

## RENEWABLE ENERGY LAW & POLICY IN BELGIUM

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1. *What is the share of renewable energies in overall final energy consumption in your country? From what sources is this renewable energy? How will / should the proportion and composition of renewable energy develop in your country? Can the requirements of the Directive 2009/28/EC be met or exceeded?*

In Belgium, 77 % of the consumed primary energy comes from fossil fuels (petroleum, natural gas and coal), 21 % from nuclear. The hydropower potential is relatively limited. Wind power is being developing fast. The share of renewable energy was as follows in 2007: 2.67 % of total primary energy consumption; 3.65 % of gross final energy consumption<sup>1</sup>; 3.9 % of gross electricity production. The share of bio-fuels in the transport sector in 2007 was 1.12 %<sup>2</sup>. In 2010 4,8 % of the electricity is stemming from renewable sources, while the share of bio-fuels in the transport sector was 3.8 %<sup>3</sup>.

Biomass represents in the Flanders region around 60 % of renewable energy, followed by wind energy (17.2 %), biogas (12 %), organic waste (9 %), solar energy (1,7 %) and hydro (0,2 %). Similar figures are found for the two other regions, with a higher share of hydro in the Walloon Region<sup>4</sup> and a lower share of wind in the Brussels Capital Region.

Targets differ between the three regions of the country and energy policies are implemented separately, leading to differing supporting conditions and separate markets for green certificates<sup>5</sup>.

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<sup>1</sup> According the *Belgian National Action Plan for Renewable Energy under Directive 2009/28/EC* this share was 3.8 % in 2010 (p. 10)

<sup>2</sup> EREC, *Belgium. Renewable Energy Policy Review*, p.1. In 2005 the share of energy from renewable sources in gross final consumption of energy was 2,2 % according Directive 2009/28/EC. According the National Action Plan for Renewable Energy under Directive 2009/28/EC the share was 3.8 % in 2010.

<sup>3</sup> Member States progress in reaching various renewable energy targets, Commission document based on Eurostat and Member States NREAPs.

<sup>4</sup> EREC, *l.c.*, p. 2

<sup>5</sup> *Ibid.*, p. 3

According Directive 2009/28/EC on the promotion of the use of energy from renewable sources the share of energy from renewable sources in gross final consumption of energy should increase in Belgium in 2020 to 13 %. As for the other Member States, the share of energy from renewable sources in all forms of transport shall be at least 10 % in 2020. The National Action Plan established under the Directive by ENOVER/CONCERE, the energy co-operation body composed of representatives from the federal government and from the 3 regional governments, provides for a road map to this target with from year to year increasing shares. The overall share should be 13 % in 2020. This overall share consist of 3 separate targets for heating & cooling (11,9 %), electricity (20,9 %) and transport (10,14 %)<sup>6</sup>. As the respective energy resources are concerned, their share would be in 2020<sup>7</sup>:

	Heating & cooling	Electricity	Transport
- Hydro	3.3 %	2 %	
- Geothermal	0 %	0.1 %	
- Solar	4,8 %	4.9 %	
- Wind	46 %	45.3 %	
- Biomass	45 %	47.7 %	
- Bio-ethanol/bio-ETBE			10.4 %
- Bio-diesel			78.7 %
- Hydrogen			0 %
- Renewable electricity			10.9 %

It is expected that with the policies and measures contained in the plan, the requirements of Directive 2009/28/EC can be met. That conclusion can also be drawn from a study commissioned by EUDORA, the Belgian Federation of Renewable Energy Industries. This study, based on calculations performed by the *Fraunhofer Institute Systems and Innovation Research* and *Energy Economics Group* of Wien University, is predicting a 2020 Target between 15,88 % (moderate energy demand scenario) and 17,76 % (low energy demand scenario), so somewhat better than the targets under Directive 2009/28/EC.

