



Technical support for RES policy development and implementation – Simplification of permission and administrative procedures for RES installations (RES Simplify)



Belgium

Written by: Stijn Anciaux, Jurga Tallat-Kelpšaitė, eclareon GmbH

5 December 2020, Berlin

Disclaimer: "This document has been prepared for the European Commission however it reflects the views only of the authors, and the Commission cannot be held responsible for any use which may be made of the information contained therein."

Supported by the



Executive summary

In Belgium, the competence for renewable energy permitting is divided among the regions, except for offshore wind. This report will provide an overview of the administrative procedures for the most important renewable energy technologies: offshore and onshore wind, as well as rooftop and ground-mounted solar PV. As the permitting competence lies with the regions, both Flanders and Wallonia are discussed separately, after the section covering offshore wind, the most important source of renewable energy in Belgium.

Renewable energy projects typically start with selecting the proper site. However, as public space is rather limited in Belgium, project developers start with studying the exceptions in the zoning plans in order to find the space left for possible wind and ground-mounted PV projects. This is not the case for offshore wind as the marine spatial plan has pre-defined sites for the purpose. In general, some barriers are perceived in the site selection procedure, mainly for Wallonia, because of the 'first-come, first-serve' principle in the subsidy scheme. This implicates a race for location, which has negative impacts seen from both financial and environmental perspective.

The electricity production license and grid connection permit generally do not pose any problems, because most projects are exempted from such permits. However, the grid connection permit includes a financial and technical agreement between project developer and DSO. In Wallonia, these agreements have generated debate and resistance among project developers, because of the increasing negative implications included in these agreements. Examples are an increase in grid connection costs, curtailment of wind turbines, flexible connections and so on.

In both Wallonia and Flanders, the urban and environmental permits have been merged into a single permit, which is called 'environmental permit' in Flanders and 'single permit' in Wallonia. The most important barriers related to these permits arise from the administrative authorisation process step. This is because the permits include a possibility of appeal procedures, which are both very extensive and numerous in Flanders, but even more in Wallonia. This has resulted into an almost stand-still of wind energy projects taking place, often delaying ongoing projects or even worse, causing them to discontinue. The main reasons for this situation are on the one hand the inadequate legislative framework, and on the other hand, the lack of public support for renewable energy in Belgium, fed by resistance and environmental organisations.

Finally, the corporate legal-fiscal process step is perceived as clear and simple throughout Belgium, and in consequence, does not pose any noteworthy additional barriers.

Table 1 contains a traffic light assessment of the relevant process steps for the installation of offshore and onshore wind, as well as rooftop and ground-mounted solar PV in Belgium.

Technical support for RES policy development and implementation – Simplification of permission and administrative procedures for RES installations (RES Simplify) Belgium

Table 1: Traffic light assessment of the relevant process steps

Process step	Site selection	Electricity production license	Application preparation process	Administrative authorisation	Grid connection permit	Corporate legal-fiscal	Other
Offshore wind (BE)	Green	Green	Grey	Yellow	Yellow	Green	Grey
Onshore Wind (Fl)	Green	Green	Grey	Red	Green	Yellow	Grey
PV ground-mounted (Fl)	Green	Green	Grey	Yellow	Yellow	Green	Grey
PV rooftop (Fl)	Grey	Green	Grey	Green	Green	Green	Grey
Onshore Wind (Wa)	Yellow	Green	Grey	Red	Yellow	Green	Grey

■ No barriers identified	■ Moderate barriers identified
■ Minor barriers identified	■ Not relevant for target country
■ Severe barriers identified	■ No projects implemented

Contents

Executive summary	2
1. National RES targets and relevant RES technologies	5
2. Administrative and grid connection procedures.....	6
2.1. Offshore wind (Belgium)	6
2.1.1. Relevant process steps	6
2.1.1.1. Site selection	7
2.1.1.2. Administrative authorisation	8
2.1.1.3. Grid connection permit.....	10
2.1.1.4. Corporate legal fiscal	11
2.2. Onshore wind and rooftop and ground-mounted PV (Flanders).....	11
2.2.1. Relevant process steps	11
2.2.1.1. Site selection	12
2.2.1.2. Electricity production licence.....	13
2.2.1.3. Application preparation process.....	15
2.2.1.4. Administrative authorisation	15
2.2.1.5. Grid connection permit.....	19
2.2.1.6. Corporate legal fiscal	20
2.3. Onshore wind (Wallonia)	21
2.3.1. Relevant process steps	21
2.3.1.1. Site selection	22
2.3.1.2. Electricity production licence.....	23
2.3.1.3. Administrative authorisation	23
2.3.1.4. Grid connection permit.....	27
2.3.1.5. Corporate legal fiscal	27
3. Use of IT systems.....	28
4. Complaint procedure.....	29
5. Specific features to ease administrative procedure.....	30
6. Indicators to measure the performance of the overall process	31
References	33

1. National RES targets and relevant RES technologies

In its National Energy and Climate Plan (NECP), Belgium has pledged to increase its overall share of renewable energy sources (RES) in the final energy consumption from 11.7% in 2020 to 17.5% in 2030 (NECP, 2019). The lion share of the RES production will take place in Wallonia, with a regional target set at 23,5% of renewable energy consumption in comparison to 13% in 2020. Flanders, on the other hand, does not set a fixed target for 2020 with regard to renewable energy consumption, but it is estimated at around 14%. In line with the set targets, the RES share in the electricity production in Belgium will have to increase from 25.10% (2020) to 37.40% (2030), while in the heating and cooling sector this increase is only limited to 3.3%, from 8% (2020) to 11.30% (2030).

When looking at the separate renewable energy technologies, offshore wind plays a vital role in reaching the 2030 RES targets in Belgium. Offshore wind energy production is currently estimated at around 2.3 GW. This figure is expected to almost double to 4 GW in 2030. Offshore wind is the only renewable energy technology regulated and licensed by the federal government. The technology is also essential for the RES strategy of Belgium in the long term. To realise the largest possible share of additional capacity from renewable energy sources at the lowest possible social cost after 2020, the Belgian government has decided to open tenders for future offshore wind projects (NECP, 2019).

Solar PV, mainly rooftop, is a very important source of renewable energy in Belgium. Most of the solar energy is produced in Flanders. Solar PV accounts for almost half of the projected renewable energy produced in Flanders in 2030. Currently, biomass is still a very important source of renewable energy in Flanders, but it is expected to decrease significantly in the future, mainly due to the negative public opinion about biomass plants (RNP, 2020). Both for Wallonia and Flanders, the share of onshore wind energy in the energy consumption of the regions is expected to rise significantly, making it the third most important renewable energy source in the projected energy mix for 2030. Other renewable energy sources are of minor importance compared to the mentioned technologies and therefore not covered by this report (NECP, 2019).

Figure 1 displays the annual deployment of PV, onshore and offshore wind between 2010 and 2019. It can be observed that the annual installed capacity of solar PV was highest between 2010 and 2012 and then decreased, with a slight increase again since 2016. While onshore wind deployment took constantly place since 2010, there was a standstill in offshore wind deployment in 2015 and 2016.

Technical support for RES policy development and implementation – Simplification of permission and administrative procedures for RES installations (RES Simplify) Belgium

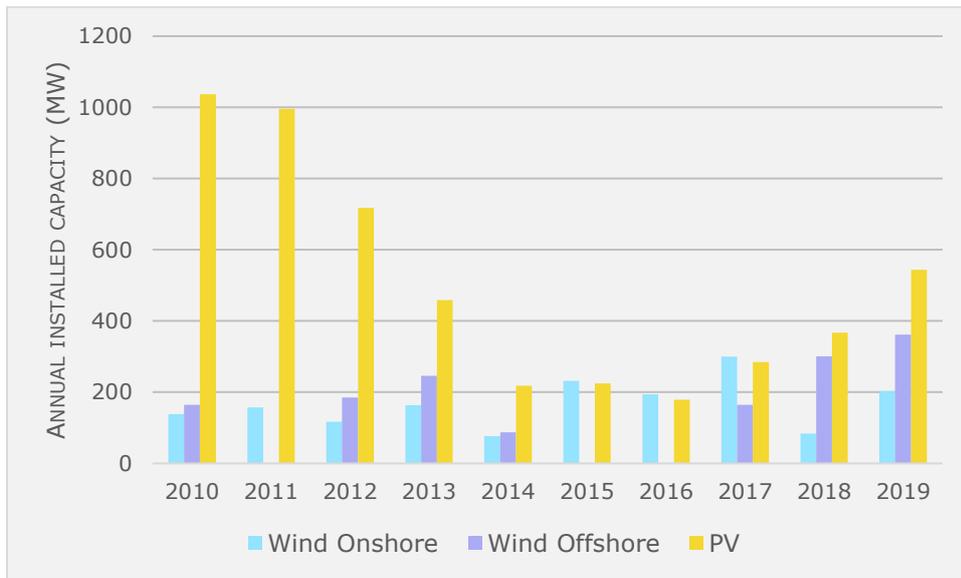


Figure 1: Annual installed capacity of PV and Wind power 2010-2019 (source: EurObserv'ER)

