

From involuntary commitment to aftercare



The following text is the English translation of the 2nd version of the original pamphlet in Dutch, which was developed with the support of the King Baudouin Foundation and the Belgian National Lottery. Law of 26 June 1990 concerning the protection of the person of a mental illness (B.S 27 July 1990).

met de steun van:

This pamphlet is specifically intended for people who are admitted in a psychiatric hospital. It can also be useful for caregivers, family members and everyone involved in an involuntary commitment.

This pamphlet was created with the help of patients, family members, ombudspersons, caregivers, psychiatrists, and jurists. We particularly want to thank the students of the bachelor in “orthopedagogie” of “Hogeschool Gent” who tested the usefulness of the text with a number of parties concerned. We also thank everyone who made suggestions to improve the original version.

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Contents

- Introduction 4
- Why am I here? 6
- What does the justice of the peace do? 7
- How long do I have to stay here? 10
- What next? 14
- What are my rights? 15
- Who can I contact for questions? 17
- Contacts 18
- Useful contacts of the hospital 19
- Personal trajectory 20



In these frames you will find **useful pointers**.



DID YOU KNOW THAT
in these kinds of frames you will find an explanation of
difficult terms or other useful information

INTRODUCTION

You are admitted in this hospital beyond your will. You have lots of doubts and many questions.

- Why am I here?
- What does the justice of the peace do?
- How long do I have to stay here?
- What next?
- What are my rights?
- Who can I contact for questions?

There is a chapter to explain each of these questions. You don't need to read the entire pamphlet at once. You can just read the chapters that are of interest to you.

An involuntary commitment is a **major event in your life**. You are temporarily deprived of your liberty. There are still many misunderstandings when it comes to involuntary commitment. People often still say “**collocation**”, even though we should speak about “**the protection of the person**” since **the renewed Law of 26 June 1990**. This law offers a better protection of the patient's rights. In the past the interference of a mayor was enough to institutionalize someone for life. Now it's the decision of the justice of the peace.

The protective measure is only valid for a **limited period of time**. You or others can ask to reconsider the decision. You can read how this works exactly and what your rights are in this pamphlet.

The intention is not to lock you up or punish you. The judge imposes the protective measure because he considers it necessary that you are **taken care of** in an accredited hospital that specializes in the matter. The big difference with a regular admission is that you don't choose for it yourself. You retain all other patients' rights as prescribed by the Law of 22 August 2002.

Some customs may be different, depending on the justice of the peace.

Don't hesitate to ask the people or services listed in the middle of this pamphlet for explanation if you don't recognize or understand certain things.

You can also find more information about **your own situation** there. This will allow you to closely follow your own journey. When did my admission start and when does it end? Until when can I appeal? What does aftercare look like for me? If you want to, you can take this information out of the pamphlet and keep it in another place.

	<p>DID YOU KNOW THAT the pamphlet “Invitation to dialogue” about patients’ rights is available in the ward or with the ombudsperson?</p>
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	<p>You can add contact details of people and services in the removable section in the middle of this pamphlet. You can fill in your important dates in the schedule.</p>
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WHY AM I HERE?

The **justice of the peace** or **public prosecution** was asked to have you admitted to a psychiatric hospital. The involuntary commitment must always be confirmed by a decision of a justice of the peace.

- The session with the **justice of the peace** has already taken place, and he has confirmed the involuntary commitment. Then you are in the observation period. This is called the **regular procedure**.

or

- You were admitted to this hospital on demand of the **public prosecution** and you have to wait for the session with the justice of the peace. This is called the **emergency procedure**.

WHAT DOES THE JUSTICE OF THE PEACE DO?

Day 1

You are admitted in this hospital under the terms of the law of 26 June 1990 concerning the **protection of the person of a mental illness**. This law stipulates that a request for involuntary commitment can't be made without a **medical report** from a doctor. In here, he confirms the following:

- He diagnosed you with a mental illness.
- He believes your health and safety are seriously at risk, or that you are a severe threat for someone else's life or integrity.
- He doesn't see any other suitable treatment for you.

The three conditions stated above must all be fulfilled.

The medical report mustn't be older than 15 days and must be written by a (family) doctor, or a psychiatrist who doesn't work in the hospital where you are admitted. It's possible that you were taken to another hospital for this.