## 2. *Describe the key national legislation to promote renewable energies*

### *Introduction*

Energy policy in Belgium is a mixed competence<sup>8</sup>. Energy policy responsibilities are split between the federal and regional governments (see Table below). The regional governments of Flanders, Wallonia and Brussels-Capital are principally responsible for designing and implementing policies for energy efficiency, renewables, non-nuclear energy, R&D and market regulation for the distribution and supply of electricity and gas through distribution networks. The federal government is responsible for issues such as electricity and gas tariffs, market regulation for large infrastructure for storage, transport and distribution of energy, the nuclear fuel cycle and R&D in both nuclear fusion and fission.

<sup>6</sup> Belgian National Action Plan for Renewable Energy under Directive 2009/28/EC , p. 10

<sup>7</sup> *Ibid.*, p. 92-94

<sup>8</sup> INTERNATIONAL ENERGY AGENCY, *Energy Policies of IEA Countries, BELGIUM 2005 Review*, p. 26; *Energy Policies of IEA Countries. BELGIUM 2009 Review*, p. 16.

**Table: Division of Energy Policy Responsibilities**

<b>Federal government</b>	<b>Regional governments</b>
<ul style="list-style-type: none"> <li>• Security of supply</li> <li>• National indicative investment plans for gas and electricity (in collaboration with the CREG the federal regulator)</li> <li>• Nuclear fuel cycles and related R&amp;D programmes</li> <li>• Large stockholding installations</li> <li>• Production and transmission/transport of energy (including electricity grid &gt;70 kV), including large storage infrastructure</li> <li>• Tariffs and prices</li> <li>• Statistics (energy balances)</li> <li>• Product standards</li> </ul>	<ul style="list-style-type: none"> <li>• Regulation of gas and electricity markets</li> <li>• Distribution and transmission of (electricity grid &lt;70 kV)</li> <li>• Public distribution of natural gas</li> <li>• District heating equipment and networks</li> <li>• New and renewable sources of energy (except nuclear)</li> <li>• Recovery of waste energy from industry or other uses</li> <li>• Promotion of the efficient use of energy</li> <li>• Energy statistics and balances</li> </ul>

*a. Subsidies and other financial support*

There are *regional investment subsidies* in the 3 regions for all renewable energy sources (20 to 40 % of eligible investment, depending on the size of the enterprise and the technology concerned) and additional support for solar PV (20 to 50 % depending on the region and the size of the enterprise), including for households. Solar PV benefits also from *Federal Tax Credits* for both private persons (40 % of investment) and companies (13.5 % of installation cost deductible from profit tax). Other renewable energy investments benefit also from a federal tax deduction. For companies there is a tax deduction of 13.5 % for all investment on equipment in order to reduce energy consumption. Private persons can get a tax reduction of 40 % for investments in photovoltaic. There is also a federal tax exemption (0,35 to 0,62 €/l) for excise duties on diesel oil containing at least 3.37 % biodiesel and on gasoline containing at least 7 % ethanol of non-chemical nature. Regional public transport companies may use a higher exempted percentage of biofuels<sup>9</sup>.

*b. Purchase guarantees*

There are guaranteed minimum prices for renewable electricity injected in the electricity grid, that distributing companies have to pay to private or commercial producers. The prices vary according to the technology used. Since 2010, the tariffs in Flanders for delivery of green electricity to the distribution companies are e.g. the follow, per 1000 kWh: 350 € solar PV (-20 or -40 € per year that the installation is in use); 90 € for hydro, geothermal, wind, biomass; 60 € for other sources. The federal tariffs, that apply to offshore wind energy, vary from 109 to 90 € MWh.

*c. Quota system*

The three regions and the federal authorities have each developed their own system of green certificates. Although they are similar, they are not identical. The yearly increasing minimum quota are set by the regional authorities, starting from different base years, different minimum

<sup>9</sup> EREC, *Belgium. Renewable Energy Policy Review*, p. 7-11.

shares and with a different yearly increase. E.g. in 2010 the minimum percentages are 10 % in Wallonia, 3 % in Brussels and 5,25 % in Flanders (12.5 % in 2020). The conditions under which green certificates are attributed to producers are different. As the duration is concerned, the years an investor is entitled to support, varies from 10 years (Brussels), over 15 years (Wallonia), and 20 years (offshore federal) to an unlimited period (Flanders as market prices are concerned). One certificate represents 1MWh renewable electricity (Flanders, federal off shore, wind and hydro energy in Brussels and Wallonia) or 217 kg (Brussels) to 456 kg CO<sub>2</sub> avoided (Wallonia). The support levels are different and the penalty levels are different: 100 € for each missing GC in Wallonia and Brussels and 125 € in Flanders. The result of all this is off course that market prices are different. E.g. in 2010 the market price in Flanders was between 104,80 and 109, 51 € per GC, in Wallonia the price was between 83,77 and 85,55 € per GC. In Brussels the price was between 86 and 91 € per GC.

