

Report from Belgium to the European Commission under Article 10, 1. of the revised Clean Vehicles Directive 2009/33/EC amended by Directive 2019/1161

September 2022

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1 Introduction

The revised EU Clean Energy Directive 2009/33/EC¹ amended by Directive 2019/1161² (“EU CVD”) promotes clean mobility solutions in public procurement tenders through (i) defining of what constitutes a “clean vehicle”, (ii) setting national minimum shares of clean vehicles that are bought, leased or rented and (iii) defining reporting procedures and responsibilities³. Each of those is defined according to two reference periods set out in the EU CVD, being:

- **First reference period:** 2 August 2021 to 31 December 2025
- **Second reference period:** 1 January 2026 to 31 December 2030

This report serves to clarify the Belgian transposition and implementation of the EU CVD, fulfilling thereby the requirements of Article 10, 1. of the EU CVD that states that Member States should report: (i) the **measures taken to implement this Directive**, (ii) **intentions regarding future implementation activities**, including the **timing and possible effort-sharing between different levels of governance**, as well as (iii) **any other information** deemed relevant.

The **law of 18 May 2022** ensures the Belgian implementation of the required transposition elements of the EU CVD. It amends the Belgian legal framework on public procurement (**Law of 17 June 2016 on public procurement**) by transposing the scope of the EU CVD into Belgian law, setting out the required clean vehicle-definitions and the minimum shares of clean vehicles to be attained, as well as reporting procedures and responsibilities:

| EU Directive | Belgian national transposition | |
|----------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 2009/33/EC (“EU CVD”) | Law of 18 May 2022 | |
| | Wet van 18 mei 2022 tot wijziging van de wet van 17 juni 2016 inzake overheidsopdrachten en de wet van 17 juni 2016 betreffende de concessieovereenkomsten | Loi du 18 mai 2022 modifiant la loi du 17 juin 2016 relative aux marchés publics et la loi du 17 juin 2016 relative aux contrats de concession |
| 2014/24/EU & 2014/25/EU | Amending the Law of 17 June 2016 on public procurement | |
| | Wet van 17 juni 2016 inzake overheidsopdrachten | Loi du 17 juin 2016 relative aux marchés publics |

2 Definition of what constitutes a “clean vehicle”

Article 2, 61° and 62° and annex VI of the **law of 17 June 2016 on public procurement** as amended define what constitutes a “clean vehicle” and a “zero-emission heavy duty vehicle” in the first and second reference period, according to the definitions of the EU CVD :

| | definition “clean vehicle” | |
|--------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------|-------------------------|
| | First reference period | Second reference period |
| Light-duty vehicles [N1: goods; M1/M2: passengers] | < 50 gCO ₂ /km and <80% of the RDE air pollutant emissions limit | 0 gCO ₂ /km |
| Buses [M3] | Propulsion with alternative fuels (no mixing with fossil fuels allowed) “zero-emission heavy duty vehicle” : <1 gCO ₂ /km | |
| Trucks [N2/N3] | <1 gCO ₂ /km or propulsion with alternative fuels (no mixing with fossil fuels allowed) | |

¹ <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A02009L0033-20190801>

² <https://eur-lex.europa.eu/eli/dir/2019/1161/oj>

³ https://transport.ec.europa.eu/transport-themes/clean-transport-urban-transport/clean-and-energy-efficient-vehicles/clean-vehicles-directive_en

3 Minimum shares for the two reference periods

Article 10 of the **law of 18 May 2022** adds a new Article 168/1 and Annex VII in the **law of 17 June 2016 on public procurement**, directly transposing the required minimum shares of clean vehicles for Belgium from the EU CVD (Article 5 & Tables 3 and 4 of the EU CVD) into Belgian law.

| | minimum share ⁴ | |
|--------------------------------------------------|----------------------------|-------------------------|
| | First reference period | Second reference period |
| Light-duty vehicles | 38,5 % | |
| Buses | 45,0% | 65,0% |
| Subtarget for “zero-emission heavy duty vehicle” | 22,5% | 32,5% |
| Trucks | 10,0% | 15,0% |

4 Scope of the EU CVD and Belgian transposition

Types of contracts: according to the EU CVD and Article 168/1 §2 of the **law 17 June 2016**, the minimum targets of clean vehicles to be attained apply to the total number of vehicles procured through public service contracts: (i) ... for the purchase, lease, rental or hire purchase of vehicles, (ii) ... within the meaning of Regulation (EC) No 1370/2007 that relate to the transport of passengers by bus and (iii) ... referred to in Annex V of the **law of 17 June 2016**.

Types of procurers: according to Article 168/1 §1 of the **law of 17 June 2016**, the procurers whose tenders are taken into account are the contracting authorities and the contracting entities within the meaning of Article 2, 5° of the **Law of 17 June 2016 on public procurement**⁵.

