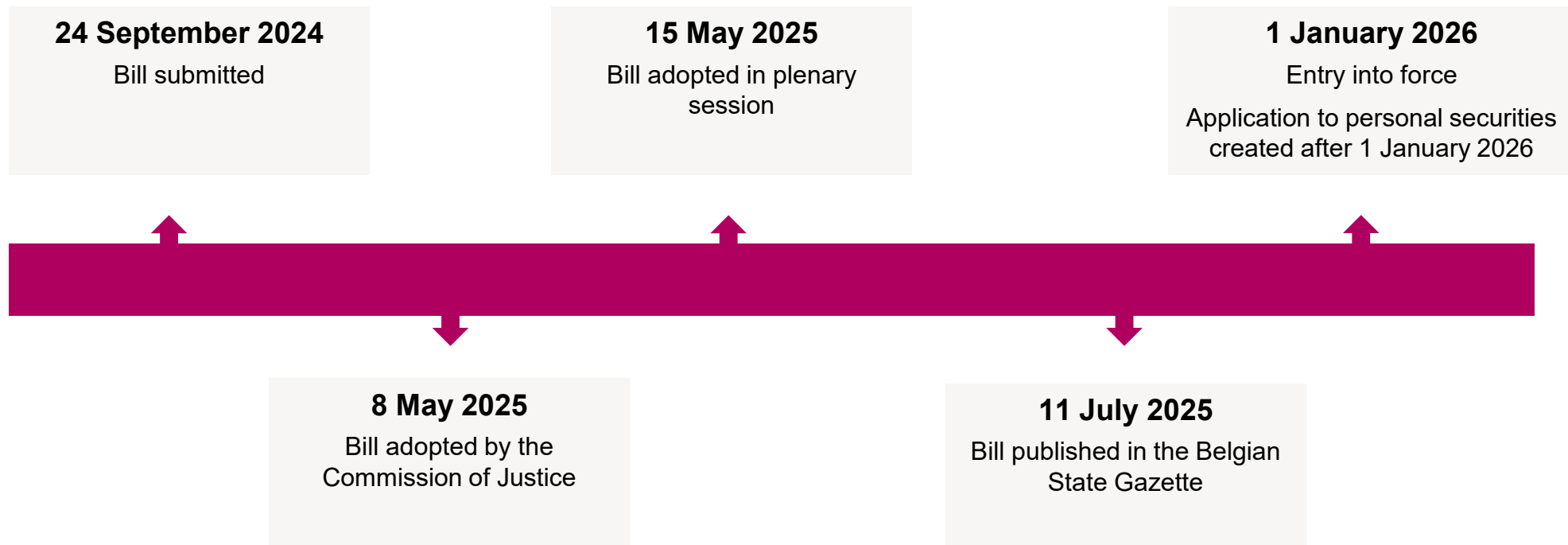


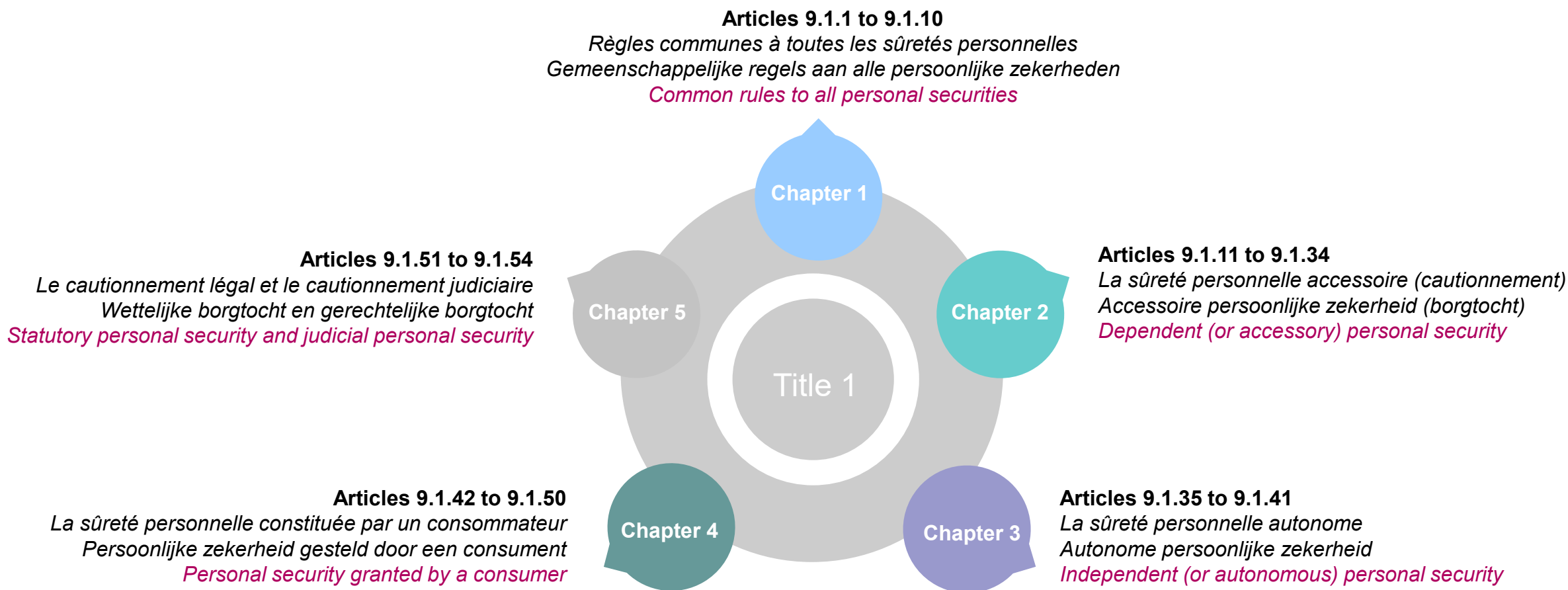
Book 9 - Title 1 - Personal securities



Title 1 - Timeline



Title 1 - Overview



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 & Toepassingsgebied

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.



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**).

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