DID YOU KNOW THAT the public prosecutor has to make sure the law is applied and society is protected? The public prosecutor can decide to take you to a hospital, but the justice of the peace will ultimately have to confirm whether the involuntary commitment remains necessary.

Day 10

The justice of the peace will give a verdict and pass judgement within 10 days. Usually, the court session takes place in the hospital, sometimes at the justice of the peace court. At least until this moment, the hospital has to take care of you and supervise you.

You will be invited by a **judiciary letter** for a session at the justice of the peace court. The letter will mention the place, date and hour of the session and the **name of your pro bono lawyer**.

You can replace this pro bono lawyer by a lawyer of your own choice or ask the **Legal Aid Office** for a different pro bono lawyer. You can find the telephone number of this Office in the removable section in the middle of the pamphlet.



DID YOU KNOW THAT the Legal Aid Office (*before Pro Bono Office*) helps people who can't afford a lawyer?

It's possible that the justice of the peace appoints a psychiatrist as an independent **expert**. He will visit you to determine to what extent you have a mental illness or psychiatric problem. Sometimes this expert will be present at the court session with the justice of the peace. In any case, he will take his report into account.

You can also consult **your own psychiatrist**. If he believes that an involuntary commitment isn't necessary, then he should share his opinion beforehand with the justice of the peace court.

You can also ask a family member, friend or acquaintance as your confidant to support you during the court session. The hospital has to allow you to contact this person.



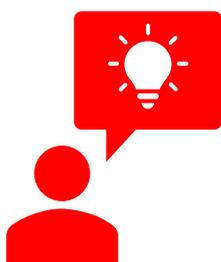
You can find templates of the forms to appoint your confidant at the ombudsperson or at:

- www.ombudsfunctieggz.be
- www.patientrights.be



DID YOU KNOW THAT a confidant is someone you as a patient can choose to help you with the progress of the involuntary commitment and possibly also to

- obtain information on the state of your health
- inspect your patient file
- file a complaint



- Discuss with your lawyer in advance what you will propose to the justice of the peace.
- Let the justice of the peace know who you appointed as your psychiatrist and confidant. All you need to do for this is call the court.
- Don't wait until you get the judiciary letter to make these contacts.

During the court session, the **justice of the peace** examines whether the involuntary commitment is justified or not and does so by asking the necessary questions. He or she will give a verdict, even if you don't want to or can't be present. **The clerk of the court** makes sure that everything is written down carefully.

HOW LONG DO I HAVE TO STAY HERE?



DID YOU KNOW THAT “clerk of the court” is just a solemn word for secretary? This secretary makes reports about everything that is said during the court session

Generally, the **psychiatrist of the hospital** will be present during the court session. Sometimes the psychiatrist appointed as **an expert** by the justice of the peace will be present as well. The **confidant** and **psychiatrist** you chose have the right to attend the court session. The justice of the peace court can invite other people as well for useful information. Your lawyer must be present in any case.

The decision of the judge will generally be communicated to the hospital on the very same day. You should receive the written confirmation, the judicial decision, within **three days**.

- If the justice of the peace decides that the request for involuntary commitment **isn't justified**, then you can leave the hospital.
- If the justice of the peace decides that involuntary commitment is necessary, then you will be admitted until the **observation period of maximum 40 days** is finished.

If the justice of the peace doesn't pass judgement by the 10th day after the request for involuntary commitment, you are free to leave the hospital. Notify the ward that you are leaving.



- Save the judiciary letters and the judicial decision.
- Maybe give a copy to your confidant.

	<p>DID YOU KNOW THAT the justice of the peace can also contact your family or people you know. The justice of the peace does this to try to get a full understanding of the situation. These people also receive a copy of the judiciary decision. (Amendment to the Law of 20 February 2017, BS 3/22/2017)</p>
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	<p>DID YOU KNOW THAT the director of the hospital always has to inform these people in case of any change during your involuntary commitment, like granting exit, the premature termination of the involuntary commitment ... (Amendment to the Law of 20 February 2017, BS 3/22/2017)</p>
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Appeal

You can appeal against this decision within 15 days after receiving the judicial decision. In order to do so, you or your lawyer has to write a letter to the President of the **court of first instance** in which you explain why you don't agree with the decision of the justice of the peace.

