending on the subject areas of their duties, registrars may be:

**Registrars for the civil register** (*conservadores do registo civil*), whose duties involve defining and publicising legal facts and acts relating to the lives of natural persons. Their competence includes the registration of acts such as birth, marriage, death, adoption and the declaration and establishment of maternity/paternity; the organisation of proceedings such as those related to divorce and separation by mutual consent; and the issuing of certificates and copies of registered documents.

**Registrars for the land register** (*conservadores do registo predial*), who publicise the legal status of land and property with a view to ensuring the legal certainty of property transactions.

**Registrars for the vehicle register** (*conservadores do registo de veículos*), whose duties relate to the publicity of rights to moveable property that must be registered (motor vehicles, ships and aircraft) and who publicise the legal status of motor vehicles and trailers with a view to ensuring the legal certainty of transactions.

**Registrars for the commercial register** (*conservadores do registo commercial*), who publicise the legal status of sole traders, commercial companies, civil-law companies having a commercial form, individual establishments with limited liability and other entities that must be registered in the commercial register with a view to ensuring the legal certainty of transactions.

Access to the profession requires a law degree from a Portuguese university or equivalent academic qualification. Candidates must also pass aptitude tests and undertake a six-month long university extension course focusing on the legal and registration-related subjects needed by registrars. They then complete a year-long traineeship, followed by a public competition. Candidates are assessed at every stage of this process and may be eliminated if they are unsuccessful at any stage of the entrance procedure. The final stage is a public competition organised by the Institute of Registries and Notaries (*Instituto dos Registos e do Notariado*).

The Institute of Registries and Notaries is responsible for directing, coordinating, supporting, evaluating and supervising the activity of registry offices.

#### **Court officials (*Oficiais de Justiça*)**

Court officials are a category of justice official (*funcionário de justiça*) who, among other things, provide assistance in the courts or public prosecution services. However, the notion of justice official also covers IT technicians, administrative, technical and support staff and maintenance workers.

Access to the career of a court official starts with the entry-level roles of auxiliary clerk (*escrivão auxiliar*) in the judicial service and auxiliary legal clerk (*técnico de justiça auxiliar*) in the public prosecution services. Access is open to persons who have completed a professional training course and who have been approved via an admission procedure.

Justice officials are governed by a specific Statute (*Estatuto dos Funcionários de Justiça*), as set out in Decree-Law No 343/1999 of 26 August 1999. They play an important role in international judicial cooperation, particularly in terms of implementing European Directives and Regulations.

The Directorate-General for the Administration of Justice (*Direção-Geral da Administração da Justiça*) is the Ministry of Justice body with responsibility for recruiting, managing and administering justice officials.

The Council of Court Officials (*Conselho dos Oficiais de Justiça*) is the body responsible for assessing the professional merit of court officials and for exercising disciplinary authority over them.

#### **Mediators (*Mediadores*)**

In Article 2(b) of Law 29/2013 of 19 April 2013, a mediator is defined as '(...) an impartial and independent third party, with no power to impose a course of action on the parties receiving mediation, who helps them reach a final agreement on the disputed matter'. This Law also defines the status of mediators working in Portugal and lays down provisions for their inclusion on the lists of each of the public mediation systems; this is done via a selection procedure, which is governed by Implementing Order (*Portaria*) No 282/2010 of 25 May 2010.

Mediators' work is very important, as they help the parties reach an agreement and this in turn helps maintain and, in some cases restore, social harmony. In Portugal, there are specialist mediators who deal with family, labour and criminal matters. There are no NGOs working in the area of mediation, but there are private associations that provide mediation services and training for mediators.

There is no nationwide code of ethics for mediators, but the Mediation Act referred to above does include a chapter on the rights and duties of mediators, who must also act in accordance with the principles laid down in the European Code of Conduct for Mediators, which form part of their training.

Mediators' conduct is monitored by the public mediation system, which is divided into three parts focusing on civil, labour and criminal matters. Each part of the public mediation system is managed by a public authority, which is identified in the authority's articles of association.

In Portugal, mediators do not receive training from a public body; instead, they are trained by private bodies that are certified by the Directorate-General for Justice Policy (*Direção Geral da Política de Justiça*, DGPJ) in accordance with Implementing Order No 345/2013 of 27 November 2013, with a particular focus on compliance with the quality framework.

The DGPJ, through its Alternative Dispute Settlement Office (GRAL), manages the public mediation systems. Although it does not provide information on how to find a mediator, it does keep lists of mediators, and mediators can join these lists by taking part in the selection procedure laid down in the rules approved by Implementing Order No 282/2010 of 25 May 2010.

More information can be found here: <http://www.dgpj.mj.pt/>.

#### **Judicial administrators (*Administradores Judiciais*)**

Judicial administrators are responsible for supervising and coordinating the acts that are part of the special recovery process (*processo especial de revitalização*); they also manage or liquidate the insolvency estate in insolvency proceedings, and carry out all the duties conferred upon them by statute or by law. A temporary judicial administrator, insolvency administrator or fiduciary will be appointed depending on the tasks they will carry out during the proceedings.

The judicial administrator's role is set out in Law No 22/2013 of 26 February 2013.

A judicial administrator must:

- a) have a relevant university degree and appropriate professional experience;
- b) complete a six-month traineeship for judicial administrators;
- c) pass the admission test specifically designed to assess the knowledge acquired during the traineeship;
- d) not be in a situation that is incompatible with their professional duties;
- e) be suited to the profession.

The Commission for Legal Assistants (*Comissão para o Acompanhamento dos Auxiliares da Justiça*, CAAJ) is responsible for the admission procedure for judicial administrators and monitors their work.

#### **Industrial property officer (*Agente Oficial da Propriedade Industrial*)**

Industrial property officers are professional specialists in industrial property whom companies and individuals can call on to help them defend their rights and interests.

Industrial property officers are authorised by the National Industrial Property Institute (*Instituto Nacional da Propriedade Industrial*) to carry out industrial property acts on behalf of their clients without having to present their power of attorney.

Exercise of the profession of industrial property officer within the National Industrial Property Institute is regulated by Decree-Law No 15/95 of 24 January 1995.

#### **Organisations that provide free legal services (*pro bono*)**

The Ministry of Justice, in cooperation with the Bar Association and local authorities, ensures the existence, throughout Portuguese territory, of Offices for Legal Advice (*Gabinetes de Consulta Jurídica*), where citizens may receive free legal advice from legal professionals. A list of these offices, together with relevant contact details, can be found online, including on the website of the Directorate-General of Justice Policy (<http://www.dgpj.mj.pt/>).

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Let op: de oorspronkelijke versie van deze pagina ([ro](#)) is onlangs gewijzigd.

Aan de vertaling in het Nederlands wordt momenteel gewerkt.

#### **Legal professions - Romania**

This page provides an overview of legal professions in Romania.

##### **Legal professions – Introduction**

In Romania, the following legal professions are practised:

**prosecutors;**

judges;  
lawyers  
legal advisers;  
notaries public;  
judicial enforcement officers;  
clerks of court.

## Prosecutors

### Organisation

The Romanian Public Prosecution Service includes:

prosecutor's offices attached to courts of appeal, tribunals, children's and family tribunals, and district courts;

prosecutor's offices attached to military courts.

The **highest body** is the Prosecutor's Office attached to the High Court of Cassation and Justice, including its specialised divisions (National Anticorruption Directorate and the Directorate for Investigating Organised Crime and Terrorism).

**First level:** prosecutor's offices attached to district courts (176);

**Second level:** prosecutor's offices attached to tribunals (42) and prosecutor's offices attached to the Tribunal for Children and Family Matters (1);

**Third level:** prosecutor's offices attached to courts of appeal (15).

The [Superior Council of Magistracy](#) is the central body responsible within the judicial system for regulating the profession of prosecutor. Initial and further professional training for judges and prosecutors is provided by the [National Institute of Magistracy](#), which is a public body with legal personality under the coordination of the Superior Council of Magistracy. [The Public Prosecution Service](#) discharges its tasks through prosecutors working in prosecutor's offices. The latter can be found attached to all the courts, with the exception of professional conduct tribunals.

### Criminal proceedings carried out by prosecutor's offices attached to courts of appeal, tribunals, or children's and family tribunals

The **institutional hierarchy** of prosecutor's offices is as follows:

The highest body is the **Prosecutor's Office** attached to the **High Court of Cassation and Justice** (Prosecutor-General's Office), headed by the Prosecutor-General of Romania. This body coordinates the activities of the prosecutor's offices attached to the 15 courts of appeal.

The **prosecutor's offices** attached to **courts of appeal** coordinate the activities of the prosecutor's offices attached to the 43 tribunals (including the special tribunal for children and family matters). Each of them is administered by a head prosecutor.

The prosecutors' offices attached to **tribunals** coordinate the activities of the offices attached to the 176 functioning district courts, each of which is headed by a first prosecutor.

The prosecutors' offices attached to the **176 functioning district courts** represent the first (lowest) level of the hierarchy and are headed by first prosecutors.

**Two separate specialised structures** operate within the Prosecutor's Office attached to the High Court of Cassation and Justice. They are:

**National Anticorruption Directorate** (DNA), responsible for investigating and prosecuting corruption. It is headed by a chief prosecutor.

**Directorate for Investigating Organised Crime and Terrorism** (DIICOT), responsible for investigating and prosecuting organised crime and terrorism. It is headed by a chief prosecutor acting under the coordination of the Prosecutor-General of Romania.

### Criminal proceedings carried out by prosecutor's offices attached to military courts

**Criminal proceedings for criminal offences committed by military personnel** are carried out by military prosecutor's offices, which have the legal status of military entities. They are attached to military tribunals, to the **Bucharest Military Tribunal** or to the **Bucharest Military Court of Appeal**.

### Functional hierarchy of prosecutors

Prosecutors act in compliance with the principles of **legality, impartiality** and **hierarchical control**.

Prosecutors act in accordance with the law, to observe and protect human dignity, and defend the rights of individuals.

Prosecutors at each prosecutor's office report to the **head of that office, who in turn reports to** the head of the hierarchically superior prosecutor's office.

The control to be exercised by the Prosecutor-General of the Prosecutor's Office attached to the **High Court of Cassation and Justice**, the chief prosecutor of the **National Anticorruption Directorate** and the head prosecutor of the prosecutor's office attached to the court of appeal over prosecutors under their authority may be performed either directly or through designated prosecutors.

### Role and duties

In Romania, there are two categories of prosecutors:

**civil prosecutors**, responsible for investigating and prosecuting criminal offences committed by civilians;

**military prosecutors**, responsible for investigating and prosecuting criminal offences committed mainly by military personnel.

The national categories of prosecutors are the following:

**Prosecutor-General of Romania** (head of the Prosecutor's Office attached to the High Court of Cassation and Justice);

**Chief Prosecutor** (head of the DNA and the DIICOT);

**head prosecutors** (heads of the prosecutors' offices attached to courts of appeal);

**first prosecutors** (heads of the prosecutors' offices attached to tribunals or district courts);

**heads of section** (heads of internal sections of prosecutor's offices);

**heads of department** (heads of internal departments of prosecutor's offices);

**heads of office** (heads of internal offices of prosecutor's offices);

**prosecutors**.

Whenever deemed necessary, ex officio or at the request of **the Superior Council of Magistracy, the Minister for Justice** may exercise control over prosecutors through prosecutors designated by the Prosecutor-General of Romania, the Chief Prosecutor of the National Anticorruption Directorate, or the Minister for Justice himself/herself, in order to check the following:

prosecutors' managerial effectiveness;

prosecutors' performance and accomplishment of tasks; and

the quality of prosecutors' professional relations with citizens and with other persons involved in activities carried out by prosecutor's offices.

