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# Legal education in the Czech Republic

#### Introduction

The aim of the article is to analyze the system of legal education in the Czech Republic. This system was deeply modified after the political change in 1989 and is still subject to a gradual evolution. The last visible trend lies in the fact that the law faculties try to establish more practical forms of legal education — legal clinics. Students can gain practical experience and are better prepared for their future job. The last part of the article analyzes the most typical legal professions and the conditions for their performance.

## Law schools in the Czech Republic

There are four public law schools that offer full legal education: Prague, Brno, Olomouc and Pilsen. There are also some private law schools mainly in Prague and Brno, which, however, lack the state accreditation for providing full Master education in law. They offer only Bachelor education in legal specializations (business, state administration, etc.).<sup>1</sup>

The Charles University Law Faculty in Prague is the most respected law school in the Czech Republic. Founded in 1348 by the Czech King and Roman Emperor Charles IV, Charles University is the oldest university in Central Europe and the 19<sup>th</sup> oldest university in continuous

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<sup>&</sup>lt;sup>1</sup> Grimes, R. (ed.), Re-thinking Legal Education under the Civil and Common Law: A Road Map for Constructive Change, Routledge 2017, Chapter 9.

operation in the world. It has enjoyed a long international reputation for high quality teaching and research. From the very beginning, instruction in Canon Law and Roman Law have been part of the curriculum of Charles University. Many Law Faculty alumni hold prominent positions within the justice system, in central and local administration, within the Ministry of Foreign Affairs, in public service and also in private legal practice and private businesses.<sup>2</sup>

The Masaryk University Law Faculty in Brno was founded in 1919. Its name is derived from the first Czechoslovaks' President, T.G. Masaryk.<sup>3</sup> Between 1919 and 1939 the faculty was home to a number of leading figures in Czech legal science with a reputation that extended even beyond the borders of Czechoslovakia. The faculty rose to fame as the centre of pure juristic theory, a school synonymous with the name of František Weyr, one of the faculty's most notable thinkers. Karel Engliš, the first Rector of Masaryk University and subsequently Dean of the Faculty of Law, was a second prominent figure. The Faculty's development was stifled twice during its history: by the Nazis in 1939 and then again in 1950 by the Communist regime. It was reopened in 1969. The faculty has been, especially in the last few years, a more dynamic institution than the Law Faculty of Charles University.<sup>4</sup>

Law studies at the University in Olomouc began in 1667. The Law Faculty was established in 1784, closed however in 1855. Being forced to shut down by the Habsburg régime, it came to be re-established by the Olomouc University Restoration Act of 1946 (No. 35/1946 Coll.) as part of Palacky University. In fact, the Law Faculty could be reopened only following the Velvet Revolution in 1991. In spite of its short time of existence, with its dynamic and ambitious team of teachers and researchers, it is already an equal partner of the other Czech faculties of law and its activity has been highly appraised by foreign institutions.<sup>5</sup>

The Western Bohemia Law Faculty is based in Pilsen. It is a relatively small faculty, founded in 1993. Until 2009 the Law Faculty of the University of West Bohemia was awarding fast-track degrees – to those who had plagiarized or not even submitted dissertations. The faculty also awarded Bachelor's degrees to dozens of rank-and-file policemen from the region, whose studies consisted solely of attending a three week-long summer program. It was described by the Czech media as

<sup>&</sup>lt;sup>2</sup> www.prf.cuni.cz

<sup>&</sup>lt;sup>3</sup> Fasora, L., Hanuš, J., University History in the Czech Republic, CIAN-Revista de Historia de las Universidades, 20/1, 2017, p. 52.

<sup>4</sup> www.law.muni.cz

<sup>&</sup>lt;sup>5</sup> www.pf.upol.cz

"the biggest scandal ever to have shaken the Czech education system". The faculty was nearly closed but after substantial changes in the management and system of study it continues to provide legal education.<sup>6</sup>

Apart from the teaching institutions, there is also the Institute of State and Law within the Czech Academy of Science. The Institute of State and Law of the Academy of Sciences is the oldest existing legal research centre of the non-university type in the Czech Republic. The object of the activities of the Institute is scientific research in the fields of law and legal informatics. The Institute also played a prominent role in publishing the important part of the Czech legal periodicals. In addition to *The Lawyer*, the oldest Czech law journal (coming out since 1861), that the Institute have edited since the early 1950s, the Institute began publishing three new reviews: *Studies in Legal History, International Law Studies* and the theoretical journal *State and Law*.

