

In this section you will find an overview of the organisation of the courts.

Organisation of justice — the judicial system

The Belgian legal system is a **system in the civil law tradition**, comprising a set of codified rules applied and interpreted by judges.

The organisation of the courts and tribunals in Belgium is a **solely federal responsibility**.

Principles

Before setting out the court system in Belgium, it is useful to look at some constitutional and general principles **relating to the organisation of the judiciary**. Alongside the legislative power and the executive power, the Constitution established the judicial power, exercised by the law courts. The courts thus constitute an **independent power** alongside the other constitutional powers.

The role of the judiciary is to judge cases. it therefore applies the law: The role of the judiciary is to judge. It therefore applies the law: it adjudicates in civil disputes and applies criminal law to persons who have committed an offence. A distinction is made between judicial officers (judges in the lower and higher courts) and prosecuting officers (the public prosecutor's office or public prosecution service).

According to the provisions of Articles 144 and 145 of the Constitution, disputes concerning civil rights fall exclusively within the jurisdiction of the courts and those which have as their object political rights fall within the jurisdiction of the courts, with the exception of the exceptions laid down by law.

A court or other body capable of rendering judgment can be established only by statute. Extraordinary commissions or tribunals may not be set up under any name in accordance with Article 146 of the Constitution.

Court **hearings are public**, unless public access would endanger morals or the peace; in that case, the court declares it by judgment (Article 148 (1) of the Constitution). The principle of public hearings ensures the transparency of justice.

A judgment must state the reasons on which **it is based**. It is delivered in public (Article 149 of the Constitution). The requirement to give reasons imposed by the Constitution and by Article 780 of the Judicial Code (Code Judiciaire/Gerechtelijk Wetboek) means that the court must respond to the factual and legal arguments put forward in the parties' submission. The reasons must be given in full and must be clear, precise and sufficient. The requirement to give reasons, like the independence of the judiciary, protects the litigant against possible arbitrary action, and he or she can decide in the light of the reasons whether to lodge an appeal before an appeal court or the Court of Cassation (Cour de cassation/Hof van Cassatie).

Article **151(1) of the Constitution provides for the independence of judges** in the exercise of their office, and the independence of the State Counsel's Office 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.

Under paragraph 4 of that provision, justices of the peace, judges of the courts, advisers to the courts and of the Court of Cassation are to be **appointed by the King** in accordance with the conditions and in the manner laid down by law.

Judges are appointed for life. They retire at an age determined by law and receive a pension provided for by law. A judge can be deprived of his or her position or suspended only by a court judgment. A judge can be transferred only by appointing him or her to a new position and only with his or her consent (Article 152 of the Constitution). Officers of the State Counsel's Office are likewise appointed and dismissed by the King (Article 153 of the Constitution). Salaries of members of the judiciary are determined by the law (Article 154 of the Constitution).

Judges cannot accept a salaried position from a government, unless they act free of charge and the position does not entail an incompatibility as determined by the law (Article 155 of the Constitution).

Type of court

Belgium has five major judicial areas, **the five appeal court** jurisdictions: Brussels, Liege, Mons, Ghent and Antwerp.

These areas are divided into judicial districts (arrondissements judiciaires/gerechtelijke arrondissementen), each having a **court of first instance (tribunal de première instance/rechtbank van eerste aanleg)**. There are 12 judicial districts in the country. The Brussels judicial district has two courts of first instance, one of which is Dutch-speaking and the other French-speaking.

In addition, there are **9 labour courts and 9 company courts in the judicial districts**.

The districts are divided, in turn, into judicial cantons (canton judiciaire/gerechtelijk kanton), each with a **civil magistrate's court (justice de paix/vredegrerecht)**. There are 187 cantons in the country.

Each of the ten provinces, as well as the administrative district of Brussels-Capital, **has an assize court**. The assize court is not a permanent court. It is convened whenever accused persons are sent before it.