This control applies neither to the entire range of measures prosecutors can take over the course of criminal proceedings nor to the corresponding decisions.

The Minister for Justice can ask the **Prosecutor-General of Romania** or, where appropriate, the Chief Prosecutor of the National Anticorruption Directorate, to report on the activities of prosecutor's offices and can issue instructions on the measures to be taken in order to prevent and combat crime effectively.

The Prosecutor's Office attached to the High Court of Cassation and Justice submits annual activity reports to the Superior Council of Magistracy and the Minister for Justice, who in turn presents his/her conclusions on the report to the Romanian Parliament.

## Judges

## Organisation

The central body within the judicial system responsible for regulating the profession of judge is the [Superior Council of Magistracy](#) (CSM). Initial and further professional training for judges and prosecutors is provided by the [National Institute of Magistracy](#), which is a public body with legal personality under the coordination of the Superior Council of Magistrates.

## Role and duties

In Romania, judges specialise in the following categories of cases:

- civil and civil enforcement cases;
- criminal and criminal enforcement cases;
- commercial cases (bankruptcy judges);
- cases under family and children's law;
- administrative and fiscal/financial cases;
- cases involving labour disputes and social insurance;
- constitutional cases;
- military cases.

## Organisation of the legal profession: lawyers

### Lawyers

The central body responsible for the profession of lawyers is the [Romanian National Union of Bar Associations](#) (UNBR), which is a legal person of public interest comprising all bar associations in Romania. It ensures qualified exercise of the right of defence, professional competence and discipline, and the protection of the dignity and honour of lawyers who are members of the union. All Romanian bar associations are members of the Romanian National Union of Bar Associations.

### Legal databases

Information on Romanian lawyers is available on the website of the [Romanian National Union of Bar Associations](#).

### Is access to this database free of charge?

Yes, access to the database is **free of charge**.

### Legal advisers

Under the law, legal advisers may form county-level associations by sector or area of activity and according to their professional interests, or, where applicable, national associations, subject to the law on associations and foundations. One of the professional associations set up in accordance with the law on associations and foundations is the [Romanian Order of Legal Advisers](#) (OCJR). It includes all the associations of legal advisers in all counties. Legal advisers may also form other professional associations. The lists of legal advisers by county are available on the individual websites of the OCJR member associations. The links are available on the OCJR website.

## Notaries Public

### Organisation

In accordance with the law, the Romanian Ministry of Justice has delegated the exercising of notarial services to the [National Union of Notaries Public](#) (UNNP). [The National Union of Notaries Public](#) is the professional body representing the notaries public, and is responsible for organising the profession of notary public, and defending the professional interests of its members and the standing of this profession. All notaries public are members of this Union. Notaries public are grouped in 15 Chambers of Notaries Public, each of which is attached to a court of appeal.

### Role and duties

In Romania, notaries public provide the following legal services:

- drawing up the necessary documents for legal and testamentary succession;
- concluding contracts (sales contracts, exchange contracts, maintenance contracts, donation contracts, mortgage contracts, pledge contracts, leasing contracts, rental contracts) and other acts (guarantees requested by various institutions from their administrators);
- drawing up articles of association for companies, associations and foundations;
- authenticating documents;
- certifying signatures, signature specimens and seals;
- any other services provided for by the law.

## Other legal professions

### Judicial enforcement officers

[The Romanian National Union of Judicial Enforcement Officers](#) (UNEJ) is a professional body with legal personality comprising all judicial enforcement officers. It is responsible for preserving the standing and authority of the profession of judicial enforcement officer. Its main mission is to represent and defend the professional interests of its members. Judicial enforcement officers are grouped in 15 chambers, each of which is attached to the relevant court of appeal. A list of judicial enforcement officers is available on the [websites of the Romanian National Union of Judicial Enforcement Officers](#) and the [Ministry of Justice](#). However, the two databases have different structures.

### Clerks of Court

The central body within the judicial system responsible for regulating the profession of clerk of court is the [Superior Council of Magistracy](#) (CSM).

**The National School of Clerks of Court** (SNG) is a public body with legal personality under the coordination of the Superior Council of Magistracy, responsible for providing initial and further professional training for clerks of court.

The Romanian judicial system has several categories of clerks of court:

- hearing clerks;
- statistician clerks;
- research clerks;
- IT clerks;
- archiving clerks;
- registrar clerks.

You can find out more about this professional category in this [document](#) (390 Kb) [en](#).

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Aan de vertaling in het Nederlands wordt momenteel gewerkt.

De volgende vertalingen zijn al beschikbaar

## Legal professions - Slovenia

This page provides an overview of the legal profession in Slovenia.

### Prosecutors

### Judges

### Attorneys

### Notaries

### State Attorneys

## Organisation of the legal profession:

### Legal professions

In the Republic of Slovenia a person who has a university degree in law may pursue numerous professions in the area of justice, including judge, prosecutor, state attorney, attorney and notary.

### Prosecutors (*Tožilci*)

#### Organisation

Pursuant to Article 135 of the Constitution of the Republic of Slovenia, state prosecutors (*državni tožilci*) **file and present criminal charges** and have **other powers provided by law**. Their powers and organisation are mostly laid down in the State Prosecutor's Office Act (*Zakon o državnem tožilstvu*) and the Criminal Procedure Act (*Zakon o kazenskem postopku*).

There are 11 district state prosecutor's offices (**okrožno državno tožilstvo**) in Slovenia (Celje, Koper, Kranj, Krško, Ljubljana, Maribor, Murska Sobota, Nova Gorica, Novo Mesto, Ptuj, Slovenj Gradec), a Specialised State Prosecutor's Office (**Specializirano državno tožilstvo**), organised on a country-wide basis, and a Supreme State Prosecutor's Office ( **Vrhovno državno tožilstvo Republike Slovenije**) in Ljubljana.

The **Specialised State Prosecutor's Office** is responsible for prosecuting criminal activities in the areas of organised traditional and economic crime, terrorism, corruption and other criminal activities requiring detection and prosecution by specially organised and trained state prosecutors. The Department for the Investigation and Prosecution of Officials with Special Authorisations (**Odelek za preiskovanje in pregon uradnih oseb s posebnimi pooblastili, known as the posebni oddelek or 'special investigation department'**) operates as an independent organisational unit within the Specialised State Prosecutor's Office. **State prosecutors in this special investigation department are responsible** for the prosecution of criminal offences committed by police officials, officials in internal affairs agencies with police powers, military police officials, officials of the Ministry of Defence's intelligence and security service and officials of the Slovenian Intelligence and Security Agency. They also provide guidance to police officers working for the Department.

The **Supreme State Prosecutor's Office** is the highest ranking prosecutor's office in the country, within which operate:

supreme state prosecutors (*vrhovni državni tožilci*) and higher state prosecutors (*višji državni tožilci*),

state prosecutors on temporary or part-time assignment.

Higher state prosecutors represent appeals in appeal proceedings before higher courts (*višja sodišča*) in Slovenia. In proceedings with extraordinary remedies in the field of criminal law and in the field of civil and administrative affairs, supreme state prosecutors appear before the Supreme Court of the Republic of Slovenia (*Vrhovno sodišče Republike Slovenije*).

The Supreme State Prosecutor's Office is organised into:

three departments (the criminal law department (*kazenski oddelek*), the civil and administrative affairs department (*civilno-upravni oddelek*) and the training and expert supervision department (*oddelek za izobraževanje in strokovni nadzor*)), and

the Expert Information Centre (*Strokovno informacijski center*), whose tasks include providing expert assistance in the area of taxation, financial, accounting and other disciplines required for the efficient performance of state prosecutors and ensuring the development, unity and operation of information support for the functioning of state prosecutors' offices.

#### Role and duties

The main role and duty of state prosecutors is the prosecution of criminal offences. Within this context they are responsible for:

**taking all necessary steps for detecting criminal activities and tracking down offenders and for guiding the work of the police in pre-trial proceedings, in which the police are independent of the state prosecutor in organisational terms,**

**filling investigation requests,**

**filling and presenting charges in the relevant court, and**

**lodging appeals against non-final court judgments, and extraordinary remedies against final court decisions** (appeals against first instance court decisions in criminal cases are presented by the state prosecutor who brought the charge in the first instance court, whereas extraordinary remedies are filed by supreme state prosecutors).

The applicable criminal legislation allows state prosecutors in certain circumstances to opt for alternative remedies to criminal prosecution for dealing with forms of criminal association. These include, firstly, transfer of the case to a settlement procedure and the conditional suspension of the criminal prosecution if the suspect is willing to behave as instructed by the prosecutor and to perform certain actions indicated by the prosecutor. If the settlement or the conditional suspension of the prosecution is successful, the state prosecutor may dismiss the criminal report, i.e. the case is settled out of court. The state prosecutor may also propose to the court the issue of a punishment order whereby the court sentences the accused party to a specific proposed penalty or measure without a hearing.

In addition, the Supreme State Prosecutor's Office performs **tasks outside the substantive coverage of criminal law**. In one of the three departments of the Supreme State Prosecutor's Office, the civil and administrative affairs department, supreme state prosecutors can **file a request for the protection of legality** (*zahteva za varstvo zakonitosti*) against appellate court (*pritožbeno sodišče*) decisions in litigious, non-contentious and other civil court proceedings. The prerequisite for filing this extraordinary judicial remedy is the **protection of the public interest, which can be determined only** by the Supreme State Prosecutor. The parties to the proceedings cannot therefore file requests for the protection of legality.

### Judges

#### Organisation

#### Professional judges and lay judges

The status of **judges** (*sodniki*) is governed by Articles 125 to 134 of the Constitution of the Republic of Slovenia and the Judicial Service Act (*Zakon o sodniški službi*). Judges are officials who are elected by the National Assembly (*Državni zbor*) on the basis of a proposal from the Judicial Council (*Sodni svet*). The office of judge is permanent, and the age limit and conditions for election are laid down by law.

In order to be elected as a judge, a person must meet the following general conditions:

he/she is a Slovenian citizen and has an active command of the Slovenian language,

he/she must have legal capacity and be in good general health,

he/she is at least 30 years old,

he/she must have obtained the professional title of a lawyer with a university degree obtained in Slovenia or the professional title of bachelor of law (UN) and master of law or have obtained an equivalent qualification in law abroad that is attested by a foreign qualification certificate with an attached opinion on the qualification or with a decision recognising the qualification for employment purposes or a certificate of nostrification (*odločba o nostrifikaciji*),

he/she must have passed the State examination in law,

he/she has not been convicted of a criminal offence,

he/she is not the subject of a final indictment or, based on a charge, the subject of proceedings relating to a criminal offence prosecuted *ex officio*.


After the end of their term in office, judges who decided or judged on investigatory or court proceedings in which a judgment infringed fundamental human rights and freedoms no longer meet the conditions for election as a judge.

Judges have the status of public officials and are bound by the Constitution and legislation in the performance of their duties. Judicial office is not compatible with office in other state bodies, local self-government bodies and bodies of political parties, and with other offices and activities as provided for by law. There is no formal educational specialisation among judges. The legal field in which a judge mainly works is defined in the internal organisation of the individual court which, in order to resolve individual types of dispute, has various legal departments to which judges are assigned in line with its annual work programme. The Judicial Council decides on promotion to a higher judicial position and on promotion in grade. The Judicial Council also makes a proposal to the National Assembly for relieving a judge of his/her judicial office if, in the performance of his/her duties, he/she violates the Constitution or seriously violates the law or deliberately commits a criminal offence through the abuse of his/her judicial office. The promotion rates of judges in judicial office are set out in the organisation of courts in Slovenia. Judges can be: local judges (*okrajni sodniki*), district judges (*okrožni sodniki*), higher judges (*višji sodniki*) or supreme judges (*vrhovni sodniki*).

