

Ageing in digital societies: enablers and barriers to older persons exercising their social rights

Belgium

June 2022

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1 Legal and policy framework

1.1 National legislation on digital public administration

There is no explicit recognition of the right to equal access to public administration in legislation on digitalising such services. Equal access to public services is recognised indirectly through transversal legislative instruments that ensure access to documents and treatment of requests, of whatever medium.

The principle of equality and non-discrimination provided for in the constitution (articles 10 and 11) and the law of 10 May 2007 against certain forms of discrimination apply.¹ Age is a protected category under these instruments. Thus, older people should enjoy their rights, including public services on par with others and should not suffer discrimination in accessing them.

Article 32 of the Constitution², the law of 11 April 1994 on the publicity of the public administration³, the Flemish community Decree of 26 March 2004⁴, the French speaking community's Decree of 22 December 1994⁵, and the joint act of the 17 June 2019 for the Brussels capital region⁶ grant all individuals the right to consult administrative documents. A regime for active publicity (proactive communications), passive communication (right to consultation/copy on request), the right to rectification, and the establishment of a commission on the access to documents (to address any rejections and appeals from individuals in this respect) is established. The law of 11 April 1995 instituting a social charter foresees that the administration/the social security authorities must - *upon written* request from an individual - provide all useful information regarding their rights and responsibilities and communicate any further information necessary to ensure the

¹ Belgium, Law Amending the Law of 30 July 1981 and Bill of 26 October 2006 Combating Certain Acts Inspired by Racism and Xenophobia (*Loi modifiant la loi du 30 juillet 1981 tendant à réprimer certains actes inspirés par le racisme et la xénophobie*), 10 May 2007. www.ejustice.just.fgov.be/cgi/article_body.pl?language=fr&caller=summary&pub_date=07-05-30&numac=2007002097. All hyperlinks were accessed on 22 June 2022.

² Belgium, Belgian Constitution (*Constitution Belge - Belgisch Staatsblad*), 7 February 1831. www.senate.be/doc/const_fr.html (the link is to the coordinated text published in the Belgian Official Journal on 17 February 1994).

³ Belgium, Law relating to the publicity of the administration (*Loi relative à la publicité de l'administration*), 11 April 1994. www.ejustice.just.fgov.be/eli/loi/1994/04/11/1994000357/justel

⁴ Belgium, Ministry of the Flemish Community (*Ministerie van de Vlaamse Gemeenschap*) (2004), 'Decreet betreffende de openbaarheid van bestuur', 26 March 2004. www.ejustice.just.fgov.be/cgi/article_body.pl?language=nl&caller=summary&pub_date=04-07-01&numac=2004036026

⁵ Belgium, Government of the French Community in charge of Civil Service (*Gouvernement de la Communauté française chargée de la Fonction publique*) (1994), 'Décret relatif à la publicité de l'administration', 22 December 1994. <http://www.ejustice.just.fgov.be/eli/decret/1994/12/22/1994929598/justel>

⁶ Belgium, Brussels Capital Region (*Région de Bruxelles-Capitale*) (2019), 'Décret et ordonnance conjoints relatifs à la publicité de l'administration dans les institutions bruxelloises', 17 May 2019. www.ejustice.just.fgov.be/cgi/article_body.pl?language=fr&caller=summary&pub_date=19-06-07&numac=2019012674

examination of the person's request or as may be necessary to safeguard their rights. Sending a letter, filling out a form or sending an email can be considered a written request under the law. The law of the 22 August 2002 on patient rights⁷ and the law on the e-health platform of 21 August 2008⁸ recognise the rights of patients to information, consent and choice of practitioner are not channeled through a particular medium. The law sometimes refers to writing down elements and storing them in the patient file. This could be digitally or not (hardcopy).

It also bears mentioning that the European Union (EU) Directive 2016/2102 of 26 October 2016 on the accessibility of the websites and mobile applications of public sector bodies⁹ was transposed under Belgian federal law of 19 July 2018 on accessibility of websites and mobile applications of public sector bodies.¹⁰ Older persons are not identified in the relevant legal framework as being a group the legal obligations seek to protect. To define digital accessibility, the Belgian act relies, as the European directive, on the experience of people with disabilities as it is incorporated in WCAG standard. Belgian law requires public sector entities to make their websites more accessible and to meet established EU standards. Both the federal government (BOSA) and federated entities have authorities that audit websites, treat complaints and assist in resolving issues. However, non-compliance with legal obligations is not accompanied by financial penalties.