The nature and severity of an offence, the nature of a dispute and also the size of the sums involved determine **the type of court** that must hear the case. In some circumstances it is the nature of the dispute that determines the court to be seized. Thus, the justice of the peace has jurisdiction over neighbourhood disputes and the court of first instance has jurisdiction in matters of divorce. In other cases it is the capacity of the parties. In principle, the business court is a specialised court which takes cognisance of disputes between businesses.

Once the type of court with jurisdiction has been determined, it is necessary to designate **the place** where the case will be considered.

In civil matters the proceedings may be heard before the judge for the domicile of the defendant or before the judge for the place where the obligation was contracted or was to be performed.

In criminal matters the court of the place where the offence was committed, the court of the place where the suspect resides and the court of the place where he or she may be found have equal jurisdiction. In the case of legal persons, it is the court of the place where it has its registered office and of the place where the said legal person has its principal place of business.

Courts and tribunals and their hierarchy

Courts and their hierarchy The ordinary courts are organised in a hierarchy. The structure of courts and tribunals is as follows:

4	COURT OF CASSATION		
3	Appeal courts	Labour courts	Sitting courses
2	Courts of first instance	Employment courts	Company courts

The judgments of lower courts are called jugements/vonnissen. Judgments of the appeal courts, the employment courts, the assize courts and the Court of Cassation are called arrêts/arresten.

Civil courts mainly deal with private disputes between persons, both natural and legal.

The purpose of the **criminal courts** is to penalise the perpetrators of punishable acts by means of the sentences prescribed by law (imprisonment, community service, fine, etc.).

There are occasions when one of the parties does not agree with a judgment. Several **legal remedies** allow the parties to the case or, in some cases, third parties to obtain a new decision in a case already decided by a court. The legal remedies are divided into two categories: there are two types of ordinary redress procedure:

There are two **ordinary remedies**: opposition and appeal.

The **objection** allows the defendant who has been convicted in default of appearance to oppose the judgment. In this case, the case can be reconsidered by the court that ruled on it.

Apart from a limited number of instances when it is not possible, **appeal** is a right that may be exercised by all of the parties concerned. A convicted person, a party claiming damages, an applicant, a defendant or the State Counsel's Office have the opportunity to have the case heard a second time. The appeal is always considered by a court higher than the one delivering the initial judgment.

The following table gives an **overview of the courts dealing with appeals**, depending on which body issued the judgment being appealed:

Judgment		Appeal
Civil magistrate	— Civil cases	Court of first instance (civil section)
	— Commercial matters	General Court of the undertaking
Police court	Criminal cases	Court of first instance (Criminal court)
	— Civil cases	Court of first instance (Civil court)
Labour Court		Labour court
Court of first instance		Court of appeal
General Court of the undertaking		Court of appeal

At the appeal stage the judges (of the first instance or appeal court) deliberate the merits of the case for a second and last time and give a final ruling. The parties, however, still have the opportunity **to appeal in cassation**.

In addition to these ordinary redress **procedures**, **therefore, there are 'extraordinary' procedures**, the main one being the **appeal on points of law to the court of Cassation**. Appeal to the Court of Cassation does not constitute a third instance or a third level of court. The Court of Cassation does not examine the facts of the case referred to it, but rather its compliance with the law.

In addition to the courts mentioned above, two other types of court exist in Belgium. They have a monitoring role: **The Council of State** and **the Constitutional Court**. The Council of State is a superior administrative court and monitors the administration. It intervenes when a citizen considers that the administration has not observed the law. The role of the Constitutional Court is to ensure that acts, decrees and ordinances are in conformity with the Constitution and to oversee proper division of powers between the public authorities in Belgium.

Legal databases

[The portal of the Judiciary of Belgium](#) gives access, among other things, to case-law, Belgian legislation and the Official Gazette.

Is access to these databases free of charge?

Yes access to the database is **free of charge**.

Related links

[Federal Public Service Justice](#)

Last update: 13/01/2021

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