Judges are grouped together in the Slovenian Association of Judges, which is a member of the International Association of Judges. Membership of the association is voluntary.

Judicial panels can include both **professional judges** (*poklicni sodniki*) and **lay judges** (*sodniki porotniki*). When the law requires judgment by panel, the panel comprises a professional judge as chair of the panel and two lay judges as members of the panel, unless otherwise specified by law. When the law requires judgment by a five-member panel, the panel comprises a professional judge as chair of the panel, another professional judge, and three lay judges as members of the panel, unless otherwise specified by law. Any citizen of the Republic of Slovenia of at least 30 years of age, who has not been convicted by a final judgment of a criminal offence prosecuted *ex officio*, and who is of appropriate disposition and in general good health for judicial office and has an active knowledge of the Slovenian language. The term of office of lay judges is five years and they may be re-appointed. The presiding judge of a higher court appoints and dismisses the lay judges of the district courts that come under that higher court's jurisdiction.

#### **The Judicial Council**

The  **Judicial Council** (*Sodni svet*) is the central body responsible for the regulation of the profession.

The **Judicial Council** comprises 11 members.

Five members are elected by the National Assembly, at the proposal of the President of the Republic of Slovenia, from a selection of university professors of law, attorneys and lawyers, and six members are elected from a selection put forward by judges working full-time in judicial office. The members of the Council select one of their members as President.

The Judicial Council has the following powers:

to propose candidates for election to judicial office to the National Assembly;

to propose to the National Assembly that a judge be dismissed;

to appoint and dismiss presidents of courts, other than the president of the Supreme Court of the Republic of Slovenia,

to decide on promotion to a higher judicial function and on faster promotion in grade, to the position of senior judge (*svetnik*), or to a higher judicial post, and on extraordinary promotion to a higher judicial function;

to rule on appeals against the decision to transfer or appoint to a judicial position, to a judicial function or to the position of senior judge and against the decision to classify in a grade;

to decide on issues of incompatibility of public functions as it affects the judiciary;

to provide an opinion on the draft budget for courts and to provide the National Assembly with an opinion on the laws governing the status, rights and duties of judges and judicial personnel;

to adopt a code of judicial conduct;

to adopt criteria for the selection of candidates for judicial posts following an opinion from the minister responsible for justice, and criteria for the quality of judges' performance for the assessment of their office;

to issue approval of policy on detection and management of the risk and exposure of courts to corruption and to monitor its implementation;

to appoint members of the Ethics and Integrity Committee (*Komisija za etiko in integriteto*);

to hear and decide on the grounds of an appeal by a judge who believes that his/her legal rights, or independent position, or the independence of the judiciary have been infringed;

to handle other matters, if so defined by law.

Unless otherwise provided by law, a **two-thirds majority vote** of all Judicial Council members is required for decisions on proposals concerning:

the election of judges;

the appointment, promotion and classification of judges in salary grades;

appeals against the decision to transfer or appoint to a judicial position, to a judicial function or to the position of senior judge;

appeals against the decision to classify in a grade;

the dismissal of judges;

criteria for the selection of candidates for judicial posts and criteria for the quality of judges' performance and criteria for the quality of the work of courts;

the rules of procedure of the Judicial Council.

#### **Attorneys**

Article 137 of the Constitution of the Republic of Slovenia states that the **attorneyship** (*odvetništvo*) is an autonomous independent service within the justice system and is regulated by law. The Attorneys' Act (*Zakon o odvetništvu*) states that, in the performance of their duties, attorneys (*odvetniki*) provide legal advice, represent and defend parties before the courts and other state bodies, draw up documents and represent parties in their legal relations. Only an attorney may represent a party before a court against payment, unless otherwise specified by law.

**Anyone who meets the following conditions may be an attorney:**

he/she must be a Slovenian citizen,

he/she has operational capacity,

he/she has obtained the following professional title in the Republic of Slovenia or has obtained an equivalent qualification abroad, as recognised in accordance with the law on the recognition and evaluation of education:

the professional title of a lawyer with a university degree,

the professional titles of bachelor of law (UN) and master of law,

the professional title of master of law on the basis of a second Bologna cycle master's programme,

he/she must have passed the State examination in law,

he/she has four years' work experience as a lawyer with a university degree in law, at least one year of which, after passing the state law examination, must be with a lawyer or law firm, a court, state prosecutor's office, state attorney's office or notary in a regular employment relationship concluded through a full-time employment contract.

he/she must have an active command of the Slovenian language,

he/she can be trusted to practise as an attorney,

he/she has the necessary equipment and premises to practise as an attorney,

he/she has passed an examination to test knowledge of the law on attorneyship, the official tariff for attorneys' fees and the Code of Conduct for Attorneys at the Bar Association of Slovenia (*Odvetniška zbornica Slovenije*).

The Attorneys' Act states that, in the performance of their duties, **attorneys:**

provide legal advice,

represent and defend parties before the courts and other state bodies,

draw up documents, and

represent parties in their legal relations.

Only an attorney may represent a party before a court against payment; in certain cases an articulated clerk may take the attorney's place.

Only an attorney may act as counsel for the defendant in **criminal proceedings**.

In **civil cases** the party may be represented before a local court by any person that has full operational capacity, whereas only an attorney or another person who has passed a state examination for attorneys may be an authorised representative before a district court, a higher court or the Supreme Court. In proceedings with extraordinary remedies, however, representation by an attorney is obligatory (with the exception of cases where the party or their statutory representative has passed a state law examination).

Representation by an attorney is also obligatory in all proceedings before courts under the Mental Health Act (*Zakon o duševnem zdravju*).

A foreign attorney who has been granted the right to practise as an attorney in his or her country of origin may do the following in the Republic of Slovenia under the conditions laid down by that Act:

provide specific attorney services that relate to practising as an attorney,

practise as an attorney under the professional title of his or her country of origin,

practise as an attorney under the title of 'attorney' (*odvetnik*).

An attorney's country of origin is the country in which he or she is entitled to practise as an attorney under the professional title obtained under the regulations of that country.

Under this Act, an attorney from another country which is a Member State of the European Union is an attorney who is entitled to practise as an attorney in any of the Member States of the European Union under the professional title obtained under the regulations of that country. An attorney from another country which is a Member State of the European Union is entered in the directory of foreign attorneys who may practise as an attorney in the Republic of Slovenia under the professional title of 'attorney' with all the rights and duties applicable to a practising attorney if that person meets the statutory conditions and passes the examination to test knowledge of the national law of the Republic of Slovenia. More details of the examination and the procedure for taking it are laid down by the Decree on the examination for attorneys from other countries (*Uredba o preizkusnem izpitu za odvetnike iz drugih držav*).

Attorneys may advertise their services under certain conditions, as the Act sets out permitted forms of advertising. He or she may practise individually or in a law firm. The umbrella organisation for attorneys is the Bar Association of Slovenia (*Odvetniška zbornica Slovenije*), which has its own rules and statute. The right to practise as a lawyer is acquired by being entered in the directory of lawyers that is kept at the Bar Association of Slovenia. Attorneys who complete a particular level or specialisation of professional education may, under certain conditions, ask the Bar Association of Slovenia to recognise their status of specialised attorney. The payment for attorneys' services is laid down in the official tariff for attorneys' fees, which is issued by the Bar Association, following approval by the Minister for Justice.

#### Legal databases

 [Basic regulations concerning attorneys](#) are available in English from the website of the Bar Association.

The Bar Association operates a  [search engine](#) (in Slovenian and English) that can be used to **search for attorneys** by:

name,

region,

knowledge of foreign languages and

areas of work.

#### Notaries

##### Organisation

The second paragraph of Article 137 of the Constitution of the Republic of Slovenia states that **notaries** (*notarji*) perform a public service regulated by law.

The Notaries Act (*Zakon o notariatu*) provides that notaries shall: as persons enjoying public trust, draw up, under the provisions of that Act, public documents on legal transactions, declarations of will or facts that give rise to rights; take documents, money and securities into safekeeping for delivery to third parties or state bodies; at the behest of the courts, perform the tasks which may be delegated to them in accordance with the law.

In order to be appointed, a notary must meet the following conditions:

he/she must be a citizen of the Republic of Slovenia, another Member State of the European Union or the European Economic Area or a citizen of the Swiss Confederation or a Member State of the Organisation for Economic Cooperation and Development,

he/she must have legal capacity and be in good general health,

he/she must have obtained the professional title of a lawyer with a university degree obtained in Slovenia or the professional title of bachelor of law (UN) and master of law or have obtained an equivalent qualification in law abroad that is attested by a foreign qualification certificate with an attached opinion on the qualification or with a decision recognising the qualification for employment purposes or a certificate of nostrification ,

he/she must have passed the State examination in law,

he/she must have five years' work experience as a lawyer with a university degree in law, of which at least one year with a notary and one year with a court, attorney or state attorney,

he/she must be considered trustworthy for the performance of a notary's duties,

he/she must have an active command of the Slovenian language,

he/she must have the appropriate equipment and premises required for the performance of a notary's duties,

he/she must be less than 64 years old.

Notwithstanding point 1 of the previous paragraph, citizens of another country that is not a Member State of the European Union or the European Economic Area, the Swiss Confederation or a Member State of the Organisation for Economic Cooperation and Development may also be appointed as notaries subject to legal and actual reciprocity.

A notary's duties are incompatible with those of an attorney or any paid office or function.

A notary is not authorised to perform tasks which are incompatible with the respectability and integrity required for the performance of a notary's duties or which may undermine confidence in the notary's impartiality or in the credibility of the documents he or she draws up.

A notary is appointed to a vacant post by the minister responsible for justice. Before the appointment of a notary the minister obtains the opinion of the Slovenian Chamber of Notaries (*Notarska zbornica Slovenije*) on the candidates put forward. The number of notaries is restricted and is determined on the basis of criteria set by the Ministry of Justice. In the event of any irregularity defined by law, the notary will be dismissed by the Minister for Justice. The Chamber of Notaries is the umbrella organisation for notaries.

Notaries are required by law to become members of the [Slovenian Chamber of Notaries](#).

#### Role and duties

Notaries perform a public service mainly in **preparing public and private documents**, which is very important for the security of legal transactions.

Public documents generally issued by notaries are **notarial records and notary's minutes**. Whereas a notary can prepare any kind of written contract for the parties, there are certain types of contracts and statutes of public and private limited companies that are **only valid** under Slovenian law **if they are issued as notarial records**. A notary can also record a last will and testament. In addition, copied documents and signatures sometimes need to be **authenticated** by a notary to ensure their validity before a court of law. Documents and securities can be deposited with a notary.

#### Legal databases

The website of the Chamber of Notaries provides access to a [list of all notaries](#) in Slovenia with contact information and a basic search engine.

The three registries operated by the Chamber of Notaries can be accessed from its website:

Registry of Custodian Notaries ([register skrbniških notarjev](#)),

Registry of Contracts on the Establishing of Custodian Accounts ([register skrbniških pogodb](#)), <http://www.notar-z.si/registri/register-skrbniskih-pogodb-register-skrbniskih-notarjev/register-skrbniskih-pogodb-register>

Central Registry of Wills ([centralni register oporok](#)).

