

BRUSSELS

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AVOCATS.BE NATIONAL REPORT



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The Ordre des barreaux francophones et germanophone (AVOCATS.BE.) is the organisation that brings together all the French and German-speaking Bars of Belgium, i.e. 8,047 lawyers on the 1st of December 2019.

AVOCATS.BE is competent, by law, to take initiatives and useful measures for the defence of the interests not only of the lawyer but also of the litigant.

This report sets out the main activities of AVOCATS.BE during the past year.



MEMORANDUM

LEGISLATIVE DEVELOPPEMENT

Memorandum in view of the federal and European elections

In view of the legislative elections of May 2019, AVOCATS.BE has presented its proposals and demands for Justice to the political world.

The proposals and demands are divided into four documents:

- The memorandum for the federal elections, which contains the proposals and demands concerning citizens and proposals and demands concerning the lawyers.
- The memorandum for the European elections
- The Supplementary Memorandum on Migration Policy
- The Memorandum between bars

Common demands of all actors in the field of justice

As part of the negotiations for the formation of a new government, the associations representing all Belgian lawyers (the Flemish, French and German-speaking Bar Associations and the Bar of Cassation) have joined forces with the Dutch- and French-speaking Magistrates' Associations and the Human Rights League to draft a text of common demands for justice.

This is an extremely rare occurrence.

Legal expenses insurance

The Belgian bars and legal expenses insurers actively participated in the drafting of the law aimed at encouraging the development of legal expenses insurance by introducing a tax reduction for contracts that meet a number of conditions in terms of risks covered, minimum coverage and guarantee, etc.

Loi du 22 avril 2019 visant à rendre plus accessible l'assurance protection juridique (M.B. 8 mai 2019).

Copies of files in criminal matters

This was an urgent request from AVOCATS.BE. From now on, the law enshrines the possibility for lawyers to obtain a copy of the files in criminal matters:

"Acceptance of the request to consult the file implies that the applicant or his lawyer can themselves and by their own means, take a copy free of charge, on the spot", including in the case of pre-trial detention.

Loi du 5 mai 2019 portant dispositions diverses en matière d'informatisation de la justice et de modernisation du statut des juges consulaires et relativement à la banque des actes notariés (M.B. 19 mai 2020).

Establishment of a guaranteed service in prisons in the event of a strike by prison staff

For a long time, AVOCATS.BE reported the fact that Belgium was one of the last countries within the Council of Europe not to provide a "guaranteed service" in the event of a strike. The Belgian government has since remedied this situation.

Loi du 23 mars 2019 concernant l'organisation des services pénitentiaires et le statut du personnel pénitentiaire (M.B. 11 avril 2019).



PROFESSIONAL REGULATION

Training reform

Since the 1st of September 2019, the initial professional training that trainee lawyers must undergo in order to obtain their certificate of aptitude to practice as a lawyer (CAPA) has been organised in accordance with new procedures.

Trainee lawyers will have to undertake 84 hours of courses organised as follows:

- Ethics (16 hours),
- Practice of civil procedure (16 hours),
- Practice of criminal procedure, including the defence of persons deprived of their liberty or interviewed by the police, the public prosecutor's office or an examining magistrate (16 hours),
- Practice of administrative procedure (8 hours),
- Legal aid (8 hours),
- Tax, social security and economic law obligations, as well as money laundering prevention (8 hours),
- Alternative dispute resolution (8 hours),
- And the computer tools available to lawyers (4 hours).

These courses must be taken during the first year of the traineeship, during the sessions organised by the professional training centers. Exams are organised in order for the trainees to obtain the CAPA.

Trainees who have obtained the CAPA must, during their second and third years of traineeship, follow practical professional training courses on professional ethics (12 hours minimum) and European law, including the European Convention for the Protection of Human Rights and Fundamental Freedoms (12 hours minimum), as well as optional courses of a minimum of 24 hours (e.g. youth law, law on foreigners, in-depth criminal law, etc.).

They must also participate, for a minimum of 4 days, in one or more seminars devoted, in particular, to written communication, oral communication, communication with the media, pleading, holding meetings, negotiation, collaborative law, mediation, etc.

Attendance at these courses and seminars is mandatory and is an obligation of the traineeship. Once the program has been completed in full, a training certificate is issued, which must be attached to the CAPA in the application for registration on the list of the Order.