



CIVIL  
LIBERTIES  
UNION FOR  
EUROPE



LIGUE  
DES DROITS  
HUMAINS

#rolreport2025

**LIBERTIES**

**RULE OF LAW REPORT**

**2025**



Co-funded by  
the European Union

**BELGIUM**



---

# FOREWORD

This country report is part of the Liberties Rule of Law Report 2025, which is the sixth annual report on the state of rule of law in the European Union (EU) published by the Civil Liberties Union for Europe (Liberties). Liberties is a non-governmental organisation (NGO) promoting the civil liberties of everyone in the EU, and it is built on a network of national civil liberties NGOs from across the EU. Currently, we have member organisations in Belgium, Bulgaria, the Czech Republic, Croatia, Estonia, France, Germany, Hungary, Ireland, Italy, Latvia, Lithuania, Malta, the Netherlands, Poland, Romania, Slovakia, Slovenia, Spain and Sweden, as well as a contributing partner organisation in Greece.

Liberties, together with its members and partner organisations, carries out advocacy, campaigning and public education activities to explain what the rule of law is, what the EU and national governments are doing to protect or harm it, and gathers public support to press leaders at EU and national level to fully respect, promote and protect our basic rights and values.

The 2025 report was drafted by Liberties and its member and partner organisations, and it covers the situation during 2024. It is a ‘shadow report’ to the European Commission’s annual rule of law audit. As such, its purpose is to provide the European Commission with reliable information and analysis from the ground to feed its own rule of law reports, and to provide an independent analysis of the state of the rule of law in the EU in its own right.

Liberties’ report represents the most in-depth reporting exercise carried out to date by an NGO network to map developments in a wide range of areas connected to the rule of law in the EU. The 2025 report includes 21 country reports that follow a common structure, mirroring and expanding on the priority areas and indicators identified by the European Commission for its annual rule of law monitoring cycle. Over forty member and local partner organisations contributed to the compilation of these country reports.

**[Download the full Liberties Rule of Law Report 2025 here.](#)**

---

# ***TABLE OF CONTENTS***

<b>FOREWORD</b> .....	<b>2</b>
<b>ABOUT THE AUTHORS</b> .....	<b>4</b>
<b>KEY CONCERNS</b> .....	<b>5</b>
<b>JUSTICE SYSTEM</b> .....	<b>7</b>
Judicial independence .....	<b>8</b>
Quality of justice .....	<b>8</b>
Fairness and efficiency of the justice system .....	<b>15</b>
<b>ANTI-CORRUPTION FRAMEWORK</b> .....	<b>18</b>
Levels of corruption .....	<b>18</b>
Framework to prevent corruption .....	<b>19</b>
Investigation and prosecution of corruption .....	<b>21</b>
<b>MEDIA ENVIRONMENT AND MEDIA FREEDOM</b> .....	<b>22</b>
Public service media .....	<b>22</b>
Safety and protection of journalists and other media actors .....	<b>23</b>
<b>CHECKS AND BALANCES</b> .....	<b>28</b>
Independent authorities .....	<b>28</b>
Accessibility and judicial review of administrative decisions .....	<b>29</b>
Electoral framework .....	<b>29</b>
<b>CIVIC SPACE</b> .....	<b>31</b>
Freedom of peaceful assembly .....	<b>31</b>
Attacks and harassment .....	<b>31</b>
<b>DISREGARD OF HUMAN RIGHTS OBLIGATIONS AND OTHER SYSTEMIC ISSUES AFFECTING THE RULE OF LAW ENVIRONMENT</b> .....	<b>33</b>
Systemic human rights violations .....	<b>33</b>
<b>CONTACTS</b> .....	<b>35</b>

---

# **BELGIUM**

## **ABOUT THE AUTHORS**

League of Human Rights



For over a hundred years, the Ligue des Droits Humains (LDH) (League of Human Rights) has fought injustices and infringements of fundamental rights in Belgium. LDH educates the public on the importance of respect for basic human rights (including institutional violence, access to justice, respect for minorities, and women's rights), litigates and challenges the political powers on issues concerning human rights, trains adults in their awareness of human rights issues and the law, and brings issues regarding the development of educational tools and training to the attention of education stakeholders. Born in 1901, the League of Human Rights is a non-profit, independent, pluralistic and interdisciplinary organisation. It is a movement in which everyone feels concerned and acts with respect for the dignity of all. LDH works on subjects like youth, prisoners' rights, migrant and refugee situations and rights, access to justice, economic, social and cultural rights, police violence, equal opportunities, privacy and diversity. LDH is also a member of the International Federation of Human Rights (FIDH), a non-governmental organisation with 188 leagues worldwide.

---

## KEY CONCERNS

### *Justice System*

The Belgian State does not seem to realise the scale of the problem: the justice system is underfinanced, which causes serious human rights and democratic issues.

Although (small) steps have been taken to implement the Commission's recommendation to continue efforts to address the structural resource deficiencies in the justice system, taking into account European standards on resources for the justice system, the gap is too wide. The justice system is severely underfinanced and the effort to enhance society's trust in the good faith of the authorities should be much greater.

### *Anti-Corruption Framework*

The fact that new legislation about the transparency of public documents has been adopted is progress. However, public authorities' attitudes and legal loopholes are seriously hindering this progress.

Even if some progress is being made and authorities seem to be paying close attention to this issue, the fact remains that not enough is being done to tackle the problem.

### *Media Environment and Media Freedom*

Judicial decisions in several cases involving the press signal backsliding for the protection of journalists. This is part of an unfavorable climate in Belgium for the press – public and private actors unduly sue journalists and some courts ignore the constitutional ban on censorship.

In its 2024 ROL report, the EU Commission stated that “public service media maintain their independence through well-established safeguards”. This is no longer true.

### *Checks and Balances*

Clear progress has been made by installing the Federal Human Rights Institute. However, previous criticisms remain regarding the lack of independence of certain national human rights institutions, such as the Data Protection Authority or the Standing Police Monitoring Committee. In addition, some worrying trends appear, such as the deepening of the fragmentation of the landscape for fundamental rights protections.







### **Civic Space**

The fact that a considerable number of human rights defenders report being subject to some forms of attacks and intimidation is worrisome.




### **Disregard of Human Rights Obligations and Other Systemic Issues Affecting the Rule of Law Environment**

The export and transit of arms from Wallonia to Israel, despite the serious violations of human rights and international humanitarian law in the region, is a serious regression.

### **State of play** (versus 2024)

-  Justice system
-  Anti-corruption framework
-  Media Environment and Media Freedom
-  Checks and balances
-  Civic Space
-  Human Rights

Legend

- | <b>Regression</b>   | <b>No progress</b>  | <b>Progress</b>   |
|---|---|---|
|  |  |  |

## JUSTICE SYSTEM

### **Key recommendations**

- *The length of proceedings is particularly long in Belgium, which is cause for concern and multiple condemnations by both international (ECtHR) and national courts. With the lack of resources allocated to the justice system being the main reason, it is necessary to provide for massive investment in the judicial sector and give the judiciary control over its budget. The Belgian State should also massively invest in judicial staff to cut down the dramatic backlog of cases in all jurisdictions, with special attention paid to the Brussels situation. There is also a need for complete, disaggregated and consistent data to be made available to allow an accurate assessment of the efficiency of the justice system and to identify the need for structural reform, particularly in jurisdictions where backlogs persist.*
- *The previous legislature has seen the accentuation of a particularly worrying trend in Belgium, that of the failure of the political authorities to respect court rulings, and even openly refuse to comply with them. Indeed, non-compliance with validly rendered judicial decisions has reached levels never before seen in the country. The field of asylum law is the main area of non-compliance, and there is growing concern about a risk of contagion into other areas of the law particularly problematic for the Executive (prison overcrowding, arms trade, etc.). The refusal to comply with court decisions is a very worrisome issue of non-respect for a fundamental element of the rule of law. The Belgian State should always respect court decisions, even (and most of all) ones that they find unfavorable.*
- *Making the allocation of funds to the judiciary conditionally based on the achievement of measurable objectives raises concerns. This approach does not consider the difficulty of measuring results, the risks to the quality of judicial work and the fact that there is a weakening of the separation of powers. The Belgian State should not engage in a system where the conditionality of resources threatens the quality of the judiciary's work, its independence and citizens' effective access to justice.*

## Judicial independence

### **Independence (including composition and nomination of its members), and powers of the body tasked with safeguarding the independence of the judiciary (e.g. Council for the Judiciary)**

In its *2024 Rule of Law (ROL) Report*, the EU Commission noted that there are “no longer any government initiatives with regard to regular security checks on magistrates and judicial staff” but that “[f]our related proposals were discussed by the Parliament until early 2024 with regard to the evaluation and disciplinary systems of magistrates. It remains to be seen how they will be treated by the incoming legislature”.<sup>1</sup>

Fortunately, all four legislative proposals have been taken off the agenda of the parliament after the federal elections in June 2024.