Keep in mind that it might take a few weeks (mostly about a month, three months at most) before a judgement is pronounced in appeal. It's possible that by then the involuntary commitment has already come to an end and that there was no extension requested.

When you appeal, there will be a new court session with three different judges who pronounce a new judgement. In the case of an appeal you can also appoint **your own psychiatrist** for a medical report and to support you during the court session. The court session mostly takes place in the hospital, sometimes in the courthouse.

During this session, you can also be assisted by **your own lawyer** and **confidant**. The court session cannot take place without the presence of a lawyer.

Costs

In addition to the lawyer's fee, there might be all sorts of other costs, like administrative, hospitalization and legal costs. Whether you should pay and how much depends on your income and the decision of the judge.

The costs of the pro bono lawyer are paid by the government. The justice of the peace will generally also transfer the administrative and legal costs to the government. The biggest part of the costs of the hospital stay is directly paid by the National Health Service. The non refundable part of the medical expenses is paid by you. This depends on your income and family situation.



- Ask your lawyer in advance about the total cost price.
- Ask your psychiatrist in advance how much the report and/or support will cost. Send this report in advance to the court of first instance and save a copy.

Extensions

If the protective measure still applies, the hospital director may, at the request of the psychiatrist, ask the justice of the peace for an **extension of your involuntary commitment**.

Day 25

He or she must do this no later than 15 days before the end of the observation. The observation period lasts maximum 40 days. Exceptionally, the peace court pronounces a shorter observation period. An extension of the involuntary commitment is only possible after a new court session with the justice of the peace.



DID YOU KNOW THAT your pro bono lawyer is not always free of charge. Your lawyer can ask for your income. If your income is higher than a certain limit, it's possible that you will have to pay all or part of the fees yourself. (Amendment to the Law of 6 July 2016, BS 7/14/2016)

Day 40

- If the justice of the peace decides that the request to extend the involuntary commitment **isn't justified**, you can leave the hospital after the 40th day.
- If the peace court decides that the involuntary commitment **remains necessary**, then it will be extended. This is called "**further stay**". In most cases, the judge proposes a stay of 3 to 6 months. The maximum is 2 years.

The involuntary commitment can always be extended. A new court session is necessary for each extension. This always takes place in the same way.

You keep the same rights. You can ask for your **own lawyer**, **psychiatrist** and **confidant** and you can appeal against the decision of the peace court within 15 days.

WHAT NEXT?

TRANSFER

If there is a more appropriate treatment possible in a different hospital, you may be transferred there. A **transfer** is possible when the psychiatrists of both hospitals reach a mutual agreement, or by a decision of the justice of the peace.

If you don't agree with this transfer, you can oppose it **within 8 days** by registered mail to the justice of the peace. You can also propose a transfer yourself to the psychiatrist or the justice of the peace.

REVIEW

If you believe that the reasons for involuntary commitment no longer apply, you can request a **review** of the protective measure. This is only possible during the further stay. You must get this confirmed by a doctor's report, preferably by a psychiatrist. The justice of the peace decides whether or not he will respond to your request for review and organize a court session.

AFTERCARE

The psychiatrist may decide during the stay that you don't need to stay fulltime in the hospital, but that you can start the aftercare. In that case, you will need to respect certain agreements.

The aftercare cannot exceed 1 year but will also never exceed the duration of the further stay. You are expected to regularly consult the psychiatrist of the hospital. If he or she agrees, you can also consult a different psychiatrist. If you don't respect the agreements, the psychiatrist may have you readmitted to the hospital, mostly for a short period of time, until aftercare is possible again.

The psychiatrist may at any time, during the observation period, further stay or aftercare, decide to end the protective measure.

WHAT ARE MY RIGHTS?

You are involuntarily committed, yet the rights as prescribed in the Law of 22 August 2002 on Patients' Rights, still apply. In addition to these rights, the Law of 26 June 1990 concerning the protection of the person of a mental illness also underlines some specific rights.

The right to freedom of opinion, religious and philosophical convictions

The law states clearly: "The non-conformity to the moral, social, religious, political or other values may not in itself be regarded as a mental illness."

The right to visitors and contacts

Your lawyer, your psychiatrist, your confidant and everyone you wish can visit you, unless there are medical reasons for why the visit of a certain person is not appropriate. The law explicitly encourages social and family contacts.

