

Some Belgian practices and experiences on equal access to justice for all

Please find enclosed some Belgian practices and experiences on equal justice for all:

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1) Videoconferencing

A law on videoconferencing in court proceedings was recently adopted by parliament (25 April 2024, Official Gazette of the 3rd of June 2024, [Moniteur belge \(fgov.be\)](https://moniteur.belge.fgov.be)). The law provides a legal basis for the use of videoconferencing in courts, in both civil and criminal proceedings.

The aim of this law is to provide a digital application to improve the efficiency of case processing and the accessibility to courts for litigants who, in the absence of such a system, would be obliged to be represented by a lawyer. The absence of a legal framework is currently an obstacle to remote hearings. The possibility of attending a hearing by videoconference could therefore increase the interest of litigants in the administration of justice.

Another objective of this law is to digitalise the justice system to a certain extent so that it can keep pace with the ever-expanding digitalisation of our society.

The law was designed taking into account the 2021 CEPEJ guidelines, the case law of the European Court for Human Rights and of the Belgian Constitutional court.

The legal framework is based on the following principles:

- The principle remains the physical appearance in court, which is explicitly mentioned in the law.
- The law stipulates that the videoconferencing system must comply with a certain number of guarantees in order to respect the right to a fair trial and the rights of the defence (for example, if there are several parties, they should be able to see and hear each other simultaneously). These guarantees must be respected at all times.
- The use of videoconferencing is, in principle, voluntary. This means that the consent to appear remotely is necessary. This consent is also personal (everyone consents to their own participation).

- The initiative may come from the parties themselves or, in certain cases, from the tribunal. In criminal proceedings, the tribunal may only invite a person to appear remotely during preliminary hearings, at the hearing during which a decision is made solely on civil interests or for the judgment delivery.

- The court may exceptionally impose a prohibition on physical appearance where videoconferencing is the only option. Here, consent of the person to be heard is not required. For this reason, the cases in which a judge may take such a decision are strictly limited to the existence of a pandemic emergency or of a serious and concrete risk to public order, which prevents the person from being present at the hearing or from being transported safely to the tribunal.
- In deciding whether to allow a remote hearing, the judge must always take into account the specific circumstances of the case. The law enumerates a number of circumstances that must be taken into account (for example, a person's situation of vulnerability or whether the person is assisted by a lawyer).
- The judge may also appear remotely. The agreement of all the parties is required in this case.

This law will enter into force three months after its publication in the Belgian Official Gazette (1st of September 2024).

Enforcement measures will follow the adoption of this law. The videoconferencing system is currently under development and is currently being tested in 4 pilot projects. Access to the videoconferencing system should be made via the *Justonweb* app.

Parliamentary documents: [La Chambre des représentants de Belgique \(dekamer.be\)](https://www.dekamer.be).

2) Salduz web application

The Salduz web application is a digital waiting system, developed in 2011, when the so-called Salduz-law on assistance by a lawyer from the first questioning on by the police authorities entered into force.

The system was developed to facilitate police and judicial authorities in their search for a lawyer for arrested suspects. The aim is to find a lawyer within two hours after the arrest – taking into account the arrestation delay in 2011 24 hours, since 2018 48 hours - by means of a simple user-friendly web application, with multi-platform support, an automated process and a secure, unique case ID (random code) = Salduz number. The system provides also for a back-up plan in case of problems via an emergency number.

The application is financed by the Federal Public Service Justice and was developed by the Flemish Bar Association and the French and German speaking Bar Association who are also responsible on a daily basis for the functioning of it.

Lawyers – who have followed the Salduz training - can subscribe themselves in the application with their availabilities, languages they speak and specialisations. When the police officer opens a case-file, the system looks for a lawyer according to several case-parameters such as: place of interrogation, address of the lawyer, speciality or preferential subject matter, languages spoken, if it concerns a minor the lawyer should also have a certificate as youth lawyer, and so on. On that basis the most

appropriate and available lawyer will receive a text message and mail with the case details, he can then decide to accept or reject the case. In last event, the system will look further.

During the years the application was more and more finetuned and adapted to the needs of the field actors (police services – lawyers – investigative judges). On a regular basis, several times a year, the Bar Associations organises a stakeholders meeting to prepare needed or demanded modifications to the system and to prepare new releases of the application. A digital tool is installed to learn how to work with the application. For the moment steps are undertaken to examine how the digital register for interpreters, that is the authentic source, can be coupled / serve in a safe way together with the Salduz webapplication so that the law enforcements authorities can search at the same time also an interpreter for the interrogation.