The Judicial Academy was established in 2002 as the central institution of the justice sector for the training of judges, state prosecutors and other target groups. The education is provided pursuant to the regular annual training program, created on the basis of analysis of educational needs in cooperation with the Ministry of Justice, courts and the state prosecution offices. The seat of the Czech Judicial Academy is in Kroměříž.<sup>8</sup>

# System of legal education in the Czech Republic

The general legal programme offered by the Czech public law schools is the 5-year Master's study course (earning the title "Magister", abbreviated with "Mgr." put before the name). It is the qualifying degree and the minimal requirement for any traditional legal profession (attorney, prosecutor, judge).

The Master's programme in Law is a five-year full-time course, ending in obtaining the Mgr. degree. It provides qualifications required for practicing law in the area of jurisdiction, advocacy, state and local authorities, in public administration, in national and international business, and in the diplomatic services. Graduates are fully qualified lawyers. Within the ten semesters of study all fields of Czech law are thoroughly studied, together with International Law and the basics of European Union law and that of other non-European communities.

 $<sup>^{6}</sup>$  www.fpr.zcu.cz

<sup>&</sup>lt;sup>7</sup> Schiermeier, Q., Ockenden, J. (eds.), Perspectives of Science in Central and Eastern Europe, IOS Press, 2001, p. 184.

<sup>&</sup>lt;sup>8</sup> § 129 of Act No. 6/2002 Coll. on Courts and Judges.

The first part of the programme (3 semesters) consists of history and theory of law, social sciences, philosophy, psychology, political sciences and intensive instruction in two foreign languages. In the second part of the programme, the studies deal with the Czech legal system, internal jurisdiction, state administration, commercial and financial law. Some of the subjects are taught in basic, optional or complementary courses. The programme is concluded with a Master's thesis and a state examination in Civil Law, Commercial Law, Administrative Law and Criminal Law. Master's programme is provided by all public law schools.

The Bachelor's programme lasts three years full-time and leads to obtaining a Bachelor's degree. The graduates are qualified as specialists for the administration of ministries, state authorities, municipalities, chambers and public colleges/high schools, policy of the Czech Republic, councils, etc. Their knowledge is suitable for lower or middle management. The programme is concluded with the successful completion of a Bachelor's thesis and a Bachelor's examination. Bachelor's programme is provided only in Brno, Olomouc and Pilsen.

Subsequent Master's programme is provided only in Brno and Olomouc. The two-year Subsequent Master's programme in European Studies focusing on European Law (a previous degree is required) at the Law Faculty in Olomouc is divided into four fundamental parts. In the first part, the basics of law and legal science are taught as pre-requisites for the two following parts of the European Studies. The second part is highly focused on the legal situation in the European Union (political and economic integration, foreign and security policy of the EU, institutions and authorities of the EU, etc.). The third integral part consists of courses concerning the history of the EU and European political thought, foreign politics and the political system of the Czech Republic. The concluding part of the studies focuses on European law. Its origin and development are introduced, as well as the subjects of Commercial Law, Environmental Law, European Procedural Law, and so on. The programme is concluded with a Master's thesis and a state examination.

Higher degrees are the JUDr. (*iuris utrisque doctor*, the so-called "small" doctorate in law, written before the name) and the research degree of Ph.D ("regular" doctorate in law, written after the name). The small doctorate is obtained by submitting a written piece of work any time after obtaining the *Magister*.<sup>9</sup>

The Postgraduate Programme – Ph.D. studies (Theoretical Legal Science) is aimed at creative activities and education of experts and

<sup>&</sup>lt;sup>9</sup> § 46 of Act No. 111/1998 Coll. on Higher Education Institutions.

academic workers with a scientific approach to solving not only theoretical but also practical problems from the area of private and public laws. The normal doctorate is obtained by research and after submitting a dissertation. Other academic titles may be encountered especially with more senior lawyers; they are as follows: CSc. (Candidate of Science) or the higher degree of DrSc. (Doctor of Science), both written after the name. These titles are no longer awarded.

The standard length of study is at least three and – at the most – four years. The average duration of doctoral studies is longer; it varies on the average from five to six years. Higher education institutions set the maximal study length in their internal regulations.

Among all law schools in the Czech Republic, the Law Faculty of Palacky University in Olomouc offers the most complex system of skill-oriented practical education. In 1996, Palacky University Faculty of Law was the first law school in Central Europe to introduce legal clinics.

