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Legal and regulatory framework applicable to Small Forest Owners and Sustainable Forest Management

Country Fact Sheet

Belgium - The Flemish Region

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Legal and regulatory framework applicable to Small Forest Owners and Sustainable Forest Management (SMURF) - WP2

Executive Summary

Forest management in the Flemish Region is primarily regulated by the Forest Decree. This legislation delineates the definition for 'forest' and rules on deforestation and forest protection. Currently, the legislator is also integrating forest policy into the general nature policy. Consequently, the rules on nature management, and thus also forest management, can be found in the Nature Decree.

Forest ownership, including ownership registration and land usage, is regulated by the general property laws and zoning regulation in the Flemish Region. Regarding the structure of forest ownership, only a distinction between private and public forests is made. In the public sector, the Nature and Forest Agency is an important actor. This Agency is competent for approving authorisations, monitoring nature management plans, and managing Flemish public forests. Forest groups are cooperative associations at provincial level, that were created to cope with the high-level fragmentation of forests in the Flemish Region. The Forest Groups have a coordinating role, and their objective is to support forest owners to manage their forests sustainably.

There is no obligation on forest owners to create management plans. Moreover, there is no legal obligation for forest owners to manage their terrain sustainably, nor is there a definition provided in Flemish law for 'Sustainable Forest Management' (SFM). However, there are strong incentives in place for forest owners to create a nature management plan; they can apply for subsidies, permits are not obliged for certain activities, etc. Nature management plans are divided in four types, based on the level of ambition to obtain a high quality of nature, which is in accordance with the level of SFM. The higher the level of ambition of the nature management plan the more subsidies or higher tax benefits can be obtained.

The forest land market is tightly regulated, with strict planning rules and seller disclosure obligations. Some sales require government approval or grant authorities preferential acquisition rights. Land can be divided via a notarial deed, but allotments need permits and may require forest compensation. Market data is scarce, with no central body tracking transactions or prices.

A long-term, holistic strategy for forestry that considers the full range of forest functions is absent in the Flemish Region. The development of such a strategy could address numerous existing barriers that impede the effective implementation of SFM, including the high fragmentation of forests, the administrative burdens on forest owners, and the legal complexity and unclarity surrounding sustainability in forest policies.

Introduction

This is a Horizon project with a strong research approach. The name of the project is 'Sustainable Management models and value chains for small Forests' known as SMURF with the reference HORIZON-CL6-2023-CIRCBIO-01.

The general objective is to provide an analysis of the legal and regulatory framework in EU Member States applicable to small forest owners (SFO) in their practices aiming to Sustainable Forest Management.

The specific project objectives are:

1. Prepare a report on the legal framework on SFO for most EU Member State.
2. Identify the basic legislation regulating SFO and the specific articles setting rights and obligations and *provide the links* to those basic and articles.
3. Define the rights and obligations for SFO in EU Member States.
4. Define the legal framework for the economic activity of SFO in EU Member States.
5. Identify the **main legal limitations or barriers** for SFO in EU Member States.
6. Identify **needs for legal reforms and propose specific legal improvements**, when considered necessary.
7. Prepare a comparative analysis of the legal framework SFO in the EU Member States.

These guidelines provide the basic information for the elaboration of the report on legal framework applicable to Small Forest owners/holders. It is complemented by a pilot report showing as a model to show the level of depth of the analysis.

When using the term "legal framework" we consider:

- The organizational model of forestry and the forest value chain.
- The institutional framework, identifying the distribution of competences among the different administration levels (European, national, regional and local) and administration sectors (agriculture and rural development, environment, industry, interior, economics and others).
- The regulatory framework, identifying laws and regulations that affect forestry and the forest value chain. The key articles that set basic rules for forestry will be explicitly referred and translated into English.

The analysis will be focused on factors that affect the participation of forest holdings in the market. There is a particular interest in identifying barriers, obstacles and measures or instruments that have had a significant positive impact in the present functioning of the forest markets.

The analysis will describe the nowadays situation of the framework, although a contextual and short reference of the origin and evolution of the framework when needed for a good understanding will be included.

The analysis will consider the national legislation and will only refer to the regional legislation as a way of example to confirm the national legal framework or to show that in some regions the situation may be rather different.

The analysis will take into consideration the forest sector legislation, but not only, because the main barriers and legal limitations might be derived from the inadequacy of other sectoral laws (societal, fiscal, real state and ownership, cadastral, insurances) or requirements in some pieces of national environmental legislation. It will refer to Nature or Biodiversity Conservation law and to the Environmental Impact Assessment legislation while it might also refer to relevant agriculture legislation.

1. Basic legal and regulatory framework applicable to small forest owners

1.1. Context to the legislation

Belgium being a federal State, forest policy is a competence of the respective regions (the Walloon Region, the Flemish Region and the Brussels-Capital Region) and there exists no federal policy on forests in Belgium[1]. There are vast differences between the regions when it comes to forestry. In the Walloon Region, 33% of the territory consists of forest. In contrast, the Flemish Region has a forest index of only 10,3%[2]. With this low forest index, the Flemish Region is among the forest-poorest regions in Europe. It is estimated that it has approximately 140 000 hectares of forest on its territory. More than 60% of Flemish forests are private property[3]. More than half of the Flemish forests are smaller than 2,5 ha and barely 2% of forests are larger than 100 ha[4]. In addition, Flemish forests are highly fragmented – physical fragmentation, ownership fragmentation and management fragmentation, which leads to negative effects: management of forests is less effective, forest ownership is less profitable, and biodiversity and forest vitality decrease as a consequence of this high fragmentation[5].

1.2. Basic legal instruments

The legal system in Belgium is based on the rule of law principle, including the separation of powers between the legislature, the executive and the judiciary. The sources of law in Belgium are (those in bold are of relevance to the Flemish Region):

- **The Constitution**
- Primary law:
  - Federal Laws - **Regional Decrees** - Ordinances of the Brussels Region
  - There are two types of Decrees, Laws and Ordinances which are distinguished by the necessary majority needed to pass legislation. For certain legislation the Constitution sets out that a qualified majority is needed. For other legislation simple majority suffices.
  - Secondary law:
    - **Orders of the Regional Government** – Royal Orders
- Ministerial Orders
- Provincial regulations
- Local regulations

[1] European Parliament, *Belgique la politique forestière nationale : objectifs et moyens mis en œuvre*, 1996.

[2] Houtinfobois, *Het bos in België*, n.d.

[3] Statistiek Vlaanderen, *Oppervlakte bos*, 25 June 2020; Instituut voor Natuur- en Bosonderzoek, *Bos – Versnippering van bos*, n.d.

[4] BOS+, *ontbossing in Vlaanderen – Ons bos op wandel*, 28 June 2023.

[5] Ecopedia, *Versnippering*, n.d.; De bosgroepen, *Een gezamenlijk natuurbeheerplan als methode voor het groeperen van private boseigenaars*, 19 October 2020.

The regional legislation regarding forestry in the Flemish Region are:

Historically, forest and nature have been divided in Belgian legislation. A Decree of forestry exists since 1990 and on the protection of nature a Decree was enacted in 1997. However, this notion that forests should be regulated separately is outdated, because forests are a form of nature, and it is considered that all nature can have multiple functions at the same time. Therefore, the legislator is working on integrating all forestry legislation into the Nature Decree since 2017. This is an ongoing process[6].

In the current legislation, there is no specific instrument applicable to small forest owners and the legislation does not distinguish between small forest owners and owners of bigger forests. The legislative framework in the Flemish Region only distinguishes between public and private forest owners.

- Forest Decree, *Bosdecreet*, 13 June 1990.

The Forest Decree contains the definition of a 'forest'. Moreover, it sets out the rules regarding the protection of forests, deforestation, logging, ... Specific rules for private or public forests are also provided in this Decree.

- Nature Decree, *Decreet betreffende het natuurbehoud en het natuurlijk milieu*, 21 October 1997.

The Nature Decree provides the rules on nature management, and thus forest management as well. This includes the rules on management plans.

Other relevant laws and regulations:

LAW of 23 March 2019, Code on companies and associations (*WET van 23 maart 2019, Wetboek van vennootschappen en verenigingen*) (Company Code).

DECREE of 22 December 2017 on tax concessions associated with nature management plans (*Decreet betreffende de fiscal gunstmaatregelen die verbonden zijn aan natuurbeheerplannen*).

DECREE of 28 March 2014 on land development (*DECREET van 28 maart 2014 betreffende landinrichting*).

DECREE of 13 December 2013 containing the Flemish Fiscal Codex (*Decreet van 13 december 2013 houdende de Vlaamse Codex Fiscaliteit*). (Hereinafter: Flemish Fiscal Codex).

LAW of 15 May 2009, Codified Decree Flemish Zoning Codex (*WET van 15 mei 2009, Gecodificeerd Decreet Vlaamse Codex Ruimtelijke Ordening*).

DECREE of 16 June 2006 on the establishment of the Flemish Land Bank and amending various provisions (*Decreet van 16 juni 2006 betreffendce het oprichten van de Vlaamse Grondenbank en houdende wijziging van diverse bepalingen*).

DECREE of 5 April 1995 on general affairs regarding environmental policy (*DECREET van 5 april 1995 houdende algemene bepalingen inzake milieubeleid*).

DECREE of 24 July 1991, Hunting Decree (WET van 24 juli 1991, Jachtdecreet).

[6] Ecopedia, *Natuurbehoud – Behoud en bescherming van de natuur in Vlaanderen*, n.d.

LAW of 10 January 1978 on special measures for the amicable consolidation of landed property (*WET van 10 januari 1978 houdende bijzondere maatrgeleen inzake ruilverkaveling van landeigendommen in der minne*).

LAW of 22 July 1970 on land consolidation of land properties by force of law (*WET 22 juli 1970 op de ruilverkaveling van landeigendommen uit kracht van wet*).

ROYAL ORDER of 30 July 2018 on the creation and maintenance of cadastral documentation and establishing the modalities for the delivery of cadastral extracts (*Koninklijk Besluit van 30 juli 2018 betreffende het aanleggen en bijhouden van de kadastrale documentatie en tot vaststelling van de modaliteiten voor het afleveren van kadastrale uittreksels*).

ORDER of the Flemish Government of 14 July 2017 on subsidising the planning, development and implementation of integrated nature management (*Besluit van de Vlaamse rEgering van 14 juli 2017 betreffende de subsidiËring van de planning, de ontwikkeling en de uitvoereing van het geïntegreerd natuurbeheer*).

ORDER of 14 July 2017 of the Flemish Governement on nature management plans and recognition of nature reserves (*BESLUIT van 14 juli 2017 van de Vlaamse Regering betreffende de natuurbeheerplannen en de erkenning van natuurreservaten*).

ORDER of 14 July 2017 of the Flemish Government establishing the criteria for integrated nature management (*BESLUIT van 14 juli 2017 van de Vlaamse overheid houdende vaststelling van de criteria voor geïntegreerd natuurbeheer*).

