

# Belgium

## Pre-Employment Background Checks

- It is permissible for the data controller (the employer) to engage a data processor to perform the checks on their behalf provided that (a) the processor acts always under the documented instruction of the controller; (b) adequate and binding terms are in place governing data privacy (data processing agreement) and confidentiality etc.; and (c) the candidate is made aware of the process.
- There are a number of pieces of legislation that govern recruitment and selection of employees in Belgium but the rule of thumb is that the employer is not allowed to ask questions that are not relevant for the vacancy, so whether or not a question or check is lawful depends on the nature and performance requirements of the position the candidate has applied for.
- If the question is relevant (i.e. lawful) then the candidate does have an obligation to reveal information. This means in particular that candidates have to provide the employer with the necessary information about their past, with regard to professional life and studies, especially if this information is important for the vacancy. This also means that candidates have to provide spontaneously the information they are aware (or should be aware) is of decisive importance for the conclusion of the employment contract.
- Candidates are not obliged to reveal information on their criminal records unless the offences they were convicted of are of such a nature as to render them unsuitable for the job e.g. it is obvious that a candidate applying for the position of Financial Director has an obligation to talk about previous convictions for financial fraud.
- If a question is not relevant to the role then the candidate has no obligation to respond (and in fact the law allows them to lie in response!) and the employer should not refuse employment on this basis.
- It is recommended to do any checks before an offer of employment is made as making an offer subject to successful completion of the checks could be disputed.

- Employees have the right to access their personal data and must be informed of this right. If an employee requests to see the results of pre-employment background checks the employer should comply.
- The controller should consider requirements that may be applicable as relating to transfers of employee data outside of the EEA.

### **Recommendation:**

- Clients should work with their local HR team to ensure that the questions being asked of each level of employee are relevant to the role being applied for i.e. they are proportionate and also that the questions asked or information gathered are necessary.

Check	Description	Permissible	Notes
<p><b>Global Education</b></p>	<p>Verifies factual education history disclosed by a candidate directly with the awarding institution or its authorised agent. Verifies the qualifications specified such as a degree, diploma or educational award. It is also possible to verify the final grades achieved. Any discrepancies found are returned within the background screening report. The service incorporates regionally defined processing times for these checks (10 days for EMEA and 15 days for APAC).</p> <p>Availability of such information is subject to local legislation and the source's policy regarding information disclosure.</p> <p>Available globally.</p>	<p>✓</p>	<p>Legally permissible taking into account the nature of the position</p>
<p><b>Global Employment</b></p>	<p>Verifies candidate employment history, provided by a candidate, directly with employers or their authorised agents around the world. The service verifies dates worked and position or title held.</p> <p>Availability of such information is subject to local legislation and the source's policy regarding information disclosure.</p> <p>The service incorporates regionally defined processing times for these checks (10 days for EMEA and 15 days for APAC).</p> <p>Employment Verification's Permission to Approach feature also gives control to candidates and clients over when and if HireRight contacts candidates' current employers.</p> <p>Available globally.</p>	<p>✓</p>	<p>Legally permissible taking into account the nature of the position. Documents provided directly by candidates are usually accepted without verification</p>

Check	Description	Permissible	Notes
<p><b>Global Sanctions &amp; Enforcement</b></p>	<p>Identifies if a candidate is on any Global Watchlist, is a politically exposed person (PEP), or is a direct family member or close business associate of a PEP. Searches over 4000 registries held by international government and regulatory enforcement organisations such as INTERPOL, FCA (Financial Conduct Authority), Serious Fraud Office, and regional police agencies.</p> <p>Supports searches for names in any of the world's alphabets such as Arabic, Cyrillic, Kanji, Mandarin and Roman. Where information is found at least two identifiers must be present for a result to be reportable, e.g. name, date of birth, ID number, address or employment history. Results are tailored to meet reporting restrictions in various jurisdictions around the world.</p> <p>Available globally.</p>	<p>!</p>	<p>Not generally run in Belgium</p>
<p><b>Global ID</b></p>	<p>Determines if a candidate's government-issued identity document is valid and if the information matches their details provided during their application. Automatic validation of all passports and identity documents with machine readable codes (MRZ) to return results within one day. Manual validation of all other documents without machine readable codes (MRZ). An additional surcharge will be applied for manual validation. More details available on request.</p> <p>Available in over 200 countries and territories globally.</p>	<p>✓</p>	<p>Legally permissible taking into account the nature of the position</p>