*d. A special legal framework for the installation of facilities for the production of renewable energy sources?*

There is, except for offshore wind farms<sup>10</sup>, no special legal framework for the installation of facilities for the production of renewable energy sources. Land use legislation will apply and the operator will need a building permit, and as the case maybe, an environmental permit or, as the Walloon Region is concerned, a combined permit. In some cases an EIS must be drawn up. As the Flemish Region is concerned there are two guidance documents on wind mills and land use planning. The first one is dealing with onshore larger windmills<sup>11</sup>. Basic ideas are that public authorities will themselves actively look for area's that are suitable for wind farms – as opposed to just reacting to initiatives taken by private sector investors – and that wind mills should be clustered. Another guidance document is dealing with small and medium size windmills<sup>12</sup>.

*e. Sustainability requirements for biomass / biofuels production?*

To stimulate the use of biofuels, a given quantum of bio-diesel and bio-ethanol can be put on the market under a reduced excise duty by some selected producers on the basis of a call for tenders. The Act of 10 June 2006 put forward some “sustainability criteria” as *selection criteria* for these producers (7 in total): the production must be in conformity with all relevant social, fiscal and environmental requirements; primary materials should come from agriculture and be grown with the use of as less possible fertilizers and pesticides; the shortest distance between the place of harvest and the production installation; a positive CO<sub>2</sub> balance; the highest energy efficiency of the production unit. There is also a legal obligation (Act of 22 July 2009) to mix “sustainable” biofuels (FAME and bio-ethanol) with diesel and petrol for at least 4 % v/v. Are considered as sustainable biofuels: a) biofuels produced within the EU; b) primary materials must come from agriculture; c) they must be grown with the use of as less as possible fertilizers and pesticides; agriculture production should meet the standards of Regulation (EC) n° 73/2009 (annex II, point 9, A, Environment); d) agriculture land outside

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<sup>10</sup> Royal Decree of 7 September 2003 (permits) and Royal Decree of 9 September 2005 (EIA). These regulations are in theory also applicable to other type of projects in the marine areas.

<sup>11</sup> Omzendbrief EME/2006/01-RO/2006/02 betreffende het afwegingskader en randvoorwaarden voor de inplanting van windturbines; S. VANHOLME & R. VANDERBEUREN, *Windmolens in Vlaanderen te land en ter zee. Beleidskader en regelgeving*, Natuurpunt, 2009

<sup>12</sup> Omzendbrief LNE/2009/01-RO/2009/01 *Beoordelingskader voor de inplanting van kleine en middelgrote windturbines*.

EU may not be deforested recently; e) the production must comply with technical, social and environmental standards.

There is for the moment a draft Royal Decree under consideration concerning environmental criteria for biofuels, containing sustainability criteria, in view of the implementation of the art. 17-19 of Directive 2009/28/EC.

3. *Describe major legal instruments, arguments, and court decisions concerning environmental protection issues of renewables.*

### *3.1. Court Decisions*

#### *3.1.1. Constitutional Court*

- Constitutional Court, Nr. 159/2002, 6 November 2002, *Ipalle e.a. v. Walloon Government*

Demand for Annulment of art. 2(4) (5) and 38 of the Walloon Decree of 12 April 2001 on the Regional Electricity Market concerning green certificates, introduced by local government enterprises active in the field of waste incineration, combined with electricity production. Demand was rejected. The equal treatment of two different producing methods is not in violation of the equality principle, while both are contributing in a similar way to the reduction of carbon dioxide emissions.