### **Significant developments capable of affecting the perception that the general public has of the independence of the judiciary**

Since 2002, the High Council of the Judiciary (HCJ), an independent oversight body of the judicial power, has been conducting an opinion poll to find out how the Belgian population perceives and views the justice system,<sup>2</sup> which

enables it to implement initiatives to improve its operation.

Among the main findings of the *2024 Barometer*, it is to be noted that Belgians’ confidence in the justice system has fallen steadily since 2010, from 66% in 2007 to 54% in 2024. Only 48% of Belgians are satisfied with the way the justice system works, a drop of almost 10% compared to 2014. The majority feel that the justice system does not communicate enough about how it works, and 90% feel that court cases last too long. What’s more, 60% of Belgians find access to justice unaffordable and feel that legal language is too complex. Six to seven out of ten Belgians evaluate positively the lawyers’, judges’ and prosecutors’ familiarity with their cases. However, confidence in the fairness, independence and equality of judicial decisions has fallen by 10% since 2007. Two-thirds of Belgians believe that trials are fair, but a significant proportion have doubts about the fairness of decisions and the equal treatment of citizens.

## Quality of justice

### **Accessibility of courts (e.g. court fees, legal aid, language)**

Access to justice is a fundamental principle of the rule of law. Yet, it remains complicated in

1 European Commission, *2024 Rule of Law Report – Country Chapter on the rule of law situation in Belgium*, SWD(2024) 801 final, 24 July 2024, pp. 5-6.

2 High Council of the Judiciary (Belgium), *Fifth barometer of Justice 2024 – The citizen’s perspective (Cinquième baromètre de la Justice 2024 – Le regard du citoyen)*, April 2024, <https://csj.be/admin/storage/hrj/5e-barometre-justice-2024.pdf>.



Belgium, despite the fact that the Constitution expressly states that everyone has the right to legal aid and that the legislator cannot infringe on this right.

A worrying trend in this regard developed in Belgium over the past years: the increased use of unilateral applications.<sup>3</sup> As already highlighted in the 2024 Liberties report, there is a growing tendency to use unilateral applications allowing legal action to be brought where there is no identified adversary or in urgent matters<sup>4</sup>. Unilateral applications are therefore possible for very specific and uncommon procedures and submitted in principle to strict conditions. They can only be authorised on an exceptional basis in cases of absolute necessity. It should consequently remain relatively rare. However, there was a generalisation in recent months of the use of unilateral applications particularly in housing matters, which can lead to the eviction of inhabitants, and in labour law related disputes.

In the *Delhaize* case, a private company's management filed unilateral applications with courts to obtain a ban on picketing during strikes in its shops and depots. Bans were then imposed by courts. In this context, trade unions and NGOs intervened in a procedure at

the Constitutional Court involving this company and reiterated the fundamental nature of the right to strike and the obstacles that these unilateral requests constitute for the exercise of this right.<sup>5</sup>

In its ruling handed down on 14 November 2024,<sup>6</sup> the Constitutional Court pointed out that the restrictive interpretation of the conditions for recourse to a unilateral request is precisely intended to protect the exercise of the right to strike, even when this consists of the peaceful blocking of shop entrances. This decision is welcome. With this ruling, no judge will be able to accept a unilateral application against the peaceful exercise of the right to strike.

It is to be pointed out that abusive recourse to the unilateral procedure undermines several fundamental principles, such as the right of access to court, the right to defense and the right to a fair trial. Unilateral applications must remain the exception rather than the rule, and this requires a serious examination of their admissibility by the courts, especially when fundamental rights are at stake, such as the right to housing and the right to strike.

---

3 Art. 584 of the Judicial Code.

4 Liberties, *Rule of Law Report 2024 – Belgium*, 18 March 2024, p. 7, [https://dq4n3btxm8c9.cloudfront.net/files/qv5knb/BELGIUM\\_Liberties\\_RuleOfLaw\\_Report\\_2024.pdf](https://dq4n3btxm8c9.cloudfront.net/files/qv5knb/BELGIUM_Liberties_RuleOfLaw_Report_2024.pdf).

5 Ligue des droits humains, 'Delhaize ruling: the Constitutional Court proves us right!', 20 November 2024, <https://www.liguedh.be/arret-delhaize-la-cour-constitutionnelle-nous-donne-raison/>.

6 Constitutional Court (Belgium), 14 November 2024, n° 123/2024, <https://www.const-court.be/public/f/2024/2024-123f.pdf>.

On a different but related note, the Federal Public Service Justice, the central judicial administrative body, notes that it manages more than 225 judicial buildings, many of which no longer meet safety and welfare standards, due to inadequate maintenance and underfunding.<sup>7</sup> This situation affects the quality of judicial services and undermines public confidence in the rule of law. In addition, the irregular maintenance of buildings leads to additional costs, and the lack of structural funding limits the administration's ability to maintain facilities. It advocates, consequently, to "reduce the number of buildings by around 100 over the next 5 to 15 years, in order to better maintain and modernise them".<sup>8</sup>

In its 2024 memorandum, the platform "Justice for all", a group of legal professionals and NGOs, highlights the fact that places of justice must be geographically accessible via the public transport network and that particular attention must be paid to the accessibility of the courts. It is therefore opposed to any abolition of existing court locations and campaigns for the restoration of court locations that have been suppressed, particularly in extended judicial districts.<sup>9</sup>

It also draws attention to the growing and deleterious tendency to reduce access to services. It is imperative that litigants be able to consult files, obtain copies of documents or carry out procedural acts during court office opening hours, without undue restrictions. It is also concerned with the physical accessibility of court premises for people with reduced mobility and/or disabilities and for those with limited access to IT tools.

### **Resources of the judiciary (human/financial/material)**

As the lack of resources allocated to the justice system is one of the main reasons behind the excessive length of proceedings, it is necessary to provide for massive investment in the judicial sector, especially in judicial staff to cut down the dramatic backlog of cases in all courts, especially in Brussels. In its *2024 Rule of Law (ROL) Report*, the EU Commission recommended that Belgium "continue efforts to address the structural resource deficiencies in the justice system, taking into account European standards on resources for the justice system".<sup>10</sup>

This recommendation has not been met. Moreover, the latest numbers available in the

7 Federal Public Service Justice (Belgium), *2024 Memorandum*, 1 July 2024, p. 16, [https://justice.belgium.be/sites/default/files/downloads/2024-07-02\\_Memorandum\\_FR.pdf](https://justice.belgium.be/sites/default/files/downloads/2024-07-02_Memorandum_FR.pdf)

8 Ibidem, p. 17.

9 *Plateforme Justice pour tous (Belgium), Letter to political parties - 2024 elections (Courrier aux partis politiques - élections 2024)*, 17 July 2023, p. 3, [https://pjpt-prvi.be/IMG/pdf/courrier\\_pjpt\\_elections\\_2024\\_-\\_fr.pdf](https://pjpt-prvi.be/IMG/pdf/courrier_pjpt_elections_2024_-_fr.pdf).

10 European Commission, *2024 Rule of Law Report - Country Chapter on the rule of law situation in Belgium*, SWD(2024) 801 final, 24 July 2024, p. 2.

2024 EU Justice Scoreboard show an important decrease between 2012 and 2022 in government total expenditure on courts as a percentage of GDP.<sup>11</sup> Numbers published in the *European Commission for the Efficiency of Justice (CEPEJ) Study for the EU Justice Scoreboard*<sup>12</sup> highlight that, regarding human resources, if the number of lawyers and non-prosecutor staff is above the median of Council of Europe member States, it is the opposite for professional judges (14.4 < 17.6), non-judge staff (48.8 < 57.9) and prosecutors (7.5 < 11.2). In its 20 February 2024 report, the College of Courts and Tribunals, the body responsible for the general operation of all courts and tribunals in Belgium, stated that the proportion of judges must be increased by 43% in order for the courts and tribunals to function normally, i.e. to ensure that cases are dealt with within a

reasonable time and without creating a backlog of cases.<sup>13</sup>

Furthermore, the problem of the lack of judicial staff does not lie solely in the number of posts available. The attractiveness of the profession also poses a problem. A motion for a resolution to make the job of magistrate more attractive has been introduced in the Federal Parliament in 2022.<sup>14</sup> The proposal demonstrates the lack of interest in the role of magistrate by means of statistics relating to the decline in participation in the various examinations for access to the role of magistrate. It also suggests ways of making the job more attractive. However, no concrete measures have been taken and the motion was dropped following the June 2024 national elections. The Federal Institute for the Protection and Promotion of Human Rights

