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National ordinary courts

Belgium

This section presents an overview of the ordinary courts in Belgium.

Ordinary courts - introduction

Supreme court

Court of Cassation (*Cour de cassation/Hof van Cassatie*): this is the supreme court – the ‘court of courts’ – which sits in Brussels.

Court of assizes

There is a **court of assizes** (*cour d’assises/hof van assisen*) for each of the 10 provinces and for the Brussels administrative district. It is not a permanent court but is convened whenever accused persons are sent before it.

Appeal courts

Court of appeal (*cour d’appel/hof van beroep*): there are five courts of appeal in Belgium:

Brussels (for the judicial districts of Walloon Brabant, Leuven and Brussels),

Liège (for the judicial districts of Liège, Eupen, Namur and Luxembourg),

Mons (for the judicial district of Hainaut),

Ghent (for the judicial districts of West Flanders and East Flanders),

Antwerp (for the judicial districts of Antwerp and Limburg).

Labour court (*cour du travail/arbeidshof*): there are five labour courts in Belgium. These are the appeal courts specialising in employment law. They have the same territorial jurisdiction as the courts of appeal mentioned above.

Courts of first instance

Court of first instance (*tribunal de première instance/rechtbank van eerste aanleg*): there are 13 courts of first instance in Belgium (one for each judicial district and two in the Brussels district – one Dutch-speaking and one French-speaking).

Labour tribunal (*tribunal du travail/arbeidsrechtbank*): there are nine labour tribunals in Belgium (in principle, one in the territorial jurisdiction of each court of appeal, except for the territorial jurisdiction of the Brussels court of appeal, where there are labour tribunals in Leuven and Nivelles and two more in Brussels itself – one Dutch-speaking and one French-speaking – and except for the judicial district of Eupen).

Business court (*tribunal de l’entreprise/ondernemingsrechtbank*): there are nine business courts in Belgium (in principle, one in the territorial jurisdiction of each court of appeal, except for the territorial jurisdiction of the Brussels court of appeal, where there are business courts in Leuven and Nivelles and two more in Brussels itself – one Dutch-speaking and one French-speaking – and except for the judicial district of Eupen).

Inferior or local courts

Justice of the peace court (*justice de paix/vrederecht*): there are 187 justice of the peace courts in Belgium (one for each judicial canton).

Police court (*tribunal de police/politierechtbank*): there are 15 police courts in Belgium, i.e. one for each judicial district, except for Brussels where there are four.

Jurisdiction of the courts

Justice of the peace court

The justice of the peace court deals with all claims below €5 000 that are not exclusively assigned to another court. The justice of the peace (*juge de paix/vrederechter*) also has jurisdiction over disputes concerning leases, nuisance, easements and compulsory purchases, whatever the sum involved, and to order interim measures in disputes between spouses. Except in cases where the claim does not exceed €2 000, judgments of the justice of the peace are open to **appeal** before the court of first instance.

Police court

The police court is a **criminal and civil** court that considers summary offences (*contraventions/overtredingen*), indictable offences (*délits/wanbedrijven*) that are being treated as summary offences, breaches of specific laws (such as the Rural Code (*Code rural/Veldwetboek*) or the Forestry Code (*Code forestier/Boswetboek*)), claims for damages resulting from road traffic accidents, and road traffic offences. Judgments of the police court are open to **appeal** before the court of first instance, except in the matters listed in the Judicial Code (*Code judiciaire/Gerechtigelijk Wetboek*) where the claim does not exceed €1 240.

Court of first instance

The court of first instance has jurisdiction over all disputes that are not assigned by law to other courts. It therefore has **residual jurisdiction**.

The court of first instance is subdivided into four sections: the **civil court**, the **criminal court**, the **family court** and the **juvenile court**. Since 2007 there has also been a section called the **sentence enforcement court** at the courts of first instance in Antwerp, Brussels, East Flanders, Liège and Hainaut.

Civil court

The **civil court** (*tribunal civil/burgerlijke rechtbank*) deals with **matters of personal status**. It also has jurisdiction over disputes involving sums of more than €1 860, disputes concerning inheritance rights or copyright, and appeals against judgments delivered by a justice of the peace.