1.3. Basic Regulatory framework

- Spatial Structure Plan Flanders (1997): This plan aims to preserve open space in the countryside for agriculture, nature and forest as much as possible. Together with nature and farming organisations, the Flemish government agreed in 1997 to evolve towards 750 000 ha of agricultural area, 150 000 ha of nature area and 53 000 ha of forest area. That is an increase of 38 000 ha of nature area and 10 000 ha of forest area and a decrease of 56 000 ha of agricultural area. More strategic policy objectives, to realise the Spatial Structure Plan, have been set in place in a parallel Spatial policy plan Flanders (2018).
- In this context the Forest expansion plan was developed in 2020. The objective of this plan is to create an additional 10 000 hectares of forest in Flanders by 2030. The focus is on increasing existing forests, making connections between existing forests and removing financial and legal barriers. Social stakeholders are also involved: from local authorities, to businesses, associations and individuals. More information can be found in this report. However, according to a consulted forestry association[7], the forest expansion plan was too ambitious, and by 2024, only 2000 ha were reached. Looking at the future, new legislation was introduced which is expected to even have a slower increasing effect on forests. Thus, reaching 10 000 ha by 2030 does not seem achievable.

[7] Consultations with forestry associations from Flanders took place in September 2025. Their input has been addressed and included within this report.

2. Governance and institutional framework

2.1. Distribution of competences between the State and Regional authorities.

- **According to the legal framework, what are the relevant competences and responsibilities regarding decisions on forest management and forest management practices at the different State level (national, regional, municipal) in your country?**
  Please describe the situation stating the legislation and relevant provisions.

Legal background

Belgium is a federal state, composed of three regions and three language communities. The territory of the Flemish Region overlaps with the Flemish language community (except that Brussels is also part of the community for certain language-related competences). These regions and communities can adopt decrees, which have the same legal status as federal laws in the Belgian hierarchy of norms. At the local level, Belgium consists of ten provinces which are further divided into municipalities.

National competences

There exists no federal policy on forests in Belgium[8]. Competences are at regional level.

Regional competences

The **competences of the regions and communities** are set out in the Constitution and the Special Act on the Reforming of the Institutions. Article 39 of the Constitution and the connected article 6 of the Special Act on the Reforming of the Institutions state that 'land planning and nature conservation', which includes forestry, fall under the competences of the **regions**. Agriculture, hunting, fishing, nature protection are all regional competences as well.

The ministry (which is called Department in the Flemish Region) competent for forests is the Department of Environment. In this Department, the Nature and Forest Agency (*Agentschap voor Natuur en Bos*) manages nature reserves and forests in the Flemish Region. This Agency is also in charge of managing public forests.

Provinces have a coordinating task at the local level; all competences that transcend the municipal interest will be handled by the province. At provincial level, **Flemish Forest Groups** (*Vlaamse Bosgroepen*) were established. Private forest owners can become a member of the Forest Group in their province. The Forest Group provides expertise and advice to forest owners, and they also support forest management and the creation of management plans. Because of their coordinating nature, the Forest Groups are also an important link between policy and practice.

The Forest Groups were established in the late 90's as a Flemish instrument to support small private forest owners. In 2011 the support was transferred to the provinces who took over the

[8] European Parliament, *Belgique la politique forestière nationale : objectifs et moyens mis en œuvre*, 1996.

role. This entailed that fusions of forest groups at provincial level were established. Gradually, the forest groups also took over public forest management from municipalities and provinces.

Local/municipal competences

As explained above, forestry competences are at regional level. **Municipalities** are among others competent for nature management. Moreover, forest owners will have to go to the municipality for applying for permits[9].

Forest coordination and advisory bodies

As mentioned above, the provinces and the Flemish Forest Groups have an advisory role.

No other coordination and advisory bodies were identified.

2.2. Key representation organisations of the forest sector

1. **Forest owners**:

Forest Groups (*Bosbroepen*)

Landelijk Vlaanderen is an advocacy organisation working to promote landowner and manager entrepreneurship in rural Flanders. This organisation supports private land managers, including private forest owners.

2. **Forest municipalities**: N/A

3. **Forest industry**:

(BE) Belgische Houtconfederatie unites the Belgian forestry, forest exploitation, sawmill and timber trade sectors.

(BE) Fedustria is a platform organisation that assembles textile, wood and furniture companies.

(BE) InDUfed is a platform organisation in the paper sector. This organisation brings together COBELPA (Association of Belgian manufacturers of paper dough, paper and cardboard), FETRA (Federation of paper and board processing companies) and VGI (Confederation of the Glass Industry).

(BE) Hout Info Bois is a technical information centre that gives advice on technical properties of wood, informing and incentivising users and transformers about possibilities on the market.

4. **Forest clusters**: N/A
5. **Forest contractors**: N/A
6. **Forest Professionals**:

(BE) Koninklijke Belgische Bosbouwmaatschappij aims to promote and protect forests in all their multifunctionality. It encourages its members to practise high-quality sustainable forestry and trains them in forest management techniques.

[9] See : Agentschap Natuur & Bos, *Voor lokale besturen*, n.d.

Bosforum brings together experts from the forest and wood sector and strives for an ambitious multifunctional forest policy.

(BE) Fédération Nationale des Experts Forestiers gathers experts on forestry in Belgium.

7. **Forest Agents or rangers**: N/A
8. **Forest Sciences**:

Instituut Natuur- en Bosonderzoek is the Flemish government's independent research institute that underpins and evaluates biodiversity policy and management through applied scientific research, data and knowledge disclosure.

Universities: Universiteit Antwerpen, Universiteit Gent, KU Leuven also provide scientific research regarding forestry (see for example: Ecoplan Consortium).

9. **Forest certification:**

(BE) FSC Belgium provides labels for wood based on the international 'FSC principles and criteria', which are further defined into national or regional standards. This label guarantees that the wood originates from sustainably managed forests.

(BE) PEFC Belgium provides certification for sustainable forest management. The forestry associations consulted affirmed that in practice this forest certification label is almost not used in Flanders, and FSC is the main certification instrument.

10. **Public enterprises:**

Inverde is a training and examination centre on nature and forestry from different Flemish authorities, like the Nature and Forest Agency. This organisation bundles its knowledge on their ecopedia.

11. **Forest cooperatives:** N/A
12. Other **Forest organisations:**

BOS+ is an organisation that strives for more and better forests in Flanders and abroad. This organisation provides publications and information about forestry in Flanders. It also partners with the government for projects, like the Forest expansion plan.

Natuurpunt is an independent volunteering association that wants to protect and restore endangered nature.

3. Forest land ownership structure

- **According to State statistics, what is the ownership structure of the forest in your country (at State level)?** Please include relative and absolute data of forest ownership types, including average size of public and private forests and the number of area of forests in each size category)

3.1. Data on national forests ownership structure

According to information found on the website of the Royal Forestry Society of Belgium, forests occupy around 23% of the national territory (more than 700 000 ha). Most forests are located in the Walloon Region (79.8%, while 19.9% is located in the Flemish Region and 0.3% in the Region of Brussels)[10]. Most of the forests in Belgium (53%) are owned by private persons while 47% of forests are owned by public entities[11]. The average size of private forests is 2.5 ha per owner and there are more than 100 000 private forest owners in Belgium[12]. Public forests are owned by regions, communes and provinces, public centres for social aid or church factories.

In the Flemish Region, a forest inventory was created in 2018 for the second time by the Nature and Forest Agency[13]. This inventory uses measurements of multiple samples to estimate the total forest surface in Flanders. Based on this inventory, there is approximately 140 279 ha in Flanders in total. It is estimated that the Forest index amounts to 10.3. It is also noted that the forest in Flanders is very fragmented. A large proportion (28%) of Flemish forests is less than 20 meters from another land use. It was estimated in this inventory that more than 60% (84 840 ha) of all forests are in the hands of private owners and 40% (55 439 ha) of forests fall under public ownership.

3.2. Definitions of forest ownership in your country

Please provide the definitions identified in the legislation applicable in your country following the guidelines shared with you.

- **Forest owner**

This notion is not defined under the regional Flemish law.

- **Forest holder**

This notion is not defined under the regional Flemish law.

- **Forest manager**

Art 4, §6bis Forest Decree:

Bosbeheerders: de boseigenaar of mede-eigenaar, de houder van andere zakelijk rechten of de houder van een persoonlijk recht aan wie het beheer van het bos toekomt;

[10] Société Royale Forestière de Belgique, *Les forêts de Belgique*, n.d.
[11] Société Royale Forestière de Belgique, *Les forêts de Belgique*, n.d.
[12] Société Royale Forestière de Belgique, *Les forêts de Belgique*, n.d.
[13] Art. 41quater Forest Decree; Agentschap Natuur & Bos, *Bosinventaris*, n.d.

Forest managers: the forest owner or co-owner, the holder of other property rights or the holder of a personal right to whom the management of the forest belongs.

- **Forest contractor**

This notion is not defined under the regional Flemish law.

- **Forest**

Art 3, §1 Forest Decree:

Onder de voorschriften van dit decreet vallen: de bossen, zijnde grondoppervlakten waarvan de bomen en de houtachtige struikvegetaties het belangrijkste bestanddeel uitmaken, waartoe een eigen fauna en flora behoren en die één of meer functies vervullen.

The provisions of this decree cover: forests, being land areas of which trees and woody shrub vegetation constitute the main component, to which a distinct fauna and flora belong, and which perform one or more functions.

3.3. Forest ownership types in your country

- Please provide a **description of the types of forest ownership** (e.g. public forest, private forest) identified in the legislation applicable in your country. **Are there specific laws** for certain types of collective, communal, vicinal or neighbourhood forests?

Both public and private forests are regulated under the Flemish Forest Decree. There are specific provisions in the Forest Decree for each type of forest. There is no other legislation governing only public or private forests in the Flemish Region.

Both types of forests are defined under article 4 of the Forest Decree. A **private forest** is defined as 'any forest owned exclusively by natural persons or legal persons governed by private law' (art 4, §17 Forest Decree). A **public forest** is defined as 'any forest owned or co-owned by a legal entity under public law' (art 4, §16 Forest Decree).

In addition, the Forest Decree explicitly defines a specific type of public forest ownership: the domain forest. This refers to public forests where the management is exclusively held by the Nature and Forest Agency of the Flemish Region (art 4, §10 Forest Decree).

- Are there well-established programs for forest land consolidation? Are there public bodies promoting or responsible for these programs?

Land consolidation is a competence of the Flemish Land Association (*Vlaamse Landmaatschappij*) and is governed by general law on land consolidation[14]. There is no specific program for forest land consolidation.

In 1956, land consolidation was introduced under agricultural policy, as it was the goal to diminish the fragmentation of agricultural land and make it more efficient. The scope of this old

[14] DECREE of 28 March 2014 on land development (*DECREET van 28 maart 2014 betreffende landinrichting*).

instrument has been broadened throughout the years towards other sectors, like recreation, mobility or environment[15]. Land consolidation can be enforced by law or can be done voluntarily[16].

3.4. Proof of ownership: Land registry and Cadastre

- How is ownership proved?

The national Cadastre is an administrative register, dependent on the Ministry of Finance and is mostly used for tax purposes. The Cadastre does contain the description of the different real estate properties, their location, use, dimension and nature of the land. Ownership of a piece of land can be proven by this extract of the Cadastre. An extract from the Cadastre can be retrieved digitally or via a written form[17].

Notably, the aforementioned forest inventory of the Nature and Forest Agency (see point 3.1), cannot be used as a register of forest ownership, and thus cannot be used to prove ownership, as this inventory is an estimation of the forest surface in Flanders, based on available data and samples.

- Is there a legal obligation to register **ownership/property**?

Yes. Forest ownership needs to be registered in the Cadastre which is a general property register, not specific to forestry ownership. It is obligatory to declare any changes to the Cadastre, both legal changes, like the change of the owner of the plot, and certain physical changes to the land, such as the planting of trees or the construction of a building (Article 5 of the Royal Order on the creation and maintenance of cadastral documentation and establishing the modalities for the delivery of cadastral extracts[18]).

