

## Legal professions - Belgium



Stran je strojno prevedena in njena kakovost ni zajamčena.

This section presents an overview of the various legal professions in Belgium.



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### The legal professions — introduction

This section presents some information relating to legal professions such as:

- public prosecutors,
- judges,
- lawyers,
- notaries, and
- bailiffs.

### Prosecutors Office

#### Organisation

The public prosecutor's office consists of law officers who are attached to a public prosecution service or a prosecution department attached to the employment courts and who, in exercising this function, carry out the duties of their office within the area of jurisdiction of the court where they are based.

In any judicial district (*arrondissement judiciaire/gerechtelijk arrondissement*) the officers representing the state counsel's office before the court of first instance (*tribunal de première instance/rechtbank van eerste aanleg*), and likewise before the juvenile court (*tribunal de la jeunesse/jeugdrechtbank*), which is a division of the court of first instance, are the state counsel (*procureur du Roi*

/procureur des Konings), senior deputy state counsel (premiers substitués/eerste substituten) and deputy state counsel (substitués/substituten). They also act before the police court or police courts (tribunal de police/politierechtbank) and the commercial court (tribunal de commerce/handelsrechtbank) of their area of jurisdiction.

**Before the labour tribunals (tribunaux de travail /arbeidsrechtbanken)** this function is exercised by an **officer known as the labour auditor (auditeur du travail/arbeidsauditeur)**, who is likewise assisted by deputies and possibly senior deputies. In criminal cases within their sphere of competence these officers also act before the criminal court (tribunal correctionnel/correctionele rechtbank), which is a division of the court of first instance, or the police court or courts.

**At the level of the appeal courts and employment courts of appeal**, the role of the public prosecutor's office is performed by **the prosecutor-general**, who directs and oversees the law officers of the general public prosecution service and the general prosecution department attached to the employment courts. In the case of the general public prosecution service, the prosecutor-general is assisted by a senior advocate-general, advocates-general and prosecutors-general's deputies. In the case of the general prosecution department, there is a senior advocate-general, advocates-general and advocates-general's deputies.

**At the Court of Cassation (Cour de cassation/Hof van cassatie)** the function of **the state counsel's office is performed by the Principal State Counsel at the Court of Cassation**, assisted by a senior advocate-general and advocates-general. Although the same terminology is used, the function of the state counsel's office here is quite different. The Court of Cassation does not rule on the substance of the case, but verifies the legality and regularity of the proceedings.

The state counsel's **office is independent** 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.

#### **Role and duties**

The state counsel's office performs a number of tasks and duties. These tasks and duties are at the level of **casework and follow-up of both criminal cases and civil cases**.

- **In criminal matters** the law officers of the state counsel's office act in the public interest, and seek to ensure the proper conduct and resolution of criminal proceedings. They do this both in relation to the way the substance of the case is handled and during the earlier information and investigation proceedings (in the case of investigating courts: pre-trial chamber and indictment chamber). At the hearing they seek application of criminal law; at the same time, they ensure that the necessary measures are taken for appropriate enforcement of the sentences handed down. **Before the assize court** the role of the public prosecutor's office is exercised by the prosecutor-general attached to the appeal court, who may, however, also delegate this role to a member of a public prosecution service.
- **In civil matters** the state counsel's office intervenes on its own initiative in circumstances provided for by law and whenever public policy so requires. In such cases the public prosecutor's office issues an opinion (written or oral) concerning the case. The public prosecutor's office must be notified of causes relating to specific matters listed in Article 764 (1) of the Judicial Code for an opinion. He may also receive notice of all the other reasons when he considers it appropriate, and may also be ordered by the court or tribunal of its own motion (Article 764 (2) of the Judicial Code).

Alongside the main tasks just described, the state counsel's office also ensures that **decisions and guidelines relating to criminal policy are monitored and properly applied in its area of jurisdiction**.

Criminal policy directives are established by the Minister for Justice, after consulting with the Board of Prosecutors-General (consisting of five prosecutors-general attached to the appeal courts).

This board is under the authority of the Minister for Justice and takes decisions with a view to maximum consistency in the drafting and coordination of policy and the proper functioning of the state counsel's office generally.

The board's jurisdiction extends throughout the country and its decisions are binding on the principal state counsel at the courts of appeal and on all members of the state counsel's office under their authority and direction.