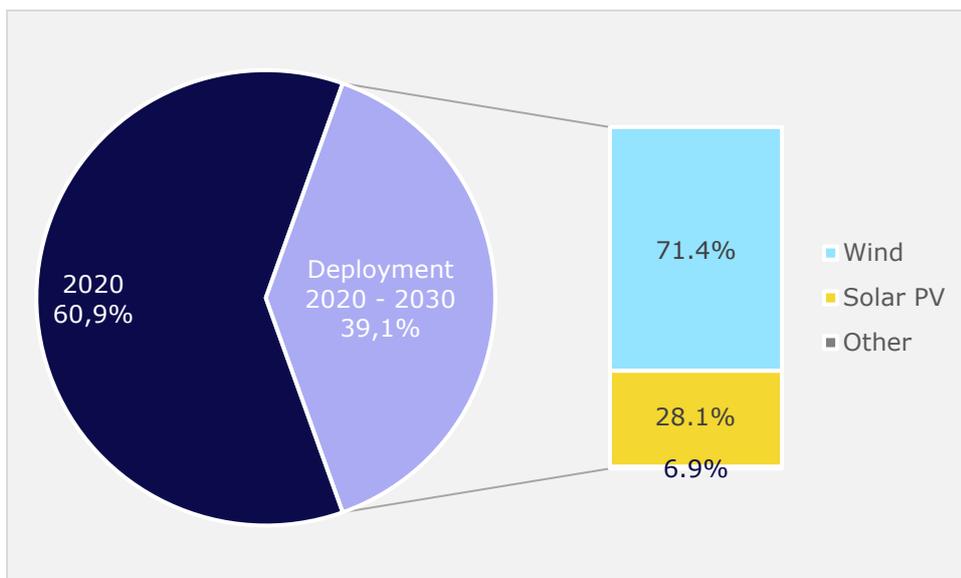


Figure 2: Planned deployment of RES-E 2020-2030 in relation to past deployment (source: NECP)

2. Administrative and grid connection procedures

2.1. Offshore wind (Belgium)

2.1.1. Relevant process steps

For offshore wind development in Belgium, site selection takes place based on the pre-defined locations set in the marine spatial plans. The permits required for both the construction and putting into operation of offshore wind plants are processed in the administrative authorisation and grid connection permitting procedures.

The environmental and territorial permits, discussed in the 'Administrative authorisation' process step (see section 2.1.2.2.), are the key administrative procedures for offshore wind developers, where also most issues originate from.

The grid connection permitting process follows after the granting of the necessary permits (in the administrative authorisation process step), but is not assured automatically. In general, project developers do not experience major barriers in the process of obtaining grid connection permit for this technology.

2.1.1.1. Site selection

Process flow

In Belgium, the competency for permitting renewable energy projects is allocated to the regions (Flanders, Wallonia and Brussels). The territories of the separate Belgian regions, however, do not reach into the sea. This is why offshore wind is the only renewable energy technology, which falls under the competence of the federal government.

In and on the North Sea, several activities such as renewable energy production, nature conservation, shipping, fishing and sand extraction take place in a fairly limited space. A marine spatial plan (MSP) was therefore introduced and approved for the first time in 2014, in order to reconcile the various interests (economic, ecological and social) and to give every activity an appropriate location in the Belgian offshore territory (FOD Volksgezondheid, 2019). The first marine spatial plan was drawn up by the Marine Environment Service for the period 2014-2020 on behalf of the Minister of the North Sea. The plan is always valid for a period of six years. The new MSP, for the second cycle from 2020 until 2026, came into effect on 20 March 2020.

The MSP, among other things, defines also the exact locations for the development of offshore wind parks. This has strong implications on the selection of sites for offshore wind projects, as these are only allowed at the pre-defined locations.

Deadlines

There are no formal deadlines that have to be respected in this process step.

Detected barriers

No barriers related to this process step were identified.

Identified good practice

When Belgium drafted the first marine spatial plan, it was a pioneer in Europe and even in the world (FOD Volksgezondheid, 2019). The marine spatial plan has a major impact on sea-life and sea activities and was therefore drafted in a close collaboration with all relevant stakeholders (BOP, 2020). These included NGOs, companies, government agencies, interest groups and citizens, who were able to pass on their proposals and comments during two consultation rounds. The sustainability aspect also received extra attention in the process, for example through the strategic environmental impact assessment.

This large-scale consultation of stakeholders ensures that all interests are represented in the MSP and therefore resistance is avoided at a later stage (BOP, 2020).

2.1.1.2. Administrative authorisation

Process flow

EIA and environmental permit

Before the territorial permit is awarded, project developers are required to perform and submit an environmental impact report (EIR) to the Royal Belgian Institute of Natural Sciences, more specifically to the Scientific Service Management Unit of the Mathematical Models of the North Sea (MUMM). Hereafter, the report is submitted to the public for consultation, by the MUMM. If cross-border effects could occur, a consultation round will also be organised with the countries concerned (Ovidio, 2020).

Based on the impact report, the MUMM prepares a decisive environmental impact assessment (EIA). Deriving from the EIA and the results of the public consultation, MUMM will issue an advice to the Minister responsible for the North Sea on the acceptability of the project with possible additional conditions (Ovidio, 2020). The Minister then decides whether or not to grant the environmental permit and the conditions.

Territorial permit

Applications to obtain a territorial permit for the construction and operation of installations for the production of electricity from water, currents or wind in the sea areas in which Belgium can exercise its legal competence, are addressed to the delegate of the Minister of Energy (ibid.).

The latter sends the application to the relevant administrative bodies and to the Commission for Electricity and Gas Regulations (CREG), which evaluates the technical file relating to the application and also gives their advice. After consulting the transmission system operator (Elia), the delegate of the Minister of Energy informs the Minister of his proposal to grant or refuse a territorial permit (CREG, 2020).

The decision of the Minister to grant the territorial permit is made through a ministerial decree, which is then published in the Belgian Official Journal.

Deadlines

EIA

Unless otherwise prescribed in the legislation governing the permitting procedure, the board of the MUMM shall forward the environmental impact assessment to the federal Minister of Energy no later than 15 days before the end of the period specified to transfer the environmental permit request from the MUMM to the Federal Minister of Energy, who is responsible for issuing the permits. Within 30 days after the board of the MUMM receives the EIR, the federal Minister of Energy has to issue its final decision on the IEA and environmental permit (RD 2004/014187).

Territorial permit

If the application for territorial permit is complete, it will be entered into a register of concession applications within 10 working days of receipt of the application. If the application is incomplete, the Minister of Energy's representative will report to the applicant, which information or which documents are missing, and the applicant will be granted a period of 10 working days to complete the application. This period starts on the day following the date on which the request for information was sent. The period set by the deadline to complete the application, continues running during the whole period of application completion (RD 2000/11454).

Technical support for RES policy development and implementation – Simplification of permission and administrative procedures for RES installations (RES Simplify) Belgium

Within 15 working days following the registration in the register, the application will be published by the representative of the Ministry of Energy, in an extract of the Belgian Official Journal (RD 2000/11454).

Any interested party can submit an application for competition to obtain a territorial permit for the same location. Applications are submitted to the representative of the Federal Minister of Energy by registered letter with confirmation of receipt within 30 working days following the publication in the Belgian Official Journal. If no applications for competition have been submitted, the application is sent to the relevant authorities and to the CREG within 40 working days after the publication in the Belgian Official Journal. If applications for competition have been submitted, all applications will be sent to the administration of the Ministry of Energy and to the permit committee, an internal committee at the Ministry, within 10 working days after registration of the last application in the register. These administrations and the committee will examine the applications within 25 working days (RD 2000/11454).

The Ministry of Energy, the permit committee and the competent authorities examine the technical file of the application (RD 2000/11454). They deliver their opinion within 60 working days of the case being brought before them. Also within 60 working days after the advice was delivered by the competent authorities, the Minister of Energy announces his decision and again within 60 working days hereafter, the approval decision has to be published by ministerial decree in the Belgian Official Journal.

Although not prescribed formally, we can assume that when official authorities fail to meet the prescribed deadlines for the issue of environmental and territorial permits, the permit application has been refused (Van Thienen, 2018).

Detected barriers

Regulatory framework. While the last offshore wind turbines, which have been in the construction phase for a few years, are being built, the federal government plans to increase the energy supply through offshore wind in the coming years. It is currently planning to do so by tendering offshore wind permits through a competitive bidding process. The foundation for this has already been laid in a new law ratified by the king on 12 May 2019, which stipulates the general principles of the competitive bidding process.

The initial plan was to start the competitive bidding process in 2020. To date, however, no further progress has been made in realising new upcoming offshore wind projects. The law of 12 May 2019 prescribes that preliminary studies have to be carried out at the expense of the government (and the transmission aspects by the transmission grid operator Elia). After the preliminary studies phase, the location, size and number of plots, which are subject of a competitive tendering procedure will be determined by ministerial order.

The sector, however, does not expect that first projects to be licensed under this new scheme will be concretised before 2023 (BOP, 2020). As a result, the new offshore wind projects will only be operational in 2026 at the earliest, which creates a gap between 2020 and 2026 where no additional offshore wind energy capacities will be added.

On the other hand, from the moment the bidding procedure will be put into practice, all the relevant permits will be included in the bidding, simplifying the administrative procedure for offshore project developers (BOP, 2020).

Repowering/lifetime extension. The Decree on territorial permits prescribes that these permits are granted for a fixed term, which is limited to a maximum of 20 years. It

can be extended without exceeding a total term of 30 years. This has a negative influence on the possible repowering or lifetime extension of offshore wind projects, because the total (possible) lifespan of the project is limited to 30 years. Legislation does not (yet) foresee any reapplication after the 30 years have passed (RD 2000/11454).

Identified good practice

No good practice related to this process step was identified.

2.1.1.3. Grid connection permit

Process flow

Applications for the installation of the electricity cables in the sea territory are submitted to the General Energy Directorate of the Federal Public Service Economy (Ovidio, 2020). The application is assessed on the basis of advice from the competent authorities (Ministry, TSO) and on the basis of an EIA carried out by the MUMM. The permit is granted by the ministerial decree that takes particular account of the conclusions made regarding the evaluation of the impact on the environment (BOP, 2020).