- Is there a registration fee?

Yes. In the Flemish Region, the registration fee amounts to 12% of the value of the property[19]. For agricultural land and natural assets that has not been built on, and for which a management plan type 2 or 3 is in place, the registration fee will be 10%[20] (nature management plans are divided into four types based on their level of ambition regarding nature quality (from 1 being the lowest level to 4 being the highest) – this is further explained under 4.2).

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[15] Vlaamse Landmaatschappij, *60 jaar ruilverkaveling*, 25 June 2016.

[16] LAW of 22 July 1970 on land consolidation of land properties by force of law (*WET 22 juli 1970 op de ruilverkaveling van landeigendommen uit kracht van wet*); LAW of 10 January 1978 on special measures for the amicable consolidation of landed property (*WET van 10 januari 1978 houdende bijzondere maatrgeleen inzake ruilverkaveling van landeigendommen in der minne*).

[17] Federale Overheidsdienst Financiën, *Kadastraal uittreksel*, n.d.

[18] ROYAL ORDER of 30 July 2018 on the creation and maintenance of cadastral documentation and establishing the modalities for the delivery of cadastral extracts (*Koninklijk Besluit van 30 juli 2018 betreffende het aanleggen en bijhouden van de kadastrale documentatie en tot vaststelling van de modaliteiten voor het afleveren van kadastrale uittreksels*); Federale Overheidsdienst Financiën, *Een nieuwbouw of wijziging aan mijn onroerend goed aangeven*, n.d.

[19] Notaire.be, *Les droits d'enregistrement : abattements et taux réduits*.

[20] Vlaanderen, *Algemeen tarief in het verkooprecht*, n.d.

- **Is there an official register of forest owners and of forest holdings? Is it shared with agricultural registers? Is it harmonized with the general property/ownership register?**

No. No official register for forest owners or forest holdings could be identified. Forest property is recorded in the same system as other types of property. Information on ownership can be accessed through the Cadastre[21].

- Is the **Cadastre/register** well updated and reflecting real forest owners/holders?

As previously mentioned, the Cadastre is a mandatory register. In principle, changes to a plot in the Cadastre need to be notified within 30 days[22]. As the Cadastre has a financial purpose, it can be that the Cadastral plan is not completely accurate when it comes to the borders of the plots. Mistakes can be declared at the Ministry of Finance[23].

[21] Federale Overheidsdienst Financiën, *https://financien.belgium.be/nl/E-services/cadgis*

[22] Federale Overheidsdienst Financiën, *Wijziging terrein*, n.d.

[23] Federale Overheidsdienst Financiën, *Veelgestelde vragen over fouten op het kadastraal plan*, n.d.

4. Rights and obligations: forest owner/holder and forest contractor

4.1. Overview

- **According to the legal and regulatory framework what are the rights and obligations of forest owners/holders and forest managers in your country?**

Rights

- Financial support/tax exemptions/subsidies :
    - Decree on tax concessions associated with nature management plans[24]: For forest owners to receive any type of **financial exemptions**, two conditions need to be fulfilled. Firstly, the forest owner or manager will have to create a nature management plan for its forest. Secondly, this nature management plan needs to strive for a certain ambition, falling under a type two, three or four nature management plan (see first question under chapter 4.2 for the explanation on the types of nature management plans). Exemptions are in place for inheritance taxes, gift taxes, registration taxes and yearly property taxes.
    - Art. 48 and art. 87 of the Forest Decree: Regarding **subsidies**, the Flemish Government may decide to allocate subsidies. The rules on subsidies have been elaborated under the Order of the Flemish Government on subsidising the planning, development and implementation of integrated nature management[25].
    - Decisions on forest management practices:
        - Art. 91 Forest Decree, Art. 16novies and 57ter Nature Decree: if forest owners developed an approved nature management plan, they must comply with what is set out in this plan. Requirements under the nature management plan need to be communicated when selling forests or in case of inheritance, because this plan is binding to the successive forest owner(s).

Obligations

- Sustainable management:
    - Article 41 of the Forest Decree stipulates that forest management aims to preserve the forest area and develop the multifaceted functions of the forest – which are: the

[24] DECREE of 22 December 2017 on tax concessions associated with nature management plans (*Decreet betreffende de fiscal gunstmaatregelen die verbonden zijn aan natuurbeheerplannen*).
[25] ORDER of the Flemish Government of 14 July 2017 on subsidising the planning, development and implementation of integrated nature management (*Besluit van de Vlaamse rEgering van 14 juli 2017 betreffende de subsidiëring van de planning, de ontwikkeling en de uitvoereing van het geïntegreerd natuurbeheer*).

economical function, the social function, the ecological function and the environmental function.

- Prevention of forest fires and other risks:
    - Every forest manager is obliged to take measures to prevent forest fires according to article 99 of the Forest Decree. This article specifies that it is also prohibited to make fires within 25 metres of a forest.
    - Restrictions on land use changes:
        - Deforestation is not allowed according to Flemish Zoning Code. A permit is required in order to change the use of the land. Forest compensation measures under article 90bis are also in place.
        - Authorisations and limitations on activities:
        - Permits are needed when physical conditions of the forest will be altered: see article 90 – 107 of the Forest Decree.
- Article 20 and 97 Forest Decree list the activities that are prohibited in forests without permission.

4.2. Legal rights of the forest owner/holder

- **Right to financial support/tax exemptions/subsidies**

There are different tax exemptions provided for natural assets, including forests, which reach a certain level of ambition. Forest owners can receive (partial) exemptions from inheritance taxes, gift taxes, registration taxes when selling the forest and yearly property taxes. To receive these exemptions, nature management plans need to be in place for the forest concerned[26].

In the table below, an overview is made of the tax exemptions based on which level of ambition a nature management plan sets out, defined by their nature target (*natuurstreefbeelden*). Four types of terrain are defined by the law based on the level of ambition set out in the nature management plan (art. 16ter, §1 Nature Decree):

- Type one: maintaining the nature quality;
- Type two: achieving a higher nature quality;
- Type three: achieving the highest nature quality;
- Type four: recognised nature reserve.

[26] Agentschap Natuur & Bos, *Fiscale voordelen natuurbeheerplan*, n.d.

EXEMPTIONS UNDER NATURE MANAGEMENT PLAN	Type 2	Type 3	Type 4
Inheritance tax	50%	75%	100%
Gift tax	75%	100%	100%
Registration tax			100%
Yearly property tax			100%

No right to subsidies for forest owners is provided. Both art. 48 and art. 87 of the Forest Decree state that the Flemish government *may* allocate subsidies, but no obligation is set out in the law.

Multiple subsidies for the ownership or management of forests are currently in place[27]. Natural persons, legal entities governed by private law and public administrations can apply for these subsidies under certain conditions.

- The Flemish Region provides subsidies for the **acquisition of land** that will be afforested. The land must be at least 0,5 ha and must be afforested within five years' time in order to benefit from this subsidy. Moreover, a nature management plan must be developed within three years of purchase of the land and should be of type 2, 3 or 4 (art. 32 and art. 37 Order of the Flemish Government on subsidising the planning, development and implementation of integrated nature management).

In addition, there is a one-off subsidy for the acquisition of land that is to be afforested under certain conditions via an annual project call of the forest compensation fund.

For the acquisition of forests with the purpose of obtaining recognition as a nature reserve (type 4 nature management plan in place) extra subsidies are in place (art. 20 Order of the Flemish Government on subsidising the planning, development and implementation of integrated nature management).

- Landowners can also obtain subsidies for **afforesting or reforesting** their land. The subsidies for afforestation depend on the land-use destination/zoning – agricultural zoning will receive less subsidies. The afforesting should be done with native species. No nature management plan is required, however 'good management of the forest for at least 25 years' is one of the conditions. The afforestation should also be registered on Bosteller, which is a platform of the Flemish Government that monitors the afforested land.

For reforestation, only certain applicants will receive a subsidy. Conditions to apply are that the land should be at least 0,5 ha in size and that the reforestation will be done with at least two native species. A nature management plan must be developed within four years after the application for this subsidy (art. 13 Order of the Flemish Government on subsidising the planning, development and implementation of integrated nature management).

[27] Agentschap Natuur & Bos, *Subsidies en projectoproepen*, n.d.; Bosgroepen, *Subsidies voor private boseigenaren*, n.d.

- Subsidies are allocated to create, change or execute **nature management plans** (type 2, 3 or 4) for forests that are at least 5 ha in size (art. 55 Order of the Flemish Government on subsidising the planning, development and implementation of integrated nature management). The size is the only requirement.
- Subsidies to make and keep **nature sites accessible** are provided (art. 43 Order of the Flemish Government on subsidising the planning, development and implementation of integrated nature management). The terrain must be at least 5 ha in size. It must also have an approved nature management plan and accessibility regime in place. Moreover, to receive this subsidy, all accessible zones on the nature terrain should be safe and accessible to the public for free all year round.

- **Right to decide about the forest management practices in their forest land**

Taking into consideration the applicable legislation, forest owners are free to choose whether or not to develop a nature management plan for their terrain[28]. However, it should be noted that many advantages are linked to the development of such a plan, e.g. subsidies can be acquired and certain activities, such as logging, can be executed without obtaining a permit. Indeed, there are strong incentives created by the legislator for forest owners or managers to develop a nature management plan.

If forest owners have an approved nature management plan, they must comply with what is set out in this plan. The monitoring of this plan is then done by the Nature and Forest Agency. Requirements under the nature management plan need to be communicated when selling forests or in case of inheritance, because this plan is binding to the successive forest owner(s)[29].

- **Right to harvest**

Harvesting is generally allowed under nature management plans. For the exploitation of public forests, an accreditation needs to be obtained (art. 50 Forest Decree).

4.3. Limitations to the rights of forest owner/holder

- **Is there a limitation to change the land use of the land (from forestry to agriculture and/or urbanization)?**

To change the use of the land, the destination of that land, as established in the regional zoning plan, should allow for this. For example, if land has a housing destination, but in practice has not been built on, the owner can change the use of the land by building a house on it. If the destination of the land in the regional zoning plan needs to be changed, a permit must be obtained[30].

Notably, the legislation on forests applies not only to land destined for forestry, but to all forests that fall under the definition set out in article 3 of the Forest Decree. Consequently, rules on deforestation, forest protection etc. apply to all forests, even those on other types of land.

[28] Art. 16bis §1 Nature Decree.

[29] Art. 91 Forest Decree, Art. 16 novies and 57 ter Nature Decree.

[30] Department Omgeving Vlaanderen, *Gewestplan*, n.d.

According to article 4.2.1, 2° of the Flemish Zoning Code, deforestation is forbidden in principle[31]. Deforestation is defined as "any act by which all or part of a forest disappears, and another use or destination is given to the land" (art. 4ter, 15° Forest Decree). However, there is no protection against deforestation for forests that are located on land that has a different zoning purpose. An environmental permit must be obtained to change the destination or the vegetation of the land[32].

Moreover, article 90bis of the Forest Decree stipulates that it is required to make a proposal for compensation for deforestation when the environmental permit is requested. This can be done by making a contribution to the Forest Compensation Fund or by planting new trees.

- **Is there a legal limitation to the right to harvest? Is there a ban on clear cutting?**

In public forests, it is prohibited to remove plants or parts of plants, except when the Nature and Forest Agency has authorised this activity (art. 20 Forest Decree).

