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Small claims

Belgium



Belgium

FINDING COMPETENT COURTS/AUTHORITIES

The search tool below will help you to identify court(s)/authority(ies) competent for a specific European legal instrument. Please note that although every effort has been made to ascertain the accuracy of the results, there may be some exceptional cases concerning the determination of competence that are not necessarily covered.

Article 25 1 (a) Competent courts

According to the Belgian Judicial Code (Code judiciaire/Gerechdelijk Wetboek), the courts that have subject-matter jurisdiction to give a judgment in the European Small Claims Procedure are the justice of the peace (juge de paix/vrederechter), the court of first instance (tribunal de première instance/rechtbank van eerste aanleg) and the commercial court (tribunal de l'entreprise/rechtbank van koophandel).

Article 25 1 (b) Means of communication

Any lodgement or communication accepted for the purposes of the procedure and available to the courts or tribunals in accordance with Article 4(1) of the Regulation may take place in Belgium by lodging standard claim Form A, as set out in Annex I, with the supporting documents, directly at the registry of the court of first instance with territorial jurisdiction OR by sending the same form, with the supporting documents, to the court with territorial jurisdiction by registered post.

It should soon be possible to submit standard claim Form A electronically.

Article 25 1 (c) Authorities or organisations providing practical assistance

The registry of the court or tribunal that has jurisdiction can provide practical help in filling in the forms and provide general information.

Article 25 1 (d) Means of electronic service and communication and methods for expressing consent for thereof

In Belgium, documents and decisions are served by court bailiffs (*huissiers de justice/gerechtsdeurwaarders*). Service by electronic means should become possible in the near future.

Notification takes place by post or, where provided for by law, by fax. Notification should become possible by electronic means in the near future.

For detailed information on the service and notification of documents and decisions, see the dedicated page on the [e-Justice Portal](#).

Article 25 1(e) Persons or professions, obliged to accept service of documents or other written communications by electronic means

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Article 25 1 (f) Court fees and the methods of payment

This matter is regulated by Articles 1017 to 1022 of the Judicial Code, with regard to the witness fee by Article 953 of the Judicial Code and with regard to registration fees by the Code on registration, mortgage and court registry fees (*Code des droits d'enregistrement, d'hypothèque et de greffe/Wetboek der registratie-, hypotheek- en griffierechten*), in particular Articles 142 et seq. and Articles 268 et seq.

Article 1018 of the Judicial Code details the costs:

1. The various registry and registration fees. Court registry fees include fees for entry in the cause list fees for drafting court documents and fees for providing copies of court documents (see Article 268 et seq. of the Code on registration, mortgage and registry fees).

Registration fees are payable for decisions relating to a principal amount of more than €12 500 (not including legal costs) and are set at 3 % of that amount. They are therefore not payable for small claims.

2. The cost of and emoluments and salaries for judicial documents.

3. The cost of providing a copy of a judgment.

4. The costs of any measures of inquiry, particularly the witness and expert fees. The Royal Order of 27 July 1972 sets this fee at 200 francs per witness, which today corresponds to around EUR 5. Reimbursement of travelling expenses is added to this amount.

Experts are free to set their expenses and fees for expert reports, although the method of calculation must be clearly indicated and in the final assessment of the total legal costs the court may reduce the amount, where appropriate, for example where unnecessary expenses have been incurred.

5. Travel and subsistence expenses for judges , registrars and parties, when required to travel by order of the court, and costs of documents drawn up solely for the proceedings.

6. Procedural cost indemnity (Article 1022 of the Judicial Code): this indemnity is paid by the unsuccessful party and is a flat-rate contribution towards the successful party's expenses and lawyers' fees. The amounts are linked to the consumer price index. Any change of plus or minus 10 points gives rise to an increase or decrease, respectively, of 10 % of the amount.

Value of the claim	Basic amount*	Minimum amount*	Maximum amount*
Up to €250.00	€180.00	€90.00	€360.00
From €250.01 to €750.00	€240.00	€150.00	€600.00
From €750.01 to €2 500.00	€480.00	€240.00	1 200.00

*New amounts from 1 June 2016.