3) Interpretation and translation

The law of 25 April 2024 reinforced the Belgian legislative framework regarding the right to interpretation and translation during criminal proceedings.

Before a suspect or a victim who does not speak or understand the language of the criminal proceeding, including a suspect with speech or hearing impediments, is interviewed, they are asked, prior to the first hearing, in what language that they understand, they wish to be assisted. Once the suspect selects a language, public authorities designate an interpreter from the national register of sworn interpreters and translators. Assistance in the language chosen will be provided and paid by the State all along the criminal proceeding. Interpretation will be ensured in the relation with the attorney if the suspect is deprived of liberty and during all the hearings. [Because certain persons with impediments have developed with their close circle ways of communication that are alternative to traditional sign language, the Code of criminal procedure provides that the suspect can also be assisted by the person of their choice. The same rules are applicable for victims and witnesses with hearing and speech impediments.]

Written translation of essential information of the procedure will also be provided and paid by the State. Suspects and accused persons are automatically provided with translation of the notifications of charges, arrest warrants, and judicial decisions. They may request free translation of additional documents that are essential for them to effectively exercise their defence rights. Civil parties may obtain upon request free translation of information relating to the place, day and time of the appearance as well as of relevant passages of judicial decisions.

The national register of sworn interpreters and translators was set up in Dec 2019 as an implementation of an EU Directive on the right for suspects and accused persons to interpretation and translation in criminal proceedings and an EU Directive on Victims' rights. The former requires European Union Members States to adopt concrete measures to ensure that quality of interpretation and translation services in criminal proceedings. The establishment of a national register is a best practice that BE decided to implement

In order to be listed in this register, the candidates interpreters and translators have to demonstrate competences regarding both their linguistic domain and the judicial environment and procedures. Once registered, they must abide by a deontological code and they are under a duty of continuous training. Their registration is valid for an extendable term of 6 years, that can be suspended or terminated in case of unsatisfactory performances. All these guarantees are meant to ensure an adequate level of quality of their performances.

Since March 2022, the register is available in a [digital form](#), rendering searches easier and faster for public authorities.

The number of registrations in the register has been increasing. As of March 1, 2024: 2,187 people are registered in 183 languages, including sign languages.

4) Possibility of online reporting (<https://www.police.be/en/online-reporting>)

This way of reporting is of course for not urgent cases and for more 'petty crimes' (e.g. vandalism, shoplifting and theft of a bicycle). However, since the pandemic the use is enlarged to other crimes also such as stalking battery and assault, loss of property, theft, threats etc). It explicitly stated that this reporting is also possible when these crimes were committed online.

The webpage clearly indicate that this way is of reporting cannot be used for urgent cases and that the police services can re-contact the victim afterwards for more information when needed.

5) Sexual Assault Care Centres

Following a feasibility study on the development and validation of a model of holistic care for victims of sexual violence in Belgium, three Sexual Assault Care Centres were opened as pilot project in Ghent, Brussels and Liège (2017). After a positive evaluation of this pilot projects, the Government decided that in 2023 every province in Belgium will have such a centre. The budget for the centres was doubled: from 8,5 million euro in 2020 till 17,8 million euro in 2023. Ten SACC's are open now, in each province of Belgium.

Within a close partnership of hospitals, the police, public prosecution and psychosocial services, the centres offer comprehensive psychological, forensic and medical care upon sexual violence. They are located in the hospital, close to the emergency room, but it has its own entrance and adapted spaces. The SACC's are open 24/24 et 7/7 for victims of sexual violence (majors and minors) and their entourage via [phone, mail, chat and in person](#).

These centres follow international guidelines for multidisciplinary collaboration and the holistic approach as recommended by WHO and the Centre for Disease Control and Prevention. According to this model, extensive medical assistance, medico-legal assistance and emergency psychological assistance are offered by a forensic nurse.

Forensic sample collection is provided in a standard manner for each victim using a forensic plan and is aimed at better collecting and storing evidence.

The victim can, if she wishes, lodge a complaint with the police via a hearing at the SACC by a police inspector who received specialised training. The hearing can be audio visually recorded. The victim is informed that filing a complaint must not be decided immediately and that it can be done also in a later stage. If a victim of sexual violence comes to the police station, the police can bring the victim first to the SACC.