- 
- 11 European Commission, *The 2024 EU Justice scoreboard*, COM(2024) 950, June 2024, p. 30, fig. 34, [https://commission.europa.eu/document/download/84aa3726-82d7-4401-98c1-fee04a7d2dd6\\_en?filename=2024%20EU%20Justice%20Scoreboard.pdf](https://commission.europa.eu/document/download/84aa3726-82d7-4401-98c1-fee04a7d2dd6_en?filename=2024%20EU%20Justice%20Scoreboard.pdf)
  - 12 European Commission for the efficiency of justice, *Study on the functioning of judicial systems in the EU Member States – Country fiche on Belgium*, 2024 Evaluation cycle. September 2024.
  - 13 College of Courts and Tribunals (Belgium), *Allocation of human resources (based on workload measurement) – Second report (judges and court clerks – not judicial staff)*, (*L'allocation des ressources humaines (sur la base de la mesure de la charge de travail) – Deuxième rapport (magistrats du siège et greffiers – pas personnel judiciaire)*), 20 February 2024, <https://www.rechtbanken-tribunaux.be/sites/default/files/media/publications/varia/fr/rapport-final-mesure-de-charge-de-travail-20-02-2024.pdf>. French and German-speaking Bar Association (Belgium), *Communication from AVOCATS.BE – BELL Group v. Belgium concerning the excessive length of proceedings, in particular in the judicial district of Brussels (Communication d'AVOCATS.BE – Groupe BELL c. Belgique concernant la durée excessive des procédures, en particulier dans l'arrondissement judiciaire de Bruxelles)*, 22 April 2024, [https://latribune.avocats.be/sites/latribune/files/2024.04.23.communication\\_avocats.be\\_groupe\\_bell.pdf](https://latribune.avocats.be/sites/latribune/files/2024.04.23.communication_avocats.be_groupe_bell.pdf).
  - 14 House of Representatives (Belgium), *Motion for a resolution to make the job of magistrate more attractive (Proposition de résolution visant à rendre plus attractive la fonction de magistrat)*, DOC 55 – 2488/001, 4 February 2022, <https://www.lachambre.be/FLWB/PDF/55/2488/55K2488001.pdf>.

(FIHR) therefore calls on the Belgian authorities to continue their efforts to make the judicial profession more attractive.<sup>15</sup>

In its audit report published on 26 June 2024, the HCJ recommended to the Brussels Court of Appeal that, pending the finalisation and results of the workload measurement tool, it should respect the staffing frameworks as laid down by law and ensure that they were filled. Although vacancies were published, the framework for the Court of Appeal has still not been filled. The recommendation has therefore been only partially implemented.<sup>16</sup>

It is to be noted that the lack of means of judicial actors can lead to dramatic situations. The press reported that, in 2024 again, the volume of work of the justice system is so great that some cases that are too complicated are closed

without further action.<sup>17</sup> Even more worrying, the situation in Brussels is so intense that the prosecution cannot follow all the files it is assigned to, which led to the death of two Swedish citizens in October 2023. The investigation carried out by the HCJ into the malfunctions that led to this situation highlighted the fact that the sub-staffing of the Brussels public prosecutor's office could partly explain why no attention had been paid to the file of the perpetrator of the shooting that led to this incident.<sup>18</sup>

Therefore, the High Council calls for important measures, among others to “respect the frameworks for magistrates and judicial staff as laid down by law and ensure that they are fulfilled”.<sup>19</sup> The FIHR also “encourage[s] the State to invest first and foremost in allocating resources to increase the number of judicial

15 Federal Institute for the protection and promotion of Human Rights (Belgium), *Communication to the Committee of Ministers of the Council of Europe concerning the Bell v. Belgium case* (*Communication au Comité des Ministres du Conseil de l'Europe concernant le groupe d'affaires Bell c. Belgique*), 30 April 2024, <https://institutfederaldroitshumains.be/sites/default/files/2024-06/Communication%20IFDH%20Durée%20procédures%20judiciaires%202024.pdf>.

16 High Council of the Judiciary (Belgium), *Audit of the Brussels Court of Appeal – follow-up report* (*Rapport de suivi, audit de la cour d'appel de Bruxelles*), 13 June 2024, <https://csj.be/admin/storage/hrj/24.06.13-rapport-suivi-audit-ca-bxl-def.pdf>.

17 Maryam Benayad, “Les dossiers d’escroquerie et de fraude financière en dessous de 10 000 euros ne sont pas traités. Résultat : il y a une forme de déni de justice”, *La Libre*, 11 December 2024, <https://www.lalibre.be/belgique/judiciaire/2024/12/11/les-dossiers-descroquerie-et-de-fraude-financiere-en-dessous-de-10-000-euros-ne-sont-pas-traites-resultat-il-y-a-une-forme-de-deni-de-justice-RUOCSIZPCZCIRA5XZCUGOHD2Y/>

18 High Council of the Judiciary (Belgium), *Special investigation – “Abdesalem Lassoued” case* (*Enquête particulière – Affaire “Abdesalem Lassoued”*), 19 June 2024, <https://csj.be/admin/storage/hrj/ep-lassoued-rapport.pdf>. In another case, the Brussels Court of First Instance ruled on 19 December 2024 that the Belgian State was responsible for the rape and murder of a woman in 2019. It therefore ordered the Belgian State to pay the family one euro as a provisional indemnity. Jacques Laruelle, “L’État belge porte une responsabilité dans le viol et le meurtre de Julie Van Espen”, *Le Soir*, 19 December 2024, <https://www.lalibre.be/belgique/judiciaire/2024/12/19/letat-belge-porte-une-responsabilite-dans-la-mort-de-julie-van-espen-OOFKVHNSF5EO5II7BCBDMZI2MY/>.

19 High Council of the Judiciary (Belgium), *op. cit.*, p. 44.



staff, including judges, court clerks and support functions (...)” and “to continue to make the judicial profession more attractive”.<sup>20</sup>

The FIHR additionally expressed concerns about the approach of the Minister of Justice which makes funds allocated to the judiciary conditional on the achievement of measurable objectives. This approach raises concerns about the difficulty of measuring results, the weakening of the separation of powers and the risks to the quality of judicial work. The FIHR recommends therefore that the Belgian State ensures that the conditionality of resources does not threaten the quality of the work of the judiciary, its independence and citizens’ effective access to justice.<sup>21</sup> The European Network of National Human Rights Institutions also calls on the European Commission to ensure that this conditionality does not lead to sanctions for understaffed and underfunded courts.<sup>22</sup>

***Digitalisation (e.g. use of digital technology, particularly electronic communication tools, within the justice system and with court users, including resilience of justice systems in COVID-19 pandemic)***

The latest numbers available in the *2024 EU Justice Scoreboard* highlight the fact that Belgium lags behind and is among the worst Member States when it comes to digitalisation of the justice system in every single area monitored.<sup>23</sup> It is necessary to provide clerks and judges with up-to-date, high-performance IT resources to lighten their administrative workload and enable judges to hand down their decisions within a reasonable timeframe.

If a higher level of digitalisation is undeniably necessary for the Belgian Justice system, it cannot infringe on the right of access to a judge, which must be concrete and effective, not theoretical or illusory. It is therefore necessary to create conditions that enable all courts to dispense justice in a humane manner and within a reasonable time frame.

In that sense, it is worth mentioning the fact that the Minister of Justice’s draft law aiming to introduce a general legal framework for the use of video conferences in civil and criminal matters has been adopted by the Federal

20 Federal Institute for the protection and promotion of Human Rights (Belgium), op. cit., p. 26.

21 Ibidem, pp. 23-24.

22 European Network of National Human Rights Institutions, *Rule of Law Report 2024 (Rapport sur l’État de droit 2024)*, 2 May 2024, <https://institutfederaldroitshumains.be/sites/default/files/2024-08/Rapport%20Etat%20de%20droit%202024%20FR.pdf>

23 European Commission, *The 2024 EU Justice scoreboard*, COM(2024) 950, June 2024, pp. 34-40, fig. 42-50.

Parliament. This draft law was heavily criticised by the HCJ and the FIHR in 2023,<sup>24</sup> among others. It led nonetheless to the adoption of the 25 April 2024 law on the organisation of hearings by video conference in legal proceedings.<sup>25</sup> The use of video conferencing poses a number of difficulties and does not appear to be an acceptable alternative to holding hearings in person. Furthermore, the use of video conferencing does not guarantee the public nature of hearings, which is an essential democratic guarantee protected by the Constitution and ECtHR case law, especially in criminal cases, and raises a number of data protection issues.

In conclusion, because of the infringement of the right to a fair trial and the unresolved data protection issues, the use of video conferencing should be prohibited in courtrooms, except in strictly defined exceptional cases and never in contradiction with the right to a fair trial.