1.2 National policy, strategy or action plan on the digitalisation of public services or digital inclusion

All three federated regions have adopted 'digitalisation plans/programs' as a main dimension to their policies and recognise that older persons are in need of special attention to ensure that this segment of the population can access public services provided online on an equal basis with others.

The 'Plan d'appropriation numérique' is the action plan of the Brussels Region for the period 2021-2024 to reduce inequalities in access, usage, knowledge of digital

⁷ Belgium, Patients' Rights Law (*Loi relative aux droits du patient*), 22 August 2002 www.ejustice.just.fgov.be/cgi/loi/change_lg_2.pl?language=fr&nm=2002022737&la=F

⁸ Belgium, Law relating to the institution and organization of the eHealth platform (*Loi relative à l'institution et à l'organisation de la plateforme eHealth*), 21 August 2008. www.ejustice.just.fgov.be/cgi/article_body.pl?language=fr&caller=summary&pub_date=08-10-13&numac=2008022534

⁹ Directive 2016/2102 of the European Parliament and of the Council of 26 October 2016 on the accessibility of the websites and mobile applications of public sector bodies, OJ 2016 L 327. <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32016L2102>

¹⁰ Belgium, Law on the accessibility of the websites and mobile applications of public sector bodies (*Loi relative à l'accessibilité des sites internet et des applications mobiles des organismes du secteur public*), 19 July 2018. www.ejustice.just.fgov.be/cgi/article_body.pl?language=fr&caller=summary&pub_date=18-09-03&numac=2018040577

tools.¹¹ Through this plan, the Region identifies six groups needing special support: job seekers, youth, older people, persons with disabilities, the needy and disadvantaged, and women. The objective of action 14 (under the plan) is to allow older persons to train in the use of new technologies in a secure way. The policy sets forth initiatives at domicile and in nursing homes to familiarize older persons to the use of digital tools. Nursing homes are supported in the organisation and in the financing of programs to advance knowledge of basic digital skills, with training prioritising accessibility to communication, banking and online public services applications, as well as on cybersecurity.

The equal opportunities policy of the Flanders Region focuses on e-inclusion at the local level via the Iedereen Digitaal 'Everyone digital' action plan.¹² The Flemish Plan for Ageing of March 2022 includes five actions directed at increasing digitization of older persons: action plans are rolled out in the education policy against the digital exclusion of older people (ICT impulse programme) (Action 8, 9), networks of 'digibuddies', monitoring of digital competences of employees of the Flemish government and local authorities (Action 10), investments in appropriate communication technologies (Action 11), and special attention to vulnerable older people (Action 9).¹³

In Wallonia, the "Digital Strategy Wallonia" has an axis of funding aimed at increasing the region's IT skills.¹⁴ Within this axis, a project in particular is aimed at digital inclusion, including increasing the number of public digital spaces (providing free access to internet) and to increasing female participation in the IT workforce. The emphasis is put on digital literacy and competences as part of the federal policy on poverty alleviation. The policy has created a service of 'experts by experience' (Ervaringsdeskundigen or experts du vécu) to promote the use of e-ID, so that access to rights and services is simplified. Specific funding opportunities, ad hoc events, ad hoc support to organisations are funded under the program.

¹¹ Belgium, Brussels Capital Region (Région de Bruxelles Capitale), 'Plan d'appropriation numérique', 12 février 2021. <https://cirb.brussels/fr/quoi-de-neuf/publications/cahiers/ndeg40-plan-dappropriation-numerique>

¹² Belgium, Flemish Region, 'Actieplan Iedereen digitaal'. www.vlaanderen.be/samenleven/toegankelijkheid/iedereen-digitaal

¹³ Belgium, Ministry of Welfare for the Flemish Region (Ministerie van Welzijn) (2019), 'Vlaamse ouderenbeleidsplan 2020-2025', adoption pending. www.cdenv.be/storage/main/2022.03.28-ouderenbeleidsplan-pdf.pdf (version of 25 March 2022).