- Constitutional Court, Nr. 193/2006, 5 December 2006, *Edora v. Council of Ministers*

Demand for Annulment of art. 62, §§ 2 -5, of the Act of 20 July 2005 on the Electricity Market (as amended) concerning offshore wind farms, introduced by (the federation of) onshore producers of electricity out of renewable energy sources. Electricity distribution companies must bear 1/3 of the cost (with a maximum of 25 million €) of the underwater cable to transport the electricity onshore and the federal state is warranting potential losses of private investment due to the collapse of the projects for reasons beyond control of the investors. Demand was rejected. The Federal legislator is competent for offshore renewable energy. No violation of the equality principle as the same incentives are not provided for onshore projects, given the different technical and geographical circumstances and higher costs and risks for offshore wind mills (onshore windmills being not a federal, but a regional competence, where other supporting schemes have been set up).

- Constitutional Court, Nr. 52/2009, 19 March 2009, *RWE v. VREG*

The fixed administrative fines (75, 100 or 125 € per missing green certificate) have an incentive and compensating character and are necessary to ensure that a from year to year increasing share of green electricity is put on the market. This measure is not violating article 170 of the Constitution. In an earlier judgement the Court was of the opinion that the system is compatible with the equality principle (art. 10 and 11 of the Constitution) in conjunction with the articles 13 and 16 of the Constitution and the art. 6 and 1 of the Additional Protocol

to the ECHR (Constitutional Court, Nr. 150/2006, 28 September 2005, *n.v. Electrabel Customer Solutions c.s. v. Flemish Government*).

- Constitutional Court, Nr. 149/2010, 22 December 2010, *Belgische Petroleum Unie c.s. t. Ministerraad*

Demand for annulment of the Act of 22 July 2009 obliging mixing of biofuels into motor vehicle fuels (4 % v/v on a yearly basis). The federal authorities are competent for taking such a measure (product standard). Before deciding if the Act is violating or not the principle of equality in combination with the freedom of trade and industry, it proved necessary to refer some interpretation questions for a preliminary ruling to the ECJ about the interpretation of Directive 98/70/EC of the European Parliament and of the Council of 13 October 1998 relating to the quality of petrol and diesel fuels and amending Council Directive 93/12/EEC and Directive 98/34/EC of the European Parliament and of the Council of 22 June 1998 laying down a procedure for the provision of information in the field of technical standards and regulations. An earlier demand for annulment of the same Act was rejected: no violation of art. 10 and 11 of the Constitution in combination with art. 9 ECHR (freedom of belief). The Act has a legitimate aim (contribution to the Kyoto targets) and has no disproportional effects, because only “sustainable biofuels” may be used (Constitutional Court, Nr. 90/2010, 29 July 2010, *E. Watteau v. Council of Ministers*).

### 3.1.2. *Council of State*

- Council of State, Nr. 125.815, 28 November 2003, *Delcloo v. Flemish Region*

Demand for annulment/suspension of an environmental permit for the exploitation of 7 wind turbines in an industrial area. Demand rejected. Tolerance for activities that cause nuisance must be higher while living in the neighbourhood of an industrial area. In the same sense: Council of State, Nr. 127.083, 15 January 2004, *D'Hondt v. Provincial Council of East Flanders*; Council of State, Nr. 127.548, 29 January 2004, *Keuringsbureau Motorvoertuigen v. Flemish Region* (no proven influence on measurement instruments and not likely); Council of State, Nr. 133.587, 2 July 2004, *Strubbe v. Flemish Region*; Council of State, Nr. 136.375, 21 October 2004, *Vandeputte v. Flemish Region* (area for public services); Council of State, Nr. 138.540, 16 December 2004, *Vermeersch c.s. Provincial Council of West Flanders*)<sup>13</sup>.