The clinics were swiftly expanded and improved, especially after 2006, thanks to a project for the advancement of practical education, which received financial support from both the Czech national budget and the European Social Fund. At the same time the newly established Centre for Clinical Legal Education took responsibility for running clinics.<sup>11</sup>

There are over 15 clinical subjects at Olomouc Faculty of Law. The Student Legal Aid Office is a live-client clinic, and the other clinics are hybrid clinics combining both theoretical lectures and practical legal experience. Participation in the two-semester-long Juristic Skills Workshop is compulsory for 2nd year students of the 5-year-long Law degree; the other clinics are optional.<sup>12</sup>

Contrary to rapidly changing legal regulations, skills and values are permanent qualification prerequisites which are needed for practical use of expert knowledge and for orientation in variable, multi-level and pluralistic legal environment.

# The legal professions in the Czech Republic Judges

The main function of courts is the protection of rights in a manner defined by legislation and the responsibility for deciding guilt and

<sup>&</sup>lt;sup>10</sup> § 47 of Act No. 111/1998 Coll. on Higher Education Institutions.

<sup>&</sup>lt;sup>11</sup> Bryxová, V., Tomoszek, M., Vlčková, V., Introducing Legal Clinics in Olomouc, *Journal of Clinical Legal Education*, Vol. 9, 2006, p. 150.

<sup>12</sup> www.pf.upol.cz/menu/struktura-pf/centra/centrum-pro-klinicke-pravni-vzdelavani/o-nas/

penalty for criminal offences. Internally, the district, regional, and higher courts are basically organized into specialized criminal, civil, and administrative divisions for the different types of cases.<sup>13</sup>

To be appointed 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 the 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, accept appointment as a judge and assignment to a specific court.<sup>14</sup>

If they fulfil all the requirements, judges are appointed by the President of the Republic and take office upon 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 courts. On completion of their preparatory service, trainees sit a special judicial examination.<sup>15</sup>

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.<sup>16</sup>

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, Supreme Administrative Court, higher and regional courts) or by the Minister of Justice (district courts). <sup>17</sup> 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.

Lay judges must be Czech citizens, enjoy full legal capacity, have no criminal record, be at least 30 years of age. Lay judges are elected from the general public by regional and municipal authorities. They take an oath before the president of the court and serve for four years.

 $<sup>^{13}</sup>$ Schelle, K., Schelleova, I., Schelleova, A., Tauchen, J., *The Czech Republic Constitutional System*, Ledizioni, Milano 2011, p. 48.

<sup>&</sup>lt;sup>14</sup> § 60 of Act No. 6/2002 Coll. on Courts and Judges.

 $<sup>^{15}</sup>$  Kosař, D., Perils of Judicial Self-Government in Transitional Societies, Cambridge University Press, 2016, p. 189.

<sup>&</sup>lt;sup>16</sup> § 94 of Act No. 6/2002 Coll. on Courts and Judges.

 $<sup>^{17}</sup>$  § 102 - § 105 of Act No. 6/2002 Coll. on Courts and Judges.

<sup>&</sup>lt;sup>18</sup> § 64 of Act No. 6/2002 Coll. on courts and judges.

Assistant of the judge may participate on the decision-making process. He must be a Czech citizen, enjoy full legal capacity, have no criminal record, have obtained the Master's degree in law at a Czech university.

The disciplinary misconduct of judges is by law defined rather broadly, since it includes every intentional breach of a judicial duty stated by law as well as intentional conduct or action by which a judge infringes dignity of the judicial function or threatens the trust in the independent, impartial, professional and fair trial by courts. Once the tried judge is found guilty of breaking the duties of professional conduct, he may be punished by a reprimand, temporary salary reduction or removal from the office. There is no appeal against the decision of the disciplinary court.<sup>19</sup>

The topic of professional responsibility draws limited attention from both legal practitioners and scholars. Fortunately, this situation is slowly improving. For example, three out of four Czech public law schools have established optional courses of professional legal ethics (namely, the law faculties of Charles University in Prague, Masaryk University in Brno and Palacky University in Olomouc).<sup>20</sup>

# Public prosecutors

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.<sup>21</sup>

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

<sup>&</sup>lt;sup>19</sup> Turenne, S. (ed.), Fair Reflection of Society in Judicial Systems – A Comparative Study, Springer 2015, p. 142.

<sup>&</sup>lt;sup>20</sup> Friedel, T., Urban, M., What Czech Judges Can and Cannot Do? Practice of Judicial Disciplinary Authorities in the Czech Republic: Empirical Analyses of All Disciplinary Decisions between 2008 and 2014, Asian Journal of Legal Education, Vol 3, Issue 1, 2016, p. 23.

<sup>&</sup>lt;sup>21</sup> § 4 of Act No. 283/1993 Coll., on Public Prosecutor's Office.