#### Other legal professions

[Judicial Assistant \(Sodniški pomočnik\)](#) (372 Kb) [en](#)

#### State Attorneys

The role of **state attorneys** (*državni pravobranilci*) is defined in the State Attorney's Office Act (*Zakon o državnem pravobranilstvu*). The State Attorney's Office ([Državno pravobranilstvo](#)) represents the State, its bodies and its administrative organisations that are legal persons before the courts and performs other duties in accordance with the law. The tasks of the Office of the State Attorney's Office are performed by the State Attorney-General (*generalni državni pravobranilec*), the state attorneys and the state attorney's assistants (*pomočniki državne pravobranilca*). State attorneys and state attorney's assistants are appointed by the Slovenian Government acting on a proposal from the Ministry of Justice after consulting the State Attorney-General. The term of office is eight years and may be renewed. The conditions for appointment to the position of state attorney are the same as for judicial office with additional requirements relating to work experience. The state attorney performs his or her duties in accordance with the Constitution and legal acts. He/she must represent the state ex officio. State attorneys and state attorney's assistants have the right to a basic salary in line with the pay grade of the job they are appointed to. The provisions concerning the incompatibility of a judge's duties apply mutatis mutandis to the state attorney's duties. He/she also represents the Republic of Slovenia in proceedings before the European Court of Justice and the European Court of Human Rights.

#### Related links

[Information on legal professions from the website of the State Prosecutor-General of the Republic of Slovenia](#)

[Information on legal professions from the website of the Judicial Council](#)

[Information on legal professions from the website of the Slovenian Judiciary](#)

[Information on legal professions from the website of the Bar Association of Slovenia](#)

[Information on legal professions from the website of the Slovenian Chamber of Notaries](#)

[Information on legal professions from the website of the State Attorney's Office](#)

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#### Legal professions - Slovakia

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

[Prosecutors](#)

[Judges](#)

[Lawyers](#)

[Solicitors / Legal Advisers](#)

[Notaries](#)

[Legal professions - introduction](#)

[Prosecutors](#)

## Organisation

The [Public Prosecution Service](#) of the Slovak Republic is an independent State authority headed by the **Prosecutor-General**. Within its powers, the Public Prosecution Service protects the lawful rights and interests of individuals, legal entities and the State.

The Public Prosecution Service of the Slovak Republic has its own separate budget chapter in the State budget.

The status and role of the Public Prosecution Service and of the Prosecutor-General are governed by the **Constitution of the Slovak Republic** (Article 149) and by **Public Prosecution Service Act No 153/2001**, which also governs the powers of the Prosecutor-General and other prosecutors. The Act also governs the organisation and management of the Public Prosecution Service. The status, rights and responsibilities of prosecutors are set out in **Prosecutors and Trainee Prosecutors Act No 154/2001**.

## Hierarchical structure

Given its role as an authority safeguarding the law, the [Public Prosecution Service](#) needs to be organised hierarchically. It ensures uniform application of laws and other legislation of general application, as well as uniform application of penal policy.

Within the Public Prosecution Service, there is a hierarchy of prosecutors, all of whom are subordinate to the Prosecutor-General.

## Powers

The powers of the Public Prosecution Service include the following:

criminal prosecution of individuals suspected of having committed criminal offences, and overseeing compliance with the law both before the start of criminal prosecutions and during preliminary proceedings;

overseeing the compliance with the law of the places and conditions of detention of persons who have been deprived of their liberty or whose liberty has been restricted by decision of a court or any other authorised state body;

exercising its powers in court proceedings;

representing the State in court proceedings, where provided for by law;

overseeing, to the extent defined by law, compliance with the law by any public administrative authority;

participating in the preparation and implementation of measures to prevent breaches of the laws and other legislation of general application;

helping eliminate the causes of and conditions for criminal activities, as well as crime prevention and suppression;

helping prepare legislation (involvement in the legislative process);

carrying out any other duties provided for by a special law or act or legally promulgated international treaty.

## Duties

The Prosecutor-General and the individual prosecutors carry out all duties that fall within the scope of the powers of the Public Prosecution Service, and use all statutory means available when discharging their duties and obligations. They are required to:

implement (to the best of their knowledge and belief) the Constitution of the Slovak Republic, constitutional laws, laws, legally promulgated international treaties and other legislation of general application;

respect and protect human dignity and fundamental human rights and freedoms, and avoid any form of discrimination;

protect the public interest;

act with initiative, fairness and impartiality and without undue delay.

## Hierarchy

The **organisational system** of the Public Prosecution Service of the Slovak Republic is made up of the following **bodies**:

The **Prosecutor-General's Office** is the highest authority and heads the prosecution system. The Prosecutor-General's Office comprises:

the **Special Prosecutor's Office** established to detect and prosecute cases of corruption and organised crime;

the **Military Section** of the Prosecutor-General's office;

the **Regional Prosecutor's Offices** (8), which are superior to the District Prosecutor's Offices within their region, and the Central Military Prosecutor's Office (1), which is superior to the Circuit Military Prosecutor's Offices;

the **District Prosecutor's Offices** (55) and Circuit Military Prosecutor's Offices (3).

The **Ministry of Defence** is responsible for providing the necessary material and financial resources for the military section of the Prosecutor-General's Office and of all military prosecutor's offices.

The headquarters of the Prosecutor-General's Office is in Bratislava.

The headquarters and **territorial districts** of the subordinate prosecution offices correspond to the headquarters and districts of the respective courts.

However, the headquarters and territorial jurisdiction do not correspond to the administrative territorial division of the country.

Prosecutors perform their duties as part of a **service relationship**, which is established when they are appointed. Prosecutors are appointed by the Prosecutor-General to **prosecutorial positions without a time limit**. Prosecutors must swear an unconditional oath when taking up their positions.

## Qualifications

Prosecutors must be **Slovak nationals** and meet the following **conditions**. They must:

be at least 25 years of age on the date of their appointment;

be a law graduate;

have full legal capacity;

have no criminal record, and be of sound character to carry out their functions properly;

have perfect command of Slovak;

have permanent residence in the Slovak Republic;

not be a member of any political party or political movement;

have passed the prosecutorial examination;

consent in writing to being appointed as a prosecutor in a particular prosecution office.

To become a prosecutor of a **military prosecutor's office**, the following conditions must be met. The prosecutor must have:

served in the military as a professional soldier;

been appointed or promoted to the rank of officer or of general;

been appointed to discharge duties in a military prosecutor's office under the relevant legislation.

Only a **trainee prosecutor** in the Public Prosecution Service may register for the **prosecutorial examination**. Vacancies for trainee prosecutors are filled by means of a selective examination.

**Judicial expert examinations, bar examinations and notarial examinations** also qualify as prosecutorial examinations under the Act.

Career promotion to the position of head prosecutor or to a higher position in a prosecutor's office is possible only by means of a **selection examination**.



The temporary secondment of a prosecutor to perform tasks in another prosecutor's office is subject to their consent. Prosecutors may be transferred to another prosecutor's office only if they consent to the transfer, apply to be transferred or are transferred under a disciplinary measure imposed on them. The Prosecutor-General may **suspend** a prosecutor if he or she is prosecuted for an intentional criminal offence or subject to disciplinary proceeding for an act that could result in their removal from prosecutorial duties.

The service relationship of a prosecutor may be **terminated** only for reasons defined by law.

#### **Roles and responsibilities**

A prosecutor has the authority to supervise compliance with the law both before prosecution and during preliminary proceedings. In carrying out their supervisory duties, prosecutors have the power to:

issue binding instructions to members of the police, before criminal proceedings begin, during the investigation and summary investigation of criminal acts, and to impose time limits for handling a case; any instruction must be included in the relevant case file;

request files, documents, materials and reports on the status of a police investigation when a prosecution has already begun, in order to establish whether the police launched the prosecution promptly and are acting correctly;

participate in police actions, carry out individual investigative activities or conduct the entire investigation or summary investigation, issue a decision in any case; in doing so, the prosecutor must act in accordance with the Act; complaints against prosecutors' decisions may be lodged in the same way as against police decisions;

refer the matter back to the police with instructions to supplement the investigation or summary investigation and determine a time limit for this; the

prosecutor notifies both the accused and the injured person that a case has been referred back;

cancel unlawful or unjustified decisions by the police and replace these with his/her own decisions; a prosecutor may decide to discontinue a criminal prosecution or transfer a case elsewhere within 30 days, if the prosecutor replaces a police decision with his or her own decision other than on the basis of a complaint submitted by an entitled party; a complaint may be made against the prosecutor's decision and police resolution; a prosecutor may also issue binding instructions to launch an investigation and summary investigation.

Only a **prosecutor** has the power to:

bring charges;

conclude an agreement with the accused person on their guilt and punishment and submit a motion to the court for this to be approved;

suspend a criminal prosecution;

discontinue or provisionally discontinue a criminal prosecution;

approve conciliation or a pre-trial settlement and discontinue criminal prosecution;

issue an order to seize an accused person's property and determine which possessions should not be seized, or cancel such a seizure;

secure the claim of an injured person, cancel or partially cancel it or exclude an item from it;

issue an order to exhume a dead body;

request consent for the criminal prosecution or taking into custody of a person in a case requiring the consent of the National Council of the Slovak Republic, the Judicial Council of the Slovak Republic, the Constitutional Court or the European Parliament;

file a motion in the court for taking a defendant into custody or extending a period of custody;

file a motion to request that a defendant return from abroad;

carry out a preliminary investigation into extradition proceedings, unless provided otherwise by law;

on the basis of a request from a competent foreign authority, file a motion in the court with the aim of provisionally seizing the property of an individual against whom a criminal prosecution is being conducted abroad, where part of that property is located in the territory of the Slovak Republic.

In exercising their **supervisory power over compliance with the law at the places of detention of persons who have been deprived of their liberty or whose liberty has been restricted**, prosecutors must ensure that:

individuals are confined only on the basis of a court decision or a decision by another authorised state body in police cells, or in establishments designed for custody, deprivation of liberty, protective treatment, protective young offenders rehabilitation, in-patient treatment or institutional treatment;

laws and other legislation of general application are observed.

In **civil proceedings**, the prosecutor has the power to:

**file a motion to start civil proceedings in order to:**

impose protective young offender rehabilitation on a person who is above 12 years of age and younger than 14, if he or she has committed a criminal act that is punishable by a life sentence according to the Criminal Code;

determine the unlawfulness of a strike or redundancies;

determine the invalidity of the transfer of State property under the Act on proving the origin of funds in the event of privatisation, the Act laying down the conditions for the transfer of State property to other persons or the Act on the administration of State property;

review the lawfulness of any decision made by an administrative authority in cases where the protest lodged by a prosecutor has not been granted;

repeal an unlawful decision adopted by a municipality, if the municipality has failed to repeal its decision as requested by the prosecutor;

**join pending civil proceedings concerning:**

legal competence

declaration of death

raising of minors

guardianship

entries in the Commercial Register

bankruptcy and restructuring

When overseeing compliance by public administrative authorities with laws and other legislation of general application, the prosecutor has the right to **review the lawfulness** of:

legislation of general application issued by public administrative authorities;

internal administrative rules issued by public administrative authorities with the aim of ensuring the fulfilment of public administrative tasks;

decisions made on various matters in the area of public administration;

actions by public administrative authorities when issuing internal administrative rules and decisions in the field of public administration.

#### **Judges**

#### **Organisation**

#### **Court staff**

[Principal administrator-assistant](#) (382 Kb) 

[Court registrar](#) (295 Kb) [sk](#)

[Senior judicial officer](#) (460 Kb) [sk](#)

[Assistant to supreme court judge](#) (291 Kb) [sk](#)

#### Lawyers

##### Legal databases

For further information, please refer to the [website](#) Slovak Bar Association.