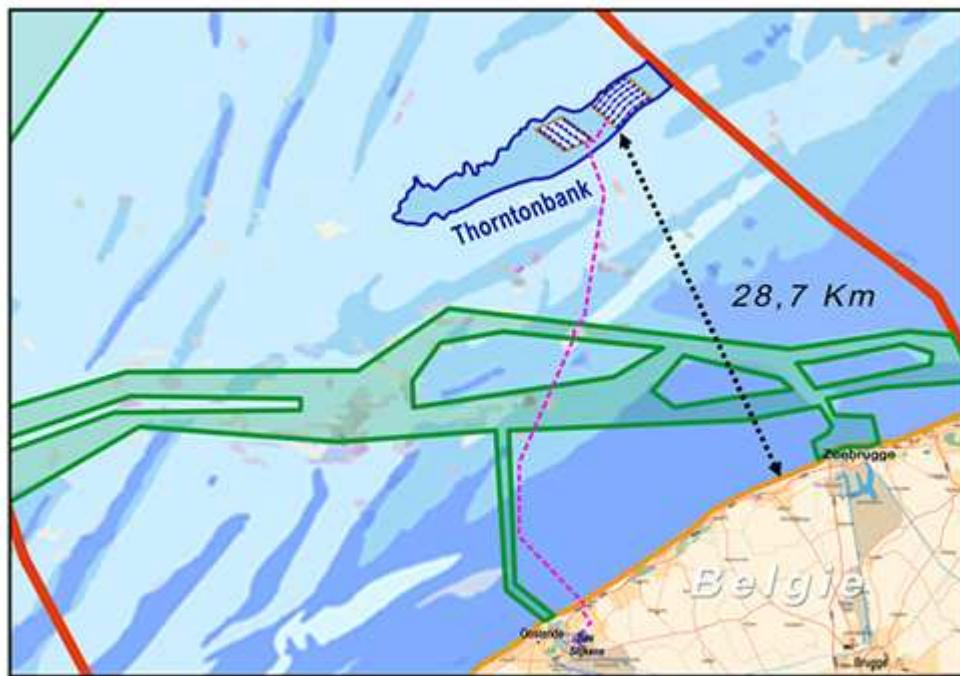
- Council of State, Nr. 147.047, 30 June 2005, *Soete v. Belgian State*

Demand for annulment of a permit to build a windmill farm offshore on the sandbank “*Vlakte van de Raan*”. Demand rejected: no violation of EIA legislation, nor Bird and Habitat Directive, nor precautionary principle. Note that the permit was initially suspended by an earlier judgement (Council of State, Nr. 117.482, 25 March 2003, *Soete v. Belgian State*.) Meanwhile, government policies have changed. The designation of the *Vlakte van de Raan* (5 km out of the coast near Knokke) as an wind farm area was annulled and the permits to build and operate 50 wind turbines delivered in the past to *Electrabel-Ondernemingen Jan De Nul*

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<sup>13</sup> See in the same sense: ECHR, 26 February 2008, *Fägerskild v. Sweden* “(with respect to art. 8 ECHR).

were withdrawn. Instead a new area was designated, the Thornton Bank, 30 km out of the coast. The decision to withdraw the already delivered permits were also challenged, but the demand of suspension was rejected (Council of State, Nr. 156.790, 23 March 2006, NV *Electrabel c.s. v. Belgian State*), as the demand for annulment was (Council of State, Nr. 193.599, 28 mei 2009, NV *Electrabel v. Belgian State*). The Government decided to designate later on the *Vlakte van de Raan* as a special area of conservation under the Birds- and Habitat Directives. A demand for suspension of the Royal Decree protecting the *Vlakte van de Raan*, was rejected (Council of State, Nr. 160.592, 27 June 2006, NV *Electrabel c.s. v. Belgian State*), but later on the protection was annulled (Council of State, Nr. 179.254, 1 February 2008, NV *Electrabel v. Belgian State*) because lack of studies indicating that the ecological characteristics of the area were such that a protection was needed. The studies carried out by the Netherlands for the adjacent area in the Dutch maritime area were not sufficient to that end.