You can find more information on the [site of the public bid](#).

## **Judges**

### **Organisation**

The Belgian State is based on the principle of the separation of powers, namely the legislative power, the executive branch and the judiciary. The judiciary is independent.

A distinction is made between the bench (judges in the lower courts and appeal courts) and the law officers of the Crown (the

public prosecutor's office or public prosecution service — see above).

The judiciary (headquarters) decides on disputes and is carried out by courts and tribunals. It also controls the legality of acts of the executive branch.

In general, those members of the bench who sit in the lower courts are called 'judges', whereas those who sit in the appeal courts are also called 'counsellors'.

The role of the members of the bench is to apply the law to a situation/dispute put before them in a civil matter, as well as to persons who have committed an offence.

In some courts, non-professional judges sit alongside career judges. Non-professional judges can be found in the following courts:

- Commercial court: professional judges and professional judges (non-professional).
- Labour tribunal: professional judges and (non-professional) judges
- Sentence enforcement court: judges and assessors on the application of sentences.

The Public Prosecutor's Office carries out a specific social task in the judiciary which, in addition to compliance with criminal law standards, also includes missions of a civil nature, inter alia in the fields of social, youth and commercial law.

### Management and support

#### [The College of Courts and Tribunals](#)

Courts are part of the judiciary. They shall, within the limits of the powers conferred on it by the legislator, contribute to the resolution or prevention of conflicts in an independent, impartial and professional manner within the limits of the powers conferred by the legislator, while respecting the legal rules and using the available means so as to achieve the highest possible quality.

The College assists courts and tribunals in carrying out their main tasks:

- requesting in a transparent, professional and well-founded manner the necessary means and ensuring the best possible use thereof;
- acting as a spokesperson for the management of courts and tribunals with regard to external actors;
- providing support for the management of courts and tribunals

#### [College of the public prosecutor's office](#)

In addition to the five General Prosecutors, the Public Prosecutor's Office is composed of the Federal Prosecutor, three members of the Public Prosecutor's Council and a member of the Labour Auditor Board. Together, they address all issues related to good governance of the Public Prosecutor's Office.

The President of the College of Prosecutors General is also President of the College of the Public Prosecutor's Office.

First, the Public Prosecutor's Office supports, in terms of management, the execution of the criminal policy as determined by the College of Prosecutors General. Secondly, it seeks the full quality of the Public Prosecutor's Office, in particular in the field of communication, knowledge management, computerisation, workload measurement, working processes, statistics and strategic human resources management. Finally, it provides the legal entities — i.e. the general prosecutor's offices, the public prosecution offices of the public prosecutor's offices, the public prosecutor's offices, the public prosecutor's offices and the Federal Prosecutor's Office — with support at the level of management.

In order to carry out these tasks, the Public Prosecutor's Office takes all necessary measures and may issue binding recommendations and directives.

Other members of staff may be co-opted temporarily onto the Board by decision of the Director. It regularly organises consultations with the Minister of Justice.

### Opinion

#### [Judicial Advisory Council](#)

The Consultative Council for the Judiciary (JCC) is the representative interlocutor for the judiciary on all matters relating to the status, working conditions and rights of the judiciary.

### Autonomous and federal legal entities

#### [Conseil supérieur de la Justice](#)

##### *Contrôle et avis*

The High Council of Justice should help the Belgian justice system to function better by playing a decisive role in the selection and appointment of judges, by exercising external control over its functioning, in particular through audits, specific investigations and

the handling of complaints and by issuing opinions.  
The CSJ is an independent body of the Parliament, the Government and the judiciary.

## 📄 Judicial training institute

### *Training*

IFJ is the independent federal body responsible for the design and implementation of the full development and training policy for judges and members of the judiciary in order to contribute to quality justice.

### **Lawyers**

#### **Role and duties**

Lawyers are law and justice professionals. They are subject to rules of conduct which guarantee their **total independence**. They are also bound by professional secrecy.

Lawyers are trained to act in the different fields of law, which often overlap (company law, administrative law, town planning law, tax law, family law, etc.). Over the course of their career, lawyers may specialise in one or more of these fields, where they have acquired specific expertise.

Lawyers' role is to assist their clients not only before the courts but also in every situation where they may need legal assistance, a representative, a drafter or even moral support.