***Use of assessment tools and standards (e.g. ICT systems for case management, court statistics and their transparency, monitoring, evaluation, surveys among court users or legal professionals)***

The Belgian State is well known for its lack of or inadequate statistics in the judicial field. In its 2024 ROL report, the EU Commission stated that “an overview of the efficiency of justice remains unavailable due to a persistent lack of data on court proceedings, while efforts are ongoing to map judicial backlogs” and that “statistical data on court proceedings and the workload measurements should provide a better understanding of the needs to address structural deficiencies”.<sup>26</sup>

The issue persisted in 2024, and as such, the FIHR asks the State to provide adequate statistics on the functioning of the courts and tribunals. To this end, the State should in particular provide data on the length of judicial proceedings in civil and penal cases and these data should show disparities between judicial districts.<sup>27</sup>

24 Liberties, *Rule of Law Report 2024 – Belgium*, 18 March 2024, pp. 9-10, [https://dq4n3btxmr8c9.cloudfront.net/files/qv5knb/BELGIUM\\_Liberties\\_RuleOfLaw\\_Report\\_2024.pdf](https://dq4n3btxmr8c9.cloudfront.net/files/qv5knb/BELGIUM_Liberties_RuleOfLaw_Report_2024.pdf).

25 House of Representatives (Belgium), *25 April 2024 Law on the organisation of hearings by videoconference in legal proceedings (Loi du 25 avril 2024 portant organisation des audiences par vidéoconférence dans le cadre des procédures judiciaires)*, [https://www.ejustice.just.fgov.be/cgi/article.pl?language=fr&sum\\_date=2025-01-13&cpd\\_search=2024-06-03&numac\\_search=2024003966&page=1&lgtxt=F&caller=list&2024003966=1&view\\_numac=&dt=Loi&dd=2024-04-25&choix1=et&choix2=et&fr=f&nl=n&du=d&trier=promulgation](https://www.ejustice.just.fgov.be/cgi/article.pl?language=fr&sum_date=2025-01-13&cpd_search=2024-06-03&numac_search=2024003966&page=1&lgtxt=F&caller=list&2024003966=1&view_numac=&dt=Loi&dd=2024-04-25&choix1=et&choix2=et&fr=f&nl=n&du=d&trier=promulgation).

26 European Commission, *2024 Rule of Law Report – Country Chapter on the rule of law situation in Belgium*, SWD(2024) 801 final, 24 July 2024, pp. 11-12.

27 Federal Institute for the protection and promotion of Human Rights (Belgium), op. cit., p. 26.

The above-mentioned *Lassoued* case<sup>28</sup> highlights the lack of a proper system for case management in the prosecution office. In its report, the HCJ lists a series of dysfunctions, such as the low level of internal control, the absence of internal control measures, the absence of a monitoring system and the lack of clarity at the management level – the roles, responsibilities and exercise of the different levels of management are ambiguously defined. Therefore, it calls for the promotion of “a culture of internal control within the Brussels Public Prosecutor’s Office” and the implementation of “internal control activities, monitoring and evaluating them”.<sup>29</sup>

## Fairness and efficiency of the justice system

### Length of proceedings

The length of proceedings are particularly long in Belgium, which is cause for concern and multiple condemnations by both international (ECtHR) and national courts. In its *2024 Rule of Law Report*, the EU Commission recommended that Belgium “strengthen efforts to improve the efficiency of justice, particularly

to reduce the length of proceedings based on comprehensive statistical data”.<sup>30</sup>

As highlighted by the Commission, this phenomenon is not recent. Belgium has already been condemned several times by the ECtHR for violation of the right to be tried within a reasonable time.<sup>31</sup> In September 2023, the ECtHR once again severely condemned the Belgian authorities in its *Van den Kerkhof v. Belgium* decision.<sup>32</sup> In this particular case, the legal proceeding was lodged in 2015 and is due to be decided on appeal in 2026.

In 2024, the French and German-speaking Bar Association noted that the situation is particularly critical in family cases.<sup>33</sup> In April, the Brussels Family Court announced that it would have to cancel half of its hearings due to a shortage of court clerks. Only urgent cases were dealt with, leaving aside cases involving inheritance or parentage. The time taken to deal with urgent matters, such as child accommodation arrangements or maintenance payments, is currently 3 to 4 months and appeals can take several years, with serious consequences for the parties concerned.

28 See footnote 18.

29 High Council of the Judiciary (Belgium), op. cit., p. 44.

30 European Commission, *2024 Rule of Law Report - Country Chapter on the rule of law situation in Belgium*, SWD(2024) 801 final, 24 July 2024, p. 2.

31 Ibidem, pp. 10-11.

32 ECtHR, Judgment of 5 September 2023, *Van den Kerkhof vs. Belgium*, n° 13630/19.

33 French and German-speaking Bar Association (Belgium), op. cit., p. 2.

As far as the Family Court backlog is concerned, the FIHR criticises the inconsistent method applied by the Belgian State to ‘dormant cases’ in the family courts, which are falsely considered closed.<sup>34</sup> The FIHR recommends excluding these cases from the clearance rate statistics, as they are only really closed or omitted ex officio at the end of the process. After correction, the clearance rate for family courts appears to be less than 100%, indicating an ongoing backlog.

The FIHR also points out that the length of proceedings at the Brussels Court of Appeal remains excessively long, despite an improvement in the median length of cases in 2023.<sup>35</sup> This trend indicates that structural problems in Brussels remain, as confirmed by the ECtHR in the *Van den Kerkhof* case. Moreover, although the overall clearance rate for the appeal courts shows a moderate reduction in the backlog, the disaggregated statistics for 2023 reveal that backlogs persist in Brussels, with a much higher number of cases pending than in the other courts. This highlights the need for specific structural solutions to deal effectively with this backlog.

In conclusion, although progress has been made, the FIHR stresses the need for complete, disaggregated and consistent data to be made available to allow an accurate assessment

of the efficiency of the justice system and to identify the need for structural reform, particularly in jurisdictions where backlogs persist.

It is to be noted that the backlog of court cases is also due to the large number and sometimes sudden proceedings brought before the courts because the administration is malfunctioning or because the State fails to enforce court rulings. The State has a responsibility for organising administrations that are at the service of the citizen and it must respect the decisions rendered by the Courts.

### **Execution of judgments**

The past legislature has seen the accentuation of a particularly worrying trend in Belgium – that of the failure of the political authorities to respect court rulings, and even assume the fact that it does not respect them. Indeed, non-compliance with validly rendered judicial decisions has reached levels never before seen in the country. This is a very worrying failure to respect a fundamental element of the rule of law. It led the EU Commission to state that Belgium has to “take measures to ensure compliance by public authorities with final rulings of national courts and the European Court of Human Rights”.<sup>36</sup>

34 Federal Institute for the protection and promotion of Human Rights (Belgium), op. cit., pp. 6-8.

35 Ibidem, pp. 9-13.

36 European Commission, *2024 Rule of Law Report – Country Chapter on the rule of law situation in Belgium*, SWD(2024) 801 final, 24 July 2024, p. 2.



In July 2024, Belgium’s three supreme courts (the Constitutional Court, the Court of Cassation and the Council of State) issued a joint memorandum to the Legislative and Executive branches of power.<sup>37</sup> This joint memorandum reminded those powers that in a state governed by the rule of law, final judicial decisions must be enforced in all circumstances, especially by the authorities. In this respect, the large number of cases for which a standard or enhanced supervisory procedure is pending before the Committee of Ministers of the Council of Europe, after one or more convictions by the ECtHR, is particularly worrying. The memorandum therefore called for structural solutions that must be found to remedy the problem and that it must be the absolute priority of the future government. It stated “this is a serious attack on the rule of law, at a time when many citizens are increasingly questioning the legitimacy of our institutions. The three highest courts express their deep concern and therefore urge future political leaders to respect all court rulings and thus all those subject to the law”.<sup>38</sup>

In November 2024, the FIHR launched an investigation into “the growing tendency of the Belgian authorities not to implement court rulings against them”.<sup>39</sup> The investigation will focus on decisions handed down by Belgian courts against the authorities from 2014 to 2024, which were not implemented by the Belgian authorities. The investigation report will then be sent to the federal parliament.

### **Quality and accessibility of court decisions**

The 16 October 2022 law authorises the State to set up a computerised central register of judicial decisions, known as the Central Register for Judicial Decisions.<sup>40</sup> Under this law, judicial decisions will in principle be digitalised, i.e. drawn up in digital form. Since 30 September 2023, all judicial decisions must be recorded in digital form or as a certified digital copy, and accessible only to the judicial actors and parties concerned. However, although the law came into force on 30 September 2023, the Central Register is not yet operational. This delay is due to technical challenges, particularly the

37 Constitutional Court, Court of cassation and Council of State (Belgium), *Joint memorandum (Mémorandum commun)*, July 2024, <https://www.const-court.be/public/pbcp/f/pbcp-2024-002f.pdf>.

38 Ibidem, p. 8.

39 Federal Institute for the protection and promotion of Human Rights (Belgium), ‘Launch of a survey on the non-implementation of court rulings’ (‘Lancement d’une enquête sur la non-mise en œuvre des décisions de justice’), 19 November 2024, <https://federaalinstituutmensenrechten.be/fr/lancement-dune-enquete-sur-la-non-mise-en-oeuvre-des-decisions-de-justice>.