Deadlines

If the application file is incomplete, the applicant will be notified within 10 working days of its receipt by the General Energy Directorate and then the applicant has 10 working days to complete the application (Ovidio, 2020). The application file will be sent to the advisory authorities (TSO, Department of Agriculture and Fishery, Natuurpunt) within 15 calendar days of completion. They have the right to require that the project developer conducts further investigation on some elements. The decision on the possible further investigation has to be done within 15 calendar days and communicated by the representative from the ministry to the project developer within 10 calendar days after this decision. The developer then has 10 additional days to address the request for further investigation on the elements specified by the advisory authorities (RD 2002/1112).

Within 40 working days of receiving the IEA report, advisory authorities will give to the delegate of the Minister of Energy their advice and their assessment of the impact of the planned project on the environment. The delegate of the Minister forwards this within 20 calendar days of receipt to the Minister, who then has 25 calendar days to make his final decision on the grid connection permit. The possible approval is ratified through a ministerial decree, which includes all (additional) conditions (RD 2002/1112).

If the Minister of Energy decides not to grant the grid connection permit, the applicant will be informed of this per registered mail within 25 working days from the date of receipt of the official advice (RD 2002/1112).

The license expires if the beneficiary has not commenced the construction works within a period of 3 years counting from the permit approval. At the request of the beneficiary, the permit can be renewed for a period of 2 years (RD 2002/1112).

Although not prescribed formally, we can assume that when official authorities fail to meet the prescribed deadlines, the permit application has been refused.

Detected barriers

Grid connection permit not assured. Granting the territorial permit does not automatically ensure the granting of the permit for installing cables and connecting them to the transmission grid (BOP, 2020). The exact locations for the implantation of offshore wind projects in the North Sea are predefined, yet the environmental impact of the grid connection is not assessed in advance by the government or other official authorities such as the TSO Elia. This has a negative impact on both finances and the risk level of the project developers, because the chance for the rejection of grid connection remains because of a negative IEA, after the territorial permit has been granted.

Identified good practice

No good practice related to this process step was identified.

2.1.1.4. Corporate legal fiscal

Process flow

The CREG awards Green energy Certificates to producers who have a territorial permit (for renewable electricity generated in the Belgian sea area) and a certificate of Guarantee of Origin provided by an official inspection body. The authenticity of the Green Certificates is guaranteed by the registration in a database of Green Certificates centralised and managed by the CREG. This database collects the allocated green certificates as well as the data contained therein (L 2019/030491).

Deadlines

CREG checks whether the application form for the Green Certificates has been completed correctly and in full. If it finds that the application is incomplete, it will inform the applicant of this within a maximum period of 15 calendar days after receipt of the application form. It specifies why the form is incomplete and sets a maximum period of 3 weeks within which the applicant is requested to complete his application (L 2019/030491).

Within a period of one month after receipt of the correct and complete form, the CREG decides whether the applicant meets the conditions for granting Green Certificates (L 2019/030491).

Detected barriers

No barriers were identified for this process step.

Identified good practice

No good practice related to this process step was identified.

2.2. Onshore wind and rooftop and ground-mounted PV (Flanders)

2.2.1. Relevant process steps

In both Flanders and Wallonia, site selection bears special importance due to the general lack of open space available. Because of this, the process happens based on inversion, i.e., project developer first identifies the open space left in the zoning plans, which is not subject to the many restrictions that exist in Belgium with regard to the spatial planning.

Both the electricity production license and grid connection permit do not require an elaborate administrative procedure as most projects are exempt from the requirement to obtain an electricity production license. The grid connection permit is merely an individual agreement between the distribution system operator (DSO) and the project developer.

In Flanders, the most important permit for the construction of a renewable energy project is the environmental permit. In some cases, the application for an environmental permit is preceded by an EIA. It is in the context of the environmental permit, that most barriers exist and most projects get stuck in the pipeline. After the grid connection permit, the corporate legal-fiscal process can commence.

2.2.1.1. Site selection

Process flow

Belgium's high population density has significant implications on spatial planning in both Wallonia and Flanders. As a result, the open space in Belgium is limited. In Flanders, however, the space available for the implantation of onshore wind projects is even smaller than in Wallonia.

Onshore wind

The Flemish Codex for Spatial Planning allows for the installation of onshore wind turbines everywhere throughout Flanders as long as the implantation of wind turbines does not affect the desired spatial development and thus meets the following conditions:

- the project is in line with the scale and structure of the landscape in question;
- the scope of the project does not affect the structure and essential functions of the urban areas or rural areas.

Although in theory, onshore wind projects can be implemented anywhere in Flanders, in practice the site selection process is subject to many restrictions, based either on regional plans, restrictive contours around airports, Natura 2000 nature reserves and or any conditions concerning shadow flickering and noise pollution around houses (Wouters, 2020). Because of these restrictions, the appropriate space for onshore wind energy projects is heavily limited, creating a situation where project developers begin the planning phase vice-versa, i.e., starting with the examination of the restrictions. By excluding all of the above given limited areas, the remaining space can be considered suitable for onshore wind power plants. As the grid connection does not usually cause any problems in Flanders, it is not taken into account when choosing a location for the project.

Rooftop and ground-mounted PV

The installation of rooftop PV systems is in the most cases exempt from the requirement to obtain a permit for urban development activities. This implies that they can be installed anywhere, unless the municipality imposes certain exemptions (Omgevingsloket Vlaanderen, 2020). The municipality in whose territory the construction works take place can issue stricter local regulations than the general rules at regional level. The

municipality can impose exemptions in local legislation, such as the Special Plan of Construction or a Municipal Spatial Implementation Plan.

For ground-mounted PV installations, on the other hand, an environmental permit, in the same way as for onshore wind projects, is required. In addition, a decision from the competent authority (either regional, provincial or municipal) is often required to deviate from the zoning plan drawn up by the region (Flanders), the provinces or municipalities. In this case, a 'good spatial authentication' must also be drafted, which examines the relevant policy frameworks and environmental aspects for the specific site (Ekwadmaat, 2020). Based on the spatial and geographical authentication of the site, various studies are performed, which are project-dependent and can be included in the environmental permit (archaeological, ecological, etc.).

Deadlines

There are no deadlines in place for the site selection procedure as it does not follow a formal procedure.

Detected barriers

Land registry data (perceived throughout Belgium). The land registry data is difficult to obtain due to the GDPR legislation in place. In Belgium, the GDPR is interpreted in such a way that cadastral data is no longer obtainable for the public but only for the landowner. Before the GDPR legislation, everyone in Belgium had access to the cadastral plan in exchange for a small fee. The new limitation makes it substantially harder for project developers today to get in touch with landowners in order to negotiate a possible rental or lease agreement. This is mainly important for agricultural fields, which are numerous in Flanders and Wallonia. The federal government is currently negotiating a possible solution to this issue. The FOD Finance is the responsible authority to address this existing issue (Wouters, 2020).

Zone-alienated houses. Zone-alienated houses are houses, which are not build according to the correct destination of the zone. These houses, which are located in an agricultural area or an industrial area, for example, also impose restrictions on onshore wind projects (Grietens, 2020). As a result, onshore wind power plants sometimes have to be planned closer to the nature reserves, which in turn creates great opposition from environmental groups. It would be definitely in everyone's interest to no longer consider zone-alienated buildings as an exclusion criterion for the implementation of onshore wind energy projects. This would then lead to more available space for wind turbines in agricultural and industrial areas and also reduce resistance from environmental organisations.

Identified good practice

No good practice related to this process step was identified.

2.2.1.2. Electricity production licence

Process flow

The construction of new electricity production plants with the capacity exceeding 25 MW is subject to obtaining an electricity production permit, which is issued by the Federal Minister of Energy on the recommendation of the CREG (CREG, 2020b). The granting of an electricity production permit prior to the construction is also required for conversions

or other adaptations of installations if they lead to an increase in the developable capacity of the installation by more than 10% or by more than 25 MW.

The project developer has to submit the applications for the electricity production permits to the CREG, prior to the construction of a new renewable energy power plant. The application is to be submitted in fifteen copies by registered mail. As soon as the CREG has received the request, it sends a confirmation of receipt to the applicant and communicates this to the Federal Minister of Energy. In the case of an incomplete application, the CREG will request the applicant to provide the missing documents within 30 working days of receipt of the request (ibid.).

After consulting the parties involved, in particular the grid operator and the federal and regional authorities based on their competence, the CREG submits its proposal for an individual permit for the construction of the installation to the Federal Minister of Energy or his representative. In addition, it informs the applicant that the proposal has been submitted to the Federal Minister (ibid.).

If the Federal Minister decides to grant the permit, this is done by means of a Ministerial Decree published in the Belgian Official Journal. The decision can also contain certain permitting conditions. If the Federal Minister decides not to grant the permit, the applicant and the CREG will be informed thereof by registered letter within 60 working days of receipt of the CREG's proposal (CREG, 2020b).

According to the interviewees, the entire process of obtaining the electricity production permit is perceived as being effective and efficient, without any further remarks (Wouters, Al-Bitar, 2020). The transparency of this process step is high, as the sub-steps are clearly and unambiguously established and clear deadlines are set in the laws (see below). Moreover, developers of both onshore wind and all types of PV projects below 25 MW are not required to obtain an electricity production license. Because of the high existing threshold of 25 MW, the administration of the CREG is protected from overload, as only a few cases have to be dealt with.

Deadlines

The Federal Minister of Energy notifies the applicant and the CREG about its electricity production permit decision by a registered letter within a period of 60 working days from the receipt of the proposal from the CREG (CREG, 2020b).

Within 10 working days from the receipt of the decision, the applicant submits the tax stamps required for the issue of the permit to the Federal Minister of Energy or his representative. The Ministerial Decree on the individual electricity production permit shall be communicated to the applicant within 20 working days, commencing from the date of receipt of the tax stamps (CREG, 2020b; RD 2000/101138).

Detected barriers

No barriers related to this process step were identified.

Identified good practice

No good practice related to this process step was identified.