Each public procurer legally has to comply individually with the minimum shares set out in the Law during the first reference period (10 June 2022 until 31 December 2025⁶) and the second reference period (1 January 2026 until 31 December 2030).

5 Data collection, compilation and reporting

Responsibilities have been assigned and procedures have been set up to verify compliance to the European and Belgian shares of clean vehicles for each public procurer falling within the scope of the EU CVD, from the collection of the relevant data towards data compilation and reporting.

The federal Climate Change Service is mandated by law to report on the implementation of the EU CVD by August 2022 (Article 11 of the **Law of 18 May 2022** = this report) and publish the report online.

For contract award notices of public procurements procedures for the purchase, lease, rental or hire purchase of vehicles and for the service contracts referred to in Annex V of the **law of 17 June 2016**, an electronic form – set up by the federal service responsible for digitizing public procurement processes and transactions⁷ – is operational, for the purpose of collecting relevant information on the number and types of procured vehicles by public procurers through the Belgian e-Procurement

⁴ Expressed as the minimum share of clean vehicles to attain compared to the sum of all vehicles within all types of contracts under scope of the CVD procured in Belgium.

⁵ [Wet van 17 juni 2016 inzake overheidsopdrachten](#) / [Loi du 17 juin 2016 relative aux marchés publics](#)

⁶ The first reference period is about 10 months shorter than the first reference period in the EU CVD (2 August 2021 to 31 December 2025), as the law was enacted later than foreseen.

⁷ Federal Public Service Policy and Support, Directorate General Federal Accountant and Procurement, Service Center Procurement, Service e-Procurement (<https://bosa.belgium.be/nl/dg-federale-accountant-en-procurement> / <https://bosa.belgium.be/fr/dg-comptable-federal-et-procurement>)

platform⁸ (Art.168/1 § 4 of the **Law of 17 June 2016 on public procurement**). To guide public procurers filling in the form, a bilingual instruction manual is provided⁹. An approach has also been developed for the public service contracts covered by the directive. The data will be collected via a separate form developed by the Federal Public Service Policy and Support.

For framework agreements or contracts concluded under a dynamic purchasing system, each year and by 15 February at the latest, the responsible entities report the number and type of procured vehicles to the federal Climate Change Service.

These arrangements apply for a part of the first reference period of the EU CVD (10 June 2022 until 31 December 2025), the second reference period (1 January 2026 to 31 December 2030) and any subsequent period thereafter. The information on number and types of procured vehicles during the part of the first reference period in which the digital forms were not yet operational (2 August 2021 until 9 June 2022) will be collected by the Public Procurement Department of the Federal Public Service Chancellery of the Prime Minister.

The federal Climate Change Service is designated by law to report progress on the implementation of the EU CVD as well as information on the number and categories of vehicles falling within the scope of the EU CVD by 18 April 2026 and every three year-period thereafter, to be integrated in the three-yearly national report on public procurement and to be published online (Art. 163. § 6 of the **Law of 17 June 2016 on public procurement**).

6 Contact information administrations

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| Federal Public Service Health, Food Chain Safety and Environment; Directorate General Environment; Climate Change Service https://klimaat.be/ / https://climat.be/ | Florian Dierickx florian.dierickx@health.fgov.be |
| Federal Public Service Policy and Support; Directorate General Federal Accountant and Procurement; Service Center Procurement; Service e-Procurement and Service Support for Federal Procurement Policy https://bosa.belgium.be/nl/dg-federale-accountant-en-procurement / https://bosa.belgium.be/fr/dg-comptable-federal-et-procurement | Xavier Henrotin xavier.henrotin@bosa.fgov.be Michaël De Winne michael.dewinne@bosa.fgov.be |
| Federal Public Service Chancellery of the Prime Minister; Directorate-General for Secretariats and Coordination; Public Procurement Service https://kanselarij.belgium.be/en/organisation/directorate-general-secretariats-and-coordination#procurement | Public Procurement Service 16 procurements@premier.fed.be |

⁸ The total number of vehicles falling within the scope, number of clean vehicles, number of zero-emission heavy duty vehicles and the type of public procurement contract, collected through the applications of the e-Procurement platform <https://www.publicprocurement.be/>. The existing applications will be replaced by a new e-Procurement platform by the end of the first quarter of 2023 ([dutch news item](#) / [french news item](#)).

⁹ [‘Bevordering van schone en energiezuinige wegvoertuigen in het kader van overheidsopdrachten: Richtsnoeren voor het verzamelen van gegevens’ / ‘Promotion de véhicules routiers propres et économes en énergie dans le cadre des marchés publics: Lignes directrices concernant la récolte des données’](#), 7 July 2022.