- Council of State, Nr. 177.640, 6 December 2007, *De Coster c.s. v. Flemish Region*

Demand of suspension of an environmental permit for the exploitation of a biogas-installation with electricity production in an agricultural area. *Prima facie* no violation of environmental and land use planning legislation. Sufficient measures to protect scenery. Suspension rejected. Later on the demand for annulment of the environmental permit of that installation was rejected (Council of State, Nr. 200.938, 16 February 2010, *De Coster c.s. v. Flemish Government*), but the building permit was suspended because the installation would harm the scenery of the area, a “scenic valuable agrarian area” according to the land use plan: Council of State, Nr. 204.326, 26 May 2010, *De Coster c.s. v. Government of the Province of Flemish Brabant*).

- Council of State, Nr. 189.322, 8 January 2009, *NV SPE v. Government of Province of East Flanders*

The Council annuls the refusal of an environmental permit for the exploitation of 3 wind turbines in an industrial and agrarian area. The refusal was based on the “distance rule” of 250 meter to houses of third parties suggested in Circular EME/200.01. Referring only to this circular is insufficient to argue a refusal. The permitting authority has to check if applying this “rule” (not included in a regulation) is justified or not in a given case. In this particular case the house in question was the house of a concierge of an enterprise in an industrial area.

- Council of State, Nr. 204.108, 19 May 2010, *NV Wattplus (NV Essent Belgium) v. Flemish Region*

The Council annuls art. 2 of the Flemish Government Decree of 4 April 2003 concerning the green certificates, that provides for a distribution of green electricity without costs only if the electricity is generated in Flanders, and not when it is imported from the other regions or from the North Sea. That provision is violating the free movement of goods principle within the Belgian EMU. It is a measure of equivalent effect as a quantitative import restriction that cannot be justified by compelling reasons of general interest. The condition that only electricity on the basis of renewable energy produced in the Flemish Region and the Belgian part of the North Sea is eligible to comply with the minimum quota of green electricity that must be distributed by the distribution companies, and not such electricity produced in the other Regions of Belgium is, however, not a violation of the free circulation of goods within the Belgian EMU. The restriction is justified by reasons of environmental protection: given the different objectives of the green certificates in the 2 other regions, Flemish government was entitled to decide that they are not equal to the Flemish ones.

- Council of State, Nr. 204.464, 28 May 2010, *Belgocontrol v. Flemish Government*

Demand for annulment of a building permit for 6 wind turbines in the neighbourhood of Ostend Airport by the federal aviation authority that had delivered earlier on a negative opinion. Demand rejected. The risk for “false echo’s” on the aviation radars of the regional airport have been studied in sufficient detail and the regional authorities could legally come to the conclusion that these risks were very limited and do not affect aviation security.

### *3.2. Assessment of Belgian Energy Policies by the International Energy Agency*

In the most recent review of Belgian Energy Policies, the International Energy Agency is recommending Belgium to give priority to the development of a long-term strategy for the transition towards a low-carbon energy future, building on the EU 20-20-20 goals, integrating policies on CHGs, renewables and energy efficiency, and providing a clear and stable regulatory framework for investors and consumers. It is also recommend to work towards harmonisation and coherence of energy policies and measures between federal and regional levels and across regional levels, while strengthening the collaborative processes of the federal and regional governments. The IEA recommends also: “*In order to develop this*

*strategy<sup>14</sup>, urgently reconsider the stated nuclear phase-out policy, taking into account possible serious consequences for security of supply, economic efficiency and carbon dioxide emissions”<sup>15</sup>.*

4. *Is there a national debate about the sense and nonsense of renewable energies, and if so, has this lead to changes or corrections of the regulatory framework?*

There seems to be a general consensus that the share of renewable energy should increase (cf. the targets of Directive 2009/28/EC). However, there is a lot of criticism about biofuels of the first generation. Over time, different initiatives, not always co-ordinated in a sufficient way, were taken to promote renewable energies, both on the federal, and the regional level (see answer to question 2 and the conclusions of the IEA Report).

5. *How well do the public accept renewable energy proposals (eg new on- shore and off- shore windfarms, biomass plants etc.)?*

Although there is in general a positive attitude towards this type of projects, local governments can in a given case be hostile to a concrete project, being of the opinion that it is not the best place to locate it. Individuals and groups may also challenge some concrete projects in Court because they are hindered themselves or they find that some more general values (scenery, nature...) might be compromised. The renewable energy sector is complaining that permitting procedures are too time consuming and land use planning is often a obstacle for realizing some projects.