[Homepage | Sexual Assault Centre | \[sac.belgium.be\]\(http://sac.belgium.be\)](#)

6) Assistance to victims of non-consensual dissemination of sexually tinted images and recordings

Since the 1st of July 2020, the Institute for the equality of women and men is legally competent to assist victims of non-consensual dissemination of sexually explicit images and recordings. The Institute can help victims by informing them about their rights, obligations and possibilities for action, by supporting and sometimes taking legal action together with the victim to remove these images and recordings. A manual for the victims was developed. Victims can contact the Institute via the free phone number 0800/12 800 or via the online notification form. In addition, the Institute is also working with various partners to tackle the phenomenon in a structural way.

[Que puis-je faire en tant que victime ? | Institut pour l'égalité des femmes et des hommes \(belgium.be\)](#)

[Que puis-je faire en tant que témoin ou personne de soutien ? | Institut pour l'égalité des femmes et des hommes \(belgium.be\)](#)

[159 - manuel revenge porn.pdf \(belgium.be\)](#)

7) Digital criminal case file

The Act of March 27, 2024 containing provisions on digitization of justice and various provisions *Ibis* (<https://www.ejustice.just.fgov.be/eli/loi/2024/03/28/2024002950/justel>) provided for the introduction of the digital case file and the central register of criminal records. These are found in the articles 568 and 569 of the Code of Criminal Procedure. These articles are not yet applicable since a number of royal decrees are necessary for their implementation but have not yet been published.

The "digital case file," will consist of both digitized (scanned) and digital documents (generated without printing), which will allow professionals and litigants to have all the advantages of digital technology without having the possible disadvantages of retaining paper.

The Code of Criminal Procedure has been amended in order to achieve the introduction of a "digital case file", consisting of both digitized (scanned) and digital (generated without prints) documents, allowing professionals and litigants to have all the advantages of digital technology without the possible disadvantages of keeping paper.

In addition to functional advantages, the digital case file will offer new safeguards such as, for acts that require it, a digital signature that will guarantee the integrity and authenticity of the act, or even consultation of the file by authorized actors, easier and more secure.

The transfer of the file to the parties and partners, its preservation and archiving will also be facilitated.

Certain formalities of the Code of Criminal Procedure relating to the paper process can be relaxed when the file is in digital form: the obligation to sign page by page or the affixing of an electronic seal for certain acts, the obligation to keep an original document even though it has been digitized, the distinction between original acts and copies and thus the obligation to provide a unified statement, or the obligation to use a physical medium under seal for digital content.

In addition, this Code provides a legal framework for the retention of criminal records in a "Central Register of Criminal Records," established at the Federal Public Service for Justice. Among other things, it regulates: the objectives of the Central register, the data that will be included in it, the management

of the Central Register, the processing responsibility, the rules for accessing the data included in the Central Register, as well as their retention period.

See also the relevant pages of the attached documents from the parliamentary preparation of the DIG 1bis Act: [La Chambre des représentants de Belgique \(dekamer.be\)](http://dekamer.be)

8) Legal aid

Legal aid in Belgium may take two forms: **primary** legal aid and **secondary** legal aid. The legal aid system is applicable both to offenders and victims, without any differentiation. Besides legal aid, there is also **legal assistance**. The organisation of primary legal aid is a competence of the Communities, the organisation of secondary legal aid and legal assistance is a competence of the Federal State. Under some conditions lawyer's fees can also be submitted to the **Commission for financial aid for victims of deliberate acts of violence and occasional rescuers**.

A) Primary legal aid (Competence of the Communities)

Primary legal aid is given in the form of practical information, legal information, a first legal opinion or a referral to a specialized body or organization. It is organised by the Communities. In the three Communities primary legal aid is free and accessible to everyone, regardless of the income.

Based on the decree of April 26, 2019 on the houses of justice and primary legal aid, the Flemish Community subsidizes legal aid commissions whose mission is to provide primary legal aid. The purpose of primary legal aid is defined by article 26 of the decree: "The purpose of first-line legal aid is to guarantee access to the right to legal aid, mentioned in article 23, third paragraph, 2 ° of the Constitution, for each citizen in accordance with the basic principles mentioned in the article 29 to 37". The Flemish government approved further implementing provisions to the decree on October 29th 2021. These provisions outline how the legal aid commissions are recognised and organised in order to provide legal aid to all citizens and in particular vulnerable groups.