In nature reserves, it is prohibited to be picking, gathering, cutting, uprooting or destroying or damaging or destroying plants or vegetation in any way (art. 35, §2 Nature Decree).

Clear cutting is only allowed when it is set out in the approved management plan of the forest or when a permit from the Nature and Forest Agency is obtained (art. 93 Forest Decree) [33].

- **Are there limitations to carry out non-forest activities in forest land (like mining, energy plants, etc.)?**

In all forests, activities which result in alterations to the physical condition can only be carried out when authorised by the Nature and Forest Agency or if they are provided for in the approved management plan[34].

Without authorisation of the Nature and Forest Agency, it is also prohibited in public forests to carry out excavations or extractions of material from the soil, to carry out works that alter certain aspects of the terrain (such as mineralogical and palaeontological sites, archaeological foundations, landscape, relief, natural water balance, soil fertility, purity and regime of watercourses, vegetation and native organisms)[35].

- **Are there specific limitations to carry out agricultural activities, like extensive grazing or temporary cultivation, on forest land?**

Article 20 and article 97 of the Forest Decree outlines the activities that are prohibited in **public** forests if no permit of the Nature and Forest Agency was obtained, such as the usage of pesticides and fertilisers, to introduce or remove animals or plants, to keep animals within fences, using barbed wire, etc. These prohibitions limit the possible agricultural activities that can be carried out.

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[31] LAW of 15 May 2009, Codified Decree Flemish Zoning Codex (*WET van 15 mei 2009, Gecodificeerd Decreet Vlaamse Codex Ruimtelijke Ordening*).

[32] Agentschap Natuur & Bos, *Ingrepen in de natuur*, n.d.

[33] Defined in art. 4, °12 Forest Decree.

[34] Art. 90 Forest Decree.

[35] Art. 20 Forest Decree.

The second paragraph of article 97 of the Forest Decree outlines the activities that are prohibited in **private** forests without the permission of the forest manager and of the Nature and Forest Agency or the activity being stated in the nature management plan that was approved by the Agency. These activities contain among others the use of barbed wire, to keep animals within fences, destroy, damage, move and misuse any object belonging to the forest's assets, etc.

- **Is hunting right linked to ownership right? Is it considered a forest activity or does it have specific regulations?**

There is a separate regulation on hunting in the Flemish Region[36]. Forest grounds do not necessarily overlap with hunting grounds[37]. To hunt on a terrain, a hunter needs hunting rights of that terrain. All the land on which a hunter has the right to hunt is called their hunting grounds. Every landowner also owns the hunting rights linked to that land. The owner can decide to exercise their hunting right or to pass this right to another hunter[38]. It is prohibited to hunt on grounds without having the permission of the landowner[39].

- **Are there citizens' rights to collect wild products in forest land? Are they linked to the ownership right or not?**

It is explicitly **prohibited** to collect and remove buds, shoots, twigs, inflorescences, cones, fruits, seeds from public forests without the approval of the owner and the authorisation of the Nature and Forest Agency or without it being mentioned in the management plan. So, when approved by the Agency, only owners have the right to collect wild products. In nature reserves it is also prohibited to collect plants[40]. Collecting wild products is not allowed in private forests without the permission of the owner[41].

- **Are there rights to access (walking) on forest land? Are there specific regulations for public use of forest land, hiking, riding, biking, etc.?**

Forests are accessible for pedestrians, but only on public and private roads or paths according to article 12septies of the Nature Decree. A nature domain can also be made fully accessible for pedestrians.

The accessibility of every terrain needs to be specified in an accessibility plan[42]. This accessibility plan sets out if other categories of recreation like biking, kayaking, etc., are allowed in the forest. Motorised vehicles used for recreational purposes are prohibited to access forests[43]. Private forest owners can make their forest inaccessible to the public by putting up signs stating that access is forbidden as it is private property[44].

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[36] LAW of 24 July 1991, Hunting Decree (WET van 24 juli 1991, Jachtdecreet).

[37] Art. 8 Hunting Decree.

[38] Agentschap Natuur & Bos, *Waar is jagen toegelaten?*, n.d.

[39] Art. 7 Hunting Decree.

[40] Art. 35 Nature Decree.

[41] Art. 97 Forest Decree.

[42] Art. 12octies Nature Decree.

[43] Agentschap Natuur & Bos, *Wat mag u doen in onze natuur? (bezoekers)*, n.d.

[44] Agentschap Natuur & Bos, *Toegankelijkheidsregeling voor uw natuurgebied (beheerders),* n.d.

Notably, for public forests managed for nature conservation purposes or in an area acquired with financial assistance from an administrative authority, inaccessibility may only be established by what is set out in the management plan[45].

4.4. Forest owner/holder obligations and requirements.

- **Which requirements or obligations regarding forest management are imposed on owners?**

Article 41 of the Forest Decree stipulates that forest management aims to preserve the forest area and develop the multifaceted functions of the forest, which are: the economical function, the social function, the ecological function and the environmental function.

However, no specific obligations are imposed on owners.

Before the revision of the Nature Decree, private forest owners were obliged to develop a forest management plan. However, in the current regulation it is no longer an obligation. In the Nature Decree and Forest Decree, there are many incentives to make up a 'nature management plan'. For example, a nature management plan is required in order to acquire subsidies; and there is no need to obtain a logging permit if this activity is already mentioned in an approved nature management plan[46].

If there is a forest management plan, it is mandatory to manage the forest accordingly[47]. Requirements under the nature management plan are binding to the successive forest owner(s)[48].

- **Is there a tax** imposed on forest ownership?

The ownership of immovable property is subject to a yearly property tax. If the forest falls under a type 4 nature management plan (which are in place for recognised nature reserves), the property is exempted from this tax[49].

- **What type of permits the forest owner needs** to manage their land?

In principle, a permit is needed for forest clearing if this is not set out in their nature management plan[50]. Additionally, in all forests, activities resulting in changes to the physical condition may only be carried out after authorisation by the Nature and Forest Agency, if this activity is not stated in the management plan[51]. Moreover, article 97 of the Forest Decree sets out a list of activities that are prohibited in forests. The following acts are forbidden without having the permission of the Nature and Forest Agency or when it is not set out in the nature management plan:

[45] In accordance with art. 12octies Nature Decree.

[46] Art. 81 Forest Decree; Bosgroepen, *Mijn bos, wat komt er bij kijken?*, p. 19.

[47] Art. 41 Forest Decree.

[48] Art. 91 Forest Decree, Art. 16novies and 57ter Nature Decree.

[49] It should be noted that tax exemptions are only in place for the Flemish regional taxes; municipalities and provinces still apply their taxes. Artikel 2.1.6.0.1., 10° Flemish Fiscal Codex; Agentschap Natuur & Bos, *Fiscale voordelen natuurbeheerplan*, n.d;.

[50] Art. 50 and 81 Forest Decree.

[51] Art. 90 Forest Decree.

- **For public forests:**
  1. to remove the litter;
  2. to remove dead wood lying on the ground or still attached to the trunk, unless it belongs to a lot of sold trees;
  3. to collect and remove buds, shoots, twigs, inflorescences, cones, fruits, and seeds;
  4. to prune trees, except when this measure has been included in the approved management plan;
  5. to erect and maintain sheds, shelters, and all other constructions and accommodations, and to place tents and caravans, with or without wheels, except those required for the management and surveillance of the forests and for the safety and well-being of those lawfully present in the forest;
  6. to affix advertisements to trees, place advertising boards, or use any other means of commercial advertising;
  7. to disturb the peace of the forest and its visitors in any manner;
  8. to leave remains, litter, and waste of any kind outside the designated collection points, except for wood waste and tree bark left after permitted exploitation;
  9. to keep animals within enclosures;
  10. to damage trees, remove plants, uproot, or cut them down;
  11. to destroy, damage, move, or misuse any object belonging to the forest's equipment;
  12. to install and/or maintain barbed wire in and around forests, unless otherwise provided in the management plan.

- **For private forests:**
  1. to erect and maintain sheds, shelters, and all other constructions and accommodations, and to place tents and caravans, with or without wheels, except those required for the management and surveillance of the forests and for the safety and well-being of those lawfully present in the forest;
  2. to affix advertisements to trees, place advertising boards, or use any other means of commercial advertising;
  3. to disturb the peace of the forest and its visitors in any manner;
  4. to leave remains, litter, and waste of any kind outside the designated collection points, except for wood waste and tree bark left after permitted exploitation;
  5. to damage trees, remove plants, uproot, or cut them down, except as a management measure;
  6. to destroy, damage, move, or misuse any object belonging to the forest's equipment;
  7. to install and/or maintain barbed wire in and around forests, unless otherwise provided in the management plan;
  8. to remove the litter;
  9. to keep animals within enclosures. The conversion of existing forests into grazing land is considered deforestation.

(This list is a literal translation from the Forest Decree. This does not apply to nature reserves – prohibitions in nature reserves are specified in art. 16terdecies of the Nature Decree.)

- **How is the control of forest harvest determined? Is there an obligation to mark every tree to be cut or retained?**

According to article 9 of the Forest Decree, the Nature and Forest Agency sets out yearly quota for cutting trees in public forests based on a long-term strategy. Permits for cutting down trees need to be obtained in case the harvesting activity is not set out in the nature management plan. This plan is also subject to approval of the Nature and Forest Agency[52].The Nature and Forest Agency decides the way trees need to be marked to be cut or retained. In one lot only one way of marking can be used[53].

- **Are there technical, administrative or economic specifications on the forest products market? Are forest harvest contracts legally defined for public or private forests or for some specific types?**

The sale of wood of public forests must be based on the principles of public accessibility, transparency and competition, which means that wood must be sold in a public sale[54]. Buyers of wood from public forests also need to be accredited[55].

The Forest Groups also organise joint wood sales for private forest owners[56]. No further specifications were found regarding the market for products from private forests.

Forest harvest contracts are not legally defined, nor was any other information found on these types of contracts.

- **Is there an obligation to prevent forest fires or other risks?**

Every forest manager is obliged to take measures to prevent forest fires according to article 99 of the Forest Decree. This article specifies that it is also prohibited to make fires within 25 metres of a forest.

Every forest manager must take measures to prevent forest fires and limit their spread. These measures should be mentioned in the management plan[57]. Forest managers need to create and maintain fire roads according to article 104 Forest Decree.

The Nature and Forest Agency provides information on fire danger in certain areas[58].

- **Is fencing or the use of forest roads regulated?**

Putting up **fencing** with the aim of keeping animals is prohibited according to the Forest Decree, except when a permit is obtained by the Nature and Forest Agency or when this is set out in the approved nature management plan. Using barbed wire in general is also prohibited

[52] Art. 50 and 81 Forest Decree.

[53] DECISION of 18 May 2019 of the Flemish Government on the method and conditions of sale and exploitation of timber and other forest products from public forests (*Besluit van 18 mei 2019 van de Vlaamse Regering houdende de werkwijze en de voorwaarden voor de verkoop en de exploitatie van hout en andere bosproducten uit openbare bossen*).

[54] Art. 55 Forest Decree.

[55] Agentschap Natuur & Bos, *Erkenning van kopers en exploitanten van hout in openbare bossen*, n.d.

[56] Bosgroepen, *Houtverkoop*, n.d.

[57] Art. 100 Forest Decree.

[58] Art. 105 Forest Decree.

without permission of the Agency or when not set out in the nature management plan[59].No information was identified on rules regarding **forest roads**.