2.2.1.3. Application preparation process

Process flow

Depending on the sensitivities of the individual project, project developers can request pre-advice from the various government agencies that will be later involved in the permitting process. They can also request a consultation with these government agencies. This step is neither obligatory nor necessary for realising the project. However, it is highly recommended to avoid any future permit-related issues. Typically, pre-advice from the following authorities is requested depending on the individual project: Agency for Nature and Forests, the Environment Department, the Agriculture & Fisheries Department and the Aviation Directorate-General (Peeters, 2020).

Deadlines

There are no official deadlines relevant for this process step, as the application preparation process is not mandatory.

Detected barriers

No barriers related to this process step were identified.

Identified good practice

No good practice related to this process step was identified.

2.2.1.4. Administrative authorisation

Process flow

In Flanders, there is single integrated environmental permit for which the developers of onshore wind and PV systems must apply from the competent authority: The Provincial Deputy or the Flemish government. This single permit was introduced on 1 January 2018 and it merged the previous environmental and urban permits. This way, the double application procedure is avoided.

During the integrated environmental permitting procedure, the competent authority examines the extent to which the project corresponds to the spatial planning, taking into account aspects such as landscape adaptability, proximity to areas with high energy demand and the availability of the relevant infrastructure (e.g., motorways, high-voltage lines, etc.). The permit also assesses environmental aspects such as noise, shadow flickering and impact on nature, which are regulated by the VLAREM II legislation.

For onshore wind projects with a maximum of four onshore wind turbines with a capacity of more than 1.5 MW each, the permit is granted by the Provincial Deputy. The Flemish government on the other hand, is responsible for the permitting of the larger onshore wind projects or projects planned in the seaports (Peeters, 2020). Onshore wind projects with wind turbines with a capacity lower than 1,5 MW are not required to apply for an integrated environmental permit. Once a project has more than 4 wind turbines with a capacity of 1,5MW or more per turbine, the permit becomes obligatory.

The integrated environmental permit is generally also required for ground-mounted PV installations. However, there are certain exemptions. Thus, ground-mounted PV installations do not require a permit if they are categorised as 'uncovered constructions'

Technical support for RES policy development and implementation – Simplification of permission and administrative procedures for RES installations (RES Simplify) Belgium

by legislation, up to a maximum of 80 square meters per construction in the side garden and back garden. Existing uncovered constructions in the side and back gardens, including solar panels, must be included in the calculation of this maximum surface area (80 square meters). The exemption only applies to an uncovered construction with a construction volume less than 1.5 meters above ground level, which is installed 1 meter from the plot boundary, is located less than 30 meters from the house and is not installed in a sensitive area (Omgevingsloket Vlaanderen, 2020b). Sensitive areas are defined per project, but they usually include nature reserves and other Natura 2000 locations.

Most of the rooftop PV systems in Flanders do not require an integrated environmental permit. The installation of solar panels on a flat roof can be exempted from the integrated environmental permit if the installation does not exceed 1 m above the roof edge (Omgevingsloket Vlaanderen, 2020a). The placement of solar panels is also relieved from the obligation to obtain the integrated environmental permit, provided that they are integrated into the sloping roof surface.

More specifically, integrated environmental permitting procedure includes the following steps in the event of onshore wind and large PV projects, for which no exceptions apply (Departement Leefmilieu, Natuur en Energie, 2016):

- The project developer submits an application for an integrated environmental permit to the Environmental Permit Committee (EPC), either on regional or provincial level.
- In the case the project is subject to an EIA, the application needs to be accompanied by an EIA study.
 - EIA is required for projects with more than 20 wind turbines. Smaller projects with less than 20 wind turbines may also require an EIA if the environmental pre-assessment is negative. The environmental pre-assessment is a small EIA which has to be carried out for every onshore wind project not subject to an IEA (less than 20 wind turbines). The purpose of the pre-assessment is to find out whether an extensive EIA should be conducted. (Wouters, 2020).
- The EPC has 30 calendar days to examine whether the application file is admissible and complete. During these 30 days, additional documents can be submitted.

Once the application is found to be admissible and complete, the EPC initiates the integrated environmental permit granting procedure by contacting the relevant advisory bodies (Agency for Nature and Forests, Infrabel (railway infrastructure), The Flemish Ministry of Energy and Environment, The Agriculture & Fisheries Department, the Aviation Directorate-General, the Provincial Permit Committee and finally the municipality or municipalities on whose area the installation will be constructed) and requesting them to provide their advice on the application and, if applicable, the EIA study. The deadline for submitting advice on the EIA is 30 calendar days of sending the request, while the deadline for advice concerning the application is 60 calendar days (Peeters, 2020).

At the same time, a public consultation will be organised by the EPC within 10 calendar days from the decision that the application file is complete and admissible (A&C decision). During the public consultation, all stakeholders have 30 days to comment on the application and the EIA study.

Taking into account the feedback received during the public consultation and the advice of the relevant authorities, the EIA office will decide within 60 calendar days from the A&C decision whether to approve or reject the EIA of the project. The EIA office informs the applicant and the EPC of its decision within 10 calendar days.

Technical support for RES policy development and implementation – Simplification of permission and administrative procedures for RES installations (RES Simplify) Belgium

If the project's EIA is rejected, the integrated environmental permitting procedure will end. If the project's EIA is approved, the integrated environmental permitting procedure can be continued.

90 days after the A&C decision is taken, the EPC provides its final advice on the application, to either the Provincial Deputy or the Flemish government, who are responsible for granting the permit. 30 days later (i.e., within 120 from the A&C decision) the final decision is communicated by the Provincial Deputy or Flemish government to the project developer and 10 calendar days later the verdict is officialised through an online registration in the database.

According to The Integrated Environmental Permit Decree, the integrated environmental permit is deemed to be refused if no decision is taken within the established or, where appropriate, the extended deadline (Van Thienen, 2018; FD 2015/112729).

The integrated environmental permit is granted for an indefinite period and thus enables repowering and lifetime extension (Wouters, 2020).

It should be noted that with the introduction of an integrated environmental permit, the application process has generally improved significantly. In the past, projects required both a building permit and an integrated environmental permit and it used to happen that one permit was granted while the other permit was denied (Wouters, 2020).

The staffing of the provincial environment desk is not perceived as a problem. In general, the workflow of the application procedures is kept consistent and low and does not pose any substantial problems. Most issues arise rather from the extensive range of appeal possibilities in Belgium (Peeters, 2020).

Finally, some technology specific issues regarding the integrated environmental permitting process were communicated during the survey. For example, due to the rather small number of large rooftop PV installations and small number of all ground-mounted installations in Flanders, the integrated environmental permitting procedure is not really standardised and remains project-specific (Ekwadmaat, 2020). In addition, it is complicated to receive a permit for the installation of solar PV on agricultural land (SolarPower Europe, 2020).

Deadlines

The EPC has 30 calendar days to examine once the application file is admissible and complete.

Advisory bodies have a 30 calendar days deadline for submitting their advice on the EIA and 60 calendar days for advice concerning the application.

A public consultation has to be organised by the EPC within 10 calendar days from the A&C decision. Stakeholders have 30 days to comment on the application and the EIA study.

The EIA office will decide within 60 calendar days from the A&C decision whether to approve or reject the EIA of the project.

The EPC provides its final advice on the application within 90 days from the A&C decision. Within 120 days from the A&C decision the Provincial Deputy or Flemish government will communicate the final decision to the project developer and 10 calendar days later the verdict is officialised through an online registration in the database.

Detected barriers

Environmental conditions. On 25 June 2020, the European Court of Justice declared the Flemish regulatory framework for onshore wind turbines illegal. This includes the environmental conditions laid down in the VLAREM II legislation. The reason for this is that no EIA study was conducted before establishing these environmental conditions. As a result, the conditions will be revised within 3 years on the basis of an EIA, yet the problem arises with the many licensing procedures that take 2-4 years to complete due to the appeal procedures in place. Because of these time-consuming procedures, wind projects might have to adapt their project based on the new environmental conditions, even in on-going projects (Wouters, 2020). In addition, the new environmental conditions which will be laid out in the next 3 years, might present new opportunities for appeal procedures for projects, who were based on the annulled environmental conditions.

Appeal possibilities. In Flanders, the right to appeal is very extensive as it is open to anyone who can prove some sort of relatedness. The relation between the appealing party and the project itself does not have to be very clear. One of the main problems is that it is possible to file an appeal based on one ground and after that, make another appeal based on another ground. Not only local civil society organisations disrupt ongoing projects, also environmental organisations usually come into play during these appeal procedures, by making appeals themselves. The quantity of appeals results in considerable delays, which inflicts substantial costs on the project developers. Because of these appeals, the total permitting procedure can take years to complete, with the average lead time of 2 to 4 years in Flanders (Wouters, 2020).

It is therefore suggested to increase the number of staff in the Council for Permit Disputes (Wouters, 2020). This would lower the substantial workload and speed up the process. Legislation should also foresee a tightening of the appeal possibilities in Flanders by processing all appeal grounds in one procedure, as well limiting the quantity of possible appeals per initiator (Wouters, 2020).

Additionally, it would be beneficial for all parties to include local civil society organisations and environmental organisations in the planning of wind turbines as early as possible, because this form of participation would lead to a higher level of support. As of now, resistant groups only get involved during the public consultation and appeal procedures. However, increasing participation much earlier in the process would possibly lead the way for constructive debate and therefore, to less appeals in a later phase. This way, environmental organisations would also have the opportunity to study the local impact of the wind turbines. In general, project developers are not particularly keen in such a form of early participation, because it increases their workload and they believe that people would still always oppose the wind projects (Grietens, 2020).

Lack of unambiguous environmental research. One of the main issues in Flanders is that there has not been any study conducted on the environmental impact of wind turbines on bats. This results into the situation where local environmental organisations often oppose against new wind turbines, because the uncertainty remains concerning the impact on birds and bats (Grietens, 2020).