Criminal court

The **criminal court** (*tribunal correctionnel/correctionele rechtbank*) tries all **offences** and **serious offences** (*crimes/misdaden*), such as deception, fraud, manslaughter, burglary or robbery, that are being treated as indictable offences. It also hears appeals against judgments delivered by a police court. A matter may be brought before the criminal court in one of two ways: by means of a direct summons issued by the public prosecutor’s office (*ministère public/openbaar ministerie*) or a party claiming damages, or by means of an order made by the pre-trial bench of the court of first instance, which determines, at the end of a pre-trial investigation (*instruction/gerechtigelijk onderzoek*), whether or not the accused is to be committed for trial before the criminal court.

The **pre-trial bench** (*chambre du conseil/raadkamer*) handles pre-trial investigations. It consists of a judge of the court of first instance sitting alone, who considers whether the case should be referred to the criminal court or whether the accused should be discharged (*non lieu/buitenvervolginstelling*). It is also the pre-trial bench that decides whether the accused is to be detained on remand or released, if necessary subject to certain conditions, either on a month-to-month basis or, in the case of a serious indictable offence that cannot be treated as an indictable offence, every three months.

Detention on remand (*détention préventive/voorlopige hechtenis*) is a security measure whereby a person suspected of having committed an indictable offence or a serious indictable offence is held on remand pending trial. It may be ordered in order to prevent the suspect from failing to appear before the

judge, committing other offences in the meantime, attempting to dispose of evidence, or contacting other persons (for example in order to influence witnesses or co-defendants). Suspects who are ultimately acquitted or against whom proceedings are dropped may seek compensation from the Minister for Justice for the time unjustly spent in prison. In order to receive this compensation for unjustified detention (*indemnité en cas de détention inopérante /vergoeding wegens onwerkzame hechtenis*), two conditions must be met: the suspect must have been detained for more than eight days, and must not have caused the detention or continued detention by his or her personal conduct. The Minister assesses the latter condition very strictly. Decisions of the pre-trial bench may be challenged on **appeal** before the indictment section (*chambre des mises en accusation/kamer van inbeschuldigingstelling*) of the court of appeal. This is the section that deals with pre-trial investigations at appeal court level.

Juvenile court

The juvenile sections that form the **juvenile court** (*tribunal de la jeunesse/jeugdrechtbank*) have jurisdiction over matters involving juveniles at risk and juveniles who have committed criminal offences.

Only the public prosecutor's office can decide whether or not a case should be brought before the juvenile court. Unlike in civil matters, cases cannot be brought by individuals. Juveniles can be brought before the juvenile court in two cases.

Firstly, if they have committed an offence, the police will give their name to the public prosecutor's office. The latter then decides whether the events are sufficiently serious to be referred to the juvenile judge.

Secondly, if juveniles are experiencing a difficult situation at home, they will probably already have had contact with a youth office (*service d'aide à la jeunesse*). If no solution can be found to their situation, the youth office refers the case to a mediation committee (*commission de médiation*) that deals with special support for young people. If necessary, this mediation committee can ask the public prosecutor's office to refer the case to the juvenile court so that appropriate measures can be taken.

Family court

The **family court** (*tribunal de la famille/familierechtbank*) has jurisdiction to hear all family-related disputes in accordance with Articles 572bis and 577(3) of the Judicial Code.

Barring exceptions, the court has jurisdiction over the following matters, regardless of the sum involved in the dispute:

any application involving personal status and its consequences: disputes in relation to marriage or its obligations, divorce and its property consequences,

establishment or contesting of a parent-child relationship, contesting of certain decisions made by registrars, etc.;

any application involving legal cohabitation and its consequences: measures relating to the property of cohabitants, cancellation of legal cohabitations, etc.;

any application involving children: determination of the exercise of parental responsibility and/or living arrangements, determination of contact rights, etc.;

any application involving maintenance obligations: setting or amending maintenance for a former spouse or parent, determination or adaptation of a maintenance contribution, etc.;

certain applications involving family allowances: determination of the claimant of family allowances or contesting of the payment of family allowances to the claimant;

any application involving the property of a family: gifts of property from family property, settlement of property belonging to spouses, disputes with regard to inheritances (e.g. waiver of inheritances), etc.;

any application involving a temporary ban on residence in the event of domestic violence.

The court also has jurisdiction to order interim and urgent measures.