40 House of Representatives (Belgium), *16 October 2022 Law on the creation of the Central Register of Judicial Decisions and on the publication of judgments and amending the assize procedure relating to the challenge of jurors (Loi visant la création du Registre central pour les décisions de l’ordre judiciaire et relative à la publication des jugements et modifiant la procédure d’assises relative à la récusation des jurés)*.

development of the tool for pseudonymising personal data in decisions.<sup>41</sup>

Additionally, for some years now, libraries and legal documentation departments have been faced with a constant increase in the price of access to the main commercial legal databases. Their monopoly has become unaffordable, even though a large proportion of the content of

these databases results from the very activities of public institutions and courts. Moreover, the long-term future of commercial databases is not guaranteed.

For this reason, Belgian supreme courts state “it is urgent to improve and extend the accessibility of consolidated legislation, doctrine and relevant case law”.<sup>42</sup>

## ANTI-CORRUPTION FRAMEWORK

### Key recommendations

- *Belgian authorities should grant to all state bodies responsible for the transparency of public administration the competence to issue binding decisions (at federal, regional and community levels). It should also eliminate restrictions already in place to administrative transparency.*
- *Belgian authorities should allocate the necessary resources (financial, human and legal) to allow an efficient fight against financial crime and corruption.*
- *Belgian authorities should implement all the GRECO recommendations.*

### Levels of corruption

Belgium remains in 16th position in the rankings published by the NGO Transparency International. Every year, the NGO lists cases

of corruption in the public sector. Based on expert estimates, countries score between 0 (corrupt) and 100 (corruption-free). Belgium scored 73/100<sup>43</sup>.

41 Eva Gillard, ‘Le Registre central pour les décisions judiciaires : prévu par la loi mais non encore créé !’, *Justice-en-ligne*, 10 May 2024, <https://www.justice-en-ligne.be/Le-Registre-central-pour-les>.

42 Constitutional Court, Court of cassation and Council of State (Belgium), op. cit., p. 10.

43 Transparency International, *Corruption Perception Index 2024*, 30 January 2024, <https://www.transparency.org/en/countries/belgium>.

The results of the two last reports about Belgium issued by the Council of Europe Group of States against Corruption (GRECO), published on 7 May 2024, are mixed.

The GRECO considers in the first report<sup>44</sup> focusing on members of parliament, judges and prosecutors that Belgium has taken measures to combat corruption within its judicial system: the organisation notes that the Justice administration has implemented several recommendations. It shows that ethical rules have been introduced for judges of administrative courts and that the disciplinary bodies responsible for judges and prosecutors have been strengthened, with regular publication of information about them. The GRECO recommends nevertheless better harmonisation of the allocation of cases between the different courts. By contrast, with regard to the prevention of corruption of parliamentarians, there has been no improvement since the previous report.

In the second report<sup>45</sup>, focusing on the central government and law enforcement agencies, the GRECO notes that substantial efforts remain to be made: the report concludes that Belgium has satisfactorily implemented or dealt with satisfactorily only six of the twenty-two recommendations contained in the evaluation report

of the Fifth Round. Of the remaining recommendations, nine have been partially implemented and seven have not been implemented. With regard to persons in senior executive functions, little progress has been made. With regard to the police, few measures have been taken since the last report. As far as judges and prosecutors are concerned, the GRECO welcomes real progress, with only one recommendation remaining partially implemented.

### **Framework to prevent corruption**

#### **General transparency of public decision-making (including public access to information such as lobbying, asset disclosure rules and transparency of political party financing)**

Figures available in the *2024 EU Justice Scoreboard* show that Belgium scores high regarding the national framework for asset declarations on the material scope, but not so good on the personal scope and very poorly on the level of transparency, verification and sanctions in that field.<sup>46</sup> As highlighted by the EU ROL report, “elements relating to anti-corruption are included in various relevant strategies and action plans although there is no overall

44 Council of Europe, GRECO, *Corruption prevention in respect of members of parliament, judges and prosecutors – Addendum to the second compliance report of Belgium (4th evaluation round)*, GrecoRC4(2024)1, 7 May 2024.

45 Council of Europe, GRECO, *Preventing corruption and promoting integrity in central governments (top executive functions) and law enforcement agencies – Second compliance report of Belgium (5th evaluation round)*, GrecoRC5(2024)3, 7 May 2024.

46 European Commission, *The 2024 EU Justice scoreboard*, COM(2024) 950, June 2024, pp. 52-54, fig. 60-62.

anti-corruption strategy nor a body responsible for coordination of anti-corruption policy”.<sup>47</sup>

More worrying is the situation regarding access to public documents. At present, various administrative authorities are excluded from the scope of application of certain provisions of the 11 April 1994 law on the publicity of the administration,<sup>48</sup> thereby exempting them from the obligations of transparency as well as from appropriate means of appeal.

The 12 May 2024 law was adopted to broaden the scope of application of the 11 April 1994 law, which is a very positive step.<sup>49</sup> However, this law adds two exceptions, allowing public bodies to reject a request for consultation, explanation or communication if it would undermine the confidentiality of documents relating to the implementation of a political strategy, which leaves a wide margin of manoeuvre for authorities to avoid their obligations.

In addition, the Commission for Access to Administrative Documents (CADA), an administrative authority charged with examining the authorities’ refusals to grant access

to documents, merely issues legal non-binding opinions which does not make it possible to ensure the effectiveness of the right of access to administrative documents conferred by Article 32 of the Constitution. At the federal level, as at other levels, the CADA should be able to issue binding decisions.

In 2024, the EU ROL report stated that “some further steps have been taken in strengthening access to official documents, though new proposals fail to grant the Commission for Access to Administrative Documents decision-making powers”.<sup>50</sup> Those steps have not been taken. Therefore, Belgian authorities should grant all competent bodies on administrative transparency the ability to issue binding decisions (at federal and non-federal levels). It should also not extend unduly the restrictions to administrative transparency.

---

47 European Commission, *2024 Rule of Law Report - Country Chapter on the rule of law situation in Belgium*, SWD(2024) 801 final, 24 July 2024, p. 12.

48 House of Representatives (Belgium), *11 April 1994 Law relating to the publicity of the administration (Loi relative à la publicité de l’administration)*.

49 House of Representatives (Belgium), *12 May 2024 Law amending the 11 April 1994 law on the publicity of the administration and repealing the 12 November 1997 law on the publicity of the administration in the provinces and municipalities (Loi modifiant la loi du 11 avril 1994 relative à la publicité de l’administration et abrogeant la loi du 12 novembre 1997 relative à la publicité de l’administration dans les provinces et les communes)*.

50 European Commission, *2024 Rule of Law Report - Country Chapter on the rule of law situation in Belgium*, SWD(2024) 801 final, 24 July 2024, p. 23.



## Investigation and prosecution of corruption

### **Potential obstacles to investigation and prosecution of high-level and complex corruption cases (e.g. political immunity regulation)**

The press revealed in September 2024 that investigators at the Central Office for the Repression of Corruption (OCRC), which is responsible for sensitive corruption investigations in Belgium, feel that they are being over-controlled by their superiors, particularly after the publication of a controversial memo.<sup>51</sup> The memo, issued by the Directorate for the Suppression of Organised Crime, requires investigators to submit their reports to their superiors before sending them to the public prosecutor's office. Investigators see this as an attempt to control their work, which could hamper sensitive investigations. The federal police defend this measure, presenting it as a rationalisation of procedures to improve the quality of work, with no impact on the independence of investigations. The Ministry of Justice has not commented on the case, which is considered to be internal to the federal police.

### **Other**

On 3 December 2023, Didier Reynders, former Belgian Minister and European Commissioner, and his wife, a former magistrate at the Liège Court of Appeal, were audited and their homes searched on suspicion by the Justice of having engaged in money-laundering activities through gambling purchases.<sup>52</sup> This follows distinct reports from the National Lottery (in 2021) and the Information Processing Unit (2023), which tend to show that some of the safeguards against corruption are playing their role.

51 Belga, 'Les enquêteurs anti-corruption se disent trop contrôlés par leur hiérarchie', *Le Soir*, 26 September 2024, <https://www.lesoir.be/625295/article/2024-09-26/les-enqueteurs-anti-corruption-se-disent-trop-controles-par-leur-hierarchie>.

52 Belga, 'Soupçon de blanchiment: la Loterie nationale n'est pas la seule à avoir dénoncé Didier Reynders', *La Libre*, 16 December 2024, <https://www.lalibre.be/belgique/societe/2024/12/16/didier-reynders-soupconne-de-blanchiment-pas-un-mais-deux-signalements-de-blanchiment-dargent-aupres-du-parquet-CNBRNSYGIBDGXAEFCNJJASVUYQ/>.