Their mission is therefore threefold:

- Lawyers **advise**
- Lawyers **conciliate**
- Lawyers **defend**

Any lawyer can plead and represent his or her client in any court in the country — the police court, the civil magistrate's court (justice de paix/vredegerecht), the court of first instance, the commercial court, the labour tribunal, the court of appeal, the labour court, the assize court, or the Council of State (Conseil d'État/Raad van State) — and even in other European Union countries.

They also provide assistance in arbitration or mediation proceedings and for any alternative method of resolving conflicts (Méthode Alternative de Résolution des Conflits — M.A.R.C.) or meeting.

Lawyers do not intervene only in the case of conflicts. Through the advice they provide or the contracts they draft or adapt, it is often possible to avoid having to go to court.

They can also help if you need to rent or buy real estate, if you want to set up a company, if you are crippled by debt, if you want to conclude a contract with a new employer, if you have been the victim of an accident or an assault, if you are summoned to court, if you are separating from your partner, etc.

#### **Lawyers for everyone:**

For people with low incomes, the law provides a legal aid service (formerly 'pro deo') and legal assistance.

**Through legal aid**, the services of a lawyer are made available completely or partially free of charge. It is organised in 2 levels:

- **The legal aid in the 1st line** is accessible to everyone without any conditions of income. Lawyers are available at certain given times (permanence) for brief consultations: A first legal adviser, a request for information, etc. The committees of legal aid (C.A.J.) are responsible for the first line.
- **The 2th line legal aid** is available to persons meeting certain financial conditions or in certain situations. This aid, totally or partially free of charge, depending on the situation, makes it possible to obtain the appointment of a lawyer to assist you in judicial or administrative proceedings, to give you more detailed advice, or even in the context of mediation. the Legal Aid Offices (B.A.J.) are responsible for legal aid in the 2th line.

**Legal assistance means** that fees incurred during the proceeding (droit de greffe/d'enregistrement (registry costs), frais d'huissier /notaire/expert (fees for judicial officers/notaries/expert reports) will not or only partially be charged. To obtain court costs assistance clients must contact the legal aid bureau themselves or through their lawyer.

#### **Responsible authorities**

All lawyers are members of a bar (barreau/balie). At present there are 25 bars in Belgium.

The

Ordre des Barreaux Francophones et germanophone (AVOCATS.BE) is the organisation that brings together all the bars of the French and German speaking communities (11 French-speaking and 1 German-speaking).

The Orde van Vlaamse Balies (O.V.B.) is the organisation which groups together the bar offices of the country's Dutch-speaking community (13 offices).

Information concerning the profession of lawyer may be obtained by consulting the following internet pages:

- [Association of French-speaking and German-speaking Bars of Belgium](#)
- [Association of Dutch-speaking Bars of Belgium](#)

Access to this database is **free of charge**.

## Notaries

Notaries are **public officers**, appointed by the King, whose particular role is to authenticate instruments executed before them. By law some instruments require the involvement of a notary to record an agreement reached between the parties (**authentic instruments**). Thus, for example, the involvement of a notary is required when selling a property. As well as acting to draw up authentic instruments, a notary may also be used to liquidate an estate, draft a private agreement or obtain an opinion, etc.

The responsibility of notaries mainly concerns three major areas:

- **Property law** (sale of a property, borrowing, etc.),
- **Family law** (marriage contract, inheritance, divorce, etc.) and
- **Business law** (setting up of companies, etc.).

There is a **National Chamber of Notaries**: Its main **tasks** are:

- To represent the notaries of Belgium with regard to the authorities and institutions within the scope of its competence,
- To establish the rules of professional conduct,
- To make recommendations to chambers of notaries to help in maintaining professional discipline.

There are also provincial chambers of notaries — the profession's disciplinary bodies — the main tasks of which are to ensure that the rules of professional conduct are observed and to settle professional disputes (for example dealing with complaints). As regards the treatment of complaints, a [national ombudsman service](#) has also been established for the notarial profession ([www.ombudsnotaire.be](http://www.ombudsnotaire.be)).

Finally, notaries are also present in the Fédération Royale du Notariat Belge (Fédération Royale du Notariat Belge/Fednot). Fednot is the professional association of the notariat, which supports studies by providing legal advice, advice and recommendations concerning the management of the study, IT solutions, training and information to the general public. Fednot concerns a network of 1.150 studies with 1.550 notaries and 8.000 collaborators.