The right to free correspondence

Petitions directed to the juridical or administrative governments, or any correspondence whatsoever, cannot be retained, opened or destroyed.

The right to have a confidant and the protection of privacy

In the hospital, everyone is bound by the duty of professional confidentiality. It might be interesting however to inform someone of your family or friends. You decide who this is. If you want this person to support you during your involuntary commitment as well, you can appoint him or her as your confidant. You should inform the justice of the peace about this as soon as possible. You have the right to protection of your privacy. Without your permission, they cannot inform anybody.

The right to your own lawyer

You always have the right to a lawyer. Either you are assigned one; either you choose your own. To get a different pro bono lawyer, you can

contact the Legal Aid Office. On simple request, your lawyer can obtain all the necessary information from the psychiatrist from the hospital to check whether or not the conditions for involuntary commitment have been met.

The right to your own psychiatrist

You have the right to your own psychiatrist. If he considers that your involuntary commitment isn't necessary, you can ask to send a report to the justice of the peace in which your psychiatrist confirms this. Like your lawyer, he can obtain all useful information from the psychiatrist of the hospital and review the medical file. You can also ask him or her to be present at the court session, so he/she can convince the peace court him/herself. Ask in advance how much this will cost. You might discuss with your lawyer how best to handle this.

The right to a representative

If you're a minor, your representative (parent, guardian) will be informed and he or she will exercise a number of rights for you. They should involve you as much as possible. In case of a involuntary commitment of a minor, the role of the peace court will be taken over by the juvenile judge.

Even if you're of age you can appoint a representative in case you can't take important medical decisions yourself anymore.



You can find more information about the representative in the pamphlet "an invitation to dialogue" about patients' rights.

Freedom of movement

Involuntary commitment doesn't automatically mean that you have to stay in the hospital day and night. As soon as the mutual confidence has grown, you get more freedom of movement. You can get permission to leave the hospital, with or without supervision, to arrange certain practical or administrative affairs. In case you leave the hospital without permission or you don't return as agreed, the hospital is obliged to contact the police to report your absence.

WHO CAN I CONTACT FOR QUESTIONS?

The psychiatrist of the hospital

You can turn to him/her with questions concerning your health and its probable evolution, your treatment and medication. You can always make a proposal for voluntary treatment in this hospital, another hospital or another service. You can also ask to add documents or data that are important to you (e.g. the name of your confidant) to the patient file.

A caregiver with whom you have a good contact

She/he can help you learn how the ward works and help you with certain practical matters. You can figure out together how the therapeutic program best fits your expectations and interests.

The social service

The social service can guide you in your contacts with the outside world. You can make the necessary phone calls to your lawyer, to your health care professionals outside of the hospital, such as your family doctor, your own therapist or psychiatrist, but also to your family, friends or confidants. You can also turn to the social service when you are worried about financial matters like benefits and invoices.

In the case of a long admission, you might need to arrange some things concerning work (e.g. for the company doctor and the employer) and housing, like mail, electricity, gas, water, hobbies and pets. The social service can also help you to take care of these matters.

The ombudsperson

She/he should give you all useful information concerning your rights as a patient. If you want, she/he can also mediate between you and the doctor or the other caregivers.

The lawyer

For questions about the court (e.g. What to say to the justice of the peace? How can I appeal?), it's best to consult your lawyer.

CONTACTS

useful contacts, **to be completed by the patient**

Confidant
Address
Phone number
Lawyer
Address
Phone number
General practitioner
Address
Phone number
Your psychiatrist or personal psychotherapist
Address
Phone number
Social service
Address
Phone number