¹⁴ Belgium, Walloon Government (Gouvernement de Wallonie) (2019), 'Plan Digital Wallonia (2019-2024)', 6 December 2018. www.digitalwallonia.be

1.3 National recovery and resilience plans covering the digitalisation of public services

Under the Belgian national recovery and resilience plan,¹⁵ the digitisation of public services is financed to about 585 million euros in Belgium, and the sum allocated to training and education (450 million), should be attributed as priority to support 'vulnerable groups', including migrants, low qualified workers, and persons with disabilities.

The Flemish Plan for Ageing explicitly indicates that, in Flanders, local authorities active in implementing it are supported with the funds allocated to the Flanders region from the Recovery and Resilience Plan to develop a local e-inclusion policy.¹⁶

In Wallonia the Recovery and Resilience Plan funds projects supporting Lifelong digital training with the specific aim to reduce inequalities in access to digital technology through renewed training for the benefit of vulnerable groups: young people, seniors, low-skilled working people, people with disabilities, job seekers.¹⁷

2 Programmes and practices aimed at ensuring equal access to public services in the digital age

1. In March 2020, ASmartWorld and the Foundation for Digital Inclusion worked together on the project Action Connected Families.¹⁸ In the wake of the corona crisis, the objective of the project was to provide smart phones to isolated person in rest homes. 300 phones were distributed to 120 institutions.

ASmartWorld is a non-profit association founded in 2018 focused on reconditioning smartphones/IT equipment in a sustainable manner.¹⁹ They worked with/through the Foundation for Digital Inclusion, which was officially created in July of 2020. The Foundation's main objective is to combat digital exclusion in a sustainable manner.

¹⁵ Belgium, State Secretary for Economic Recovery and Strategic Investments (*Secrétaire d'État pour la Relance et les Investissements stratégiques*) (2021), 'Plan national pour la Reprise et la Résilience. Belgique', June 2021. <https://dermine.belgium.be/sites/default/files/articles/FR%20-%20Plan%20national%20pour%20la%20reprise%20et%20la%20re%CC%81silience.pdf>

¹⁶ Belgium, Ministry of Welfare for the Flemish Region (*Ministerie van Welzijn*) (2019), 'Vlaamse ouderenbeleidsplan 2020-2025', (adoption pending), p. 39 and p.41.

¹⁷ Belgium, Walloon Government (*Gouvernement de Wallonie*) (2021), 'Plan de la relance de la Wallonie', June 2021. <http://mobilite.wallonie.be/files/politiques-mobilite/Plan%20de%20relance%20de%20la%20Wallonie-2021.pdf>

¹⁸ www.digitalpourtous.be

¹⁹ www.asmartworld.be

In November 2020, the initiative Connected Smiles was launched.²⁰ It is supported by the Roi Baudoin Foundation (independent philanthropic foundation), ASmartWorld (see above), The Foundation for Digital Inclusion (see above), Solidaris (a hybrid public/private healthcare insurance company), and the RedCross (non-governmental/non-profit association working on a variety of humanitarian projects). This initiative also aims at collecting IT equipment from companies (deductible as a charity donation), reconditioning it, and distributing smartphones and tablets to isolated/at risk persons (refugees, migrants, homeless, older people...), as well as helping them to learn how to use the equipment/accompany them in this respect.

2. In 2020, the Foundation Roi Baudoin (see above), Febelfin (a non-profit association representing 242 companies from the financial sector), and WeTechCare (a non-profit association created in 2019 that develops IT tools for digital inclusion in Belgium and France – supported by Fondation 4wings and Itsme), developed the platform “123 Digit”.²¹ It is an application to teach people about online banking and to provide tools for mentors to assist people to become more digitally minded. The platform appears to be mainly a tool for associations/people working in digital exclusion to accompany at risk/vulnerable groups. However, the materials are also directly accessible for individual use.