Lastly, it also has jurisdiction to hear any appeals against judgments delivered by justices of the peace regarding persons lacking in capacity.

Sentence enforcement courts

The **sentence enforcement court** (*tribunal de l'application des peines/strafuitvoeringsrechtbank*) delivers judgments on the legal status outside prison of persons sentenced to deprivation of liberty. The court can allow the following arrangements: **limited detention** (*détention limitée/beperkte detentie*), **electronic surveillance**, **conditional release** (*libération conditionnelle/voorwaardelijke invrijheidstelling*) and **provisional release** (*mise en liberté provisoire/voorlopige invrijheidstelling*) with a view to expulsion or return to the country of origin. Decisions of the sentence enforcement courts may be appealed to the Court of Cassation by the public prosecutor's office or by the convicted person.

Appeals against decisions of the court of first instance

Except in the case of decisions made by a sentence enforcement court, when a party or the public prosecutor's office is not satisfied with a judgment delivered by a court of first instance, they can **appeal** the judgment, provided that it was delivered at first instance, i.e. it was not itself delivered on an appeal against a decision given by a police court or justice of the peace. In this case, the appeal is heard by the court of appeal, irrespective of whether the contested judgment was delivered by a civil court, criminal court or juvenile court.

Labour tribunal

A labour tribunal has jurisdiction over **social matters**: social security (pensions, unemployment, etc.), industrial disputes (employment contracts, labour regulations, etc.) and industrial accidents. It also rules on applications for **arrangements with creditors** (*règlement collectif de dettes/collectieve schuldenregeling*) submitted by individuals.

A labour tribunal consists of **various sections**. Except where otherwise provided by the Judicial Code, these consist of a professional judge, who presides, and two lay judges. Depending on the nature of the case being heard by the tribunal, the lay judges represent the workers, employers or self-employed persons. They are appointed after being nominated by organisations in the world of work (employers, white-collar workers, manual workers or self-employed persons). In this role, the public prosecutor is known as the public prosecutor for labour (*auditeur du travail/arbeidsauditeur*), and their office as the *auditorat du travail/arbeidsauditoraat*.

A party who disagrees with the judgment of the labour tribunal can **appeal** to the labour court.

Business court

The business court has jurisdiction over disputes between businesses, regardless of the amount involved.

Individuals can also bring actions against businesses before the business court.

The business court hears disputes between businesses, namely natural persons working on a self-employed basis (traders, liberal professions and directors), legal persons (companies, associations and foundations) and organisations without legal personality. Disputes must not come under the special jurisdiction of other courts and, with regard to natural persons, they must not involve an act that is clearly unconnected with the business.

The business court comprises one or more sections. Each section consists of a professional judge and two lay judges. These lay judges are not professional judges, but rather entrepreneurs, company directors, accountants, auditors, etc. They assist the professional judge by providing their experience of the business world.

In certain cases, the public prosecutor's office brings cases before the business court, in which it is represented by the public prosecutor, one or more senior deputies and one or more other deputies.

If a party wishes to challenge a judgment of the business court, they lodge an **appeal** before the court of appeal. The contested judgment must, however, have been delivered at first instance.

Courts of appeal and labour courts

A court of appeal consists of several sections.

Civil sections (*chambres civiles/burgerlijke kamers*) consider appeals against judgments delivered at first instance by the civil sections of the courts of first instance and by the commercial courts.

Criminal sections (*chambres correctionnelles/correctionele kamers*) consider appeals against judgments delivered at first instance by the criminal courts.

Juvenile sections (*chambres de la jeunesse/kamers in jeugdzaken*) consider appeals against judgments delivered at first instance by the juvenile courts.

The indictment section (*chambre des mises en accusation/kamer van inbeschuldigingstelling*) deals with pre-trial investigations and hears appeals against decisions of the pre-trial bench of the court of first instance. It is also the indictment section that refers suspects to the court of assizes when they have allegedly committed serious indictable crimes, press offences or political offences.

As with the labour tribunal, the sections of the **labour court** consist of a professional judge and two or four lay judges. The labour court considers appeals against decisions of the labour tribunals.

Court of assizes

Serious indictable crimes

When a person is **accused of a serious indictable offence (crime/misdaad) that cannot be treated or is not being treated as an indictable offence (délit /wanbedrijf)**, he or she is summoned to appear before the court of assizes in order to be tried by **jury**.