The legal aid commissions are composed off both lawyers and representatives from different organizations that provide primary assistance and services. The primary legal aid is provided by barristers. The barristers providing primary legal aid are registered on a list drawn up by the bar association. The legal aid commissions appoint barristers on the basis of this list.

Based on the decree of October 13th 2016 relating to the approval and subsidization of partners providing assistance to litigants, the French Community (la 'Fédération Wallonie-Bruxelles') approves and / or subsidizes legal aid commissions and other organizations whose mission is to provide primary legal aid. This primary legal aid is defined by article 508/1, 1 ° of the Judicial Code as being "legal aid granted in the form of practical information, legal information, a first legal opinion or referral to a specialized body or organization". This assistance is provided by lawyers within the framework of an open help desk ('des permanences') organized by the primary legal aid committees or provided by multidisciplinary teams within approved legal aid organizations.

The German-speaking Community subsidizes the Legal Aid Commission of Eupen. This commission provides primary legal aid, which is defined in article 508/1 1° of the Judicial Code as "legal aid granted in the form of practical information, legal information, a first legal opinion or referral to a specialized body or organization". This assistance is provided by lawyers of the bar association Eupen, based on article 508/3 1° of the Judicial Code, within the framework of weekly organized consultation hours.

B) Secondary legal aid (competence of the Federal State)

Secondary legal aid is defined as aid granted to a natural person for “detailed legal advice or legal assistance within the framework of court and out-of-court proceedings (including the procedure before the Commission for financial aid for victims of deliberate acts of violence and occasional rescuers).

It is organised by the legal aid offices accountable to the bar associations. Unlike primary legal aid, secondary legal aid is provided exclusively by barristers.

The barristers providing secondary legal aid are registered once a year on a list drawn up by the bar association. The legal aid office appoints barristers on the basis of this list.

The legal aid office is competent to check whether the conditions for free service are met, and to grant legal aid. If the claim appears to be manifestly ill-founded or manifestly not admissible, legal aid will not be granted.

The claim can be done in person at the legal aid office, by mail or through the lawyer chosen by the claimant.

Articles 508/13/1 to 508/13/2 of the Judicial Code, sets out the categories of beneficiaries of legal aid subject to the production of certain documents proving that they have insufficient resources.

Different financial thresholds :

1. Totally free legal aid :

The applicant is entitled to totally free legal aid if his/her net monthly income is lower than 1582 euros a month for a lone person or is lower than 1884 euros for a lone person with one or more dependents or for cohabitants (whether married or not- forming a household)

For the calculation of net monthly income, account is taken of all means of existence (except family allowances). However a deduction of 334,73 euros per dependent person is granted for the calculation of the net income and charges resulting from exceptional debt are taken into account¹. Those people have to bring documents to prove their financial situation when they claim for legal aid (tax slips, certificate of residence, etc...).

2. Partially free legal aid:

The applicant is entitled to partial legal aid if his/her net monthly income is between 1582 and 1884 euros a month (for a lone person) or between 1884 euros and 2184 euros (for a lone person with a dependent or a cohabitant).

Partially free legal aid means that, at the difference of totally free legal aid, the beneficiary has to pay a small amount to the barrister (between 25 and max 125 euros according to the difference between his income and the financial thresholds).

For the calculation of net monthly income, account is taken of all means of existence (except family allowances). However a deduction of 334,73 euros per dependent person is granted for the calculation of the net income and charges resulting from exceptional debt are taken into account.

¹ For example, a lone person with one dependent will be granted totally free legal aid if the net monthly income is lower than $1884 + 334,73 = 2218,73$ euros.

Those people have to bring documents to prove their financial situation when they claim for legal aid (pay slips, certificate of residence, etc...).

3. Categories of people who benefit from a presumption:

In addition to those people who have to prove the insufficiency of their resources, there are other categories of people who benefit from a presumption that they do not have sufficient resources (so that they are below the thresholds above-mentioned). They just have to show the documents proving that they belong to the categories defined by the Judicial Code. Categories : persons who receive a social integration allowance from the CPAS (public social aid); persons who receive a guaranteed income for elderly persons from the National Pensions Office; persons who receive a disabled replacement income; a detainee, asylum seeker, etc...

However, the legal aid bureau can rebut this presumption by asking for any or more documents to prove the lack of their resources if the bureau is under the impression they have sufficient resources.

4. Minors:

Minors benefit from a irrebuttable presumption that they have enough resources. Therefore totally free legal aid is granted in every case.