6. *How does Strategic Environmental Assessment and Environmental Assessment apply to renewables in your country? Have any particular legal/procedural issues emerged? How does Natura 2000 influence the promotion of renewables?*

According to the Federal Act of 13 February 2006 concerning SEA different types of plans concerning electricity production are subject to SEA<sup>16</sup>. However, since the entry into force of that Act, no such plans were made yet<sup>17</sup>. As projects are concerned, different types of onshore renewable energy projects are subject to EIA if, on the basis of a screening, one comes to the conclusion that they might cause significant effects or may have a negative impact on Natura 2000 areas<sup>18</sup>. All the offshore projects are subject to EIA<sup>19</sup>. Renewable energy projects in or nearby Natura 2000 areas are, as a rule, not allowed<sup>20</sup>.

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<sup>14</sup> A comprehensive, national strategy for energy security and climate change.

<sup>15</sup> INTERNATIONAL ENERGY AGENCY, *Energy Policies of IEA Countries. BELGIUM 2009 Review*, p. 10-11.

<sup>16</sup> E. DE PUE, L. LAVRYSEN & P. STRYCKERS, *Milieuzaakboekje 2010*, Kluwer, Mechelen, p. 149-153.

<sup>17</sup> See: [www.consult-environnement.be](http://www.consult-environnement.be)

<sup>18</sup> As Flanders is concerned, see: E. DE PUE, L. LAVRYSEN & P. STRYCKERS, *o.c.*, p. 77-86.

7. *Do the existing or planned national legal instruments promoting renewables already comply with EU law or are important adaptations required?*

*What is the status of adoption of the new pieces of legislation necessary to transpose into domestic law the new provisions of Directive 2009/28/EC?*

*Were there already court decisions or infringement procedures taken by the Commission concerning this question?*

The different authorities (federal and regional) are considering what type of adaptations to their laws and policies are necessary for the implementation of Directive 2009/28/EC. The *Belgian National Action Plan for Renewable Energy under Directive 2009/28/EC* (November 2010) contains a sort of inventory of possible measures to take or to review, without going into the details. Draft legislation has been worked out to cover certain aspects of the Directive. On the federal level e.g. there is a draft Royal Decree sent to the advisory bodies concerning environmental criteria for bio-fuels. In the Flemish Region there is a draft Decree under consideration to review the existing Energy Decree in the light of the Directive<sup>21</sup>, and 1 regulation was already adopted. Different other regulations are also in the pipeline. We can find a similar situation in the other regions. The Walloon Region has already adopted some legislation (3 regulations to adapt existing regulations). It is however obvious that the transposition date – 5 December 2010 – could not be met for the whole transposition of the Directive.

8. *Is there anything like a general framework act on climate change issues, and if so, what is its main content? If no, is such an act being considered?*

No, is also difficult to realize because of the division of competences between federal and regional authorities. In 2008, the green parties proposed a National Climate Act. A bill was introduced to that end in the Federal Parliament, but never taken into consideration. In March 2010 the Council of Ministers approved a draft bill on proposal of the Federal Minister for Energy and Climate. The proposed Climate Change Act is focussing on a federal climate change plan and on long term policy planning. An interesting feature might become in the future the new Special Act on Financing Regions and Communities. In the ongoing discussions about a new State Reform the green parties obtained that there will be a financial incentive in this Act to reward regions that are successful in their climate changes policies. However, the technical details of that mechanism are not known yet and, off course, it is not clear at all if the overall negotiations will end successful or not ...

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<sup>19</sup> *Ibid.*, p. 384

<sup>20</sup> S. VANHOLME & R. VANDERBEUREN, *o.c.*, p. 9; Council of State, Nr. 188.465, 4 December 2008, *NV SPE v. Belgian State* (as Natura 2000 areas in the marine environment are concerned – Royal Decree of 14 October 2005)

<sup>21</sup> <http://docs.vlaamsparlement.be/docs/stukken/2009-2010/g624-2.pdf>