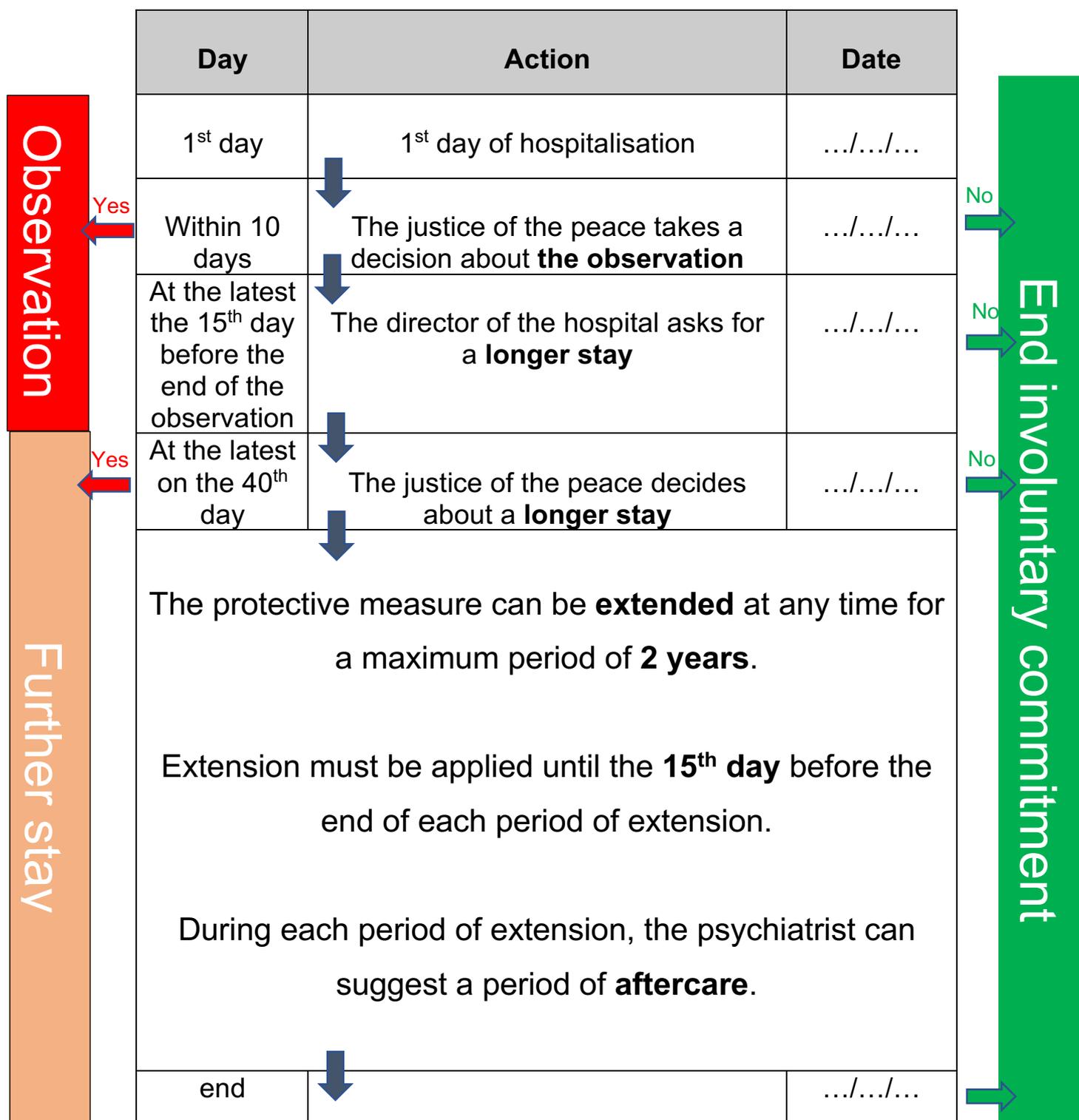
useful contacts, to be completed by the hospital

psychiatric hospital
Address
Phone number
Psychiatrist of the hospital
Address
Phone number
Legal assistance office
Address
Phone number
Justice of the peace
Address
Phone number
Court of first instance
Address
Phone number
Mediator
Address
Phone number

PERSONAL TRAJECTORY

To be completed by the patient, with the help of a psychiatrist, a member of the nursing staff you trust, your own confidant or the social service. In the ordinary procedure, the justice of the peace takes a decision about the observation on the 1st day.

In the urgent procedure, the justice of the peace takes a decision about the observation at the latest on day 10 of your stay in the psychiatric hospital, however the period of observation starts on the 1st day of your stay in the hospital.



You can appeal against the decision within 15 days after receiving the judicial decision

At any moment, the psychiatrist can propose the end of the protective measure.

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You can find more information about the patients' rights and the function of the ombudsperson in mental health care on www.patientrights.be

www.ombudsfunctieggz.be