#### Solicitors / Legal Advisers

##### Legal databases

For further information, please refer to the [website](#) of the Slovak Centre for Legal Aid.

#### Notaries

Notaries in the Slovak Republic must hold a **degree in law**.

**The duty of a notary is to execute preventive justice and issue authenticated official acts.**

Notaries are overseen by the Ministry of Justice.

Notaries must be members of the **Chamber of Notaries** of the Slovak Republic.

##### Legal databases

The [website of the Chamber of Notaries](#) only provides intranet support for notaries. Access is **free** but the information that can be searched is limited.

The database provides access to:

- public registers
- a list of notaries (contact data, language(s) known, opening hours)
- legislation

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Aan de vertaling in het Nederlands wordt momenteel gewerkt.

De volgende vertalingen zijn al beschikbaar

#### Legal professions - Finland

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

##### Legal professions – introduction

The legal professions in Finland include judges working in courts, prosecutors, public legal aid attorneys, advocates, notaries public and enforcement officials (bailiffs).

##### Prosecutors

###### Organisation

According to the Constitution of Finland, the **prosecutor general** is the supreme prosecutor and heads up the prosecution service.

The prosecution service has a two-tier structure. It consists of the office of the prosecutor general, the central authority of the prosecution service, and 15 local prosecution offices with 50 service bureaux. The Finnish prosecution service has 581 personnel, 381 of whom are prosecutors.

**Chief district prosecutors** head the local prosecutors' offices. There are also deputy chiefs and district prosecutors. Some prosecution units have junior prosecutors, who are in training for prosecutorial duties.

All of the above are **general prosecutors** and, with some rare exceptions, are competent to bring charges in all criminal offences committed within their jurisdiction. Special prosecutors, like the parliamentary ombudsman and the chancellor of justice, are competent to bring charges only in certain, clearly defined, special cases.

###### Role and duties

According to the law, the duty of a prosecutor is to establish criminal liability in a criminal case – In a manner that ensures the legal safety of the parties and the public interest. The prosecutor must perform his or her duties impartially, expeditiously and economically.

The prosecution service must observe the jointly defined values of fairness, competence and well-being in all areas of activity.

The title of public prosecutor refers to the public service function of prosecutors; unlike the other parties to a criminal case, the prosecutor does not act in his or her own interest, but on behalf of society, looking after its interests. A prosecutor is a **state official**, whose duty it is to see that the **proper statutory sanction** is attached to a criminal act. Prosecutors form an **independent** part of the Finnish judicial administration.

Most criminal matters (some 80,000 cases annually) are dealt with by local prosecution units. The office of the prosecutor-general deals mainly with criminal cases with wider significance to society as a whole – amounting to a few dozen every year.

The investigation of crimes – pre-trial investigations – is the duty of the **police**. Once an investigation is completed, the material compiled is sent to the prosecutor, who evaluates the charges in the matter. This means that, for each suspected person and each alleged act, the prosecutor evaluates whether a criminal offence has been committed and whether there is sufficient evidence to warrant a prosecution.

A charge must be brought if there is a prima facie case against the suspect. If there is not enough evidence, or if there is another reason why charges cannot be brought (e.g. owing to the statute of limitations), the prosecutor will make a decision not to prosecute.

##### Legal databases

You can find additional information on the website of the [Office of the Prosecutor General](#) and the Finnish [Ministry of Justice](#).

#### Judges

##### Organisation

In Finland, most court judgements are made by professional judges. In district courts, there are also lay judges (laymen or women). Judges are members of an independent judiciary. They hold office in the Supreme Court, courts of appeal and district courts, the Supreme Administrative Court and administrative courts, as well as the Insurance Court, the Labour Court and the Market Court. Judges are state officials and cannot be removed from office. A judge may not be suspended from office, except by a judgement of a court of law. In addition, a judge cannot be transferred to another office without his or her consent. Chapter 12 of the **State Civil Servants Act** contains separate legal provisions for judges as civil servants. According to the law, the provisions governing leave of absence, admonition, termination of employment and temporary dismissal of other civil servants do not apply to judges. According to the State Civil Servants Act, a judge is obliged to resign from office once he reaches the statutory retirement age (for judges this is 68), or upon becoming permanently incapacitated

## Role and duties

### Judges

A person wishing to qualify as a judge must hold a higher **university degree in law** and have completed **one year's training** on the bench in a court of first instance. The usual route to the profession of judge is by working as a **referendary clerk** (senior secretary) in the court of appeal, followed by appointment as a judge in a district court or a court of appeal. In the future, candidates will receive training. The court of appeal announces vacancies and the Judicial Appointment Board assesses the suitability of the applicants. The judges are appointed by the President of the Republic.

### Lay judges

The **district courts** have lay members or 'lay judges', who participate in making decisions in certain cases. In the main, lay judges are used in **criminal cases**, but can also act in **civil matters** and **tenancy disputes**. In a district court, a case will be heard by one ordinary judge, acting as the chairperson, and three lay judges. The lay judges are independently empowered and, when necessary, a decision is reached by taking a vote; the majority's opinion decides the verdict. If there is a tie in a criminal case, the opinion most advantageous to the defendant will prevail; in a civil case, the chairperson has the casting vote. The municipal councils appoint lay judges for terms of four years. Every municipality must have at least two lay judges; large municipalities have a far higher number. The lay judges should represent the age, sex, language and occupation structure of the municipality as closely as possible.

A lay judge must be a **Finnish citizen**. People under the age of 25 or older than 63 years cannot be appointed as lay judges. People with positions in the courts or penal institutions cannot serve as lay judges, nor can people serving as prosecutors, advocates or police officers. A lay judge takes a judge's oath or makes a solemn affirmation before taking his or her seat.

The objective is that each lay judge should participate in a hearing approximately once a month or 12 times a year. The district court pays a hearing fee to lay judges and reimburses them for loss of income.

### Public legal aid attorneys

#### Organisation

Public legal aid attorneys are lawyers or advocates employed by Public Legal Aid Offices. Public legal aid attorneys are state officials, appointed to office by the Minister of Justice. The Public Legal Aid offices are managed by the Ministry of Justice.

The requirements for eligibility for the office of public legal aid attorney are a Master's degree in law (oikeustieteen kandidaatti) and adequate experience of advocacy or adjudication. Many public legal aid attorneys also hold the honorary title of varatuomari (Master of laws with court training).

Public legal aid attorneys are engaged to appear before courts of law; they are under an obligation to observe the rules of proper professional conduct for advocates in their activities. In this respect, they are subject to the disciplinary powers of the Finnish Bar Association. More than half of the public legal aid attorneys in Finland are members of the Bar Association. Public legal aid attorneys are independent of any other actors in the performance of their commissions.

### Organisation of the legal profession: Lawyers

#### Barristers/ advocates

Only members of the Bar Association are entitled to use the professional titles of '**asianajaja**' or '**advokat**'. Anyone applying for membership of the **Bar Association**, among other things, must:

Have completed a **Master of Laws degree** (LL.M.), which entitles her or him to hold judicial office

Be known as a person of integrity

Have several years experience in the legal profession and other judicial activities

Pass a special examination covering the basic elements of the legal profession and professional ethics

Be independent and autonomous of influence by government and all other quarters, with the exception of his or her client

Have various other qualifications.

#### Responsibilities of an advocate and supervision of his or her practice

In terms of penal or indemnity liability, the responsibility of an advocate does not differ in principle from the responsibility of other citizens. Every advocate must, however, take out liability insurance to cover damages arising from anything but premeditation or gross negligence. The Bar Association has established a compensation fund, to cover damages emanating from an advocate's criminal conduct.

An advocate has, furthermore, a professional responsibility. The board of the Bar Association must ensure that advocates fulfil their duties according to professional ethics. Where they do not, the Bar Association will launch a disciplinary action. Such a procedure starts most often with a written complaint. The Chancellor of Justice is informed of the decisions taken by the Bar Association, and he or she may file appeals against these decisions with the Appellate Court of Helsinki.

The **Finnish Bar Association** is an organisation governed by public law, regulated by the Act on Advocates of 1958. This organisation was preceded by a registered association with the same name. All members of both organisations are and always have been lawyers.

The Bar Association has about 1850 members, designated as 'advocates' (in Finnish: asianajaja; in Swedish: advokat). Law firms employ about 600 associates, about 120 of whom are public legal advisers. Legal aid offices also employ more than 100 legal advisers who are not members of the Bar Association.

A lawyer who has been dismissed from the Bar Association following disciplinary measures can still pursue his profession under another professional title; in such a case, however, a lawyer practises without the obligations of an advocate and outside the supervision of the Bar Association

A citizen of Finland or another state within the European Economic Area, who has reached the age of 25 years, may be accepted as an advocate, if he or she is known to be honest and, in respect of his or her other characteristics and way of life, suitable for the profession of advocate. He or she must have passed the academic requirements stipulated in Finland for judicial office, acquired the skills required to practise as an advocate and have work experience in advocacy tasks. He or she must not be a bankrupt and must have full legal capacity.

In accordance with international commitments that have entered into force in Finland, a person who has not passed the academic requirements nor acquired the work experience required in Finland – but who holds the professional qualifications of an advocate in one of the states of the European Economic Area – may be accepted as an advocate. In such cases the applicant must prove, in an examination arranged by the Bar Association, that he or she has sufficient knowledge of Finnish legislation and the practice of law in Finland.

In addition, a person who holds the professional qualifications of an advocate in a member state of the European Union may be accepted as an advocate without an examination. Acceptance as an advocate without an examination is subject to the applicant having been registered for at least three years in the register of advocates administered by the Bar Association, using the professional title of their home member state and qualified to practise advocacy in another member state (EU register). In addition, the person must prove the regular pursuit of the profession of an advocate in Finland for at least that period.

#### Legal databases

You can find more information on the website of the [Finnish Bar Association](#).

#### Solicitors/ legal advisers

In Finland, practically anybody can advise on and assist in legal matters, even professionally. However, very few such advisers do not hold a Master of Laws degree.

Practising lawyers who are not members of the Bar Association may perhaps not meet the requirements for an advocate, or may prefer not to submit to the obligations of the profession. Lawyers who have recently graduated from university, for instance, or lawyers who have just started practising or have been transferred from other fields of law, do not fulfil the requirements; nor do part-time lawyers.

#### Notaries public

In Finland, the tasks of notaries public are regulated by law. Notaries public are employed by local register offices and jurisdictional district offices. The requirement for eligibility for the office of notary public is a master's degree in law (oikeustieteen kandidaatti).

Despite many similarities, the duties of notaries public in Finland differ largely from the duties of notaries in the rest of Europe and the United States. In Finland, a notary public is always a state official. However, notaries public are not full-time notaries public; the majority of officials carrying out the tasks of notaries public are district registrars in local register offices. Because of the freedom of manner of contract in civil matters, confirmation by a Notary Public is not a prerequisite for the validity of contracts in Finland. The only civil law contract requiring notarisation in Finland is the conveyance of real property. Notaries public handle the notarisation of, among other things, signatures and copies of certificates and the authentication of curriculum vitae. Notaries public can also certify so-called 'apostille certificates' that confirm that the signatory of a given document holds the position indicated and that he or she is authorised to hand over the document.

#### Other legal professions

##### Enforcement authorities

##### Organisation

Enforcement tasks are carried out by local bailiffs: that is, district bailiffs, rural police chiefs and the Åland provincial bailiff. These officials are assisted by deputy bailiffs, who are, in practice, in charge of most individual enforcement tasks. The enforcement offices also have clerical staff. Enforcement authorities are state officials.