The network CABAN, which refers to the collective of Brussels actors for digital accessibility, is a federation that brings together a variety of civil society and public authorities that fight against digital exclusion. One of the institutional activities is supporting Digital Public Places (Espaces publics numériques, EPN), which provide free access and mentoring to navigate internet and to access public services online.²²

3 Research and data focused on equal access to public services in the digital age

Regarding the administration of pensions, we consulted the 2021 yearly report of the mediator/ombudsman for the public pensions service. This report reported in chapter 4 “digital by default” a series of problems linked to the digitalisation of tax forms and subsequent complaints. The specific number is not cited, but it refers to a ‘series of complaints’. The public pensions’s 2021 annual report reviews many nervous and upset complaints received in 2020 which show that thousands of pensioners were not aware they would no longer receive certain documents for

²⁰ www.connectedsmiles.be

²¹ www.123digit.be

²² www.caban.be

their tax forms in paper format but only through the digital portal mypension.²³ Some 22,000 pensioners did not receive a tax paper and so many of them contacted the public service. However, the phone line didn't allow them to effectuate their request due to a design flaw namely, the time (20 seconds) allotted to users for entering the national number was insufficient. The time for providing the national number was subsequently increased to 30 sec, but multiple requests had already been lost or could not be validly registered.²⁴ The letters of complaint written by the children of older adults or by older persons themselves emphatically underline that the low computer skills of this section of the population had not been duly taken into consideration. Not all pensioners are computer-savvy enough to retrieve data via the pension portal (mypension). The mediator recommends a better communication campaign, and that older people should have been informed – by written letter- of the change of policy (i.e. only providing some documents electronically) and foreseeing better assistance and a digital information point for helping older people.

The 2020 report of the Mediation service for patient rights (*Service de médiation fédéral Droits du patient*) highlights a problem with privacy and confidentiality of medical records.²⁵ The Mediation service for patient rights reports persistent problems (for multiple years- dating back to 2018) of confidentiality and privacy of health data, notably complaints regarding unauthorised access to e-health records, undisclosed e-access records, and sharing of sensitive psychiatric data. The 2020 report of the Mediation service for patient rights also reports on a campaign called "patient seniors" rolled out in April 2021 in care homes and aimed at older patients, where the Federal government sought to raise awareness about the possibility for people to appoint a 'person of confidence' or a 'patient representative'.²⁶ The 'person of confidence' (*personne de confiance*) or the 'patient representative' (*représentant du patient*) is a natural person of choice (a professional, an adult child, a friend) who is granted by a legally capable older adult the right to access medical records and who supports older persons' exercise of important rights such as the right not to know, to interfere with treatment-decisions based on the therapeutic exception, and to lodge a complaint.²⁷

²³ Belgium, Pension Ombudsman (*Médiation Pensions*), Collège des Médiateurs Pensions (2021), 'Report annuel 2021', <https://www.mediateurpensions.be/docs/reports/2021/RA2021%20FR.pdf>

²⁴ Belgium, Pension Ombudsman (*Médiation Pensions*), Collège des Médiateurs Pensions (2021), 'Report annuel 2021', p. 41.

²⁵ Belgium, Federal Ombudsman Service for Patients' Rights (*Service de médiation fédéral « Droits du patient »*), Annual Report 2020 (*Rapport Annuel 2020*), 23 July 2021. [www.health.belgium.be/sites/default/files/uploads/fields/fpshealth theme file/rapport annuel 2020 fr - .pdf](http://www.health.belgium.be/sites/default/files/uploads/fields/fpshealth_theme_file/rapport%20annuel%2020%20fr%20-%20.pdf)

²⁶ Service Publique Fédérale Santé Publique, 'Campagne patients seniors', 18 November 2020 www.health.belgium.be/fr/campagne-patients-seniors.

²⁷ Belgium, 'Patients' Rights Law' (*Loi relative aux droits du patient relative aux droits du patient*), 22 August 2002, articles 7, 9 and 14. www.ejustice.just.fgov.be/cgi/loi/change_lg_2.pl?language=fr&nm=2002022737&la=F

In this regard, the patient rights Mediation service recommends additional patient privacy protections, notably aimed at consent modalities, information on how the data exchange system works, security measures.²⁸ These modifications, it is suggested, could find their place under the Federal Law of 22 April 2019 relating to the quality of the practice of health care and specifying the conditions under which a (health) practitioner can access data from a data exchange network for the same healthcare purpose.²⁹

²⁸ Belgium, Federal Ombudsman Service for Patients' Rights (*Service de médiation fédéral Droits du patient*), Annual Report 2020 (*Rapport Annuel 2020*), 23 July 2021, p.58-59.