## MEDIA ENVIRONMENT AND MEDIA FREEDOM

### Key recommendations

- *Judicial decisions in cases involving the press are highly problematic and should lead the legislature to pass a law reaffirming the prohibition of censorship and that a news article cannot be censored a priori, but only be subject to a posteriori liability claims.*
- *Belgian law should provide for a mechanism allowing the dismissal of unmeritorious or SLAPP cases at an early procedural stage.*
- *Belgian legislators should amend the broad and ambiguous definition of 'state secrets' in the Penal Code, as it makes it difficult for journalists to distinguish between what is punishable and what is not. It could also threaten press freedom, as journalists risk prosecution for receiving or divulging information without knowing it was classified as a state secret.*

### Public service media

#### **Independence of public service media from governmental interference**

The European Federation of Journalists (EFJ) denounced an instance of ministerial interference in the public service media to the Council of Europe Safety of Journalist Platform.<sup>53</sup> At issue were tweets from Jacqueline Galant, Minister for the Media of the French-speaking Community, following a Radio-télévision belge de la Communauté française (RTBF) broadcast of an interview on anti-racism. On X, the Minister expressed surprise that the medium was unilaterally broadcasting a guilt-inducing opinion, calling on it to

guarantee pluralism and scrupulously respect its ethical and legal obligations. A minister for the Media who publicly appears to be inviting a public service broadcaster, whose editorial independence is guaranteed both by decree and by its management contract, to broadcast one content rather than another, is cause for concern. In its alert, the EFJ calls on politicians to refrain from any interference in editorial content, stressing the competence of regulatory bodies (Higher Broadcasting Council) and self-regulatory bodies (Journalism Ethics Board) in these matters.

53 Council of Europe, Safety of Journalist Platform, *Public Broadcaster RTBF Subjected to Ministerial Interference*, N° 180/2024, 25 September 2024, <https://fom.coe.int/en/alerte/detail/107641508;globalSearch=false>.

## Safety and protection of journalists and other media actors

### Rules and practices guaranteeing journalist's independence and safety

A few days before the municipal elections, the newspaper *Le Soir* was preparing to publish information about legal proceedings involving a mayoral candidate in the town of Verviers. In keeping with its code of ethics, the newspaper contacted the person concerned. Its response was an order from the Court of First Instance, seized unilaterally as a matter of extreme urgency, prohibiting the newspaper from publishing the information, subject to a fine of €50,000. The court considered that the disclosure of the information, allegedly obtained in breach of the secrecy of the investigation, three days before the municipal elections, gave the appearance of a desire to damage the reputation and honour of the applicant, rather than to provide information.

It is an incomprehensible decision since it has all the hallmarks of full-blown censorship. In addition to the fact that journalists are not bound by the secrecy of the investigation, this decision, taken without any adversarial procedure (the newspaper was not heard; the judge did not read the article), is all the more disturbing as it comes during an election period, when the public has a particular right to be informed.

The newspaper in question, *Le Soir*, has denounced what it considers to be a gag order. The European Federation of Journalists (EFJ), the French-speaking and the Dutch-speaking associations of professional journalists have issued a statement expressing their concern at the return of preventive censorship and an unprecedented deterioration in press freedom in Belgium. The EFJ denounced this gag order to the Council of Europe Safety of Journalist Platform.<sup>54</sup>

A month earlier, it was a commercial law court that considered itself competent to rule on the content of a report before it was broadcast, on the basis of commercial law. The reasoning was unprecedented: the broadcasting of a report by one press company (RTBF) about another (a bailiff's office) could be considered an unfair commercial practice. Under these conditions, if an imminent act of denigration were proven, the court would have jurisdiction to put a stop to it, in this case by ordering the deletion of any mention of the plaintiff in the report, before broadcast – a clear case of censorship.

The court ruled that the claims were unfounded but considered the application admissible, on the grounds that the legislation supporting it, derived from European law, takes precedence over the Constitution. This sleight of hand is terribly worrying for fundamental freedoms, which are being sidelined in favour of purely economic considerations. A creaky door therefore seems to be opening to new legal actions

54 Council of Europe, Safety of Journalist Platform, *Gag Orders and Proceedings Before Brussels, Liège and Namur Courts*, N° 225/2024, 13 November 2024, <https://fom.coe.int/en/alerte/detail/107641622;globalSearch=false>.

aimed at pre-emptively banning a publication from any media company. This was also reported by the FEJ to the Council of Europe Safety of Journalist Platform.<sup>55</sup>

A third case is to be reported. But in this case, it was the Belgian State, via the Minister of the Interior, who, together with an investigator in charge of the QatarGate affair, sued a newspaper, asking the court, in summary proceedings, to order the deletion or anonymisation of content published on the affair that could identify him; but also to prohibit, in the future, any similar publication.

A request for censorship from the Belgian State itself, in defiance of its own Constitution, is cause for concern. The President of the Namur Court of First Instance categorically rejected both requests. With regard to the ban on future publications, she firmly reiterated the ban on censorship and emphasised that the request, radically contrary to the provisions of Article 25 of the Constitution, was manifestly unfounded, even reckless, to be so obviously contrary to the Constitution. This decision was more than welcome in the tense climate of late 2024. This case too was reported by the FEJ to the Council of Europe Safety of Journalist Platform.<sup>56</sup>

### **Lawsuits and prosecutions against journalists (including SLAPPs) and safeguards against abuse**

Threats of legal action to prevent the publication of information are not uncommon and are sometimes followed by actual action once the content has been published. Examples include the proceedings brought by the former mayor of the town of Andenne against a journalist following a portrait published in a magazine and against an online media for a video published a few weeks earlier.<sup>57</sup>

These actions are SLAPP proceedings, brought abusively against journalists active in the public debate, with the aim of intimidating them or silencing them. Belgian law does not provide for a mechanism allowing the dismissal of unmeritorious or SLAPP cases at an early procedural stage.

### **Confidentiality and protection of journalistic sources (including whistleblower protection)**

In 2019, two directors of the Data Protection Authority denounced serious malfunctions, including illegal appointments and conflicts of interest within the structure responsible for protecting privacy in Belgium. With no

55 Ibidem.

56 Ibidem.

57 Belga, 'Une journaliste de Wilfried au tribunal après avoir brossé le portrait de Claude Eerdeken', *La Libre*, 21 October 2024, <https://www.lalibre.be/belgique/elections-belges/elections-communales/2024/10/21/une-journaliste-de-wilfried-au-tribunal-apres-avoir-brosse-le-portrait-de-claude-eerdeken-4ETXMG5BHRDNHLVZ-MGWK4ZYBB4/>.

support from the authorities, they were soon faced with an untenable situation: as they had pointed out shortcomings from this authority, they should have benefited from the protection due to whistleblowers, such as legal advice or psychological support and, above all, protection against dismissal and retaliation by their employer. It was never the case and one of them resigned, the other was dismissed. The latter brought an action for damages against this iniquitous decision. In a ruling handed down on 12 December 2024, the Brussels Court of First Instance ruled in her favour and condemned the Belgian State for the wrongdoing that led to her dismissal. The decision is scathing – the court recognised that they should have benefited from whistleblower status.<sup>58</sup>

### **Access to information and public documents**

The new Penal Code broadens the definition of ‘state secrets’, extending the scope of the offenses of disclosing and receiving state secrets. The FIHR has criticised this extension, arguing that the government has not adequately justified the need for it, relying instead on vague grounds. The broad and ambiguous

definition of these secrets poses practical problems, making it difficult to distinguish between what is punishable and what is not. It could also threaten press freedom, as journalists risk prosecution for receiving or divulging information without knowing it was classified as a state secret.<sup>59</sup>

The Association of Professional Journalists (APJ) also denounces the considerable widening of the scope of offences relating to the disclosure and receipt of state secrets, without sufficient justification.<sup>60</sup> New situations are now included under the notion of ‘state secret’, which could prohibit the disclosure of information of public interest, such as institutional malfunctions, criticism of policies or international trade agreements. This wording could penalise the publication of information that is essential to the public. In addition, the terms used in the legislation are considered imprecise, which could lead to arbitrary prosecutions.

Furthermore, the penalties for disclosing or receiving state secrets are disproportionate, ranging from 5 to 10 years’ imprisonment for disclosure and 3 to 5 years for receipt. These penalties risk undermining the work of

58 Philippe Laloux, ‘L’Etat condamné pour le licenciement de Charlotte Dereppe, lanceuse d’alerte de l’APD’, *Le Soir*, 18 December 2024, <https://www.lesoir.be/643378/article/2024-12-18/letat-condamne-pour-le-licenciement-de-charlotte-dereppe-lanceuse-dalerte-de>.