The Ministry of Justice is in charge of the general management, control and supervision of the enforcement service. The heads of judicial administration in the state provincial offices also have control and supervision functions relating to enforcement. For example, they deal with complaints about the conduct of the enforcement authorities. However, neither the Ministry of Justice nor the heads of legal administration have the power to overrule or alter an individual enforcement or other measure.

In Finland, enforcement is most often a matter of collecting judgement debts, and it is thus closely linked to court proceedings. In the proceedings, the validity of the creditor's claim is investigated and a payment liability ordered on the debtor. If the judgement is not heeded voluntarily, it is carried out compulsorily by way of enforcement. Some receivables, such as taxes and certain insurance premiums, can be enforced even in the absence of a judgement.

The enforcement authorities protect the interests of both creditors and debtors. They aim to receive a voluntary payment after sending a collection letter. If no payment is forthcoming, wages, salaries, pensions or business income are garnished or assets are distrained (seized). Distrained assets may be sold by bailiff's auction.

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#### Legal professions - Sweden

This section provides you with an overview of the legal professions in Sweden

##### Prosecutors

##### Judges

##### Barristers/Advocates

##### Notaries

##### Other legal professions

#### Legal professions - introduction

##### Prosecutors

##### Organisation

The public prosecution service consists of the [Prosecution Authority](#) (*Åklagarmyndigheten*) and the [Economic Crimes Authority](#) (*Ekobrottsmyndigheten*). Both authorities answer directly to the Government (Ministry of Justice). The Prosecution Authority is headed by the Prosecutor-General and the Economic Crimes Authority by a Director-General. The **Prosecutor-General** (*Riksåklagare*) is the highest-ranking prosecutor in the country and is responsible for and heads the prosecution service.

The Prosecutor-General is responsible for legal development, the operations of the [Supreme Court](#), and administrative tasks. **Senior prosecutors** are responsible for particular areas of the prosecution service. Public prosecutors are appointed by the Prosecutor-General, and are organised into prosecution districts staffed by **district prosecutors**. Some district prosecutors are specialists in a particular field. There are 32 district prosecution offices. There are also three international and four nationwide prosecution offices, which handle special types of case. Each district prosecution office is headed by a **Chief**

##### Prosecutor.

All prosecutors within the Prosecution Service are completely independent in their decision-making, which means that a senior prosecutor may not decide what decisions a subordinate prosecutor may make in a case for which the subordinate is responsible. To become a prosecutor you must have Swedish citizenship. Before you can be accepted as a prosecutor you must also have obtained a Swedish law degree and completed a period of practical legal training, working for two years as a clerk at a district court or administrative court. In certain circumstances, legal training in another Scandinavian country can be regarded as equivalent to a law degree. Prosecutors are first taken on as **trainee prosecutors** for nine months, during which the prosecutor has a mentor to guide him or her in the work. After this, the prosecutor undergoes a two-year course of training while working as a prosecutor, before being appointed District Prosecutor.

There are three prosecution **development centres**, situated in Stockholm, Gothenburg and Malmö, which are headed by a Senior Prosecutor. The task of the development centres is to conduct methodology and legal development work within their respective criminal fields, and act as knowledge centres in their areas of responsibility. They also carry out legal follow-up and supervision; an example of this is that all appeals against decisions by prosecutors are handled by the development centres.

##### Role and duties

A prosecutor has **three main duties**:

to lead investigations into crimes;

to decide whether charges should be brought;  
to appear in court.

The prosecutor heads the preliminary investigation for crimes that are not regarded as minor, in which a particular person can reasonably be suspected of the crime. A prosecutor may lead an investigation in other cases too, if there are special grounds for doing so. As leader of the preliminary investigation, the prosecutor is responsible for ensuring that the crime is investigated in an optimal way. For less serious crimes, the investigation is handled entirely by police officers.

When a prosecutor is leading the preliminary investigation, he or she is assisted in the investigation by the police. The prosecutor continually monitors the investigation and makes decisions about the investigative measures and decisions required. When the preliminary investigation is complete, the prosecutor decides whether or not to initiate legal proceedings. (This also applies to the preliminary investigations for which the police are responsible.)

Another important aspect of the prosecutor's work is the preparation of cases and appearance in court. Through the decision to bring charges, and the prosecutor's description of the crime, the prosecutor sets the framework for the criminal proceedings in court. Most prosecutors spend at least one or two days a week in court.

The Prosecutor-General is the only prosecutor allowed to instigate or pursue proceedings in the Supreme Court. He or she may, however, appoint an assistant prosecutor at the Office of the Prosecutor-General, or appoint another public prosecutor to represent the Prosecutor-General in the Supreme Court.

#### Legal databases

More information on prosecutors is publicly accessible at the [Prosecution Authority website](#).

#### Judges

##### Organisation

**Permanent judges** (*ordinarie domare*) are appointed by the Government on the recommendation of an independent state advisory body, the Judges Proposals Board (*Domarnämnden*). In principle, a judge cannot be dismissed other than in the circumstances set out in the constitutional document known as the Instrument of Government (*regeringsformen*).

To become a judge you must have Swedish citizenship. To be allowed to serve as a judge you must also have a Swedish law degree. In certain circumstances, legal training in another Scandinavian country can be regarded as equivalent to a law degree. Most permanent judges work as district court or administrative court judges, or as judges at courts of appeal or administrative courts of appeal. The president of a court of appeal or administrative court of appeal is known as the *president*, and the president of a district court or administrative court is known as the *lagman*. Judges of the Supreme Court and Supreme Administrative Court are known as **justices** (*justitieråd*).

Many of those appointed as permanent judges have followed a traditional career path during which they spend two years as a **clerk at a district court** (329

[Kb](#))<sup>SV</sup> or an administrative court (281 Kb)<sup>SV</sup> and then apply to become a reporting clerk (*fiskal*) at a court of appeal or administrative court of appeal.

After at least one year at such a court, a **trainee judge** must serve for at least two years as a reporting clerk at a district court or an administrative court. This is followed by at least one year's service as an acting associate judge at a court of appeal or administrative court of appeal. After successfully completing and passing the course, the trainee judge is appointed associate judge of appeal at a court of appeal or administrative court of appeal. Reporting clerks and

associate judges are examples of **judges without permanent tenure** who can appear in courts. The courts also employ a number of **drafting lawyers** (280

[Kb](#))<sup>SV</sup> and **rapporteurs** (281 Kb)<sup>SV</sup>.

District courts, courts of appeal, administrative courts and administrative courts of appeal all have a number of **lay judges** (*nämndemän*). The lay judges are appointed for a term of four years by

the municipal council in municipalities within the territorial jurisdiction of the district court;

the county council in counties within the jurisdiction of the administrative court, administrative court of appeal or court of appeal.

During votes in connection with the court's deliberations, each lay judge has one vote.

#### Legal databases

For more information on judges and lay judges, see [the Swedish courts' website](#). For judges in particular, see the website of [the Swedish Judges' Association](#).

#### Organisation of the legal profession: Lawyers

##### Barristers/Advocates

Under Swedish law, only members of [the Swedish Bar Association](#) (Sveriges Advokatsamfund) are entitled to use the professional title **advokat** ('barrister' or 'advocate'). To become a **member of the Association**, a person must:

be a resident of Sweden or another country within the EU or EEA, or of Switzerland;

have passed the examinations qualifying the holder to become a judge – in Sweden, the LL.M degree;

have three years' practical experience of qualified legal work, and be practising at the time of application for membership;

have completed the Bar Association's training and passed the examination;

be known to be of good character and suitable in other respects to practise as a barrister.

Special rules apply to applicants from other EU or EEA countries or Switzerland who meet the training requirements to become barristers in their home countries.

Decisions to accept new members are made by the Board of the Bar Association.

The Swedish Bar Association was founded on a private initiative in 1887 and was given official status with the 1948 entry into force of the current Code of Judicial Procedure. The Association now has more than 4 700 members.

The Association is governed by the Code of Judicial Procedure and by the Association's own charter, which is subject to approval by the Government. The Association, which is governed by private law, has the following aims:

to maintain high ethical and professional standards in the legal profession;

to monitor legal developments and ensure that the Association's expertise is brought to bear in that context;

to safeguard the general professional interests of its members and promote cooperation and consensus among them.

The Association also has some public duties. The Code of Judicial Procedure allocates administrative tasks to the Association, enabling it to function as a public authority, primarily in disciplinary matters.

The Association's governance aims to ensure that members of the public seeking legal counsel and advice receive qualified assistance. Under the Code of Judicial Procedure, members have a duty to abide by the code of professional ethics and are subject to the regulatory and supervisory authority of the Bar Association and the Chancellor of Justice. Barristers are under the supervision of the Bar Association's Disciplinary Committee. If the Disciplinary Committee considers that a barrister has breached the Bar's code of conduct, the Committee can impose a disciplinary sanction on the member concerned.

#### Legal databases



More information is available at the [Swedish Bar Association website](#).

### Legal counsel/legal advisers

There is no requirement for the **legal counsel** in court proceedings to be a barrister, but the court must consider the legal counsel to be suitable. In principle, however, only advocates are appointed public defence counsel.

### Notaries

#### Organisation

Besides the **Notary Public** (see below), there are no special notaries in Sweden.

A notary public is appointed by the [County Administrative Board](#) (*länsstyrelsen*). A notary public must be legally qualified, know the Swedish language and be otherwise suitable.

#### Role and duties

##### Legal databases

There is no publicly available directory and/or website for this profession.

Some of the County Administrative Boards' websites, however, contain more information on notaries public.

The function of the notary public is to assist the public in various matters, such as:

the verification of signatures, copies, translations and other information that concerns the content of documents;

attending court as a witness in certain cases;

supervising lottery draws;

following other inspection or examination, submitting a report on his or her observations;

receiving declarations on circumstances of a legal or economic nature and delivering those declarations to a third party;

confirming that an authority or person is authorised to carry out certain measures;

issuing certificates under the Hague Convention of 5 October 1961 Abolishing the Requirement of Legalisation for Foreign Public Documents (apostille).

##### Legal databases

There is no publicly available directory and/or website for this profession.

Some of the County Administrative Boards' websites, however, contain more information on notaries public.

### Other legal professions

The [Enforcement Authority](#) (*Kronofogdemyndigheten*) is responsible for the enforcement of debt recovery and other obligations. An **enforcement officer** (*kronofogde*) is employed by the Authority and is responsible for ensuring that recovery takes place lawfully. It is possible to train as an enforcement officer in Sweden. To be accepted for training you must be a Swedish citizen, have obtained a law degree or comparable qualification and be a qualified court clerk (*notarie*). It is also possible to replace the qualification as a court clerk with a specifically determined period of in-service training or a dispensation procedure. Last update: 20/02/2017

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### Legal professions - England and Wales

This page provides you with an overview of some of the main legal professions in the England and Wales jurisdiction of the UK. It includes information about judges, prosecutors and different types of lawyers.

#### The Judiciary

In the England and Wales judicial system, judges of differing judicial status – in both full-time and part-time posts – sit in the various courts and tribunals of England and Wales. You can find information about the judiciary in England and Wales on the [Judiciary of England and Wales](#) website.

#### Full-time judges

**Lord Chief Justice** – the Lord Chief Justice is the Head of the Judiciary of England and Wales and the President of the Courts of England and Wales. The latter role began on 3 April 2006 when the Lord Chancellor's judicial functions were transferred to the Lord Chief Justice under the Constitutional Reform Act 2005. The Lord Chief Justice is also the Head of Criminal Justice.