- **Is there an obligation for forest owners and/or forest managers to be associated?**

There is no obligation for forest owners or managers to be associated.

The Flemish Region counts 8 forest groups (*bosgroepen*), which are a particular type of forest owners' association. The Nature and Forest Agency has developed this structure to find a solution to the high fragmentation of the private forest area in Flanders[60]. Forest owners are free to join the forest group of their region. In all forest groups there are more then 15 000 members, who possess of 58 500 hectares of forest. The forest groups help forest owners and managers with the sustainable management of their forest. They provide advice, they organise joint timber sales, they help in afforesting land, etc.

4.5. Forest manager/contractor obligations

- **Which requirements or obligations on forest management are legally imposed on forest managers/contractors**?

N/A

- **What legal rights does the forest manager/contractor have in your country**?

N/A

- Is **there a requirement of a forest management plan**? Are there detailed prescriptions on that?

As mentioned above, before the revision of the Nature Decree, private forest owners were obliged to develop a forest management plan. However, in the current regulation it is no longer an obligation. The development of a nature management plan is regulated by the Nature Decree. There are many incentives implemented by the legislator to develop a 'nature management plan'. For example, a nature management plan is required to acquire subsidies, or a logging permit is not required to cut down trees if this activity is already mentioned in an approved nature management plan[61].

The process to develop a nature management plan is set out in detail by the Nature and Forest Agency. It is a five-step process. The Agency provides standardised forms that forest owners can use to develop their management plan. To start, the owner needs to submit a form for launching this process. In the next steps an inventory needs to be submitted, management objectives need to be established, management measures must be developed and a plan for the follow-up of the management plan needs to be provided[62].

Finally, it is the Nature and Forest Agency that approves these plans. The Agency checks if the nature management plan is compliant with the European Natura 2000 objectives, the species protection programmes and the nature direction plans already adopted (these are management

[59] Art. 97 Forest Decree.

[60] FACESMAP country report Belgium, p 21; De Bosgroepen, *onze missie*, n.d.

[61] Art. 81 Forest Decree; Bosgroepen, *Mijn bos, wat komt er bij kijken?*, p. 19.

[62] Agentschap Natuur & Bos, *Natuurbeheerplan Maken*, n.d.

plans for specific protected areas under the Flemish Ecological Network[63]). A nature management plan is valid for 24 years and is evaluated every six years by the Agency.

The information that is required depends on the level of ambition of the nature management plan. The level of ambition is based on the ecological goals of the plan, which are the nature targets (*natuurstreefbeelden*). Four types, i.e. levels of ambition, are defined by the law, for which different criteria apply in nature management plans (art. 16ter, §1 Nature Decree). The four types are described as follows:

1. Type one: maintaining the nature quality present;
2. Type two: achieving a higher nature quality;
3. Type three: achieving the highest nature quality;
4. Type four: recognised nature reserve.

- Is there an **obligation to register the responsibility** of forest manager/contractor?

i. Is registration based on product income?

ii. Is there a registration fee?

No information was identified.

- Is there a **tax imposed on the forest manager**? Is it based on income or hectares?

Only taxes based on income are applied (i.e. business taxes), there are not taxes specifically related to the forest surface.

[63] Agentschap Natuur & Bos, *Beschermde gebieden: Natuurrichtplan*, n.d.

5. Forest Management plans

- Are forest management plans required in the legislation of your country?

☐ Yes
☒ No

Specify where and the conditions as well as the amount of forest land with plans

In principle, the creation of a forest management plan is voluntary. It is however a requirement for 'nature domains' that are managed by the Nature and Forest Agency and for public land managed for nature conservation where European nature objectives must be achieved[64].

According to a consulted private forest owners association, only 50% of all forests of its members is currently captured in nature management plans. There is still a lot of potential.

- Are there other type of plans required such as:

☐ Technical Plan (not obligatory, but incorporated within the management plan when they are set up)
☐ Financial Plan
☐ Exploitation Plan (not obligatory, but incorporated within the management plan when they are set up)
☐ Fire prevention Plan

☒ **Hunting Plan** - Every holder of hunting rights must draw up a fauna management plan in which he indicates how he intends to manage wildlife on his hunting grounds. He must also submit an annual hunting report. A shooting plan is required to hunt big wildlife such as roe deer or wild boar[65].

☒ **Accessibility programme** (art. 12octies Nature Decree)[66] - An accessibility programme consists of a regulation and an accessibility map. It must be approved by the Nature and Forest Agency. Private forests that are not accessible are not required to make such a programme.

- Please indicate the **minimum size of forest requiring a forest management plan**?

There is no legal obligation for forest owners, regardless of forest size, to establish a forest management plan. However, to qualify for a type 3 or type 4 plan – which implies higher nature conservation ambitions and access to additional subsidies – the managed forest area must comprise at least 10 ha in size[67]. Owners of small forests can still adopt a management plan under type 1 or 2 on a voluntary basis. According to a consulted private forest owners association, this minimum size requirement hinders forest owners and managers in the management of their forest (as they cannot claim certain advantages and additional support for further developing the

[64] Agentschap Natuur & Bos, Natuurbeheerplan, *Algemeen beleidskader & informatie*, n.d.
[65] Agentschap Natuur & Bos, *Jachtplan, faunabeheerplan, wildrapport en afschotplan*, n.d.
[66] Agentschap Natuur & Bos, *Toegankelijkheidsregeling*, n.d.
[67] Agenschap Natuur & Bos, *Natuurbeheerplan maken, Algemen*, n.d.

forest management due to the size of the forest, which are smaller of 10 ha in the vast majority of cases when it comes to forests privately owned).

For the calculation of the connected area for a given nature ambition, the area of adjacent plots with the same nature ambition may also be counted, provided they are also included in an approved nature management plan.

Joint management is possible as well. This is promoted by the creation of joint nature management plans. A joint nature management allows to combine a larger surface of nature and forests, also combining forests of a lot of members in one region. This allows for a joint management, giving advantages for the owners, the government and increasing the quality of forests.

- On **which legal basis are they required? Are they legally binding or only guidelines**?

Art. 16bis - 16duodecies of the Nature Decree set out the rules on nature management plans. This is Flemish regional law.

Nature management plans can be adopted on a voluntary basis, but a strict procedure is set out by the Nature and Forest Agency for the adoption of a nature management plan (more information is stated under the third question of part 4.5).

- **Who has the responsibility for the implementation of forest management plans**? Please include national, regional, and local levels as appropriate. Please distinguish between state and private ownership. Please distinguish between different protection status.

The **forest manager** is responsible for the implementation of the nature management plan, with the approval of the forest owner.

It is the forest manager that conducts an evaluation every six years on how the nature targets (*natuurstreefbeelden*) are evolving, in accordance with the nature management plan[68]. Each submitter of a management plan for which a six-yearly report must be submitted will receive an invitation to report from the Agency for Nature and Forest in the spring, containing a list of nature targets to be monitored and, where applicable, the groundwater and surface water levels to be monitored and the species to be monitored. This letter will contain the necessary instructions and a request to submit the data by 1 October of the reporting year. The Agency will then draw up an evaluation report. This report will assess whether the planned and implemented management and facility management measures are suitable for achieving the management objectives.

- Are forest **management plans being enforced**?

Article 16novies of the Nature Decree states: “The approval of the nature management plan implies a commitment for the manager to implement the management measures set out in the nature management plan, provided that funding commitments are met.”

[68] Agentschap Natuur & Bos, *Natuurbeheerplan opvolgen: monitoring en evaluatie*, n.d.

If necessary, the Agency will propose to alter management objectives. This can require an amendment to the nature management plan. This will have consequences on the subsidies and other advantages the forest owner receives based on the type of nature management plan.

If the manager does not take the necessary measures and impedes the objectives set out in the nature management plan, the Nature and Forest Agency **can terminate the nature management** plan and temporarily **take over** the management of the forest itself[69].

- Is there an obligation to maintain a **Forest Book** (linked or related to the Farm Book of the Common Agricultural Policy (CAP)?

No information was identified on the obligation to maintain a Forest Book. However, a consulted forestry association stated that, in practice, it is recommended that forest owners keep records of their management activities. While the law does not require a Forest Book as such, in cases where there is suspicion of improper forest management, the burden of proof lies with the owner to demonstrate that management practices were in line with legal requirements. Therefore, maintaining a Forest Book or similar documentation is advisable, even if not mandatory.

- **How often do forest management plans need to be updated**? Who is responsible for the update?

A nature management plan is valid for 24 years, unless this has been decided differently in the approved plan. Amendments to the management plan without renewing it is possible. The manager is responsible for updating the plan[70].

- Are specific mechanisms put in place to guarantee that **national legislation** is in line with European guidelines and **criteria on forest management plans** (i.e. Natura 2000 Forest Management Plans?)

In 2017, the Nature Decree was revised to be in line with the Flemish objectives under the Natura 2000 programme. In this context, the Nature and Forest decrees are being consolidated. The creation of nature management plans was also part of this revision[71]. The Nature Decree sets out the rules on the development of Natura 2000 management plans[72].

Article 16septies, 1st lid, 5° of the Nature Decree states that the objectives and measures stipulated in nature management plans need to be in line with the provisions of the management plans Natura 2000. For nature domains that are managed by the Nature and Forest Agency, as well as public grounds and grounds obtained by purchase subsidies, maximum alignment with the Natura 2000 management plans should be pursued[73].

[69] Art. 16decies Nature Decree.

[70] Agentschap Natuur & Bos, Natuurbeheerplannen, *Algemeen beleidskader & informatie*, n.d.

[71] Agentschap Natuur & Bos, Natuurbeheerplannen, *Wetgeving natuurbeheerplannen*, n.d.

[72] Art. 50bis - 50undecies Nature Decree.

[73] Agentschap Natuur & Bos, *Natuurbeheerplan maken, algemeen*, n.d.

- Are there any specific requirements for the **forest management plans** in terms of content, structure or criteria? If yes, please elaborate.

The information that is required depends on the level of ambition, dependent on their nature targets (*natuurstreefbeelden*). Four types, i.e. levels of ambition, are defined by the law, for which different criteria apply in nature management plans (art. 16ter, §1 Nature Decree). Not only the ecological objectives under the nature targets are included in nature management plans, but also the economic and social aspects of forest management.

The requirements on the content, structure and criteria for nature management plans are set out in articles 16bis - 16duodecies of the Nature Decree. The Nature and Forest Agency provides the template for the drafting of nature management plans.

A nature management plan needs to contain (art. 16bis, §1 Nature Decree):

1. a description of the existing situation;
2. an overall framework for the ecological, social and economic function;
3. the management objectives;
4. the management measures that will be taken to achieve the management objectives;
5. the way in which the realisation of the management objectives will be monitored and evaluated.

The management objectives and measures in a nature management plan must, where appropriate, be consistent with (art. 16septies Nature Decree):

1. the conservation objectives;
2. the species protection programmes;
3. the nature direction plans already adopted (for special protection zone);
4. the provisions of the Natura 2000 management plan.

- Are there any **supporting mechanisms for the management plans**? If yes, please elaborate.

Private forest owners can get support with their forest management by the forest groups (*bosgroepen*). They give advice on the drafting of a nature management plan. The organisation BOS+ also supports in the drafting and submission of nature management plans[74]. In addition, there are private companies that offer support for this as well[75].

Subsidies are also provided for the creation of nature management plans, but also for achieving certain objectives stipulated in these plans[76].