59 European Network of National Human Rights Institutions, *Rule of Law Report 2024 (Rapport sur l’État de droit 2024)*, 2 May 2024, <https://institutfederaaldroitshumains.be/sites/default/files/2024-08/Rapport%20Etat%20de%20droit%202024%20FR.pdf>

60 Association of professional journalists (Belgium), ‘State secrecy: AJP, VVJ and Ligue des droits humains take case to Constitutional Court’, 14 October 2024, <https://www.ajp.be/secret-detat-lajp-la-vvj-et-la-ligue-des-droits-humains-saisissent-la-cour-constitutionnelle/>



journalists, whistle-blowers and NGOs who share public information of general interest, thus creating a climate of intimidation. Indeed, this legislation could have a direct impact on press freedom and the protection of sources, essential elements of investigative journalism. Disclosure of important state dysfunctions could become impossible, calling into question the crucial role of journalists in a democratic society. The European Court of Human Rights regularly stresses that freedom of the press also protects the dissemination of ideas and information that disrupts the established order, making it all the more essential to protect journalists, whistle-blowers and NGOs, particularly when state actions escape democratic or judicial control.

### **Other**

The FIHR has argued in favour of introducing the ‘journalistic exception’ provided for by Art. 85 § 2 of the GDPR into national legislation in a way that would make it clear that non-professional journalists can avail themselves of certain data processing exceptions. The current provision of Belgian law indeed leaves uncertainty in this regard. Therefore, the FIHR

issued an opinion on a proposed law amending the Personal Data Protection Act of 2018, particularly with regard to data processing for journalistic purposes.<sup>61</sup> The amendment aims to enable non-professional journalists (citizens, NGOs, bloggers, etc.) and other public actors to benefit from the exemptions provided for data processing for journalistic purposes, by extending the definition of ‘journalism’ to the general interest. Currently, Article 24 of the law imposes rules of journalistic ethics, but the proposal seeks to remove this reference and include non-professional actors, such as NGOs and citizen journalists, in this exception. The FIHR supports this development, believing that the legislation should guarantee enhanced protection for these actors playing a ‘public watchdog’ role, without restricting this possibility to professional journalists alone.

The FIHR also recommends the creation of a separate legal framework to specify the rules that apply when citizens film police officers and to anchor the basic principle that anyone has the right to film police officers in the performance of their duties, even if exceptions to this rule are possible.<sup>62</sup>

61 Federal Institute for the protection and promotion of Human Rights (Belgium), *Proposal for an Act amending the Act of 30 July 2018 on the protection of individuals with regard to the processing of personal data, with regard to the processing of personal data carried out for journalistic purposes (Proposition de loi modifiant la loi du 30 juillet 2018 relative à la protection des personnes physiques à l’égard des traitements de données à caractère personnel, en ce qui concerne le traitement de données à caractère personnel effectué à des fins journalistiques)*, Notice n° 1/2024, 22 January 2024, <https://institut-federaldroitshumains.be/sites/default/files/2024-02/IFDH%20Avis%201-2024%20-%20Traitement%20de%20donn%C3%A9es%20personnelles%20%C3%A0%20des%20fins%20journalistiques.pdf>.

62 European Network of National Human Rights Institutions, *Rule of Law Report 2024 (Rapport sur l’État de droit 2024)*, 2 May 2024, <https://institutfederaldroitshumains.be/sites/default/files/2024-08/Rapport%20Etat%20de%20droit%202024%20FR.pdf>.

---

***Any positive developments regarding the application of anti-SLAPP rules for domestic cases, such as transparency, procedural safeguards and remedies***

On 11 April 2024, the European Parliament adopted a directive aimed at protecting journalists, media, researchers, artists and human rights defenders against abusive legal proceedings, known as SLAPP suits.<sup>63</sup> Belgium does not yet have any legislation explicitly aimed at protecting victims of SLAPPs. This directive is not transposed into Belgian law yet (knowing Belgium has two years to do so).

The prohibition of SLAPPs was also recently confirmed by the Ghent Court of Appeal in a decision of 28 March 2024 concerning a dispute between two media outlets and the chairman of a political party, Conner Rousseau.<sup>64</sup> In the first instance, Rousseau had obtained a ban on the publication of articles about him, which was a case for concern in the 2024 EU ROL report.<sup>65</sup> This decision is extremely welcome in the current situation, which is particularly problematic in Belgium (see above).

---

63 Directive (EU) 2024/1069 of the European Parliament and of the Council of 11 April 2024 on the protection of persons taking part in the public debate against manifestly unfounded claims or abusive legal proceedings (“strategic lawsuits distorting the public debate”).

64 Association of professional journalists (Belgium), ‘Belgium: unprecedented return of preventive censorship’, 17 October 2024, <https://www.ajp.be/belgique-retour-sans-precedent-de-la-censure-preventive/>.

65 European Commission, *2024 Rule of Law Report - Country Chapter on the rule of law situation in Belgium*, SWD(2024) 801 final, 24 July 2024, p. 24.

## CHECKS AND BALANCES

### Key recommendations

- *Independent institutions should receive additional human and financial resources to help carry out their tasks effectively and Belgian authorities should put an end to the fragmentation of the landscape of fundamental rights protection.*
- *Belgian authorities should make sure that all human rights monitoring bodies comply with the Paris Principles, especially the more dysfunctional ones (Data Protection Authority, Standing Police Monitoring Committee, Police Information Monitoring Body).*
- *Belgian authorities should grant all state bodies responsible for the transparency of public administration the competence to issue binding decisions (at federal, regional and community levels). It should also suppress restrictions to administrative transparency already in place.*

### Independent authorities

On 20 September 2024, a few days before stepping down, the Flemish Minister-President ordered his ministers to submit draft decrees and decisions not to the Data Protection Authority (DPA), but to the regional body, the Vlaamse Toezichtcommissie (VTC).<sup>66</sup> This decision is an attempt to regionalise the issue of privacy, bypassing the federal state. The federal Secretary of State for Privacy confirmed that the federal government had not taken any initiative to negotiate an agreement with the Flemish Region and stressed that it could not prevent this decision. He also said that the reaction of the European Commission was

awaited, in particular, to check whether the VTC complies with the requirements of the General Data Protection Regulation (GDPR), particularly in terms of independence. The source of concern is that the Flemish regional body doesn't enjoy the same means, legally and financially, as the federal DPA does and that its independence standards are more fragile at the regional level. The European Commission confirmed that it had received an official notification from the Belgian authorities and that it would examine the situation.

66 Belga, 'En force, la Flandre a décidé de régionaliser la vie privée', *RTL info*, 1 October 2024, <https://www.rtl.be/actu/belgique/politique/en-force-la-flandre-decide-de-regionaliser-la-vie-privee/2024-10-01/article/717073>.

## **Accessibility and judicial review of administrative decisions**

### **Transparency of administrative decisions and sanctions (including their publication and the availability and publicity of data concerning administrative decisions)**

As already mentioned, currently the federal Commission for Access to Administrative Documents (CADA) is the only such commission (as opposed to its regional counterparts) to have solely an advisory role, issuing opinions which are often ignored by the federal authorities, without any capacity to enforce its decisions. The country's other CADAs operating at the regional level have had binding powers since 2004 in Flanders and 2019 in Brussels, Wallonia and the Wallonia-Brussels Federation. In its 2023 and 2024 reports on the rule of law, the European Commission recommended that Belgium give the federal CADA binding decision-making powers. A binding role for the federal CADA would be a real turning point in terms of transparency. In reality, a simple opinion from the CADA, although it should suffice, is not always respected by public authorities, who are often reluctant to be transparent. The current system does not guarantee effective transparency and requires reform to give the federal CADA binding powers.

### **Implementation by the public administration and State institutions of final court decisions**

Since 1 October 2020, detainees have the right to lodge a formal appeal against individual decisions taken by their prison directors, or against the absence of a decision where one should have been taken. The Central Prison Supervisory Board (CPSB) handles complaints through independent and impartial complaints and appeals boards. In 2023, 4165 complaints were lodged, compared with 2394 in 2022, which highlights the need to adapt procedures and organisation to deal with these complaints effectively.<sup>67</sup> However, a review of case law reveals delays in implementing the Commissions' decisions, or even ignorance of them, which constitutes a violation of the rule of law, as these decisions must be implemented unless the president of the appeal commission decides otherwise. The failure to implement these decisions raises questions about the validity of complaints about non-compliance.