The court of assizes is presided over by a professional judge, assisted by two other judges who are also professionals. The judges do not rule on the guilt or innocence of the accused. It is for the members of the jury, or jurors, to decide whether or not the accused has committed the offence. **Jurors** are chosen by drawing lots from the population. Any Belgian citizen aged between 28 and 65 may be called upon to undertake jury service, provided that he or she is able to freely exercise his or her civil and political rights, can read and write, and has never been sentenced to more than four months' imprisonment or more than 60 hours' community service.

Assize court proceedings start with the reading of the indictment, summarising the fact-finding process and setting out the main evidence gathered during the pre-trial investigation. Then, the witnesses and persons involved in the pre-trial investigation are heard. These hearings are intended to enable the jurors, who have not been able to consult the case-file, to form an opinion. Next, the public prosecutor delivers the prosecutor's address requesting a specific sentence, parties claiming damages are heard, and the defence lawyers present their pleadings. The accused is also heard. He or she answers questions put by the presiding judge, provides explanations, and may also plead his or her innocence. At the end of the proceedings, the **twelve jurors** retire behind closed doors. They **have to deliver a verdict on the guilt or innocence of the accused**. They decide by vote, and their decision may be qualified. They may, for example, find the accused guilty while recognising the existence of extenuating circumstances. If the accused is found guilty, the professional judges and the jurors then jointly determine the sentence to be imposed. This decision is taken by absolute majority. The decision on the guilt of the accused must be reasoned.

In principle, a judgment of the court of assizes is not open to an appeal (*appel/hoger beroep*). However, the convicted person, a party claiming damages or the public prosecutor's office may bring an appeal to the **Court of Cassation** (*pourvoi en cassation/cassatieberoep*). If the Court of Cassation quashes a conviction, it sends the case back to another court of assizes, which must rule on the case afresh.

Press offences and political offences

A press offence (*délit de presse/drukpersmisdrijf*) is where there is criminal expression of thought through texts of which multiple copies are distributed by means of a technical process. A political offence (*délit politique/politiek misdrijf*) is an offence committed for a political reason and for political purposes. Political offences and press offences are tried by the court of assizes, except in the case of press offences motivated by racism or xenophobia.

Court of Cassation

The Court of Cassation is the **guarantor ensuring that courts and tribunals act in accordance with the law**. It has jurisdiction over the whole of Belgium. The Court of Cassation does not rule on the facts but only on questions of law. An appeal to the Court of Cassation may be lodged only on **points of law**, therefore on the grounds that there has been a breach of the law or of a general principle of law. Appeals can be brought before the Court of Cassation only against judgments delivered at last instance, i.e. judgments against which it is no longer possible to lodge an appeal.

The Court of Cassation consists of a first president, a president, section presidents and ordinary judges. The public prosecutor's office is represented by the Chief Prosecutor at the Court of Cassation or by an advocate-general. The Court consists of **three divisions**: the first division considers civil, commercial, tax and disciplinary cases; the second hears criminal cases, and the third deals with cases concerning employment and social security law. Each of these divisions has a French-language section and a Dutch-language section. In each section the number of judges sitting in a case is usually five.

Before giving judgment, the court hears the opinion of the **public prosecutor** at the Court of Cassation. The court may decide to dismiss the appeal. If it does not accept the arguments put forward, it dismisses the appeal and the contested judgment becomes final. If it takes the view that the contested judgment is indeed faulty on a point of law, it quashes the judgment, in whole or in part, and may or may not refer the case back. If it concludes that the substance of the case should be reconsidered, the case is referred back to a court or tribunal at the same level as the one that delivered the contested judgment. The case is never referred back to the original court.

Note

It should be noted that, alongside the civil courts, the criminal sections of the court of appeal, the court of assizes, the criminal sections of the court of first instance (criminal court) and the police court (when it hears criminal cases) also hear civil applications (mainly for damages) lodged by parties claiming damages in criminal proceedings, i.e. victims of criminal offences in the broadest sense.

Legal databases

Further information on Belgian courts and tribunals is available from [the portal of the Judiciary in Belgium](#).

Is access to the database free of charge?

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

Related links

Federal Public Service for Justice

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