According to a consulted forestry association, these supporting mechanisms are very important for small forest owners. They could potentially set up the management plans themselves, but it is a hard exercise for most owners.

[74] BOS+, *wat bieden we*, n.d.

[75] See for example: https://www.landmax.be/nl/expertises/bos-natuurbeheer; https://corridor.land/natuurbeheerplan/

[76] Agentschap Natuur & Bos, *Subsidies natuurbeheerplan*, n.d.

- Are **impact assessments required** in your country in relation to the adoption of the forest management plans? What mechanisms are in place in your country to ensure that forest management plans are developed to ensure sustainable forest management practices? If yes, please elaborate.

Before a nature management plan is adopted, the plan must go through a **public consultation round** and **concerned authorities** – the commune or the Agency for Real Estate Heritage, can give their advice on the plan.

The **Nature and Forest Agency** verifies if the nature management plan at hand is in accordance with the European nature objectives, the Natura 2000 management plans, the species protection programmes (*soortenbeschermingsprogramma's*) and the nature direction plan (*natuurrichtplan*). On the content, the Agency checks if the nature management plan complies with the standstill principle and the duty of care, supplemented by the criteria for integrated nature management for nature management plans of type two, three or four[77].

- Are the **Natura 2000 sites plans already implemented and well-coordinated or integrated** with forest management plans? Are traditional forest activities recognized in those plans? Are there guidelines for small forest owners and managers on what they can and can't do?

The integration of the Forest Decree into the Nature Decree, and the development of the rules regarding nature management plans, all took place in the context of the realisation of the nature goals for Flanders under Natura 2000[78].

Flanders counts 62 Natura 2000 sites, which are called 'special protection areas'. For every special protection area, a Natura 2000 management plan needs to be in place. Moreover, the nature management plans of terrains that are located within a special protection area must at least be a type 2 plan (with the ambition of achieving a higher nature quality). As such, Natura 2000 sites plans are well integrated with nature management plans for forests.[79]

Article 16septies, 1st lid, 5° of the Nature Decree states that the objectives and measures stipulated in nature management plans need to be in line with the provisions of the management plans Natura 2000. For nature domains that are managed by the Nature and Forest Agency as well as public grounds and grounds obtained by purchase subsidies, maximum alignment with the Natura 2000 management plans should be pursued[80].

No further information was identified on the recognition of traditional forest activities in those plans.

There are no specific guidelines for small forest owners and managers on Natura 2000 sites plans, other than the guidelines provided for nature management plans in general[81].

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[77] ORDER of 14 July 2017 of the Flemish Governement on nature management plans and recognition of nature reserves (*Besluit van 14 juli 2017 van de Vlaamse Regering betreffende de natuurbeheerplannen en de erkenning van natuurreservaten*); Agentschap Natuur & Bos, *Deel 2 tot 5: definitief plan*, n.d.

[78] Agentschap Natuur & Bos, *Alles over Natura 2000*, April 2016.

[79] Agentschap Natuur & Bos, *Alles over Natura 2000*, April 2016.

[80] Agentschap Natuur & Bos, *Natuurbeheerplan maken, algemeen*, n.d.

[81] Agentschap Natuur & Bos, *Natuurbeheerplan maken, algemeen*, n.d.

6. Sustainable forest management.

6.1. Sustainable forest management definition and forestry practices

- Is sustainable forest **management (SFM) defined in your country**?

☐ Yes
☒ No

There is no definition in Flemish law. At federal level, the FPS of Public Health provides a definition, but this definition is not codified:

> "***Sustainable forest management is ecologically sound, socially acceptable and economically profitable.*** *It thus takes into account the fauna and flora of forests, as well as the soil and water resources. It also respects the national laws in force, and the rights of indigenous peoples who live in forests or depend on them for their livelihoods. The safety and good working conditions of forest workers are taken into consideration. Sustainable forest management also includes economically viable exploitation, which benefits all stakeholders in a fair manner."* [82]

However, sustainable forest management in the Flemish Region can be understood under the broader term for integrated nature management (*geïntegreerd natuurbeheer*)[83]. Integrated nature management is defined as 'management that takes into account the ecological, economic and social functions of the land' (art 12ter Nature Decree).

- Does the definition of **SFM include specific objectives**?

☐ Yes
☒ No

The Flemish Region changed its objectives for sustainable forest management to more broad criteria for integrated nature management (*criteria geïntegreerd natuurbeheer*) under article 12bis of the Nature Decree[84]. It must be noted that this concept is defined as a cornerstone of the regulation regarding nature management plans.

There are three main objectives:

- Obtaining a higher quality of nature;
- Taking into consideration the social role of the land;
- Managing the provision of various goods and services in a sustainable manner.

[82] FPS of Public Health, Food Chain Safety and Environment, *Sustainable forest management*, n.d.
[83] Agentschap Natuur & Bos, *Natuurbeheerplan maken, algemeen*, n.d.
[84] Agentschap Natuur & Bos, *Natuurbeheerplan maken, algemeen*, n.d.

- Does your country have specific guidelines **on Sustainable Forest Management**? If yes, are those mentioned in the legislation?

  ☐ Yes, they can be found here:
  ☐ No
  ☒ Other sources defining or implementing Sustainable Forest Management:

  - The Species Order of the Flemish Government, is an executive order that entails good practices regarding nature management and forest management[85].

  Guidelines regarding SFM are contained in the Programme for the Endorsement of Forest Certification (PEFC) Belgium. This is provided at national level[86] (to consider though that in Flanders PEFC is almost non-existent and FSC is mainly used). These guidelines are not mentioned in legislation.

- Does your country have a **Forest Strategy and/or Forest Management Policy** setting policy priorities that implement a SFM approach?

  ☒ Yes, they can be found here: The Flemish Region makes a Natura 2000 programme in cycles of maximum six years. The last programme was from the period 2016-2020[87]. Regulation on how these programmes must be developed are set out in the Nature Decree (art. 50ter – 50sexies).
  ☐ No
  ☐ Other sources setting the Forest strategy/policy

- **Which requirements/obligations** result from the legally binding requirement for SFM?
  1. For forest owners
  2. For forest managers

  No legally binding requirement for SFM was identified.

- Are **specific criteria and/or indicators** to determine whether SFM is being achieved? Where are they described (see table below)?

The Flemish Government specifies the criteria for integrated nature management to be included in the nature management plans[88]. This depends on the type of nature management plan that is put in place. The criteria are all linked to a couple of indicators. Implementing the indicators is a binding requirement when managing type two, type three and type four sites, unless a deviation from them is justified in the nature management plan.

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[85] ORDER of 15 May 2009 of the Flemish Governement with regard to species protection and species management (*Besluit van 15 mei 2009 van de Vlaamse Regering met betrekking tot soortenbescherming en soortenbeheer*);
[86] Koninklijke Belgische Bosbouwmaatschappij, *PEFC-certificatie voor een duurzaam bosbeheer*, n.d.
[87] Agentschap Natuur & Bos, *Vlaams Natura 2000 programma*, 2017.
[88] ORDER of 14 July 2017 of the Flemish Government establishing the criteria for integrated nature management (*BESLUIT van 14 juli 2017 van de Vlaamse overheid houdende vaststelling van de criteria voor geïntegreerd natuurbeheer*).

The criteria are (see annex to the Order of the Flemish Government establishing the criteria for integrated nature management):

Ecological criteria:

- Horizontal measures relating to the quality of the natural environment.

The indicators are related to natural water management, harmful foreign substances and products impacting soil quality or natural values, limited tillage, nutrient enrichment and the impact of management works on the environment.

- Horizontal measures related to biodiversity.

The indicators include a standstill provision and a duty of care. Moreover, the natural elements that contribute to biodiversity need to be preserved, a proactive policy regarding invasive alien species needs to be implemented, providing the appropriate tree species composition is required and there are limitations indicated when it comes to the logging of trees. In addition, breeding periods and life cycles of animal species need to be taken into consideration when planning for management works.

- Nature targets.

Under this criterium the manager needs to take measures to ensure that the predetermined nature targets will be achieved at the desirable quality standard within time. Another indicator prescribes that the nature management plan needs to take into consideration other plans such as approved conservation objectives, Natura 2000 management plans, species protection programmes and, where appropriate, nature direction plans.

Social criteria:

- The manager pays attention to recreational shared use and guarantees minimum accessibility.
- Terrains or parts of terrains with an important role for the general landscape, for immovable heritage or have scientific or educational significance are managed according to their patrimonial value.

Economic criteria:

- The manager treats his site as a renewable resource, aiming for a multi-faceted functional performance and a sustainable delivery of goods and services.

This criterium under the economic function of nature terrains, goods and services coming from the forest or nature terrain must be provided in such a way that ecosystem, biological diversity and nature quality are at least preserved and, if possible, improved. Under no circumstances should the carrying capacity of the ecosystem be exceeded as this may compromise the future provision of goods and services. This must be a long-term objective.

- The manager formulates production targets taking into account all relevant economic, environmental and social prerequisites.

Production targets need to be included in the nature management plan. Indicators of this criterium further are that hunting and fishing needs to be done

sustainably, that the natural production capacity of the forest needs to be preserved and that timber harvesting in forests must aim to maintain a certain stock level.

- The manager handles the terrain and the goods and services it provides in a financially sustainable manner.

  Three indicators are provided for this criterium: costs and benefits need to be balanced when managing products and services; the necessary investments need to be balanced against the targeted natural and environmental quality and the manager must seek partnerships from which scale benefits can emerge.

- Are some **forest managers implementing sustainable forest management practices voluntarily**? If yes, how are these voluntary management practices taking place? Through citizen initiatives, local initiatives, or other ways? Please explain how forest managers ensure that forest management practices are sustainable.

Because the implementation of a **nature management plan** is voluntary, forest managers can choose to develop such a plan which also includes these sustainability practices. However, once decided that you will implement a nature management plan, these criteria in your management plan are binding.

The education organisation of the Flemish Government, also offering **trainings** on sustainable forest management[89].

According to article 54bis of the Nature Decree, the **Forest Groups**, which support private forest owners, are founded with the task of ensuring that forests are managed sustainably.

Forests can also obtain a certificate if they are managed sustainably, called **PEFC certification**. If products are harvested from sustainably managed forests and are processed by certified companies, these products will also receive this certificate. The monitoring of this certification process is done by independent certification entities. This is a voluntary engagement for forest managers and companies[90].

- Which mechanisms are put in place to support the implementation of SFM? Which measures are in place to monitor implementation of the SFM?

Monitoring of sustainability criteria is done by the Nature and Forest Agency when checking the implementation of the nature management plans. Because the criteria for integrated nature management are included in the nature management plans, this tool is therefor used to monitor the implementation of SFM[91].

No further information was identified on the monitoring of the implementation of SFM.

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[89] Inverde, *Praktijkweek duurzaam bosbeheer*, n.d.

[90] PEFC, *Hoe werkt PEFC?*, n.d.

[91] ORDER of 14 July 2017 of the Flemish Government establishing the criteria for integrated nature management (*BESLUIT van 14 juli 2017 van de Vlaamse overheid houdende vaststelling van de criteria voor geïntegreerd natuurbeheer*).

- Which forest management practices are required or prohibited by law in your forest/country? Please check below the proposed forest management practices and add supplementary ones if missing (Please include explanation of the legal requirements of the relevant techniques).