No separate framework for larger rooftop and all ground-mounted PV installations. There is no existing legal framework for larger rooftop PV installations that are not exempt from an integrated environmental permit, because the surface of the rooftop PV installations rises more than 1 m above the roof (see 2.2.1.1.) and all ground-mounted PV installations. They are considered as large construction projects, without

taking their specifics into account. This is, to some extent, a chicken-and-egg problem. These large rooftop PV installations and ground-mounted PV that do not fall under any existing legal framework are not popular in Flanders and therefore no new legislation is being enacted for them. On the other hand, the actual legal framework does not cover, nor support these installations. In general, ground-mounted PV installations are not very common in Belgium. This is due, on the one hand, to the lack of open space and, on the other, to the fact that they are not really supported by the government (Wouters, 2020).

Identified good practice

No good practice related to this process step was identified.

2.2.1.5. Grid connection permit

Onshore wind

There is no grid connection permit in Flanders for onshore wind energy. The grid connection takes place simply on the basis of the grid connection reservation that the project developer has made with the DSO or transmission system operator (TSO). The reservation of the grid connection takes place after the construction of the wind turbines or PV systems. The cost of grid connection depends on the project's location. However, grid connection costs are known in advance based on the reception capacity map drawn up by the TSO and DSOs for each region. In addition, priority access to the grid for renewable energy technologies is stipulated by law, which in practice never leads to conflicts (Wouters, 2020). In general, the grid connection procedure does not pose any problems for wind project developers in Flanders.

Rooftop and ground-mounted PV

Operators of PV systems (both rooftop and ground-mounted) with a capacity exceeding 10 kW have to apply for a grid connection permit before connecting the system to the grid. After receiving the application, the grid operator will conduct a grid connection study (FEA, 2020). If the connection study is favourable, a financial agreement is made between the project developers and the DSO. The cost of the grid connection is project-specific and varies per DSO, responsible for the area. The tariffs however are regulated by the FREG.

For PV projects with a capacity of less than 10 kW, project developers only need to declare the installed system to the DSO (Fluvius in Flanders). Failure to register the installation can lead to high fines between EUR 150 to EUR 20,000. The highest amount only applies to large industrial producers. The grid operator needs a maximum of 2 months to process the declaration. Each grid operator determines which documents are required for the declaration. Usually, project developers have to submit to the grid operator the PVZ number (unique number of PV installation), the GREI (General Regulations on Electrical Installations) inspection report, a single-line electrical diagram and the inverter's certificate from the manufacturer.

In principle, when following the procedure as prescribed, the grid operator is not allowed to question the grid connection of PV installations.

Deadlines

Flemish legislation does not prescribe any formal deadlines with regard to the grid connection permit, nor the declaration. In case a permit is required (for PV installations

with the capacity of more than 10 kW), the formalities take place between the project developers and the DSOs.

Detected barriers

No barriers related to this process step were identified.

Identified good practice

No good practice related to this process step was identified.

2.2.1.6. Corporate legal fiscal

Process flow

In Flanders, onshore wind energy projects and PV installations with a capacity greater than 10 kW are supported through Green Certificates (GC) and Guarantees of Origins (GO).

Solar PV installations with a capacity exceeding 10 kW and onshore wind

Before applying for the Green Certificates (GC) and Guarantees of Origins (GO) from the FECA (Flemish Energy and Climate Agency), the project developer must check if the following conditions are met

- the project is located in the Flemish Region
- the project generates electricity from a renewable energy source
- the project belongs to a representative project category or has obtained a project-specific banding factor (the banding factor is dependent on the type of installation and decides the actual amount of the GC)
- the project has been inspected and has a valid and complete inspection report
- support period of the project has not yet passed (VEKA, 2020).

If all of the above conditions are met, the project developer can submit an application for the GC and GO award on the ExpertBase platform operated by FECA. In the event of onshore wind projects, the application can be submitted even before the actual construction of the power plant. Project developers thus have the choice to either apply for GC's and GO's before the actual construction (application in advance or after the construction (normal application)). For the normal application to be approved, only the abovementioned conditions have to be met.

In the event of the application in advance, a decision by the FECA (Flemish Energy and Climate Agency) will be taken on the basis of the information provided in the application. The decision, among other things, contains the following data (VEKA, 2020):

- the start date of the project (if the necessary permits are already obtained) and the period for which the fixed start date is valid
- the measurements to be performed
- the calculation of the net green energy production (green energy file).

If the application in advance is approved by the FECA, the GC and GO can be officially awarded starting from the fixed start date of the project. However, it is not obligatory to submit an application in advance. Project developers can also file an application for a final decision after all conditions are met and the plant has been constructed and is

operational. Meeting the abovementioned conditions is the only prerequisite to be eligible for the subsidy scheme after the actual construction (Peeters, 2020).

Residential rooftop solar PV systems (with a capacity lower than 10 kW)

For small residential rooftop solar PV installations, a one-time investment subsidy is available from 2021. At the time of declaration, the solar PV system with the grid operator, information on the installation will be asked so that no separate application for subsidy has to be submitted (FEA, 2020).

According to the interviewees, the application procedure for the support schemes mentioned above is quite effective and efficient (Wouters, 2020).

Deadlines

There are no formal deadlines that have to be respected in this process step.

Detected barriers

According to the stakeholder surveyed, the barriers do not arise at the procedural level, but more regarding the instable framework and the lack of long-term perspective (Wouters, 2020).

Identified good practice

No good practice related to this process step was identified.

2.3. Onshore wind (Wallonia)

2.3.1. Relevant process steps

Similarly to Flanders, Wallonia also lacks open space, which is why selecting a location for the onshore wind project is almost as important than in Flanders, but perhaps the issue is less dire in Wallonia.

In Wallonia, project developers study zoning plans and identify the open space, which is not subject to the numerous spatial planning restrictions such as military constraints, Natura 2000 areas, etc. These restrictions are even more numerous in Wallonia than in Flanders, mainly due to the multiple military areas located in Wallonia.

Like in Flanders, onshore wind projects in Wallonia are exempt from the obligation to obtain electricity production license and the grid connection permit. The grid connection permit is merely a bilateral agreement between DSO and the project developer. As a result, project developers do not face complex administrative procedures in relation to these two permits. In contrast to Flanders, however, the implications of the grid connection agreement have certain negative effects on current wind projects in Wallonia.

In Wallonia, the single permit is similar to the (single) integrated environmental permit in Flanders and is also the most important permit when implementing a renewable energy project. The single permit covers both the environmental permit and construction permit. In some cases, the application is preceded by an EIA. The single permit causes most of the identified obstacles to wind energy, which is why most projects have been in the pipeline for years. In Wallonia, the appealing procedures have proved to be even a large issue than in Flanders.

After concluding the grid connection agreement, the corporate legal-fiscal process, which consists of applying for Green Certificates and Guarantees of Origins, can be initiated.

2.3.1.1. Site selection

Process flow

One of the most important steps that an onshore wind project developer has to undergo is to find the right location for the project. In Wallonia, too, the site selection process starts with examining the existing spatial plans and the associated planning restrictions.

The spatial plans are drawn up at the regional, provincial and municipal level and they define urban development areas or the so-called zones in the respective administrative area (region, province or municipal territory). The Walloon Codex for Spatial Planning allows the implantation of onshore wind power projects in the following three zones (WD: 1984/900200):

- zones for economic activity
- agricultural areas near the main communication infrastructure or an economic activity zone
- forest areas near the main communication infrastructure

It has to be noted that although the legislation prescribes agricultural land as suitable for renewable energy installations, access to agricultural land is usually an issue in Wallonia due to its high price. The high price is caused by the high population density and good arable land (SolarPower Europe, 2020).

In some cases, a single permit for the production of electricity that is partially or fully fed into the electricity grid, may be obtained in deviation from the spatial plan. The Codex allows this, if deviation (WD: 1984/900200):

- is justified taking into account the specifics of the project with regard to the precise location
- does not impair the consistent implementation of the spatial plan to a wider extent
- concerns a project which contributes to the protection, management or the development of built or undeveloped landscapes.

In Wallonia, too, there are very far-reaching spatial planning restrictions, even more far-reaching than in Flanders (see barrier below). However, Wallonia has more open space, which theoretically means more options for installing onshore wind turbines.

Nevertheless, the 'first come, first served' principle is applied in Wallonia, which implicates a race for better locations between developers, and therefore time becomes a very important factor in choosing a location. This huge competition for location can be observed especially in the areas with high wind potential in Wallonia, resulting in a potential saturation of wind parks in these areas. Here, we are witnessing many projects already taken into the planning phase, but before the permitting phase. However, not all of these projects will be able to obtain the necessary permits, since otherwise the consequences for the environment would be too grave (Regional Planning and Environment Pole, 2018).

Deadlines

No official deadlines relevant for this process step are set by Walloon legislation.

Detected barriers

'First come, first served' principle. In Wallonia, the 'first come, first served' principle is applied, which results in a race among project developers for suitable locations for onshore wind projects. This has some negative implications on the site selection process in Wallonia:

- Projects are determined by access to land, which means that the location chosen is ultimately not necessarily the best location for the development of the project, and therefore the project is not always the best project in terms of maximising the output and minimising the impacts on nature (De Schouthete, 2020).
- The rush for land suitable for wind power development has resulted in land speculation (De Schouthete, 2020). This has a negative impact on the project cost, the price of agricultural land and the image of the entire sector.
- Some land use (lease) contracts concluded between the owners or managers of agricultural land and project developers contain provisions which are totally unbalanced and favour the project developer disproportionately. These provisions are incorporated into the contracts, taking advantage of the fact that some of the owners or managers of agricultural land are not familiar with the subject. For example, some of the provisions prohibit the owners or managers of the land from signing agreements with other project developers within a 10 km radius, which consequently restricts other developers' access to the land that would be suitable for wind power development (Al Bitar, 2020).