The public prosecutor can appeal on the grounds of that a wrong verdict has been given. Appeals may be in the accused person'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 person'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.<sup>22</sup> Decisions on alternative settlements at the pre-trial stage are among the exclusive decision-making powers of the public prosecutor.

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 the 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, accept appointment as a public prosecutor and assignment to a prosecutor's office.<sup>23</sup>

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.<sup>24</sup>

### **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).

<sup>&</sup>lt;sup>22</sup> § 59 of Act No. 218/2003 Coll., on judicial proceedings in juvenile cases.

 $<sup>^{23}</sup>$   $\S$  17 of Act No. 283/1993 Coll., on Public Prosecutor's Office.

<sup>&</sup>lt;sup>24</sup> § 21 of Act No. 283/1993 Coll., on Public Prosecutor's Office.

In performing their duties notaries must comply with acts of law and other legal provisions of general 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 stands in 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.

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.<sup>25</sup>

In order to begin practicing as a notary a person must be appointed as a notary, have taken the oath before the Minister of Justice, if this has not been done already, 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.

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.<sup>26</sup>

 $<sup>^{25}</sup>$  § 7 of Act No. 358/1992 Coll., on Notaries and their activities.

 $<sup>^{26}</sup>$  § 11 of Act No. 358/1992 Coll., on Notaries and their activities.

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.<sup>27</sup> 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.<sup>28</sup>

### Advocates (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 specialization in one of the fields of law.

To practice 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 the 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.<sup>29</sup>

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

 $<sup>^{27}</sup>$  European Judicial Systems: Efficiency and Quality of Justice, Council of Europe, 2012, p. 353.

<sup>&</sup>lt;sup>28</sup> § 29 of Act No. 358/1992 Coll., on Notaries and their activities.

<sup>&</sup>lt;sup>29</sup> § 5 of Act No. 85/1996 Coll., on the Legal Profession.

request. The Czech Bar Association may also decide to strike a lawyer off the register.<sup>30</sup>

Under the law, a practicing 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.

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 (a '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.<sup>31</sup>

The Czech Bar Association, which has its seat in Prague and a branch in Brno, is the self-governing professional organization 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.<sup>32</sup>

#### **Executors**

A court executor is an independent legal professional who enforces execution in accordance with the law.<sup>33</sup> All court executors must belong to the self-governing Chamber of Executors. Executors are appointed by the Minister of Justice.

In the Czech Republic an executor is a public official and his duties are deemed to be acts of the courts. To be appointed as a court executor, 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 executors examination.<sup>34</sup>

After taking an oath, an executor is appointed by the Minister of Justice to a vacancy following a published selection procedure. On

<sup>&</sup>lt;sup>30</sup> Nascimbene, B., Bergamini, E. *The Legal Profession in the European Union*, Kluwer Law International, 2009, p. 82.

 $<sup>^{31}</sup>$   $\$  22 of Act No. 85/1996 Coll., on the Legal Profession.

 $<sup>^{32}</sup>$   $\S$  40 of Act No. 85/1996 Coll., on the Legal Profession.

 $<sup>^{33}</sup>$  § 1 of Act No. 120/2001 Coll., on Licensed Executors and Execution.

<sup>&</sup>lt;sup>34</sup> § 9 of Act No. 120/2001 Coll., on Licensed Executors and Execution.

appointment, he becomes a member of the Chamber of Executors. Preparation for the office of executor involves first working as a trainee under an executor. The next stage is candidate executor; candidates must have completed at least three years' practice and have passed the executors examination before they can be entered in the register.

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

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

#### Conclusion

The Czech law faculties will gradually be obliged to implement the Bologna model of higher education, consisting of 3-year Bachelor, 2-year Master and 3-year Doctorate. But Slovak experience is rather negative. Most higher education institutions have already implemented the three-cycle study structure, thus Master's degree programmes are accredited as a follow up to Bachelor's degree programmes with the exception of a traditional non-structured Master's programme. In such a case, the standard length of study is no less than four and no more than six years (usually five years). This is particularly the case of medicine and law.

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**Abstract:** The article deals with the system of legal education in the Czech Republic. It briefly describes four public law schools and their history. It also analyzes basic study programmes which are provided by these law schools. The third part of the article describes the main legal professions and their prerequisites.

**Keywords:** LAW SCHOOLS, MASTER'S PROGRAMME, BACHELOR'S PROGRAMME, JUDGE, PUBLIC PROSECUTOR, NOTARY, ADVOCATE, EXECUTOR