☐ **Closer to nature silviculture practices**

☒ **Clear-cutting**: this is prohibited without permit, or it being approved in nature management plan (art. 81 Forest Decree). Exceptions are in place for safety or sanitary reasons. In principle, for clear cutting of private forests the maximal size that is clear cut is 1 ha.

☐ **Shelterwood system**

☒ **Selective logging**: this is prohibited without permit, or it being approved in nature management plan (art. 81 Forest Decree). Exceptions are in place for safety or sanitary reasons.

☐ **Afforestation and reforestation to enlarge forest areas**

☒ **Controlled burn**: making fire within 25 metres to forests is prohibited. Exceptions can be stated in a nature management plan (art. 99 Forest Decree).

☐ **Mandatory salvage logging**

- **The use of pesticides or fertilisers** in public forests and forests which are nature reserves (art 20 Forest Decree).
- **Deforestation** (art. 90bis and 90ter, §6 Forest Decree).
- **Pruning trees** in public forests without it being stated in the nature management plan (art. 97, §1, 4° Forest Decree).

- Are there limitations on the management models to be applied, like clearcuttings or their sizes? **Is there a ban on clear cutting linked to SFM?**

There is no specific ban on clear cutting in Flemish legislation.

Limitations on clear cutting are included under the biodiversity criterium for integrated nature management. The indicator, that includes these limitations, states:

> "The manager prefers to opt for small-scale management interventions, such as ploughing and felling. Clearances for forest rejuvenation are limited to 1 hectare. Clearances for conversion of non-native stocks to native stocks and when felling poplars are limited to 3 hectares. This rule does not apply to forest conversions aimed at the realisation of open nature targets, such as the realisation of conservation objectives"[92].

Moreover, clear cutting would also contravene the economic criterium that indicates that the manager must treat its terrain as a renewable resource.

[92] Indicator 1.2.8 in the annex of ORDER of 14 July 2017 of the Flemish Government establishing the criteria for integrated nature management (*BESLUIT van 14 juli 2017 van de Vlaamse overheid houdende vaststelling van de criteria voor geïntegreerd natuurbeheer*).

- Is there a **defined/legal target for forest land to be managed for conservation and species protection objectives in your country or region**?

No targets could be identified. The criteria regarding biodiversity under integrated nature management are set out in a previous question.

- Are there **forest owner obligations** related to **forest restoration** after harvest?

Forest compensation (*boscompensatie*) is required when deforesting a plot – this is not required after harvesting. Forest compensation is required in order to receive a permit for deforestation. Forest compensation can be done in kind, by payment of a forest conservation fee or through a combination of the two. If more than three hectares are deforested full compensation in kind is required[93].

For logging operations, the manager must submit a proposal within six months to the Nature and Forest Agency on restoration measures ranging from the reforestation of the logged or damaged plots to an equivalent area[94]. If the forest manager fails to submit restoration measures within that deadline or if he fails to carry out the approved restoration measures within a period of one year from the approval of the proposal, or if within that period spontaneous reforestation has produced no or insufficient results, the Agency may have the works carried out at the forest managers' expense.

6.2. "Closer-to-nature" guidelines and practices

(This section relates to the Commission Guidelines on Closer to nature forest management but also Commission guidance on payment schemes for forest ecosystem services both aiming to provide information and guidance for sustainable forest management)

- Has your country incorporated the **newly published Commission guidelines** in their legal or regulatory framework?

☐ Yes: in the Strategy that can be found here: .....
☒ No

- Has your country **recognized under law/regulatory measure a closer-to-nature approach** in forest management? If yes please provide the source where this is explained and elaborate below.

☐ Yes: in the Strategy that can be found here: .....
☒ No

[93] Art. 90bis Forest Decree.
[94] Art. 81 Forest Decree.

- Does your country have legislation/measures setting specific biodiversity targets/management objectives for sustainable forest management at a national or regional level?

  ☒ Yes, at national level – they can be found here: Belgium has a general national diversity strategy. This strategy is currently being updated.
  The previous strategy can be found here. Objectives regarding biodiversity in forest management can be found in this strategy.
  ☐ Yes, at regional level – they can be found here: .....
  ☐ No

6.3. Climate change and Forest carbon absorption

- Does your country have legislation/measures setting specific climate change targets or objectives for sustainable forest management at a national or regional level?

Belgium is part of the Paris Agreement and should thus respect the Nationally Determined Contributions (NDCs). Due to its membership to the EU, Belgium should also comply with the European objective of carbon neutrality by 2050. In order to comply with its international and European commitments, strategies have been adopted at the regional level gathered into one national plan on energy and climate approved in spring 2023 by the three regions.

The Flemish Region has an Energy and Climate Plan 2021-2030 and a Climate Strategy 2050, which take into consideration the impact of forests on climate change[95].

The Energy and Climate Plan 2021-2030 has the objective to reduce carbon emissions by 40% by 2030 in the construction, agriculture, transport, (light) industry and waste sectors. This plan is the Flemish contribution to the national energy and climate plan.

The present plan sets out the broad policy lines for the period 2021-2030. It contains action plans and policy packages for each sector and includes the estimated impact of these policies on climate projections. More specifically, what this plan regulates as well is the sector 'land use, land-use change, and forestry'. For forestry, the plan includes rules on the ambition to create 10 000 ha of additional forest in Flanders, on the prevention of deforestation, on the creation of forest compensation rules, etc[96].

The Climate Strategy 2050 focuses on how forests can be used for carbon storage. The Government wants to encourage and support forest and nature managers to conserve and increase the carbon storage of their forest as much as possible in a sustainable manner. The Flemish Region has the objective to create 10 000ha of extra forest by 2030, to maximise carbon storage. Forests are also places where biodiversity can be most improved. Taking into consideration climate adaptation, all forest-nature management plans must also give due consideration to resilience to the expected impacts of climate change according to this strategy.

[95] Vlaamse overheid, Vlaams Energie- en Klimaatplan 2021-2030, VR 2023 1205 DOC.0518/2TER.
[96] Vlaamse overheid, Vlaams Energie- en Klimaatplan 2021-2030, VR 2023 1205 DOC.0518/2TER.

7. Forest land market

NOTE: The key objective is to identify and present information on the basic legal framework regulating market of forest land and inheritance processes.

- Are there specific legal requirements or limitations when selling and buying forest land?

  Each plot has a dedicated planning destination based on a regional plan. For each destination specific obligations are in place. Converting the destination of a plot is strongly regulated.

  If local authorities want to sell their public forest, they need to have the agreement of the Flemish Government according to article 90 of the Forest Decree.

  Every seller has an information obligation (art. 91 Forest Decree) regarding all the rights and duties that are connected to the forest land, for example on the nature management plan that is in place. In case of non-compliance with the information duties, the buyer can claim the invalidity of the sale.

  There are some regulations that establish a right of preferential acquisition for the Flemish or a local government. For forests, this can be the case if it is located in a protected nature zone, if land consolidation or nature development are intended, for spatial planning purposes, for plots next to waterways or for certain complex projects of the government[97].

- Are there **limitations to divide** the land by selling or inheritances?

A plot of land can be divided. This must be made official by notarial deed and must be submitted to the local authority for any remarks. However, the local authority cannot stop the division of a plot. On the contrary, for an allotment a permit is required[98]. Article 90bis Forest Decree regarding forest compensation needs to be taken into consideration when deforesting and allotting forest land[99].

- Are there institutions/**bodies providing information** related to the forest land market?

The Forest Groups provide information on the forest land market.

Real estate agencies and notaries also can provide information on forest land[100].

[97] Art. 19 DECREE of 16 June 2006 on the establishment of the Flemish Land Bank and amending various provisions (*Decreet van 16 juni 2006 betreffendce het oprichten van de Vlaamse Grondenbank en houdende wijziging van diverse bepalingen*).

[98] Claeyssens & Couckuyt, *Kan ik grond splitsen zonder die te verkavelen?*, 18 March 2023.

[99] Katinka De Clercq, *Verkopen, bouwen en verkavelen in het bos – bestuurlijke aspecten*, Masterthesis 2017-2018.

[100] For example: https://www.immoweb.be/nl/zoeken/bosgebied/te-koop ; https://www.notaris.be/nieuws/landbouwbarometer-gemiddelde-prijs-van-een-vlaamse-landbouwgrond-in-de-lift-percelen-minder-groot-dan-in-2022

- Are there institutions/**bodies contributing to dynamize that market,** like forest land banks or advisory bodies (similar to the CAP advisory bodies) and others? Is there regular information on the amount of forest land transferred and the prices of transmissions? (Information on this market is usually missing)

The Flemish government provides information on the prices of land, including forest land[101]. Although there is no such body that dynamizes the market, Fednot, the Royal Federation of Belgian Notaries, provides information on forest market[102].

- Are there **regulations of forest land leasing**? Are they common with agricultural land or independent and with specific requirements?

The land leasing of forests is covered by the general land leasing rules in the Civil Code[103].

No further information was identified.

- Are there obligations **and or access to insurances for forest land or forest activities**?

There are no insurance obligations in place.

Notably, the family insurance, which normally almost every family has to cover injuries to third parties, applies also to forest they own.

The Nature and Forest Agency has taken out an insurance covering the civil liability of all Flemish forest managers in the event of damage to third parties as a result of making their land accessible, and which is not covered by the insurance of the forest owner itself. This insurance also covers private forest managers[104]. This insurance does not cover hunting accidents, motorcycle accidents, accidents in the context of races.

The Royal Belgian Forestry Society has an insurance policy for non-contractual civil liability for damage to third persons incurred in the context of forest management activities. Forest owners need to have membership to this insurance policy in order to be able to rely on this insurance. This insurance policy can be applicable on all forests regardless of the accessibility plan set in place[105].

A fire insurance for forests also exists[106].

- Are there specific regulations providing, **facilitating or limiting access to financial credits** for forest activities or mortgages on forest land?

No information could be identified.

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[101] Agentschap Landbouw & Zeevisserij, *Grondprijzen*, n.d.

[102] FEDNOT, *Home*, n.d.

[103] Vlaanderen, *Pacht*, n.d.

[104] Agentschap Natuur & Bos, *Verzekering burgerlijke aansprakelijkheid voor beheerders van bossen en natuurreservaten*, n.d.

[105] Jurgen Tack, *Is jouw bos goed verzekerd?,* De Landeigenaar in Vlaanderen, nr. 88, 2020/10, p. 29; Koninklijke Belgische Bosbouwmaatschappij, *Verzekeringen voor uw bos*, n.d.

[106] AMIFOR, *Bosbranden...het overkomt niet alleen andere mensen!*, n.d.

8. Forest companies, Forest incentives and taxation.

Forest Companies

- Is there a **register of forest industries**? Is there a **register of forest contractors**?

There is a list of recognised forest extractors of public forests, provided by the Agency of Nature and Forest. If an extractor makes legal mistakes, they will be extracted from the list. They can re-apply again after a few years[107]. The Belgian wood federation keeps a list on companies that work on forest harvesting: https://www.houtconfederatie.be/sectoren/bosuitbating/ .

- Is there any specific **regulation on forest ownership, forest cooperatives or other types of forest companies or are they all regulated under the** Company Law?

Forest cooperations or companies adhere to the general framework set out under the Company Code[108].

One specific kind of company applicable in forest policy are the 'forest grouping companies' (*bosgroeperingsvenootschappen*) according to article 8:1 of the Company Code. These are companies whose only object is forestry on its own forestland. It is a small-scale joint management initiative with tax benefits and therefore mostly intended for economic forest management. It is unclear if this company form is often used in practice[109].

