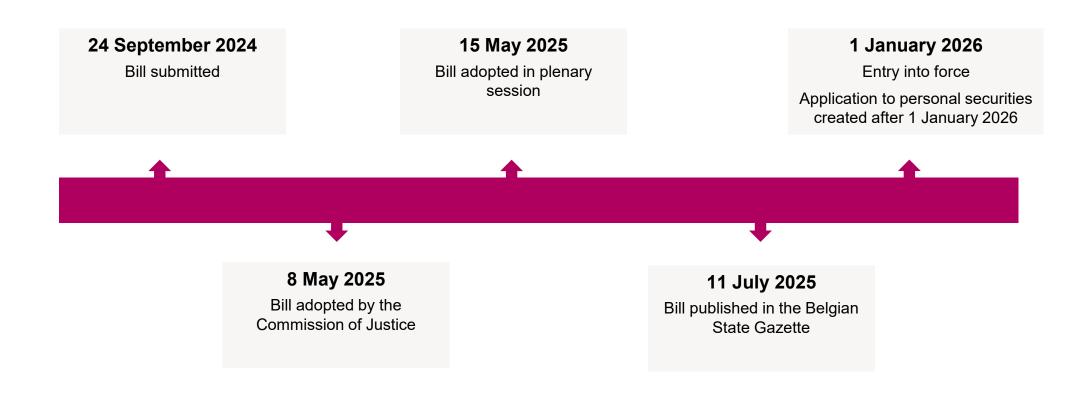
Book 9 - Title 1 - Personal securities



Title 1 - Timeline



Title 1 - Overview

Articles 9.1.1 to 9.1.10

Règles communes à toutes les sûretés personnelles Gemeenschappelijke regels aan alle persoonlijke zekerheden Common rules to all personal securities



Articles 9.1.11 to 9.1.34

La sûreté personnelle accessoire (cautionnement) Accessoire persoonlijke zekerheid (borgtocht) Dependent (or accessory) personal security

Articles 9.1.42 to 9.1.50

Articles 9.1.51 to 9.1.54

La sûreté personnelle constituée par un consommateur Personlijke zekerheid gesteld door een consument Personal security granted by a consumer

Le cautionnement légal et le cautionnement judiciaire

Statutory personal security and judicial personal security

Wettelijke borgtocht en gerechtelijke borgtocht

Articles 9.1.35 to 9.1.41

La sûreté personnelle autonome Autonome persoonlijke zekerheid Independent (or autonomous) personal security

Common rules (Articles 9.1.1 to 9.1.10)



Article 9.1.1

Droit supplétif sauf si la loi en dispose autrement (cf. consommateurs)

Aanvullend recht behalve anders bepaald door de wet (cf. consumenten)

Supplementary law unless otherwise provided by the law (e.g. consumers)



Articles 9.1.2 - 9.1.3

Définitions & Champ d'application

Definities & Toepassingsgebeid

Definitions & Scope of application



Articles 9.1.3 – 9.1.7

Naissance de la sûreté & interprétation

Ontstaan van de zekerheid & interpretatie

Creation of the security & Interpretation



Articles 9.1.9 – 9.1.10

(In)solvabilité et capacité du constituant de la sûreté

(In)solvabiliteit en bekwaamheid van de zekerheidssteller

(In)solvency and capacity of the security provider



Deep dive – Independent personal security (Articles 9.1.35 – 9.1.41)

Scope of application (Article 9.1.35)

The validity, terms, scope and continued existence of the personal security are not dependent on the validity, terms, scope or continued existence of the secured obligation. The chapter also applies to documentary letters of credit

Obligations upon the calling of the autonomous guarantee (Article 9.1.36)

The provider of the said guarantee must pay if the demand complies with the guarantee's terms, based solely on documentation. Only exceptions based on the relationship between the provider of the guarantee and the beneficiary may be raised.

Provider's right of recovery (Article 9.1.38)

The provider of an autonomous guarantee has the right to recover from the beneficiary any amount received by the beneficiary under a payment demand that did not comply with the guarantee's terms.

Assignment (Article 9.1.40)

Assignment of the underlying secured obligation does not result in assignment of the autonomous guarantee. An autonomous guarantee cannot be assigned to another beneficiary.

Q Deep dive - Letter of comfort

- ✓ **Definition (Article 9.1.2, 9°)**: any statement of intent, whether binding or not, by a third party regarding the principal debtor's fulfilment of their obligation.
- ✓ **Presumption of security (Article 9.1.11)**: a letter of comfort is presumed to be a security, unless the creditor establishes a different arrangement.
- ✓ Applicable rules (personal security provided by a consumer Article 9.1.43): A consumer may not provide any form of personal security other than an accessory personal security. If a consumer grants an autonomous guarantee, a performance guarantee, a binding letter of comfort, or a joint and several liability as a security, it shall be automatically converted by law into an accessory personal security (implying the application of mandatory provisions for consumers).

Stay on track: explore our microsite for the essential insights

On track to a modernised Belgian Civil Code (linklaters.com)