**Heads of division** – four senior judges head up the other jurisdictions: the Master of the Roles (Civil); the President of the Queen's Bench Division; the President of the Family Division, and the Chancellor of the High Court (Chancery). For more information, please see the website of the [Judiciary of England and Wales](#).

**Lords Justices of Appeal** sit in the Court of Appeal, which deals with both criminal and civil cases.

**High Court Judges** sit in the High Court, where the most complex civil cases are heard. They also hear the most serious and sensitive criminal cases in the Crown Court (for example, murder).

**Circuit Judges** normally hear criminal, civil and family cases.

**District Judges** deal with civil law cases. Most of their work is conducted in chambers (not in open court trials). They also have the power to try any action in a county court, with a sanction below a specified financial limit (which is reviewed from time to time): cases above the limit are generally heard by a circuit judge. District judges dispose of more than 80 percent of all contested civil litigation in England and Wales.

**District Judges (magistrates' courts)** sit in magistrates' courts and deal with the types of cases dealt with by magistrates (see below). However, they assist particularly in cases dealing with lengthier and more complex matters.

**High Court Masters and Registrars** are procedural judges who deal with the majority of the civil business in the Chancery and Queen's Bench divisions of the High Court.

#### Part-time judges

Part-time judges are usually appointed for a period of not less than five years, subject to the relevant upper age limit. The main types of part-time judges are: **Deputy High Court Judges**, who sit in one or more of the divisions of the High Court.

**Recorders**, who have similar jurisdiction to that of circuit judges, although they generally deal with the less complex or serious matters before the court.

**Deputy District Judges**, who sit in the county courts and at the district registries of the High Court. They deal with the least complex cases that fall within the jurisdiction of district judges.

**Deputy District Judges (Magistrates' Courts)** deal with work similar to that of their full-time counterparts.

**Deputy High Court Masters and Registrars** deal with work similar to that of their full-time colleagues in the High Court.

### **Tribunal judges**

Tribunals deal with nearly 800,000 cases a year on a huge variety of issues, such as disputes over tax, pensions or immigration.

Tribunals usually sit as a panel, incorporating a legally qualified tribunal chairperson or judge, supported by lay panel members with specific areas of expertise. There is no jury and a tribunal judge does not have the power to imprison an unsuccessful party. Their main role is to try to bring about a successful resolution of the difficulties and, in some cases, to make a decision on the level of compensation or redress to be awarded to the successful party.

### **Magistrates**

Magistrates, also known as 'justices of the peace' or 'JPs', deal with about 95 percent of criminal cases in England and Wales. More than 30,000 magistrates carry out their duties in local areas and normally sit at least 26 half-days a year. They do not have to be legally qualified and are unpaid.

They normally sit as one on a 'bench' of three, one of whom is trained to act as chairperson, helping guide the bench through its business and speaking for it. A 'bench' is always assisted by a legally qualified clerk to advise on law and procedure.

Magistrates deal with relatively less serious criminal cases. These include minor theft, criminal damage, public disorder and motoring offences. They also hear a range of issues affecting families and children and licensing applications.

### **Prosecutors**

#### **Organisation**

The [Crown Prosecution Service](#) (CPS) is the independent authority responsible for prosecuting criminal cases that have been investigated by the police in England and Wales. It is superintended by the attorney general, who answers to Parliament for the CPS. England and Wales is divided into 42 prosecution areas, each of which is headed by a chief crown prosecutor. In addition, there are four specialised national divisions: organised crime, special crime, counter-terrorism and the fraud prosecution service. A telephone service, CPS Direct, provides out-of-hours advice and decisions to police officers across England and Wales.

The CPS is led by the Director of Public Prosecutions (DPP), who makes decisions about the most complex and sensitive cases and advises the police on criminal matters. The DPP has overall responsibility for the charges and prosecutions brought by the CPS and reports to the attorney general.

The CPS employs prosecutors and associate prosecutors, as well as caseworkers and administrators. Crown prosecutors are experienced barristers or lawyers, responsible for prosecuting criminal cases on behalf of the Crown. Associate prosecutors review and present a limited range of cases in magistrates' courts.

#### **Role and duties**

The staff of the CPS:

Advise the police and review the evidence on cases for possible prosecution

Decide on the charge (in all but minor cases) where the decision is to prosecute

Prepare cases and present them in court.

Crown prosecutors are classed as civil servants and are recruited through open competition. To be eligible for employment, an applicant must be:

A solicitor admitted in England and Wales with a full current practising certificate

A barrister called to the English Bar who has completed a pupillage (apprenticeship)

A citizen of the European Economic Area or the Commonwealth. Lawyers who qualified outside England and Wales are required to take and pass a lawyer transfer test before taking up a post.

### **Organisation of the legal profession: Lawyers**

#### **Barristers (Advocates)**

The [Bar Council](#) is the governing body for all barristers in England and Wales. It was established to represent the best interests of the profession, to formulate and implement key policy initiatives and to maintain the standards, honour and independence of the Bar. In accordance with the Legal Services Act 2007, it has delegated the task of regulating the profession to the independent and 'ring-fenced' Bar Standards Board. Barristers are individual specialist legal advisers and courtroom advocates. Generally speaking, they are self-employed and work in groups in offices known as 'chambers', where they are known as 'tenants'. Barristers are trained mainly in advocacy; in other words, they are trained to represent their clients in the higher courts. Barristers also spend a lot of their time advising clients and researching cases, as well as researching their field of expertise. Approximately 10 percent of practising barristers are Queen's Counsel (or QCs) who deal with the most important and complex cases.

#### **Solicitors (legal advisers)**

A solicitor's job is to provide clients (members of the public, businesses, voluntary bodies, charities, etc.) with skilled legal advice and representation, including representing them in court. Their work varies enormously. Most solicitors work in private practice, which is a partnership of solicitors who offer services to clients. They may have a general practice covering many areas of law or specialise in a particular field. Others work as employed solicitors for central and local government, the Crown Prosecution Service, the magistrates' courts, a commercial or industrial organisation or other bodies. Solicitors can choose the kind of environment that suits them best.

Generally solicitors provide legal advice to clients. If those clients then require to be represented in the higher courts in England and Wales, the solicitor will generally instruct a barrister to conduct the case in court. A barrister is not always required, however, as suitably qualified solicitors have rights of audience (that is, they are entitled to represent clients) in the higher courts.

The [Law Society](#) represents solicitors in England and Wales. Its duties range from negotiating with and lobbying the profession's regulators, government and others to offering training and advice. The Law Society exists to help, protect and promote solicitors across England and Wales.

The [Solicitors Regulation Authority](#) (SRA) deals with all regulatory and disciplinary matters, and sets, monitors and enforces standards for solicitors across England and Wales. Formerly known as the Law Society Regulation Board, it acts solely in the public interest.

The [Office for Legal Complaints](#) is for members of the public wishing to make a complaint about a solicitor. Formerly known as the Legal Complaints Service, this independent and impartial body will work to resolve any issues quickly and efficiently.

#### **Notaries**

Notaries form the third and oldest branch of the legal profession in England and Wales. Notaries are admitted to practice and granted their faculty (authority to practise) by [The Faculty Office](#) (the Archbishop of Canterbury first did this in 1279) and the regulator is the Court of Faculties. Notaries provide a bridge between the civil law and the common law.

All notaries have a legal training and, although most of them may also be solicitors, qualification as a notary is by way of independent and separate examinations. Notaries must all follow the same initial course in order to qualify for the profession: successful completion of [the notarial practice course provided by University College London](#) is required. Once qualified, notaries are able to practice anywhere in England and Wales and all have the same powers. In addition to preparing and issuing notarial acts and instruments, notaries may also advise in relation to the preparation of Wills, succession matters, the administration of estates and carry out the conveyancing of property.

Notarial activities have been recognised worldwide for centuries and this has allowed citizens and business to circulate freely. In this way, notaries facilitate commerce and life for ordinary citizens, allowing them to go about their daily lives and conduct business freely at reasonable cost and without undue delay. A notary holds an official seal and notarial acts in England and Wales have probative force. Notarial acts are prepared in private and in public form; the latter are also known as 'notarial acts in authentic form'. Notarial acts under the signature and seal of a notary are recognised as evidence of a responsible legal officer in all countries of the world.

Notaries are subject to similar professional rules as solicitors and are required to renew their notarial practising certificates annually and hold professional indemnity and fidelity insurance cover. Renewal is subject to compliance with the rules. A notarial appointment is a personal appointment held by an individual notary. [The Notaries Society](#) is the membership organisation that represents approximately 800 notaries public. [The Society of Scrivener Notaries](#) represents approximately 30 scrivener notaries who practise mainly in central London, appointed by [the Scriveners Company](#), an ancient guild.

#### Patent and trade mark attorneys

Patent and trade mark attorneys are specialist advisers in the field of intellectual property. They provide legal advice to clients in this field, particularly in relation to patents, trade marks, designs and copyright. They also represent their clients in the specialist IP courts (some acquiring further rights after gaining an additional litigator's qualification). Most patent and trade mark attorneys work in private practice. Many work in specialist practices, but some also work in partnership with solicitors. Additionally, a sizable part of the profession works in industry. Patent attorney and trade mark attorney litigators can represent their clients in court, in the same way as solicitors, for intellectual property cases, including instructing a barrister to conduct the case. The [Chartered Institute of Patent Attorneys](#) (CIPA) represents patent attorneys throughout the UK. Its role includes engaging with the Government over IP legislation, providing education and training for patent attorneys and trainees and engaging with the profession's regulators. CIPA seeks to promote IP law and the IP professions. The [Institute of Trade Mark Attorneys](#) (ITMA) represents Trade Mark Attorneys and the profession throughout the United Kingdom. Its duties include negotiating with and lobbying government, its independent regulatory arm (IPReg) and other relevant organisations. It provides relevant education, training and advice for the Trade Mark Attorney profession and it is responsible for promoting the profession and IP. The [Intellectual Property Regulation Board](#) (IPReg) deals with all regulatory and disciplinary matters, and sets, monitors and enforces standards for patent and trade mark attorneys across the UK. It acts in the public interest and it maintains statutory Registers of patent attorneys and trade mark attorneys, both individuals and entities

#### Other legal professions

Apart from those working in the magistrates' courts, the clerks and other staff in most courts in England and Wales are not required to be legally trained. They are civil servants who deal with administrative matters and assist judges. They may not provide legal advice. As civil servants, all court staff are employed by [Her Majesty's Courts and Tribunals Service](#).

More information on court staff categories can be found [here](#) (456 Kb) [en](#).

The role of clerks is different in magistrates' courts. Lay magistrates are not legally qualified and they rely on advice from legally trained clerks, of which there are two types: **justices' clerks** and **legal advisers** (or **court clerks**).

Justices' clerks are the principal legal advisers to magistrates. They are lawyers (either barristers or solicitors) with at least a five-year relevant qualification. They advise magistrates on law and procedure both in and out of court. They are also responsible for the management and training of legal advisers, the quality of legal services provided and the provision of consistent legal advice throughout their administrative area.

Legal advisers sit in court and advise magistrates on law, legal practice and procedure. They, too, are legally qualified (usually as solicitors or barristers).

High court writs are now enforced by **high court enforcement officers**, who are appointed and assigned to districts by the Lord Chancellor or his or her delegate. They are responsible for enforcing court orders by recovering money owed under a high court judgement or a county court judgement transferred to the High Court. They can seize and sell goods to cover the amount of a debt. They also effect and supervise the possession of property and the return of goods.