Check	Description	Permissible	Notes
<p><b>Adverse Media Search (English)</b></p>	<p>Searches over 3000 established English language international public media sources to automatically identify adverse media information attributable to a candidate. Social media sites are not searched. These sources are checked against a standard and legally approved list of keywords using a combination of identifiers including candidate's name, address, date of birth and age.</p> <p>The search is restricted to a 7 year history and results are filtered using appropriate matching and reporting guidelines. Only information that is adverse in nature and is directly attributable to the candidate will be reported.</p>	<p>✓</p>	<p>Legally permissible taking into account the nature of the position</p>
<p><b>Conduct Search</b></p>	<p>Searches public records around the world to identify history of an individual's public misconduct. Each check searches vetted media sources which vary by country. These include national language press databases and searches for publicly available criminal and civil records.</p> <p>All searches are based on at least two identifiers from name, date of birth and address history information provided by the candidate. Results are filtered using matching and reporting guidelines and go back as far as each source allows.</p> <p>Available in 159 countries.</p>	<p>✓</p>	<p>Legally permissible taking into account the nature of the position</p>
<p><b>Address Verification</b></p>	<p>Verifies the candidate has resided at the address(es) they provide. Sources checked vary according to each country and can include official government agencies, property records, phone listings and post offices. In some countries candidates are allowed to provide their proof of residence.</p> <p>Available in 136 countries.</p>	<p>✓</p>	<p>Legally permissible taking into account the nature of the position</p>

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<p><b>Directorship</b></p>	<p>Identifies and verifies a candidate's current and previously held directorship(s). For searches in the UK and Ireland it also identifies any disqualifications from directorship posts held. Searches the appropriate directorship databases, based on search criteria that includes current address, specific countries or the default option of address history. Candidates can also be invited to disclose any appointment they may have to support an employer's own search.</p> <p>Available in 175 countries.</p>	<p>!</p>	<p>Legally permissible provided that the nature of the position justifies running the check</p>
<p><b>Professional Qualification</b></p>	<p>Verifies a candidate's professional qualifications and trade memberships directly with the issuing institution, licensing board or agency. Confirms the award name and institution, the level attained, and the date achieved.</p> <p>Available in over 150 countries.</p>	<p>!</p>	<p>Legally permissible provided that the nature of the position justifies running the check</p>
<p><b>Global Credit</b></p>	<p>Identifies any adverse financial information history attributable to a candidate. Searches a variety of financial sources using the candidate's provided address, employment or education history, where they have gained a credit history.</p> <p>Results returned may include records of bad debts, negative credit data, adverse financial judgements, or whether your candidate has debts towards any type of creditor (utilities, landlords, banks, government).</p> <p>The type of information and search depth varies for each country, being governed by local laws and is dependent on the availability of information.</p> <p>Available in 161 countries and territories around the world.</p>	<p>!</p>	<p>Only permissible if the check is appropriate and proportionate taking into account the nature of the role in question</p>

Check	Description	Permissible	Notes
<p><b>Global Criminal</b></p>	<p>Searches government criminal record sources around the world, where lawful to conduct, to identify a candidate's criminal record information. Sources include national law enforcement and local court files.</p> <p>These checks are subject to the availability of information.</p> <p>The time period covered and nature of the results that are returned is determined by the information sources. Each check is adapted to deliver appropriate consent forms, information and document requests based on the candidate's address history and, in some cases, job location and education history. Results returned comply with local laws.</p> <p>Available in over 200 countries and territories.</p>	<p>!</p>	<p>It is permissible to ask the candidate to produce an extract of their criminal record for certain roles where the law permits (for example in regulated roles in banking and insurance industries) and <b>only</b> (i) if the information is relevant and necessary for the position being applied for; and (ii) the employer does not process the data in any way - information can be reviewed under supporting documents and via the HireRight report.</p> <p>It should be noted that for in-country candidates a facilitated approach is required whereby the candidate obtains a copy of the certificate themselves and then provides. If the candidate lives outside of Belgium, the authorities have permitted third parties to assist in obtaining such record. HireRight processes are tailored to both work flows and driven by current address history presented.</p>



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