

# EXPLANATION OF YOUR RIGHTS

If you have been **DETAINED** and are to be questioned as a suspect.

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## Which rights must you be told about before the interview starts?

### 1. Right to a confidential consultation with a lawyer and legal assistance during the interview

#### A. Lawyer

- You may ask for a lawyer of your choice to be contacted.
- If you do not have a lawyer of your own or this lawyer is unable to attend, you can ask for a lawyer from the Bar Association's pool of duty lawyers to be contacted.
- If you comply with certain legal conditions, this legal aid is either completely or partially free of charge. You may ask for the form that sets out the conditions for legal aid.

#### B. Prior confidential consultation

- Before the next interview - and within 2 hours after you have spoken to the lawyer from the Bar Association's pool of duty lawyers - you are entitled to a confidential consultation with your lawyer for thirty minutes, which may be extended on an exceptional basis by decision of the interviewer.
- This consultation may take place both by telephone and at the location of the interview.
- If the planned consultation with your lawyer has not taken place within 2 hours, as yet a confidential telephone consultation with the Bar Association's pool of duty lawyers will take place. After this, the interview can start.
- If your lawyer arrives during the interview, he may attend the remainder of the interview.

#### C. Legal assistance during the interviews

- You are entitled to be assisted by your lawyer at the interviews
- Your lawyer will ensure:
  - that your right to remain silent and your right not to incriminate yourself are upheld;
  - the way in which you are treated during the interview, whether or not you are put under any undue pressure;
  - the fact that your rights are explained to you and the regularity of the interview.

If your lawyer has comments about any of these matters, he can have them immediately recorded in the police interview statement.

Your lawyer may ask for a specific inquiry to be made or for a specific person to be interviewed. He may ask for clarification regarding the questions being asked. He may put forward comments regarding the investigation and regarding the interview. He is not allowed to answer in your place or obstruct the interview.

- You or your lawyer have the right to have the interview suspended on one occasion only for an additional confidential consultation. If new elements or offences come to light during the interview, you are also allowed to have an additional confidential consultation with your lawyer. This consultation may last for no longer than 15 minutes.



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## D. Waiver

You are not under obligation to request for a consultation with or for the assistance from a lawyer.

You may waive this right on a voluntary basis and after due consideration, if you:

- are of legal age;
- after you have signed and dated a document to this effect;
- if possible, the interview may be filmed. You can discuss this with your lawyer (see also point 7).

On these matters, you may speak on the telephone to someone at the Bar Association's pool of duty lawyers.

## E. Derogation

In exceptional circumstances and in case of compelling grounds, the Public Prosecutor or the Examining Magistrate may decide not to grant you the right to a prior confidential consultation or the assistance from a lawyer during the interview. He is required to state grounds for this decision.

## 2. Summary communication of the offences

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You have the right to be told about the offences on which you will be interviewed.

## 3. Right to remain silent

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- At no point can you be forced to incriminate yourself.
- After you have stated your identity, you may choose to make a statement, answer the questions asked or remain silent.

## 4. Letting someone know that you have been arrested

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You are entitled to have a third party notified of your arrest.

However, this may be delayed on compelling grounds by the Public Prosecutor or the Examining Magistrate for the length of time required in the interests of the investigation.

## 5. Medical assistance

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- You are entitled to free medical assistance if required.
- You may ask to be examined by a doctor of your choice. If so, this is at your own expense.



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## Which additional rights do you have during the interview?

### 6. Other rights during the interview

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The interview itself starts out with a number of communications. In addition to repeating the summary communication of the offences and your right to remain silent, you will be informed that:

- You may request for all questions asked and for all answers given by you to be recorded in the words used by you;
- You may ask for a specific inquiry to be made or for a specific person to be interviewed;
- Your statements made used in evidence before a court of law.
- During the interview, you may use documents in your possession, as long as this does not cause the interview to be delayed as a result. You may ask, either during or after the interview, for these documents to be added to the police interview statement or to be deposited with the Court Registry.

### 7. Filming the interview

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- If possible, the interview may be filmed to monitor the interview proceedings.
- This is decided by the interviewer, the Public Prosecutor or the Examining Magistrate.

### 8. At the end of the interview

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At the end of the interview, you will be provided with the text of the interview for you to read. You may also ask to have it read to you.

You will be asked if there is anything you would like to change or add to your statement.

### 9. Interpreter assistance

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- If you do not understand or speak the language, or if you have hearing or speech impediments and if your lawyer does not understand or speak your language, you are entitled to a sworn interpreter during the confidential consultation with your lawyer. This help is free of charge.
- If you wish to speak a language that is different from the language of the proceedings, a sworn interpreter will be called up to assist you during the interview. This help is free of charge.
- You may be asked to write down your statement in your own language.



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## How long can you be held in custody?

### 1. 48 hours

You may be held in custody for no longer than 48 hours.

### 2. Examining Magistrate

- Within 48 hours, you will either be released or taken before the Examining Magistrate. The latter will decide whether or not you are to remain in custody and whether or not to issue an arrest warrant.
- The Examining Magistrate is under obligation to hear you on the matter first. During this interview too you are entitled to be assisted by your lawyer. The Examining Magistrate is to hear your comments, or those put forward by your lawyer, about the fact that a warrant may be issued for your arrest.

You may waive your right to assistance from a lawyer only if you are of legal age.

- If the Examining Magistrate issues a warrant for your arrest, you have the following rights:
  - You have the right to speak to your lawyer without limitation.
  - Within five days after the arrest warrant was issued, you will appear before the Committals Chamber, where you may challenge your arrest and the fact that you are being held on remand.
  - The day prior before the hearing of the Committals Chamber or the Indictments Chamber you will be allowed to consult your case file.

- Unless you have been given a verbal translation of the arrest warrant, you may request a (written) translation of the relevant passages of the arrest warrant if you do not understand the language in which the proceedings are to be conducted. To this end, you will need to submit a request with the Court Registry of the Court of First Instance within three days after the arrest warrant was issued. This translation is free of charge.
- Your lawyer can explain the further course of events of this procedure in greater detail.
- If you are not a Belgian national, you may notify your consular authorities of your arrest.

**You may keep this explanation of your rights.**