More information is available on [the Internet site of the Royal Federation of Belgian Notaries](#).

## Other legal professions

### Bailiffs

Process servers are professional **and public officers** who exercise their function **as self-employed professionals**. In other words, they have a dual professional identity: on the one hand, they are public officials; On the other hand, they exercise their function **independently**.

They are public legal officials because the State has delegated a share of **official authority to them**. For that reason, they cannot refuse to respond to a request to intervene unless their code of professional conduct or the law does not allow it, as in the case of conflict of interests or an unlawful request. Process servers therefore never act on their own initiative but always at the request of someone who has entrusted them with a formal task. In each of the tasks they have to perform they must adhere to various legal requirements. Furthermore, process servers may be paid for their intervention to cover part or all of their costs.

As **self-employed professionals**, bailiffs act independently and impartially. Moreover, they put their professional experience at the service of everyone. That means that they do not receive any salary or allowance or any kind of accommodation from the authorities. They have to pay for everything themselves.

The areas of intervention of process servers fall into two broad categories: **Interventions termed 'extrajudicial'** (voluntary recovery of debts, reports) **and 'judicial'** (meaning enforcement of a decision). When the bailiff is taking a step of one of these kinds he or she will often have a duty to provide you with information on how you can exercise your rights, and to answer your questions about the bailiff's role. It makes no difference whether you solicit their services or are approached by them.

Each judicial district has a **chamber** consisting of all of the process servers **in the district**. Its main objectives are to ensure that bailiffs in the district observe the rules of professional discipline and the laws and regulations that concern them, and to settle disputes that may arise between them.

There is also the National Chamber of Process Servers of Belgium, which has as its main **tasks**:

- To ensure uniformity of discipline and rules of professional conduct among bailiffs,
- To defend the interests of its members and
- To represent them.

More information is available on the website of [the Belgian National Association of Bailiffs](#).

#### Other

Judges and the law officers of the state counsel's office are assisted by a range of administrative and legal professionals, such as courts clerks or legal secretaries.

At every hearing the judge is assisted by a court clerk (greffier/ **griffier**). The clerk clears the way for the work of the judge, for example by preparing the files needed for the hearing. At the hearing the clerk records the proceedings and ensures that all the necessary documents are properly drawn up. The clerk performs and coordinates the tasks of the court registry (greffe/griffie). Every court has a registry, headed by a chief clerk or registrar (greffier en chef/hoofdgriffier). There are one or more court clerks in a registry, depending on the size of the court. In their turn court clerks may be assisted by administrative staff.

Legal secretaries ( **référéndaires** /referendarissen) are lawyers who assist the judges in the drawing up of their judgments. They help in the handling of cases, on the instructions and under the responsibility of one or more judges. They study the file, look into the legal questions raised, and draft judgments.

The officers of the state counsel's office may also engage lawyers to prepare the legal aspects of their cases. These lawyers are known as juristes du parquet/parketjuristen. They carry out legal research, manage investigations, or prepare the legal aspects of summonses and submissions, on the instructions and under the responsibility of one or more of the law officers of the state counsel's office.

Every state counsel's office has a secretariat headed by a chief secretary. These secretaries assist the law officers in research and documentation work and in compiling files. They keep the office's documents and registers up to date, maintain records, etc. The number of secretaries depends on the size of the office. The secretaries may also be assisted by administrative staff.

Court registries and state counsel's offices employ large numbers of administrative staff. The administrative staff manage the files on the cases being dealt with and the data entered in databases. Other administrative staff handle post and filing, and direct visitors calling at the office.

More information on these professions can be found in [this document \(378 KB\)](#) ( [fr](#) )

#### Organisations providing free legal advice

All citizens may obtain **free initial legal advice**, given by law professionals. This is **frontline legal assistance**:

- practical information,
- legal information,
- an initial legal opinion, or
- referral to a specialised organisation.



The matter is not resolved immediately but **initial guidance is given**. Legal helpdesks are set up in the law courts, cantonal courts, community justice centres, some municipal authorities and most public social welfare centres and by various non-profit associations that have a legal service.

More information is available in the online brochure: [Legal assistance: Better access to justice](#).

### **Legal databases**

Information is available on the Internet [site of the Federal Public Service Justice](#) (Ministry of Justice).

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