

Overview: Germany

1. According to the official data from last year 2014 we had 49.069 registered specialised lawyers in Germany. These are 30,16 % of all registered lawyers in Germany.

2. The time needed to become a specialised lawyer depends on the time you need to gather the requested number of practical cases. The number requested for the specialisation depends on the subject of specialisation. For example a specialist in labour law needs to have a minimum of 100 cases, a specialist in family law needs 120 cases and a specialist in traffic law needs 160 cases concerning the practical conditions to become a specialist. The theoretical training covers 120 hours in general. According to Para 3 of the "Fachanwaltsordnung" (Legislation for specialisation) it is also provided that the lawyer is registered at the local bar for a minimum of three years and that he or she practises in the special field for at least six years before he or she applies for the specialisation.

In Germany, we have different ways to document out specialisation to consumers. For a long time, it was possible to advertise in three different categories: 'Interessengebiete' (fields of interest), 'Taetigkeitsschwerpunkte' (focal points) and 'Fachanwalt' (specialist lawyers). For using the first, it was only necessary to be interested in a legal field, for using the second one needed to have special knowledge, and holding the third was dependent on practical experience and theoretical knowledge.

Since it was rather difficult for consumers to understand the different meanings of these specializations and lawyers were unnecessarily restrained by being allowed only these three categories, the relevant regulation (§ 7 BORA) was changed in 2006. These three categories were abolished and only the 'Fachanwalt' was upheld. If a lawyer still wants to advertise with a special practical and theoretical knowledge without being approved 'Fachanwalt', he or she has to make sure that the description used is not misleading so that it cannot be confused with the 'Fachanwalt'.

The 'Bundesverfassungsgericht' (Federal Constitutional Court) decided in 2004 that the general label 'Spezialist' (specialist) is not misleading as long as there is no 'Fachanwalt' for that field of law. Since the fields of law in which lawyers can obtain the title of Fachanwalt have more than doubled in the last 10 years, the 'Bundesgerichtshof' (Federal Court of Justice) has recently adapted the jurisdiction concerning the use of the term specialist. In a decision (I ZR 53/13) of 24 July 2014 the Court held that a lawyer can use the term of specialist in a field of law in which a 'Fachanwalt' exists, as long as the lawyer has the knowledge and skills in this field which are equal to those of a Fachanwalt.

The German 'Fachanwalte'

History: The idea of 'Fachanwalt' goes back to the 1920s but its practical importance started in 1986 when the lawyers' organisation decided to increase the number of possible specializations.

Since 1991, the rules are laid down in the 'Fachanwaltsordnung', subordinate legislation that is based on the 'Bundesrechtsanwaltsordnung' (Legal Profession Act).

What is it?

The German 'Fachanwalte' are accredited specialists for a certain field of law. Today, the title 'Fachanwalt' is regarded as a valuable marketing tool.

NATIONAL SPECIALISATION REGIMES IN THE CCBE MEMBER COUNTRIES

In Germany the so called Satzungsversammlung (“Parliament of Lawyers”) is responsible for the adoption of new fields of law where practitioners can be accredited as Fachanwalt. For many years the DAV and BRAK have encouraged new specializations. Since 2004, over twelve new titles of specialization have been introduced, such as construction and architectural law, medical law, traffic law, heritage law and many more. All in all, there are 21 different specializations available today. The Satzungsversammlung recently adopted a 22nd title (public procurement law) which still has to be approved by the Federal Ministry of Justice and Consumer Protection.

For the roughly 163.000 lawyers (approximately 54.000 female lawyers) approximately 49.000 titles (roughly 14.000 to female lawyers) have been awarded, corresponding to about 30 % of all German lawyers. That does not necessarily clarify how many lawyers hold a ‘Fachanwalt’ title though, since according to § 43 c BRAO a lawyer can hold up to two such titles simultaneously.

How to get it?

Becoming ‘Fachanwalt’ traditionally follows the system that a specialist has to prove his theoretical and practical knowledge. That means he or she must attend 120 hours of theoretical training which deals with several subjects concerning that specific field of law. For his practical knowledge he or she must prove that he or she has had a specific amount of cases in that special field of law. The required number of cases differs between the specific ‘Fachanwalte’.

To keep the ‘Fachanwalt’ title, a lawyer must report the fulfillment of 15 hours of continuing legal training per year. The non-fulfilment of this training obligation can be sanctioned with the withdrawal of the ‘Fachanwalt’ accreditation.