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# Charging infrastructure and EVs in Belgium: overview

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### Introduction

The use of electric vehicles (EVs) in Belgium is growing steadily. Yet there is a remarkable difference between the availability of charging stations in Flanders, Wallonia and Brussels. This could possibly be a consequence of the different approach of the regions and the different initiatives that are taken. This article, part of a three-part series on the charging infrastructure for EVs in Belgium, provides an overview of the charging infrastructure and EVs in Belgium.<sup>(1)</sup>

### Permits and concessions for charging infrastructure by region

#### Flanders

No permit (town planning or environmental) is required for the installation of a charging point in the public domain following article 10, 5° of the Flemish Decree on Exemption. Similarly, the installation of a charging point on private property does not require a permit. This exemption is to incentivise the use of EVs. Although no environmental permit is required for the installation of a charging point (apart from an exception in the Vlarem II finding its basis in category 12.3), permission is required from the Flemish region or one of its agencies if a charging point is to be installed on a road or appurtenances managed by the Flemish region.

For example, the Agency for Roads and Traffic (AWV) recently launched a call for projects for fast chargers along motorways and regional roads, with 68 locations available. A domain licence will be issued for the utility lines (including electricity cabins) and charging points, power units and corresponding parking spaces. Operators, however, still need to obtain their own environmental permit. The AWV has also made part of its domain available to the European Brussels Netherlands Flanders Implementation of Clean Power for Transport project. This is a project call launched by the Flemish and Brussels governments for the realisation of charging infrastructure.

#### Wallonia

No permit (town planning or environmental) is required, except when the charging point is located outside the private domain. This only concerns a town planning permit and the procedure to obtain one is simple.

#### Brussels

In Brussels, no environmental permit is required for the installation of a charging point. There is no clear regulation on the obligation to obtain a town planning permit, but generally this is not deemed necessary. When an authority wishes to install charging points in a private domain (eg, a parking lot), this will fall within the public procurement rules. In the public domain, the public authority usually works with domain concessions: the public authority grants a person the right to use part of the public domain on a temporary basis and in a manner that excludes the rights of others to occupy this part of the domain.

### Domestic policy and access to charging infrastructure

Public charging points provide access to users of EVs on a non-discriminatory basis. A form of authentication or payment is required before the user can charge an EV. Public charging points are usually connected to the distribution network and operated by a charging point operator (CPO), who is responsible for the financing, installation, maintenance and operation of the points. The CPO must conclude a contract with an electricity supplier that holds a supply licence. The mobility service provider (MSP) is the entity that has an agreement with the user of the charging services in exchange for a fee. An MSP can offer charging services for its own charging points, for which it is also the CPO, or for charging points of other CPOs, by concluding agreements with other MSPs.

#### Flanders

The main regulation is included in the Energy Decree of 19 November 2010. The installation of a charging point requires a connection to the distribution network. The operator of the charging point can opt to build the rest of the network for the distribution of the access point on the distribution network with European article numbering (EAN). An EAN code is a unique number that identifies a connection to the electricity or natural gas network. EAN code management is one of the responsibilities of the local distribution systems operator (DSO). The operator is then responsible for the construction, management and maintenance of the private distribution network, without having any public service obligations towards the customer (this is an exception to the ban on building and exploiting private distribution networks).

An additional supply licence for the operator is not necessary. If the private distribution network crosses the public domain, the operator must obtain permission from the DSO. Via the public service obligations, the electricity DSO is also obliged to organise a tender:

- for the installation, maintenance and commercial operation of publicly accessible charging points for electric EVs of normal or high power, whereby 1,500 publicly accessible charging points had to be installed in the Flemish region by 2020; and
- when requested by a private owner of an EV who is unable to charge it in their home or within a radius of 500 metres.

#### Wallonia

The main regulations on EVs are included in the Walloon Electricity Decree of 12 April 2001. Article 30(6) of the Walloon Electricity Decree provides for an exemption of a supply licence for the supply of electricity to users of public charging points, on the condition that the connection of the charging point itself is covered by a supply licence.

A problem arises when the operator is the supplier of self-generated electricity. This operator would in theory need a supply licence. The Walloon energy regulator (CWaPE) has suggested that, in this case, the operator should also be explicitly exempted from the obligation to have a supply licence. This has been taken into account by the latest Walloon decree, approved by Parliament on 4 May 2022, as the licence exemption will now include situations where charging points are directly supplied by a production installation when both are situated below the same access point.

Concerning the larger grids, no similar exemption as in Flanders exists regarding the ban on private distribution grids. One exception to this ban, however, is the provision of electricity as part of a larger service (article 15bis(1) of the Walloon Electricity Decree). Authorisation is needed to supply electricity via a closed distribution grid, which is assessed on a case-by-case basis by the CWaPE. The government will nonetheless have the ability to expressly state that a private installation by which a grid user exclusively supplies a third party does not constitute a closed distribution system. The same power is given regarding the exclusion of the scope of direct lines regime (subject to authorisation from the regulator). The CWaPE qualified charging via charging points as a service instead of as the supply of electricity. Following this broader qualification as a service, charging stations can be considered exempt from the ban on private distribution grids and therefore do not need a supply licence.

The DSO will soon be unauthorised to own, develop, manage or operate public charging points, with the entry into force of the Walloon decree approved on 4 May 2022. The Decree allows for an exemption (in line with EU Directive 2019/944), but such exemption would be time-limited (maximum five years) and could fall if the market can provide a more suitable or cost-efficient solution, which would bind the DSO to sell out and/or leave the operation, development and management of those charging points to private actors.

The new Walloon decree also establishes an obligation on DSOs to run a public platform for charging points, for which the regulator could establish an access tariff. The connection to this platform could be made mandatory for all charging points by a decision of the government. Customers owning a charging point will be subject to a declaration obligation from the entry into force of the

Walloon decree approved on 4 May 2022. The new Walloon decree also mandates the government to evaluate the potential of the charging points park and develop public charging points, possibly by fixing objectives to be reached.

### **Brussels**

The core of the regulation is contained in the Brussels Electricity Ordonnance of 19 July 2001. The Brussels energy regulator (BRUGEL) has advised that the provision of charging services does not qualify as the supply of electricity in the strict sense, but as a broader service.<sup>(2)</sup> For this reason, a supply licence, as defined in article 21 of the Brussels Electricity Ordonnance, is not required for the operator of a charging point.

BRUGEL has not provided any communication on the possibility to extend the network and create a larger grid. Since no exemption on the general ban on private distribution grids exists, it is assumed that article 24 of the Brussels Electricity Ordonnance applies, which obliges the distribution grid operator, as a public service obligation, to adopt and implement the necessary technical measures to allow the electricity supply via these charging points. The Brussels-Capital Region works with an exclusive partner for the supply, installation and operation of public charging points with an exclusive service concession.

Through this concession, 100 chargers (with two charging points each) must initially be installed. This network will then be expanded according to the "charging point follows car" principle (at the request of residents and operators). It is planned that between 19 October 2021 and 18 October 2022, the DSO will organise calls for tender for the concession of public spaces that allow the installation of charging stations.

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### **Endnotes**

(1) For the first article in the series, see "Charging infrastructure and EVs in Belgium: division of competences".

(2) See "Guide to the interpretation of the public service obligations of suppliers in the Brussels-Capital Region".