A system of "emergency" legal aid is also available.

In case of an emergency (hearing before the court is in 1 day for example), legal aid can be granted immediately under the condition the claimant brings to the legal aid bureau all the documents necessary to justify his/her financial situation within 15 days.

If legal aid is refused by the legal aid bureau, the claimant can appeal to the court (labour court, where the procedure can be carried out easily in person with minimum formalities/at no cost-no need to have a lawyer).

Systems of payment for the lawyers

The legal aid office allocates the barristers "points" for each appointment or duty assignment they have carried out on the basis of a list showing the points corresponding to specific services and they will be paid accordingly depending on the value of the point. So when a barrister has finished his work, he has to send a report to the legal aid office requesting an allocation of points. The legal aid office checks/controls every appointment or duty assignment. This is a peer review done by barristers who specialise in the area of law they have the supervision of. They can decide to reduce the number of points for each assignment if they think the work has not been done properly (quality control) or if they realise that the work has not been done (effectiveness).

C) Legal assistance

Legal assistance consists of exempting those who do not have sufficient resources to pay the cost of proceedings (not the lawyers' fees), in full or in part, from paying the relevant costs, which are consequently paid for by the State budget:

- all proceedings relating to requests to be brought or pending before a judge from a civil or administrative court or before a tribunal,
- proceedings relating to the execution of judgements and decrees,
- procedures on request,

- procedures relating to the competence of a member of the courts or that requiring the intervention of a public official or law officer,
- voluntary or compulsory mediation procedures, headed by a mediator approved by the commission mentioned in Article 1727 of the Judicial Code,
- out-of-court procedures imposed by the law or the judge,
- the execution of official proceedings in another European Union Member State within the framework of Article 11 of Council Directive 2003/8/EC of 27th January 2003 designed to improve access to justice in cross-border cases by the establishment of minimum common rules regarding legal aid granted within the framework of such matters, in the conditions defined by this directive,
- the assistance of a technical advisor to provide expert evidence.

Legal assistance will only be granted if insufficiency of income can be proven.

The Judicial Code (articles 508/13/1, 508/13/2, 667 and 668) sets out the categories of person who may benefit from legal assistance by producing specific documents proving that they have insufficient resources.

9) Just- on-web

The Federal Public Service Justice combines all its online services on one portal, namely Just-on-web ([Just-on-web | Digital portal of the Justice FPS \(justonweb.be\)](https://justonweb.be)). With this platform, citizens, companies and associations, and experts can:

- request access to their legal file and consult it;
- manage traffic and criminal fines;
- manage, process and monitor the judicial protection of vulnerable adults;
- submit petitions, files, claims and letters to a court;
- register as a translator, interpreter or expert, or submit their statement of costs

In the development of this portal, inclusiveness is paramount:

- Just-on-web is maximally accessible for users, regardless of whether they are disabled or not. For example, the designs take into account the Web Content Accessibility Guidelines (WCAG).
- The use of plain language and legal design also tries to make the information on Just-on-web maximally accessible for people with various language levels.
- Just-on-web can also be consulted on kiosk PCs in the courts themselves and citizens can rely on support from court staff. In this way, people who e.g. do not have internet access at home or who don't have sufficient digital skills are supported. Over 600 of these kiosks PC's where installed in court buildings.
- The website is an important access route for citizens but should not be the only access route. The paper access route to justice will therefore be maintained alongside the digital one to allow everyone to access justice and avoid the risks of a digital divide.

Concerning judicial protection proceedings, the Federal Public Service Justice emphasizes the information that needs to be provided in order to initiate this proceedings. It has posted a series

of information pages on its website about protection regimes ([Protection des majeurs | Service public federal Justice \(belgium.be\)](#)) and how to lodge an application for judicial protection electronically. A number of videos explain how to introduce the procedure in plain language, and a FAQ section has been set up to answer the most frequently asked questions about this procedure ([Protection Judiciaire \(rechterlijkebescherming.be\)](#)).

10) Multidisciplinary reception areas in major courts

Since October 22, 2021, Belgium has established multidisciplinary reception areas in major courts to lower the barriers to accessing justice. These reception areas provide a one-stop solution for both legal and personal issues by combining the expertise of lawyers, court registries, and social workers. This service addresses not only legal matters but also broader welfare concerns like housing, health, and family issues. See for an example: [Welzijsonthaal Vlinderpaleis – De kortste weg naar recht en welzijn](#).