Military constraints. Multiple military bases are located in Wallonia, which cause constraints towards the implementation of onshore wind projects. These constraints are worse in Wallonia than in Flanders, because there are generally more military territories here, which implies more radar protection zones and low flying zones. The air traffic control operated by Skyes (Belgian air traffic controller) is much stricter in Wallonia as well (Al Bitar, 2020).

Identified good practice

No good practice related to this process step was identified.

2.3.1.2. Electricity production licence

The procedure is identical to the procedure of Flanders, because it is regulated on national level (see section 2.2.1.2.).

2.3.1.3. Administrative authorisation

Process flow

In Wallonia, the most important permit for the construction of a wind power plant is the single permit (*Permis Unique*), which is a merged permit consisting of formerly separate environmental permit and urban permit.

In order to obtain a *Permis Unique*, project developers have to submit their application to the municipality, more specifically the delegated officer from the municipal college (SPW Energie, 2020a). Within 3 days of receiving the application, the delegate officer will send the application file to the technical officer, i.e., the regional official responsible for examining requests (De Schouthete, 2020).

Technical support for RES policy development and implementation – Simplification of permission and administrative procedures for RES installations (RES Simplify) Belgium

According to the Walloon Government Decree of 13 November 2014 laying down sectoral conditions for wind farms, the administrative procedure to obtain a single permit depends on a specific category ('Class') of the onshore wind project:

- Class 1: Projects with the capacity of 3MW and higher
- Class 2: Projects with the capacity of 0,5–3 MW
- Class 3: Projects with the capacity of 100-500 kW

For projects falling under Class 1 and Class 2, the procedure for obtaining a single permit is more or less the same. Only for Class 1 projects, an EIA study is obligatory before a single permit can be applied for.

The EIA procedure begins with a public consultation meeting, organised by the municipality. The purpose of the public consultation is to map out what the necessities of the upcoming EIA are. The upcoming public consultation is communicated both online and by putting up posters in the municipality. Within 15 days of the consultation meeting, all participants of the meeting have the possibility to submit their views, comments and suggestions on how to implement in the upcoming EIA study. The feedback received is then sent to the municipal college (competent authority) and to the project developer, which will implement the feedback in the EIA study (SPW Energie, 2020a).

After the public consultation meeting, a certified research institute will carry out the EIA study, indicating the project's potential impacts on the environment. The results of the EIA study are then sent to the municipal college, who decides whether to include certain conditions and elements in the single permit application. Subsequently, the project developer officially files an application for the single permit to the delegated officer.

If a project falls under Class 2 and during the single permitting procedure the technical officer decides that the project might have a significant impact on the environment, the developer may be required to restart the application process and perform an EIA first (De Schouthete, 2020).

For a Class 3 project, a simplified procedure for applying for a single permit is in place. In this case, the project developer only has to submit an official declaration to the municipality, which corresponds to providing the address of operating headquarters (SPW Energie, 2020a).

During the single permit procedure, a public inquiry is performed for project Classes 1 and 2, which allows local citizens and other stakeholders to share their opinion on the single permit. For projects subject to an EIA, the duration of the public inquiry is 30 calendar days and for projects that are not subject to an EIA, 15 calendar days. Throughout the public inquiry, the project file (project details, like exact location, duration, capacity, etc.) can be viewed at the municipal administration and anyone can obtain technical explanations on the file. Any person can submit their objections and written or oral observations to the municipal administration, indicating their name and address (SPW Energie, 2020).

On the last day of the public inquiry, the municipal administration organises a closing session of the inquiry. Anyone interested may take part and provide their views and comments. After that, a closing report will be drawn up by the municipality, containing all written and oral objections and observations made during the public inquiry or at the closing session.

During the single permit procedure, the municipal college is also advised by other authorities concerned, sometimes even up to 40 different authorities (e.g., the Agency for Nature and Forests, Infrabel (railway infrastructure), the Environment Department, the Agriculture & Fisheries Department, the Aviation Directorate-General, etc.). Based on the advice from the authorities concerned, the municipal board and the technical officer, as well as the quality control of the EIA study delivered, the delegated officer makes a decision on whether to grant or reject the single permit.

If the municipality rejects the issue of the permit, an appeal is possible (SPW Energie, 2020a).

Deadlines

Completeness and admissibility of the application

Within 20 calendar days following the reception of the application file by the technical officer, the project developer will receive a letter specifying whether the application is complete and admissible (SPW Energie, 2020a).

If the application is complete and admissible, it will be examined by the technical officer. If the application is incomplete, the project developer has 6 months to provide the additional information requested by the municipality. If within 6 months no additional documents are submitted by the project developer, the request will be declared inadmissible. The request will also be declared inadmissible, if it is considered incomplete for the second time. In the event that the request is inadmissible, the application procedure terminates (SPW Energie, 2020a).

The date on which the file is decided to be complete and admissible marks the beginning of the deadline for sending the final decision concerning the single permit to the applicant: 90 calendar days for Class 2 projects and 140 calendar days for Class 1 projects). As mentioned above, Class 3 only requires a declaration and thus none of the descriptions in the deadline section apply for Class 3.

In the absence of a decision on the completeness and admissibility within the set deadline, the request is considered complete and admissible by default (De Schoutheete, 2020)

Request for advice

Other authorities concerned have 60 calendar days to submit their views for Class 1 projects, and 30 calendar days for Class 2 projects. If these deadlines are missed, their opinion is deemed positive.

Public inquiry

A public inquiry notice is communicated in the form of physical bills (posters) by the municipality within 5 days of receiving notification of the decision on the completeness and admissibility of the submitted application. In any case, public inquiry notice cannot be published later than 5 days before the start of the public inquiry. The duration of public inquiry is 30 days calendar for Class 1 projects and 15 calendar days for Class 2 projects.

Summary report

The summary report and the proposal for the decision are then sent by the technical officer to the municipal college responsible for granting the single permit. For Class 1 projects, within 110 calendar days of the decision on the completeness and admissibility of the submitted single permit application and for Class 2 projects, within 70 calendar days.

Decision

For Class 1 projects, the project developer receives the decision with regard to the granting or rejecting of the single permit, within 140 calendar days from the date on which the application file was declared complete and admissible. For Class 2 projects, the project developer receives the decision within 90 calendar days.

Whether the project falls under class 1 or 2, an extension of these deadlines of up to calendar 30 days is possible for the completion of the summary report by the technical officer.

Detected barriers

Very extensive EIA. In Wallonia, the obligatory EIA is very complex and takes on average more than a year to perform. It is one of the most extensive EIA procedures in Europe, and it gets even more extensive over time not only because of increasing legal standards but also because of the concerns of local citizens. This has negative implications for the project developers, both in terms of the increasing necessary time and effort to perform the EIA (Al Bitar, 2020).

Environmental conditions. In December 2017, the Council of State annulled the Walloon sectoral conditions for wind farms. The reason for this was that no appropriate EIA took place before establishing these conditions. As a result, the sectoral conditions are currently in process to be amended by the Walloon government, through performing an appropriate EIA and working together with all stakeholders concerned. The problem that arises here is that the sectoral conditions are valid until 2021, but the Decree with the new sectoral conditions is not yet finalised. This leads to a gap of approximately 3 months in which projects will be approved without sectoral conditions for wind turbines. Until new sectoral conditions for wind farms are in place, the onshore wind projects fall under the general conditions for buildings and installations, which are even more strict than the sectoral conditions for wind farms (e.g., rules on noise pollution). This may result in additional appeal grounds for project opponents and thus cause more delays or even discontinuation of wind projects (Ghigny, 2020).

Extensive appeal possibilities and good organisation of the project opponents.

In Wallonia, as in Flanders, the right to appeal is very extensive and is, in principle, open to anyone who can prove some sort of relatedness. The same grounds for appeals as in Flanders are used in Wallonia. Not only are local civil society organisations very willing to intervene, environmental organisations also usually take the initiative to launch appeal procedures. The number of these appeals leads to considerable delays in project implementation, which inflicts substantial project costs (Al Bitar, 2020).

Even more, the onshore wind opponents in Wallonia are very professionally organised with a large team of lawyers at their disposal. The numerous appeals have two causes: on the one hand the gaps in the legal framework and on the other hand problems of social acceptance. There would be no recourse without the action of opponents, but appeals would not be as numerous if they had no chance of success. Statistically, only one in 10 onshore wind projects in Wallonia has been realised after 5 years due to the complaint procedure (Al Bitar, 2020).

Identified good practice

No good practice related to this process step was identified.

2.3.1.4. Grid connection permit

Process flow

The grid connection procedure is same as in Flanders (see section 2.2.1.5).

Deadlines

Walloon legislation does not prescribe any formal deadlines with regard to the grid connection permit.

Detected barriers

Grid connection costs. In Wallonia, DSOs grant the onshore wind project developer access to the electricity grid on the condition that the power plant can be curtailed without any compensation in return. As this is decided after the issue of the single permit, the developer has no choice but to accept the conditions thereby sometimes challenging the profitability of the project (RNP, 2020). The grid connection fee charged by the DSO's has increased a lot during the past years. In some cases, an increase of over 50% has been observed, exact figures are not projected, because they are project-specific (Al Bitar, 2020).

Identified good practice

No good practice related to this process step was identified.

2.3.1.5. Corporate legal fiscal

Process flow

The Walloon scheme for Green Certificates (GC) and Guarantees of Origin (GO) is open for all onshore wind projects (SPW Energie, 2020b).