**County court bailiffs** are civil servants employed by Her Majesty's Courts and Tribunals Service to deal with enforcement of judgments and/or orders made and registered in the county courts. They are civil servants who enforce warrants of execution, repossess land with warrants of possession and recover goods under warrants for return of goods. The regulation for bailiffs who execute warrants is set out in sections 85–111 of the County Courts Act 1984. The procedures for execution are set out in the civil procedure rules. In addition, county court bailiffs carry out other duties, including personally serving documents and warrants of committal. The regulations on committal are set out in section 118-122 of the County Courts Act.

**Certificated bailiffs** are private bailiffs certificated under the distress for rent rules, and are authorised by a circuit judge sitting in the county court. Distress for rent refers to the seizing of a tenant's goods by a landlord to secure payment of rent arrears without the intervention of the court. Under a number of other Acts, certificated bailiffs are also permitted to enforce other specific debts, such as council tax and non-domestic rates.

#### Related Links

- [Crown Prosecution Service](#),
- [Faculty Office](#),
- [Notaries Society](#),
- [Judiciary of England and Wales](#),
- [The Law Society](#),
- [Solicitors Regulation Authority](#),
- [Office for Legal Complaints](#),
- [Legal Services Commission](#),
- [Chartered Institute of Patent Attorneys](#);
- [Institute of Trade Mark Attorneys](#),
- [Intellectual Property Regulation Board](#),
- [Her Majesty's Courts and Tribunals Service](#).

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#### Legal professions - Northern Ireland

This page gives you an overview of the legal professions in the Northern Ireland jurisdiction of the UK.

#### Legal professions – introduction

The legal professions in Northern Ireland include:

Judiciary

Prosecutors  
Barristers  
Solicitors

### Organisation of the legal profession: Judges

The Northern Ireland jurisdiction has the following judicial posts:

Lord Chief Justice – head of the judiciary  
Lord Justices of Appeal  
High Court Judges  
Masters of the Supreme Court  
County Court Judges  
District Judges (county court)  
District Judges (magistrates court)  
Lay Magistrates  
Coroners

### Organisation of the legal profession: Prosecutors

#### Organisation

The Public Prosecution Service for Northern Ireland (PPS) is the principal prosecuting authority in Northern Ireland. In addition to taking decisions as to prosecution in cases investigated by the police in Northern Ireland, it also considers cases investigated by other statutory authorities, such as HM Revenue and Customs.

The PPS is headed by the Director of Public Prosecutions for Northern Ireland. There is also a Deputy Director of Public Prosecutions. The Deputy Director has all the powers of the Director but must exercise them under his or her direction and control. Both posts are public appointments made by the Attorney General for Northern Ireland.

The PPS is designated as a non-ministerial government department. In accordance with the Justice (Northern Ireland) Act 2002, the functions of the Director shall be exercised independently of any other person. The 2002 Act provides for the Director and Attorney General to consult with each other from time to time on any matter for which the Attorney General is accountable to the Northern Ireland Assembly. At present a number of prosecutorial matters are reserved to Parliament at Westminster. Duties in respect of these matters are performed by the Advocate General for Northern Ireland.

#### Role and duties

The primary role of the PPS is to decide whether or not to prosecute people for committing criminal offences and what the correct charges should be.

The Service also has responsibility for prosecuting cases at court. The prosecutor presents evidence to the court on behalf of the Crown. Prosecutors call and examine Crown witnesses and cross-examine defence witnesses. At the conclusion of a case, they sum up the evidence to the court on behalf of the Crown.

### Organisation of the legal profession: Lawyers

#### Barristers (Advocates)

In Northern Ireland, barristers are divided into senior counsel (known as Queen's Counsel) and junior counsel. The bar is a body of specialist advocates experienced in litigation, to which the public have access through solicitors and, in limited circumstances, by direct professional access.

The [Bar of Northern Ireland](#) is an association of over 600 independent barristers based in the Bar Library in Belfast.

#### Solicitors (legal advisers)

In Northern Ireland, the [Law Society](#) is the regulatory authority that governs the education, accounts, discipline and professional conduct of solicitors. Its role is to maintain the independence, ethical standards, professional competence and quality of the services offered to the public. Solicitors may specialise in a particular field or may be general practitioners.

#### Notaries

In Northern Ireland, all solicitors are commissioners for oaths. This means they can witness official documents (other than those prepared by themselves or their opponents in a case).

In addition, some solicitors are notaries public, which means they can witness documents for use abroad.

#### Patent and Trade Mark Attorneys

Patent and trade mark attorneys are specialist advisers in the field of intellectual property. They provide legal advice to clients in this field, particularly in relation to patents, trade marks, designs and copyright. They also represent their clients in the specialist IP courts (some acquiring further rights after gaining an additional litigator's qualification).

Most patent and trade mark attorneys work in private practice. Many work in specialist practices, but some also work in partnership with solicitors.

Additionally, a sizable part of the profession works in industry.

Patent attorney and trade mark attorney litigators can represent their clients in court, in the same way as solicitors, for intellectual property cases, including instructing a barrister to conduct the case.

The [Chartered Institute of Patent Attorneys](#) (CIPA) represents patent attorneys throughout the UK. Its role includes engaging with the Government over IP legislation, providing education and training for patent attorneys and trainees and engaging with the profession's regulators. CIPA seeks to promote IP law and the IP professions.

The [Institute of Trade Mark Attorneys](#) (ITMA) represents Trade Mark Attorneys and the profession throughout the United Kingdom. Its duties include negotiating with and lobbying government, its independent regulatory arm (IPReg) and other relevant organisations. It provides relevant education, training and advice for the Trade Mark Attorney profession and it is responsible for promoting the profession and IP.

The [Intellectual Property Regulation Board](#) (IPReg) deals with all regulatory and disciplinary matters, and sets, monitors and enforces standards for patent and trade mark attorneys across the UK. It acts in the public interest and it maintains statutory Registers of patent attorneys and trade mark attorneys, both individuals and entities

### Other legal professionals

#### Court Clerks

Court Clerks and other staff in the Northern Ireland courts are non-legally trained civil servants who deal with administrative matters.

**Court Clerks** ensure that judges have the papers they need to preside over the cases before the court; they record the judge's decision in a case and provide any other administrative support the judges may require. While court staff can give you advice about court procedures, they cannot give legal advice, nor can they recommend what action litigants should take. All court staff are employed as civil servants by the [Northern Ireland Courts and Tribunals Service](#) which is an agency within the Department of Justice in Northern Ireland.

#### Enforcement officers

**Enforcement officers** are civil servants employed by the Northern Ireland Courts and Tribunals Service. They deal with the enforcement of civil judgments through the Enforcement of Judgments Office. This office enforces the civil judgments of magistrates' and county courts (including small claims courts) as well as those of the High Court. The law that governs enforcement is set out in the Judgments Enforcement (Northern Ireland) Order 1981 and the Judgment Enforcement Rules (Northern Ireland) 1981.

#### Related Links

[Public Prosecution Service](#)

[Bar of Northern Ireland](#)

[Law Society](#)

[Northern Ireland Courts and Tribunals Service](#)

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#### Legal professions - Scotland

This page provides you with an overview of the main legal professions in the Scotland jurisdiction of the UK. It includes information on judges, prosecutors and lawyers.

#### Judges

In Scotland, there is no separate profession of judges as such. Only **experienced solicitors, solicitor-advocates** and **advocates** can become judges. Judicial posts in the Scotland jurisdiction include:

The Lord President of the Court of Session

The Lord Justice Clerk

Sheriffs Principal who preside over one of Scotland's six sheriffdoms

When sitting in the Court of Session, judges are known as Lords of Council and Session

When sitting in the High Court of Justiciary, judges are known as Lords Commissioners of Justiciary

Sheriffs & Summary Sheriffs

Part-time sheriffs are commonly used to provide cover for permanent sheriffs

Justices of the Peace are lay persons who sit alone or in threes, with a legally qualified clerk or legal assessor in the JP courts.

Other judicial office holders include the chairman of the [Scottish Land Court](#), which deals with cases relating to property held under crofting law or agricultural tenancies, and those presiding in Scotland's many administrative tribunals.

Further information on Scotland's Judiciary can be found on the [Judiciary of Scotland](#) website.

#### Prosecutors

##### Organisation

In Scotland, the [Crown Office and Procurator Fiscal Service](#) is responsible for all prosecutions. The head of the service is the **Lord Advocate**, who is also a Minister of the Scottish Government, and his or her deputy, the Solicitor General.

The Crown Office and Procurator Fiscal Service (COPFS) is solely responsible for the **prosecution** of crime, the **investigation** of sudden or suspicious deaths and **complaints** against the police.

The Scotland Act 1998 (section 48) provides that any decision of the Lord Advocate (in his or her capacity as head of the Systems of Criminal Prosecution and Investigation of Deaths in Scotland) will be taken by him or her, independently of any other person.

Only qualified solicitors or advocates can become prosecutors.

##### Role and duties

The police (or other specialist reporting agencies, such as HM Revenue and Customs) carry out an initial investigation into a crime and submit a report to the local Procurator Fiscal. The Procurator Fiscal considers this report and decides whether to take action in the public interest. In taking a decision, the Procurator Fiscal will consider whether there is sufficient evidence and, if so, what action is appropriate: that is, to prosecute, to use a direct measure (such as a fiscal fine) or to take no action. In cases to be considered by a jury, the Procurator Fiscal will interview witnesses and gather and review the forensic and other evidence before reporting to senior lawyers known as Crown Counsel, who will decide whether to prosecute.

#### Organisation of the legal profession: Lawyers

##### Advocates

Advocates are members of the **Scottish Bar**. They have the right to appear in all Scottish courts, although most of their work involves appearing in the higher courts (the Court of Session and High Court of Justiciary) and giving specialist opinions on legal matters. Senior advocates are known as Queen's Counsel.

All advocates are members of the [Faculty of Advocates](#).

##### Solicitors (Legal Advisers)

**Solicitors** are the most numerous of the legal professionals. They can give advice on all legal matters and represent clients in court. Solicitors are all members of the [Law Society of Scotland](#), which promotes the interests of the solicitors' profession and of the public in relation to the profession.

There are also solicitor-advocates, who are also members of the **Law Society of Scotland**. Like advocates (see above) they can appear in the Court of Session and High Court of Justiciary.

##### Notaries

Notaries Public are solicitors who record certain transactions and sign specific legal documents. They are not a separate legal profession in their own right.

##### Patent and Trade Mark Attorneys

Patent and trade mark attorneys are specialist advisers in the field of intellectual property. They provide legal advice to clients in this field, particularly in relation to the registration and prosecution of patents, trade marks and designs and also on other aspects of IP including copyright protection.

#### Other legal professions

**Sheriff Officers** and **Messengers-at-arms** are officers of the court, responsible for serving documents and enforcing court orders in Scotland. Both messengers-at-arms and sheriff officers are employed by private businesses and charge fees that are set out in secondary legislation.



The clerks and other **court staff** in Scotland are not required to be legally trained. They are civil servants who deal with administrative matters and assist judges. They may not provide legal advice. Court staff are employed by the [Scottish Courts and Tribunals Service](#). More information on court staff categories can be found [here](#) (4293 Kb) [en](#) but please note the change in name from Scottish Court Service to Scottish Courts and Tribunals Service.

#### **Related Links**

[Crown Office and Procurator Fiscal Service](#)

[Faculty of Advocates](#)

[Law Society of Scotland](#)

[Scottish Association of Law Centres](#)

[Chartered Institute of Patent Attorneys](#)

[Institute of Trade Mark Attorneys](#)

[Intellectual Property Regulation Board](#)

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