²⁹ Belgium, 'Law on the quality of healthcare practice' (*Loi relative à la qualité de la pratique des soins de santé*), 22 April 2019, specifically articles 36 and following
www.ejustice.just.fgov.be/cgi/article_body.pl?language=fr&caller=summary&pub_date=19-05-14&numac=2019041141

4 State of digitalisation of selected public services

		Selected public services relevant for older persons			
		Access to health records	Public statutory pensions	Social benefits	Other (as relevant in your context)
Stage of digitalisation	Not digitalised (Y/N)	N It's a platform that centralizes certain aspects of health records (vaccines, prescriptions, consent regarding certain medical relationships, medical files etc.). To access certain medical files, it also requires that you already have an account with other entities (i.e. Brussels/Walloon/Flanders health network)	N	N	
	Information is available online (Y/N)	Yes (masanté.be)	Yes (mapension.be)	Yes (socialsecurity.be)	
	Transactions are possible online (Y/N)	Yes	yes	yes	
Recognition of groups at risk of digital exclusion	Service specific regulation recognises barriers to digital inclusion / vulnerable and disadvantaged groups (Y/N).	No	no	no	
	If yes, please list the barriers and groups that are mentioned.				

<p>Multichannel access options</p>	<p>Telephone service (Y/N)</p> <p>If yes, please describe what kind of personalised services it provides.</p>	<p>YES - For technical questions regarding access to medical reports or results, two out of four e-health networks listed in masanté.be provide a telephone number, (n. +32 (0)71/924647 for the Walloon Health Network (RSW) and +32 (0)16 34 49 84 for the Vlaams Ziekenhuisnetwerk (VZN KUL). For questions about content, patients must contact their attending physician.</p>	<p>Yes – helpline 9-12 every business day</p> <p>Tel. n. 1765 to request tax form in paper format</p>	<p>YES – The Belgian Social Security portal (www.socialsecurity.be/citizen/fr) centralises all information, services and online procedures relating to citizens' social security. Citizens who have a question or complaint about an online service provided by the portal can address the Contact Center (<i>Centre de contact</i>) by phone (02 545 50 77), from Monday to Friday, from 7 a.m. to 8 p.m. However, to ask a question about a specific issue of social security, citizens must contact the Social security institutions responsible for each thematic area at national or regional level (e.g., for questions about allowance for assistance to older persons, Flanders (APA, www.vlaamsesocialebescherming.be): tel. n. 0800 16061; Wallonia (AVIQ, www.aviq.be/ap): 080016061; Brussels (IRISCARE, www.myiriscare.brussels</p>	
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				/fr/lapa-pour-les-bruxellois/):080035 499).	
<p>Physical administrative access points (Y/N).</p> <p>If yes, please specify the level of availability (local, regional, national), the opening days and hours.</p>	<p>No centralised point of contact for the platform itself. You are supposed to contact the hospital/care providers regarding any specific medical information on files.</p>	<p>Yes ‘PointPension’ - availability depends on location/office. There appear to be numerous locations across the country (approximately 230 locations, about one per city)</p>	<p>No central physical contact point. People can contact/request an appointment with the individual authorities</p>		
<p>Specific locations that facilitate offline access to the service (Y/N)</p> <p>If yes, indicate the location(s).</p> <p>Please describe what kind of support is provided.</p>	<p>The doctors or hospitals you visited.</p>	<p>Yes see above</p>	<p>No see above</p>		
<p>Specific locations that facilitate online access to the service (Y/N).</p> <p>If yes, indicate the location(s).</p> <p>Please describe what kind of support is provided.</p>	<p>No</p> <p>But: Digital Public places availability depends on location/office. These are libraries or other public places which provide free internet access and typically classes/training to get acquainted with digital instruments.</p>	<p>Yes</p> <p>Digital Public places availability depends on location/office. These are libraries or other public places which provide free internet access and typically classes/training to get acquainted with digital services/instruments.</p>	<p>Yes</p> <p>Digital Public places availability depends on location/office. These are libraries or other public places which provide free internet access and typically classes/training to get acquainted with digital services/instruments.</p>		

	Other – please indicate any other access channels to the service.				
Other forms of support for online use	Please indicate any other form of support to facilitate the use of the online service for older persons such as easy-to-read versions, different language versions, etc.	Provided in three national languages (NL, FR, DE)	Provided in three national languages (NL, FR, DE)	Provided in three national languages (NL, FR, DE)	