

## **The German Rechtspfleger (Mini-Judge)**

The Rechtspfleger is a specialized court officer who replaces the judge in a limited area of legal activity. Unlike a judge, a Rechtspfleger does not have to attend law school and obtain a J.D. degree.

But she has to go through a legal education program especially designed for the Rechtspfleger profession.

The German states run internal colleges for that program.

Generally, the colleges will only admit students who have the revocable status of a civil servant of the state running the college.

The program takes three years to complete.

It is made up of both on and off the job training.

In Baden-Württemberg (the German state the editor of this website lives in), the program includes 12 months of studies at the college, followed by 13 months practical training at an Amtsgericht (County Court) and in the office of a civil law notary, followed by 9 months of studies at the college and concluded by two months of practical training with the office of the public prosecutor.

At the end of the program, the students have to take the Rechtspfleger exam.

Each student who passes the exam is awarded the degree of "Diplomrechtspfleger".

The Rechtspfleger is independent like a judge in her decisions.

The Rechtspfleger's responsibilities include, inter alia, the following matters:

- supervision of legal guardians
- rulings on applications for entry in the commercial register
- registration of mortgages and similar rights in the registry of deeds
- judicial sales of realty
- execution of civil and criminal judgments (e.g., garnishment orders, orders that prison sentences or fines imposed by a court be executed)
- probating of wills (not in all states)
- conduct of insolvency proceedings

With regard to insolvency proceedings, the Rechtspfleger takes over after the proceedings have been opened by the judge.

This means that from then on, she is the representative of the court. The judge is no longer involved unless she decides to retain control of the proceedings which she may do if she thinks it is appropriate. Even if the judge does not retain control of the proceedings when opening them, she may re-take charge of the proceedings at any time later on.

The insolvency judges the editor of this website knows hardly ever retain control of the proceedings or take charge of them again later, however.

This phenomenon may be explained by the fact that, unlike in the Rechtspfleger training, insolvency law is not part of the core curriculum in legal education.

Another reason may be that most German insolvency judges spend only a fraction of their working hours with insolvency cases. Sometimes the insolvency cases make up only a small percentage of their caseload. There are judges who spend only 10% of their time with insolvency cases and 90% with other cases.

"Full time insolvency judges" are not common in Germany.