Renewable energy producers who wish to benefit from GCs are required to make a reservation of a fraction of the specific envelope determined for renewable energy technology. This implies the actual budget that is laid out for the year by the Walloon government to invest in the renewable technology. In this case, a project developer has to make a reservation for a fraction of the wind envelope. This reservation is obligatory and happens prior to the realisation of the project, typically after the official granting of the single permit. The reservation is done through an online application form to the SPW Energie (SPW Energie, 2020b).

In order to the reservation request to be admissible, the construction of the installation must be as final as possible. In addition to the application form, the project developer has to submit a profitability study (business plan) drawn up for a period of at least 15 upcoming years and an orientation study performed by the grid operator. The aim of the orientation study is to verify the potential presence of soil pollution and to provide, if necessary, a first description and estimate of the extent of this pollution (Environnement Wallonie, 2020).

If the request is considered plausible, SPW Energie will send the project developer a confirmation of the reservation data. Subsequently, the onshore wind power plant can be put into operation. If the application file is incomplete, the application is considered

inadmissible. The notification of the reservation by SPW Energie guarantees the applicant the granting of GCs and GOs for his future green electricity production.

Once the construction of the onshore wind power plant is complete, it must also be certified by one of the bodies approved for GCs in Wallonia. Certification needs to take place prior to the granting of GCs. When the project has received certification, the certification authority sends a copy of it to SPW Energie and another to the project developer. The sending of the copy to SPW Energie serves as a request for granting GCs and GOs. Therefore, the project developer does not need to submit any additional request to SPW Energie. After receiving the copy of certification, SPW Energie will check whether the production site meets the conditions and notify the project developer about its decision on granting of GCs and GOs by mail (SPW Energie, 2020b).

Deadlines

If the request is considered plausible, SPW Energie will send the project developer a confirmation of the reservation data within 45 calendar days of submitting the application.

After receiving the copy of certification, SPW Energie communicates its decision on granting of GCs and GOs by mail within 30 calendar days (SPW Energie, 2020b).

Detected barriers

No barriers related to this process step were identified.

Identified good practice

No good practice related to this process step was identified.

3. Use of IT systems

The use of IT systems in Belgium is currently still on the back burner. In case of offshore wind, the application submissions have not been digitalised yet. This is justified by the small number of applications that have to be processed.

Flanders

In Flanders the use of IT systems is much more developed compared to the national level and other regions (e.g., Wallonia). The digital platform¹ of the Environmental Office is relevant for the integrated environmental permit procedure – for the project developers who submit their applications and supporting documents, including the EIA, where applicable, as well as for the competent authorities and other stakeholders who wish to hand in their views and comments and/or complaints.

Since 1 January 2018 all Flemish authorities (Provincial Deputies and Flemish government) responsible for the integrated environmental permit have implemented the digital platform. However, it is still possible to submit applications in paper form.

For the issue of the GCs and GOs the online platform Expertbase² is in place, which is monitored by the Flemish energy regulator (VREG).

¹ <https://www.omgevingsloketvlaanderen.be/>

² <https://authenticatie.vlaanderen.be/stb/html/ssologin>

With regard to rooftop solar PV, the declaration for receiving support can be made online at the DSO Fluvius.

The digital transformation in Flanders is perceived by the stakeholders interviewed as a very positive and effective development (Wouters, 2020).

Wallonia

Compared to Flanders, the 'Permis on Web' online platform³ is currently only available in Wallonia for declaring small onshore wind projects with a capacity less than 0.5 MW, for which neither a single permit nor an EIA is required. The platform is expected to function for all single permit applications in the near future (Permis on Web, 2020).

4. Complaint procedure

The below described complaint procedures mainly apply to onshore wind energy and in some cases to large rooftop (which are not exempt from the integrated environmental permit, i.e., surfacing more than 1 meter above the roof) and ground-mounted solar PV installations.

Flanders

The Municipal Council has the right to lodge an appeal with the Flemish government (first instance) to contest the integrated environmental permit issued by the province for projects with a maximum of 4 wind turbines with an output of more than 1.5 MW each that are not located in a seaport. The appeal needs to be submitted by the Municipal Council within 30 calendar days of the permit being issued. If the decision of the Flemish government is not satisfactory, the municipal council can appeal the first instance decision to the Council for Permit Disputes, the second and last instance. The Council for Permit Disputes acts as a Belgian administrative court that decides on appeal procedures in spatial planning (RvB, 2020).

In addition, any natural or legal person who may be directly or indirectly affected by the decision on the integrated environmental permit can appeal the decision to the Council for Permit Disputes. The appeal must be submitted within 45 calendar days of issuing of the decision. In general, three types of requests, each with their own procedure and average duration, can be submitted to the Council for Permit Disputes: (1) urgent suspension request (in cases of an extreme urgency); ordinary suspension request; and (3) cancellation procedure (cancellation of the actual project). It is also possible that a mediation procedure is drawn up during the process (RvB, 2020).

Against a decision taken by the Council for Permit Disputes, an appeal in cassation is possible. This is done with The Council of State, Administrative Jurisdiction Division. The Council of State, however, only examines whether the decision of the Council for Permit Disputes is in accordance with the regulations and the prescribed procedures, thus evaluating solely the form of the decision.

Wallonia

In Wallonia, there are two types of appeals against the decision on the single permit. In first instance, an appeal can be submitted to the Minister of the Environment by any natural or legal person who can justify their interest. Appeals to the Minister can only challenge the content of the decision (Al Bitar, 2020).

³ <http://permis-environnement.spw.wallonie.be/fr>

The appeal has to be lodged to the Minister of Environment and it must be transmitted to the administration of the Ministry of Environment within 20 calendar days after the permit decision. The notice on the appeal is published in the municipality, where a public inquiry, part of the single permit procedure, took place. The Ministry competent for the appeal, seeks the opinion of the administrations and authorities which they consider necessary to consult. Hereafter they draw up a summary report based on the reviews collected. Finally, the Minister of Environment makes its decision on whether to annul the permit or not. For the appeals in first instance, the Minister has a period of 100 days to send its final decision to the SPW Energie (SPW ARE, 2020).

If the decision of the competent authority remains unchanged by the Minister, the complainant has the right to appeal to the Council of State, as a second instance, and request the annulment of the decision. The appeal can be lodged by any natural or legal person who can justify their interest. In addition, the person must prove that there are formal deficiencies in the permitting procedure or that the permit was issued in an excess of or abuse of power (SPW ARE, 2020).

The appeal to the Council of State is not subject to a binding deadline. However, due to the large number of appeals in Wallonia, the Council of State is facing certain bottlenecks.

The efficiency and the effectiveness of the complaint procedure in Flanders is rated as either very high or very low depending on the stakeholders interviewed for this report. For environmental organisations, local civil society organisations and other project opponents, the complaint procedure has proven to be very effective in stopping or at least significantly delaying onshore wind projects. Also in Wallonia, opponents of onshore wind projects (environmental organisations, local civil society groups, etc.) consider the complaint procedure to be very effective in fighting against the implementation of such projects (Al Bitar, Grietens, 2020).

5. Specific features to ease administrative procedure

Table 2 below provides information on the existing specific features to ease administrative procedures in Belgium.

Table 2: Specific features to ease administrative procedures

Specific feature	Existing	Short description
Simultaneous procedures	yes	The grid connection process can be carried out in parallel to the administrative authorisation process and even in parallel to the site selection process, for all onshore wind projects and large rooftop (which are not exempt from the integrated environmental permit) and ground-mounted PV installations. Residential rooftop PV installations can only commence the grid connection procedure after construction. Project developers have the right to reserve capacity in the electricity grid for their future renewable energy plants and to make financial agreements with the grid operators, in the context of the grid connection permit, already in the very beginning of the project planning phase.
National contact points and one-stop-shops	yes	In both Wallonia and Flanders, the urban and environmental permit have been merged into a single permit. There is a one-stop-shop for Flanders to obtain an integrated environmental permit for

Technical support for RES policy development and implementation – Simplification of permission and administrative procedures for RES installations (RES Simplify) Belgium

		the construction, repowering and operation of the plant, i.e., the environmental desk. For Wallonia this one-stop shop is the Delegated Officer of the municipal college. The single permit does not cover the electricity production license (if required) and the grid connection permit (if required). Neither does it include the corporate legal-fiscal procedure.
Application of 2+1 and 1+1 rules	no	
Simple notification procedure	no	
Pre-planning	yes	There is a national grid capacity map that identifies the best locations for renewable energy projects, in function to the grid capacity. This map, however, is not binding and has no further implications on the issue of permits to construct a power plant.
Pre-application consultation	no	
Project acceptance measures	no	
Measures to streamline litigation by third parties	no	
Other	no	

6. Indicators to measure the performance of the overall process

Table 3 below provides information on the indicators to measure the performance of the overall administrative and grid connection process in Belgium.

Table 3: Performance indicators to assess administrative and grid connection processes

Performance indicator	Description
Average response time by the competent authorities and TSO/DSO for grid connection procedures	The average response time is quite short and not perceived problematic at all.
Process duration	<p>It takes, on average, at least 3–5 years (time of preparation, including studies, permit decision) to get an integrated environmental permit in Flanders without court procedures. These appeal procedures can easily add 2 to 4 years to this period (Wind Europe, 2020).</p> <p>In Wallonia, the single permit granting normally lasts 3 years (with IEA included), but it generally takes between 5 and 8 years especially due to juridical uncertainty. Any delivered permit is challenged at the Council of State level and blocked for years. Without taking into account the appeal procedure at the Council of State level, the normal length of a project consists of 1 year of environment impact assessment (EIA) + 7 months to 1 year at the administrative level + about 6 months at the minister level + 1 year for the installation and grid connection. In total this results into a process duration between 3 and 4 years, however taken into account the Council of State level (without deadlines), it will take 2-3 more years (Wind Europe, 2020).</p> <p>For offshore wind energy, the process duration is project-specific.</p>

Technical support for RES policy development and implementation – Simplification of permission and administrative procedures for RES installations (RES Simplify)
Belgium

Project approval rates	N.A.
Costs of administrative processes	
Share of permits that are legally challenged	Around 80% for onshore wind in Flanders, in Wallonia over 90% (WindEurope, 2020).
Share of legal challenges that are overruled	Almost all legal challenges are overruled in Belgium (Al Bitar, Wouters, 2020).
Stakeholder interests	For offshore wind, the preparation of the marine spatial plans is preceded by a comprehensive stakeholder consultation. For all other renewable energy sources, stakeholder consultation is part of the single permit granting procedure in Wallonia and Flanders. However, stakeholder engagement should ideally take place already in an earlier phase. This would reduce resistance from local residents and environmental organisations who are the driving force behind the complaint procedures.

