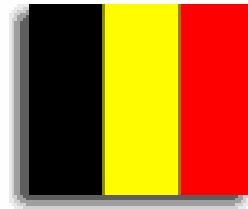




(Map source : Europa)

Belgium



Population: 10 200 000 inhabitants
Surface area : 30 158 Km²
Capital : Brussels
Currency: Euro
Official languages: French - Dutch - German
Form of government : Constitutional monarchy
Membership in the EU: 1958 (Founding member)
Membership in the UIHJ: 1952 (Founding member)

The huissiers de justice The Gerechtsdeurwaarders The Gerichtsvollzieher

Who are the professional officers charged with the enforcement of court judgments, the service of writs, or with debt collection ?

The huissiers de justice (FR), Gerechtsdeurwaarders (NL) or Gerichtsvollzieher (G), have the monopoly of the service of judicial documents, enforcement of court decisions and other enforceable titles. They can make statements of facts as well as the evaluation of tangible movable goods that they can sell through auctions. They can also make debt collection and this activity is now developing in Belgium. They cannot represent their clients before the courts.

What is the status of these professional officers ?

They are public judicial officers appointed by the King upon proposition of the minister of Justice. They are nevertheless independent professionals and they operate as a liberal profession. The profession and its access are strictly regulated and the number of these professionals is limited.

How are the judicial officers organised ?

There are circa 517 judicial officers in Belgium (63 are women). They can operate on their own or form partnership with other judicial officers. Most of the judicial officers

work on their own. They employ around 2700 collaborators in total. They have a territorial monopoly attached to their jurisdiction (court of first instance). The National Chamber of Judicial officers represents the profession at a national level.

Contact:

**Chambre nationale des huissiers de justice (FR)
Nationale Kamer van Gerechtsdeurwaarders van België (NL)
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How can one join the profession ?

The candidate must have a good morality, being of Belgium nationality, have a Master degree in Law (5 years at University). He must follow a two years training course at a judicial officer's office and pass a professional examination. He must then apply for a vacant office. He is then put on a waiting list. He is appointed by the King upon proposition of the minister of Justice.



The enforcement of court judgments

Who is charged with the enforcement of court judgments in Belgium?

The judicial officers are the sole professionals able to enforce court decisions and other enforceable titles, such as notary acts. They also are competent to perform interlocutory measures.

Can one contact a judicial officer directly to have a court order enforced?

Yes. A citizen can freely choose his judicial officer. But only a locally competent judicial officer at the place where the enforcement has to take place will be allowed to operate.

Is the judicial officer empowered to enforce execution against the entire debtor estate?

The judicial officer can enforce on the debtor's movable and immovable assets, tangible or intangible. He also performs interlocutory measures.

Is the judicial officer responsible for carrying out the enforcement act?

The judicial officer is responsible for the carrying out of the enforcement act but he

has to conform with his client's instructions, while acting upon the Law. In case of difficulty, the Seizure Judge will give a judgement.

Is it possible for the judicial officer to obtain personal information about the debtor and his estate?

Yes. The judicial officer has a direct access to the National Registry (that contains the identity, the addresses, the date and place of birth, the nationality and the marital status). He can also enquire at the Seizures files, make inquiries on immovable, consult the vehicle registry and make inquiries at the National office of social security relating to the employer of the debtor. However, some of the databases are only available on presentation of an enforceable title.

Who pays for the judicial officer's intervention costs?

The debtor has to bear the costs of the judicial officer's intervention. When failing to do so, the creditor must bear these costs. In case of informal debt collection, the judicial officer can negotiate the costs of his service directly with the creditor. No fees can be charged to the debtor in that case.

The service of writs

Are judicial officers entitled to proceed to the service of writs?

Yes. Judicial officers have the monopoly of service of legal documents. They serve judicial and extrajudicial documents. At present, most of the summons to appear before a court have to be served by a judicial officer.

What are the physical steps involved in serving a writ?

The copy of the document is personally served to the addressee by the judicial officer. It is also possible to leave the copy with a person present at the addressee's address or domicile (family member, friend, employee, ...).

If no one accepts the document, it is then placed under a sealed enveloped and left at the addressee's address or domicile. At the latest, on the following working day, the judicial officer posts a registered letter with acknowledgement of receipt at the said address or domicile.

This letter mentions the date and hour of presentation as well as the possibility for the addressee or anyone with a written proxy to retrieve a copy of the document at the judicial officer's office during a period of three months, in case he hasn't received the first copy.

What is the force in law of a writ?

The mentions made by the judicial officer are authentic and therefore can only be defeated by a special procedure.

Does the judicial officer's intervention fall within the framework of the Council regulation (EC) N° 1348/2000 of 29 May 2000 on the service in the Member States of judicial and extrajudicial documents in civil or commercial matters?

The judicial officer is both transmitting and receiving agency while the Belgium National chamber of judicial officers is the central agency.



Debt collection

Is the judicial officer empowered to proceed to the collection of debts?

Yes. Judicial officers can make informal and judicial debt collection. At present, the activity of informal debt collection has to be developed.

Is it possible to contact a judicial officer directly for the purpose of collecting a debt?

Yes. The creditor can contact any judicial officer and send him his files. He will first

make an informal try. However, in case of failure, the creditor will sometimes have to get the assistance of a lawyer in order to get the enforceable title. But judicial officers are never allowed to represent their clients before courts.

How much will it cost a creditor to arrange the collection of a debt?

The collecting fees are left with the creditor. The fees are freely negotiated between the judicial officer and the creditor.

Other areas of intervention

May the judicial officer arrange for sales by auction?

Yes. The judicial officer can make evaluation and sell of tangible movable goods through auctions. His presence is also compulsory at voluntary auctions.

May the judicial officer engage in formulating legal findings and observations, such as statements of facts?

Yes. The judicial officer can make statements of facts, when asked by a citizen or by the president of the first instance court. The statements of facts can only concern material findings. The judicial officer is not allowed to mark any opinion on the consequences of the findings from a material or a legal point of view. Statements of facts are common. They represent for some offices an important

activity. In case of divorces, judicial officers can be asked to perform adultery statement of facts.

May the judicial officer represent the parties before the courts?

No.

Is the judicial officer entitled to offer legal advice?

Yes, but only within the limits of his competences.

Is the judicial officer entitled to engage in other activities?

The judicial officer can act as an ombudsman, trustee or legal administrator.