## **Electoral framework**

### **Limitations on the right to vote**

On 28 March 2023, a new law amending the law about disability schemes was passed, introducing changes concerning the political rights

---

<sup>67</sup> European Network of National Human Rights Institutions, *Rule of Law Report 2024 (Rapport sur l'État de droit 2024)*, 2 May 2024, <https://institutfederaaldroitshumains.be/sites/default/files/2024-08/Rapport%20Etat%20de%20droit%202024%20FR.pdf>.

of disabled people.<sup>68</sup> As of 1 October 2023, a court must explicitly decide, on a case by case basis, whether a disabled person is fit to exercise his or her political rights, including the right to vote and stand for election, on the basis of a detailed checklist. The court may deprive the person of his or her right to vote without specific justification. This reform could make access to the right to vote more difficult for people with disabilities, due to the tendency of judges to strictly apply the checklist, which often disproportionately deprives individuals of their rights without personalised assessment. This law goes against previous government

commitments, notably in the Federal Disability Action Plan, and is seen by Unia as a violation of the constitutional rights of people with disabilities to be fully integrated into society.<sup>69</sup>

As for the European Parliament elections, on June 1, 2022, the voting age for European elections in Belgium was lowered from 18 to 16, but was not made compulsory, unlike for other elections at national and regional levels. On March 21, 2024, the Constitutional Court ruled that the obligation to vote also applied to minors aged 16 and over for European elections, as it did for adults.

---

68 House of Representatives (Belgium), Law to make various amendments to electoral legislation (*Loi du 28 mars 2023 portant diverses modifications en matière électorale*), 28 March 2023.

69 UNIA (Belgium), 'The 28 March 2023 law makes it difficult for people with disabilities to exercise their right to vote' ('La loi du 28 mars 2023 met en difficulté l'exercice du droit de vote pour les personnes en situation de handicap'), 11 January 2024, <https://www.unia.be/fr/actua/loi-28-mars-2023-difficulte-droit-vote-personnes-handicap%C3%A9es>.



## CIVIC SPACE

### Key recommendations

- *Belgian authorities should guarantee that human rights defenders are not subject to any forms of attacks and intimidation and, when it is the case, make sure that such cases are investigated efficiently and the perpetrators are held to account.*

### Freedom of peaceful assembly

#### **Bans on the use of symbols/slogans in protests**

NGOs expressed concern about the repressive measures targeting the pro-Palestinian movement in Belgium.<sup>70</sup> This repression takes various forms: attacks on freedom of expression, administrative fines for taking part in demonstrations and criminal investigations into the occupation of university buildings. Since August, people who supported the occupation of a university building have received summonses on serious charges, which is causing concern. In addition, several pro-Palestinian demonstrations have been suppressed, notably in Brussels, Ghent and Leuven, often on legal

pretexts disputed by NGOs. The authorities also justify putting pressure on people wearing signs of support for Palestine, such as the Palestinian flag or the keffiyeh, which constitutes a violation of freedom of expression. All these actions raise concerns about the right to protest in Belgium. The associations are calling on the authorities to protect this fundamental right.

#### **Attacks and harassment**

The FIHR carried out research into the quality of civic space, which enabled it to publish a report on the situation of human rights organisations in Belgium on 8 July 2024.<sup>71</sup>

What emerges from the report is that although the general conditions in which Belgian

70 League of Human Rights (Belgium), 'A dozen NGOs and trade unions are concerned about the repressive measures targeting the pro-Palestinian movement in Belgium' ('Une dizaine d'ONG et syndicats s'inquiètent des mesures répressives qui visent le mouvement propalestinien en Belgique'), 20 September 2024, <https://www.liguedh.be/une-dizaine-dong-et-syndicats-sinquiètent-des-mesures-repressives-qui-visent-le-mouvement-propalestinien-en-belgique/>.

71 Federal Institute for the protection and promotion of Human Rights (Belgium), *Space for human rights defenders in Belgium – The situation of human rights organisations (Espace pour les défenseur·e·s des droits humains en Belgique. La situation des organisations de défense des droits humains)*, 8 July 2024, <https://www.institutfederaldroitshumains.be/sites/default/files/2024-07/Rapport%20IFDH%20D%C3%A9fenseurs%20droits%20humains%202024.pdf>

organisations and public institutions defend human rights are judged to be relatively good, the majority of organisations face pressure and intimidation. In addition, a large number of these organisations are facing financial difficulties and obstacles to participating in the elaboration of public policy decisions. However, the pressure exerted on the way they operate remains moderate. Workers in human rights organisations are frequently subjected to online and offline verbal attacks and negative media campaigns. Sometimes they are even subjected to physical attacks and vandalism, as well as illegitimate acts of violence by members of the police.

Pressure and threats to human rights organisations come from two main sources: the general public and politicians. Employees and volunteers are sometimes targeted by the public, mainly online,<sup>72</sup> with attacks focusing on

personal characteristics such as sex, gender, sexual orientation and physical appearance. On the other hand, the organisations themselves are mainly targeted by political actors, with criticism levelled at their activities, values, objectives and the human rights they defend.<sup>73</sup>

Although these pressures have little impact on the organisations' ability to carry out their mission, they do influence their working methods, in particular their communication strategy on the human rights issue being defended, which becomes more moderate. On the other hand, attacks and intimidation against staff members have psychological and financial effects and increase their sense of insecurity. To deal with this, the organisations put in place internal support measures but emphasise that structural support mechanisms need to be strengthened to manage these incidents more effectively.

---

72 Particularly in the form of trolls on social networks.

73 Such as malicious phone calls, pressure related to the grant of public subsidies, threats of SLAPPs.

## DISREGARD OF HUMAN RIGHTS OBLIGATIONS AND OTHER SYSTEMIC ISSUES AFFECTING THE RULE OF LAW ENVIRONMENT

### Key recommendations

- *There is a need for urgent reform of Walloon legislation on arms trading, in particular, to improve controls on the transit of arms and to ensure the transparency of exports.*
- *The Walloon government should stop issuing export licenses to countries where arms are likely to contribute to human rights violations.*
- *The Wallon Region should guarantee the independence of the Advisory Committee on Arms Exports and introduce stricter control mechanisms.*

### Systemic human rights violations

#### Impunity and/or lack of accountability for human rights violations

NGOs have denounced the continued export and transit of arms from Wallonia to Israel, despite the serious violations of human rights and international humanitarian law in the region.<sup>74</sup> The organisations revealed that weapons, including components for the F-35 and F-16 fighter jets, are transiting through Liège airport, in violation of Belgium's international commitments. They also highlighted shortcomings in the regional regulatory framework, in particular, the weakness of controls on the

transit of weapons and the lax conditions that allow this type of practice.

The Walloon Arms Observatory's annual report for the period from July 2023 to July 2024 highlights that the Walloon authorities have not taken sufficient measures to prevent the export of arms that could fuel war crimes. Examples such as the supply of machine guns to the Nigerian army or the export of explosive powder to Israel, in the midst of the war in Gaza, are cited as striking illustrations of this negligence. What's more, the export of 16 tons of explosive powder to Israel in November 2023 was only temporarily suspended in February 2024, after several months of war, prompting

<sup>74</sup> League of Human Rights (Belgium), 'Evidence of arms transit to Israel via Liège airport' ('Des preuves de transit d'armes vers Israël par l'aéroport de Liège'), 23 May 2024, <https://www.liguedh.be/des-preuves-de-transit-darmes-vers-israel-par-laeroporto-de-liege/>.

disappointment among NGOs at the slow and temporary nature of this decision.

The organisations are calling for urgent reform of Walloon legislation to improve controls on the transit of arms and to ensure the transparency of exports. They demand that the Walloon government stop issuing export licenses to countries where arms are likely to contribute to human rights violations. They are also calling for greater independence for the Advisory Committee on Arms Exports and the introduction of stricter control mechanisms, along the lines of those in Flanders. Finally, they stress the need for the federal and regional authorities to assume their responsibilities, particularly with regard to the transit of arms, to avoid supporting violations of international humanitarian law and war crimes.

---

## CONTACTS

### ***Ligue des Droits Humains (LDH)*** ***League of Human Rights***

For over a hundred years, the Ligue des Droits Humains (LDH, League of Human Rights) has combated injustices and infringements of fundamental rights in the French Community of Belgium. LDH works on subjects such as: youth, prisoners' rights, migrant and refugees situation and rights, access to justice, economic, social and cultural rights, psychiatric patient's rights, equal opportunities, privacy and diversity.

Boulevard Léopold II, 53  
1080 Brussels  
Belgium  
[ldh@liguedh.be](mailto:ldh@liguedh.be)  
[www.liguedh.be](http://www.liguedh.be)

### ***The Civil Liberties Union for Europe***

The Civil Liberties Union for Europe (Liberties) is a non-governmental organisation promoting the civil liberties of everyone in the European Union. We are headquartered in Berlin and have a presence in Brussels. Liberties is built on a network of 21 national civil liberties NGOs from across the EU.

c/o Publix, Hermannstraße 90  
12051 Berlin  
Germany  
[info@liberties.eu](mailto:info@liberties.eu)  
[www.liberties.eu](http://www.liberties.eu)

**Photo by** Luke Braswell on Unsplash



**Co-funded by  
the European Union**

Co-funded by the European Union. Views and opinions expressed are however those of the author(s) only and do not necessarily reflect those of the European Union or the granting authority - the European Education and Culture Executive Agency (EACEA). Neither the European Union nor the granting authority can be held responsible for them.