References

- CREG, 2020. Domeinconcessies | CREG: Commissie voor de Regulering van de Elektriciteit en het Gas. Available at: <<https://www.creg.be/nl/professionals/productie/offshore-windenergie/domeinconcessies>> [Accessed 25 November 2020].
- CREG, 2020b. Hoe producent worden? | CREG: Commissie voor de Regulering van de Elektriciteit en het Gas. Available at: <<https://www.creg.be/nl/professionals/productie/hoe-producent-worden>> [Accessed 25 November 2020].
- De Schouthete, C., 2020. Freins et leviers au développement éolien en Wallonie | Fédération inter-environnement Wallonie. Available at: <https://www.iew.be/freins-et-leviers-au-developpement-eolien-en-wallonie-un-nouveau-dossier-iew/?fbclid=IwAR1jPfbKJnYIaL0Y5qeOCbJ21a_vhnQX4uuzVpAHGxqMMq7gi9sSz4Q37Iq> [Accessed 25 November 2020].
- Departement Leefmilieu, Natuur en Energie, 2016. Leidraad Omgevingsvergunning voor gemeentebesturen. Available at: <<https://www.omgevingsloketvlaanderen.be/sites/default/files/atoms/files/Leidraad%20omgevingsvergunning%20voor%20gemeentebesturen.pdf>> [Accessed 25 November 2020].
- Departement Omgeving, 2020. Handboek Project-MER in omgevingsvergunning. Available at: <https://omgeving.vlaanderen.be/sites/default/files/atoms/files/Handleiding_PR-MERinOV%20-%20actualisatie2020_def.pdf> [Accessed 25 November 2020].
- Ekwadraat, 2020. Omgevingsvergunning zonneparken. Available at: <<https://ekwadraat.com/diensten/zonne-energie/zonnepark/omgevingsvergunning-zonnepark/>> [Accessed 25 November 2020].
- Environnement Wallonie, 2020. Etude d'orientation. Available at: <<https://sol.environnement.wallonie.be/home/sols/sols-pollues/code-wallon-de-bonnes-pratiques--cwbp-/etude-dorientation.html>> [Accessed 25 November 2020].
- FEA, 2020. Eenmalige investeringspremie van de netbeheerder voor zonnepanelen vanaf 2021 | FEA: Flemish Energy Agency. Available at: <<https://www.vlaanderen.be/eenmalige-investeringspremie-van-de-netbeheerder-voor-zonnepanelen-vanaf-2021>> [Accessed 25 November 2020].
- FOD Volksgezondheid, 2019. Marien ruimtelijk plan. Available at: <<https://www.health.belgium.be/nl/milieu/zeeen-oceanen-en-antarctica/noordzee-en-oceanen/mariene-ruimtelijke-planning>> [Accessed 25 November 2020].
- VEKA, 2020. Aanvraagprocedure voor certificaten | VEKA: Vlaams Energie en Klimaatagentschap. Available at: <<https://www.energiesparen.be/groene-energie-en-wkk/prof/aanvraagprocedure-certificaten>> [Accessed 25 November 2020].
- Luc Peeters, 2019. Windgids | Flemish Energy Agency. Available at: <<https://www.energiesparen.be/sites/default/files/atoms/files/Windgids-2019.pdf>> [Accessed 25 November 2020].
- Omgevingsloket Vlaanderen, 2020a . Terras of andere verharding, oprit, vijver, zwembad, tuinconstructies. Available at:

Technical support for RES policy development and implementation – Simplification of permission and administrative procedures for RES installations (RES SIMPLIFY)
Belgium

<<https://www.omgevingsloketvlaanderen.be/oprit-vijver-zwembad>> [Accessed 25 November 2020].

Omgevingsloket Vlaanderen, 2020b. Zonnepanelen, schotelantenne, airco, kleine windturbine. Available at: <<https://www.omgevingsloketvlaanderen.be/zonnepanelen>> [Accessed 25 November 2020].

Ovidio, F, 2020. BMM. Available at: <<https://odnature.naturalsciences.be/mumm/nl/windfarms/>>

Permis on Web, 2020. Nouveautés | Permis On Web. Available at: <<http://permis-environnement.spw.wallonie.be/fr/nouveautes>> [Accessed 25 November 2020].

RvB, 2020. Veelgestelde vragen over de procedure | RvB: Raad voor Vergunningsbetwistingen. Available at: <https://www.dbrc.be/faqs_RvVb> [Accessed 25 November 2020].

SPW ARE, 2020, July 9. Introduire un recours contre une décision en matière de permis d'environnement ou de permis unique | SPW ARE : Service Public Wallonie de Agriculture, Ressources naturelles et Environnement. Available at: <<https://www.wallonie.be/fr/demarches/introduire-un-recours-contre-une-decision-en-matiere-de-permis-denvironnement-ou-de-permis-unique#contact>> [Accessed 25 November 2020].

SPW Energie, 2020a. Comment suis-je averti du projet ? | Permis On Web. Retrieved 30 November 2020. Available at: <<http://permis-environnement.spw.wallonie.be/fr/un-projet-me-concerne/comment-suis-je-averti-du-projet>> [Accessed 25 November 2020].

SPW Energie, 2020b. La réservation. Available at: <<https://energie.wallonie.be/fr/la-reservation.html?IDC=9234>> [Accessed 25 November 2020].

Van Thienen, C., 2018. Termijnen in vergunningsprocedures. Available at: <https://lib.ugent.be/fulltxt/RUG01/002/479/206/RUG01-002479206_2018_0001_AC.pdf> [Accessed 25 November 2020].

Zonnepanelen, 2017. Available at: <<https://www.zonnepanelen-info.be/vergunning-nodig-zonnepanelen/>> [Accessed 25 November 2020].

Interviews

Wouters, L., 2020. Organisation Sustainable Energy. Interviewed on 6 November 2020.

Grietens, E., Bond Better Environment. Interviewed on 11 November 2020.

Al Bitar, F., 2020. Edora, Federation Renewable Energy. Interviewed on 12 November 2020.

Ghigny, F., 2020. Walloon Ministry of Energy and Environment. Interviewed on 19 November 2020.

BOP, 2020. Belgian Offshore Platform. Interviewed on 30 November 2020.

Legislation

National (Offshore wind)

Royal Decree on the conditions and procedure for granting concessions for the exploration and exploitation of mineral and other non-living resources in the territorial sea and on the continental shelf (2004): RD 2004/014187.

Royal Decree the conditions and procedure for granting domain concessions for the construction and operation of production facilities of electricity from water,

Technical support for RES policy development and implementation – Simplification of permission and administrative procedures for RES installations (RES SIMPLIFY)
Belgium

currents or winds, in the sea areas in which Belgium can exercise jurisdiction in accordance with the international maritime law (2000): RD 2008/11454.

Royal Decree on the further rules for laying electricity cables operating in the territorial sea or entering the national territory or being posted or used in the exploration of the continental shelf, exploitation of mineral resources and other non-living resources thereof or of the activities of artificial islands, installations or establishments that fall under Belgian jurisdiction (2002): RD 2002/1112.

Law amending the law of 29 April 1999 on the organization of the electricity market with a view to introducing a competitive tendering procedure for the construction and operation of production installations in the sea areas under the jurisdiction of Belgium and ratifying the Royal Decree of 11 February 2019 amending the Royal Decree of 16 July 2002 on the establishment of mechanisms for the promotion of electricity generated from renewable energy sources: L 2019/030491.

Flanders (Onshore wind and PV)

The Flemish Codex for Spatial Planning: FD 2009/051536.

Circular letter of 25 April 2014: Assessment framework and preconditions for the installation of (large-scale) wind turbines: RO/2014/02.

Integrated Environmental Permit Decree: FD 2015/112729.

Flemish Decree concerning General and Sectoral provisions relating to Environmental Safety (VLAREM II): FD 1995/060151.

Flemish Decree concerning the rules of EIA screening: FD 2013/030123.

Ministerial decision on updating the current banding factors and establishing the banding factors of green energy certificates and combined heat and power certificates for projects with a start date from 1 January 2021: MD 2020/43518.

The Energy Decree of 19 November 2010: FD 2010/111905.

Wallonia (Onshore wind)

Walloon decree concerning the environmental permit: WD 1999/027439.

The Walloon Codex for Spatial Planning and Urbanisation: WD 1984/900200.

Order of the Walloon Government of July 4, 2002 establishing the list of projects subject to an Environmental Impact Assessment, classified installations and activities or installations or activities presenting a risk for the soil: WD 2002/027817.

Order of the Walloon Government laying down sectoral conditions for wind farms with a total capacity of 0.5 MW or more: WD 2014/021316.

Reference framework for the installation of wind turbines in the Walloon Region.
Approved by the Walloon Government on 21 February 2013 and amended by decision of the Walloon Government: RF 2013/2102.

National (Onshore wind and PV)

Royal Decree on the granting of individual permits for the construction of installations for the production of electricity: RD 2000/101138.

Law concerning the organisation of the energy market: L 1999/042942.