Labour Court (special scheme)

Value of the claim	Basic amount*	Minimum amount*	Maximum amount*
Up to €250.00	€43.75	€31.75	€55.75
Up to €620.00	€87.43	€59.43	€105.43
Up to €2 500.00	€131.18	€107.18	€155.18

7. The fees, emoluments and costs of a mediator appointed pursuant to Article 1734 of the Judicial Code.

Based on the above, the amount payable varies from case to case depending on factors such as whether you are the successful party and whether experts have been commissioned, witnesses have been called, judicial officers have had to travel abroad, a mediator has been appointed, etc.

Registry fees must be paid in advance, otherwise the case will not be entered in the cause list. Experts always

require payment of a deposit before they carry out their work. If you request examination of a witness, you must deposit the costs due in advance with the registrar. If you do not make this payment, it will be assumed that you have dropped the request for examination of the witness.

Payment can be made by credit transfer or payment order form, by electronic transfer, in cash or by cheque to the order of the registry (the latter method is reserved to lawyers and bailiffs).

Article 25 1 (g) Appeal procedure and courts competent for an appeal

An appeal can be lodged in accordance with Article 17 of the Regulation under Belgian civil procedural law. The appeal may be lodged with the court of first instance, the commercial court or the court of appeal with subject-matter jurisdiction under the Judicial Code. To establish which court of appeal has territorial jurisdiction, please consult the European Judicial Atlas in civil matters.

Article 1051 of the Judicial Code provides that, subject to any time-limits laid down in mandatory provisions of supranational and international law, an appeal may be lodged within one month from service of the judgment or of its notification of in accordance with the second and third paragraphs of Article 792 of the Code. By analogy with that provision, the time-limit for lodging an appeal under the European Small Claims Procedure is, in principle, one month from service or notification of the judgment of the court or tribunal with jurisdiction pursuant to Article 13 of the Regulation establishing a European Small Claims Procedure.

Article 25 1 (h) Review of the judgment procedure and courts competent to conduct such a review

Depending on the specific circumstances of the case, under Belgian law there are several courses that may be open to a party wishing to secure a review of a decision:

- First, under Article 1051 of the Judicial Code (*Code judiciaire/Gerechtelijk Wetboek*) an appeal may be lodged against a judgment within one month from service of the judgment or, in some cases, within one month from notification of the judgment in accordance with the second and third paragraphs of Article 792 of the Code. This applies whether or not both parties appeared in the proceedings.
- Second, under Article 1048 of the Code a motion to have a default judgment set aside may be filed within one month from service of the judgment or, in some cases, within one month from its notification in accordance with the second and third paragraphs of Article 792 of the Code.

The time-limits indicated above for lodging an appeal or filing a motion to aside apply:

- subject to the time-limits laid down in mandatory provisions of supranational and international law;
- without prejudice to the possibility offered by Article 50 of the Judicial Code of extending a time-limit set on pain of default under certain conditions laid down by law;
- without prejudice to the possibility of applying the general principle of law, repeatedly confirmed by the Belgian Court of Cassation, according to which the time-limits set for the performance of an act are extended in favour of a party who has been prevented by force majeure from performing the before the time-limit expires.

Article 25 1 (i) Accepted languages

For the purposes of Article 21a(1), Belgium does not accept any language other than the official language or one of the official languages of the place of enforcement under Belgian national law.

Article 25 1 (j) Authorities competent for enforcement

In Belgium, the competent authorities with respect to enforcement of a judgment delivered by a court or tribunal in the European Small Claims Procedure are bailiffs.

The authority with competence to apply Article 23 of the Regulation establishing a European Small Claims Procedure is first and foremost the judge responsible for attachment proceedings (*juge des saisies/beslagrechter*) in the place where enforcement is to take place. Under Article 1395 of the Belgian Judicial

Code, the judge responsible for attachment proceedings has jurisdiction for all applications relating to attachment or enforcement. Territorial jurisdiction is determined under Article 633 of the Judicial Code.

The Judicial Code also provides for the jurisdiction of the court of first instance of the place. Article 569(5) of the Judicial Code provides that the court of first instance – of which the judge responsible for attachment is a member – has jurisdiction to hear objections regarding the enforcement of judgments and orders. The court of first instance, including the judge responsible for attachment proceedings, also has full conditional jurisdiction under Article 568 of the Judicial Code.

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