- Do **small forest owners have access to the status of forest companies**?

Yes, the status of forest company is not limited to the size of the forest. However, to receive the recognition as a forest grouping company, the company must be owned by at least two forest owners who are in possession of 5ha of forest in total[110].

- Are there **effective subsidies** for forest owners and managers to implement SFM? And/or to carry out biodiversity conservation measures? If it does exist, please compare the total amount paid at national level in the last 3 years with available information with the amount defined as necessary at the Prioritised Actions Framework.

In addition to the aforementioned subsidies for afforestation and reforestation, subsidies are in place based on the nature targets that are set out in the nature management plans. The ambition of the management plan is based on the integrated nature targets, including sustainability criteria, as earlier discussed.

There is a basic subsidy for all type 2, 3 and 4 nature management plans, which stays in place for six years. Extra subsidies can be obtained for the improvement of vegetation, tree species and for the follow up of the indicators of nature targets and for so called unmanaged climax

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[107] Agentschap Natuur & Bos, *Erkenning van kopers en exploitanten van hout in openbare bossen*, n.d.

[108] LAW of 23 March 2019, Code on companies and associations (*WET van 23 maart 2019, Wetboek van vennootschappen en verenigingen*) (Company Code).

[109] Minaraad, *Studie betreffende de instrumetnen voor natuur-en bosbeleid in functie van instandhoudingsdoelstellingen*, p. 152, 24 January 2013.

[110] Art. 8:1 Company Code.

vegetation. Moreover, there is also a project subsidy that has the objective to stimulate better nature quality and strive towards the European nature goals[111].

There is no information accessible on the total amount of subsidies that were paid in this context.

- What taxes are applicable to forest companies and forest owners?

Company taxes and taxation on profit are applicable to forest companies. For forest owners who are natural persons, personal income taxes must be paid. However, the revenue of timer sales is not subject to this tax[112]. It must be noted that taxes related to economic activities are competences of the federal level.

(Taxes earlier discussed, such as succession taxes, immovable property taxes, etc. are not discussed under this question.)

[111] Agentschap Natuur & Bos, *Subsidies natuurbeheerplan*, n.d.

[112] Landelijk Vlaanderen, *Fiscaliteit*, n.d.

9. Enforcement: Forest control and penalties.

- Are there specific measures in place to enforce compliance with the legal requirements on forest management?

  Please list only the legislative measures including the responsible body that are specific to forest management requirements.

The monitoring and evaluation of the nature management plans is done by the Nature and Forest Agency every six years[113]. This is based on article 50undecies of the Nature Decree.

There are nature inspectors who control if environmental legislation is enforced properly, as set out in the Nature Decree, the Forest Decree, the Hunting Decree and other related legislation. An offence can lead fines for environmental infringements or to an environmental crime under criminal law, as set out under article 58 Nature Decree and the Environmental Enforcement Decree[114].

In addition, the environment inspection service is also in competent for enforcing legislation on soil and groundwater pollution, surface water pollution, illegal drilling or groundwater extraction, illegal storage or disposal of waste, environmental safety risks and non-compliance with permit conditions[115].

[113] Agentschap Natuur & bos, *Natuurbeheerplan opvolgen: monitoring en evaluatie*, n.d.

[114] DECREE of 5 April 1995 on general affairs regarding environmental policy (*DECREET van 5 april 1995 houdende algemene bepalingen inzake milieubeleid*); Agentschap Natuur & Bos, *Natuurinspectie*, n.d.

[115] Vlaanderen, *Bevoegdheden omgevingsinspectie*, n.d.

10. Conclusions

10.1. Legal or regulatory barriers for SFM

- The main legal and regulatory **barriers and enablers** affecting the implementation of SFM and a closer-to-nature approach in your country?

Barriers

Forests in Flanders are highly fragmented. **The physical fragmentation of forests** can lead to a lesser quality of forests, because not many forest grounds are connected. Moreover, the forest compensation legislation is leading to even further fragmentation and lesser quality of replanted forests, as ecologically valuable forests are still being felled and compensated by newly planted forest that is often scattered over smaller plots.

Secondly, **zoning laws** in the Flemish Region make a sustainable approach regarding forestry difficult. Deforestation is prohibited, but forests located on zones with other destinations are not protected. Moreover, changing the nature of a plot in an industrial zone or residential zone to a green zone needs to be financially compensated by the municipality, making it very expensive to create more green zones.

Fragmentation in ownership of forests is also very prevalent in the Flemish Region. Many forests are small, which makes it less attractive to their forest owners to implement a nature management plan for example. In addition, **the administrative burdens** remain high. Forest owners can opt for nature management plans, but these are burdensome to develop. However, these plans are necessary to receive certain permits or subsidies. Many different subsidy schemes exist, and different types of permits can be required, creating a high administrative threshold for forest owners and managers. This way *forest owners cannot see the trees through the forest anymore* – as the Flemish expression goes.

Another legal barrier affecting a sustainable approach, is that **sustainable forest management** is not defined by law, which makes it unclear how this can be properly implemented by forest managers. Moreover, there is no obligation to manage a forest sustainability. On the other hand, a minimum level of sustainability needs to be set out in the management plan in order to receive certain subsidies.

A consulted forestry association added that although the Flemish framework for nature management plans was intended to simplify forest management procedures, several practical barriers remain. Because management plans fall under nature conservation legislation, they tend to focus primarily on ecological objectives, with limited attention to the economic aspects of sustainable forest management. The preparation of such plans also requires considerable technical expertise, which effectively restricts their preparation to professional consultants. Furthermore, subsidies available to small forest owners – particularly those managing mixed-species forests – are often insufficient to offset rising management costs, which can discourage active management and investment in closer-to-nature practices.

In the Flemish legislation, there are not many prohibitions when it comes to forest activities. As long as the Nature and Forest Agency approves the activities in **the nature management plan**,

the activities are allowed. It must be noted that there is not a lot of information on the substantive approval process by the Nature and Forest Agency. Checking compliance of the nature management plan and the Forest and Nature Decrees is difficult as well due to the high number of small private forests.

Although the intention was to simplify the new management plans, government has created barriers by setting many requirements for forest management plans, needing professionals to work out these plans in order to obtain the subsidies connected to it. Especially for small forest owners these high requirements are a barrier due to the rising cost of managing their forests. In addition, these management plans lack economic aspects since they are subject to nature legislation (for example, excluding agricultural purposes of forestry).

Finally, two consulted forestry associations affirm that laws and administrative requirements are "complicated", and that the conversion from EU laws into regional frameworks can often be complex and lengthy.

Enablers

The Forest Groups have a central role in private forest ownership. It is the objective of the Forest Groups to make forest management more sustainable by providing support to private forest owners. Crucial support is provided by informing and educating forest owners and managers, by giving them advice on nature management plans for example. Moreover, they make sure that forest owners can access the wood trading market more strongly, by providing joint wood sales. As an intermediary between private forest owners and the government, the Forest Groups play an important role in creating trust in the government for the forest owners. Another positive impact this organisation has, is that it can connect forest owners in the same region in order to work together.

In **summary**, while legal, administrative, and structural barriers hinder the implementation of SFM, Forest Groups provide crucial support for private forest owners, enabling them to adopt more sustainable practices and fostering cooperation in forest management.

- The main legal and regulatory **barriers and drivers** affecting the implementation of a closer-to-nature approach in your country?

The **Belgian federal structure** is a regulatory barrier for the implementation of a closer-to-nature approach. Although the competences on forestry are clearly in the hands of the regions, this becomes more complex when trying to approach forestry more holistically. Competences regarding biodiversity or the forest economy are divided between the federal and regional level, for example. Also, local authorities play an important role in forest management.

In the Flemish Region, **a long-term holistic strategy** implementing a closer-to-nature approach is missing. Although, a strategy for forest expansion is in place, no overarching strategy has been adopted that sets out long-term policy lines that looks at all functions of forests and at how forest policies can be improved by including other policy areas as well, such as measures on climate change for example.

However, there are legal drivers supporting a closer-to-nature approach are present in Flemish legislation. Indeed, the legislator integrated forest laws into broader regulations on nature in general. **The Nature Decree** takes into consideration all functions of nature. It is positive that the Forest Decree remains applicable for aspects that are specific to forestry. In the definition of forests, the different functions are also reflected. In addition, in the Nature Decree nature management plans are categorised based on their level of ambition, based on the **nature targets**. And these nature targets are defined by integrated nature criteria, which do integrate a closer-to-nature approach.

10.2. Legal or regulatory gaps in national forest legislation

Please provide key conclusions based on the information referred to in previous sections.

Forest fragmentation and zoning issues: The main problem that the Flemish Region is facing regarding its forests, is the high fragmentation of forests and its owners. Because there is no clear registration of all actual forests or an overview for how many forests a nature management plan is in place, more transparency is required to have a complete view on forest management in the Flemish Region.

Creating more forests, connecting forests and ensuring good quality forests are prerequisites for more sustainable development of the Flemish forests. The government has the ambition to create 10 000 ha extra forest by 2050. However, the existing zoning regulations in the Flemish Region are counterproductive in this regard. Moreover, the forest compensation scheme possibly undermines the quality of the Flemish forests.

Sustainable forest management and implementation: Sustainability is not defined in the Forest Decree, nor in the Nature Decree. By integrating forestry regulations into broader nature regulation, the legislator strives towards a more integrated nature approach overall, considering all functions of nature. This is also reflected in the definition of 'forest' in the Forest Decree. Sustainable forest management is not defined by law either. Moreover, there is no obligation to manage a forest sustainability.

Notably, not many prohibitions are provided by the law, as almost every forest activity can be included in the nature management plan. Imposing more clear obligations regarding sustainable forest management could improve compliance with regional forest legislation. It should be noted that there is not a lot of recent research available on Flemish forest policy and law, and on the compliance and implementation the policies.

A long-term strategy on sustainable forest management which takes into account other policy areas is missing in the Flemish Region. The Flemish Government did however develop a forest expansion plan together with social partners. This is an example of the cooperative policy approach that the Flemish government has adopted in the forestry sector.

Nature management plans and administrative burdens: Nature management plans are not obligatory. These plans can be seen as a contract between a forest owner and the government – the forest owner has the obligation to develop a nature development plan and in return the government provides subsidies, tax exemptions and eases the rules on the acquisition of permits. However, the administrative burdens remain high for forest owners, definitely for small forest

owners. The nature management plans are very comprehensive, and many different schemes exist for subsidies and tax exemptions.

Cooperation and Forest Groups: The Forest Groups are an important player in the forest sector in the Flemish Region. They provide support and advice to forest owners, it plays an intermediary role between forest owners and the government, and it connects forest owners. The cooperative policy style is reflected in the creation and stimulation of Forest Groups by the Flemish government in cooperation with local governments and civil society actors[116]. The Forest Groups play a central role in combating the fragmentation of forests in Flanders and are a key player in making forest management more sustainable.

[116] Van Gossum, P, Arts, B., De Wulf, R. & Verheyen, K., *An institutional evaluation of sustainable forest management in Flanders*, Land Use Policy, Vol. 28, Issue 1, January 2011, 120. https://doi.org/10.1016/j.landusepol.2010.05.005

National experts on forest legislation and references

- **Please provide the names and contacts of 3 to 5 experts in forest legislation in your country**,
- Laure De Vroey (managing director at Bos+)
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    - Geert Van Hoorick (professor in environmental and administrative law at UGent)
    - Geert.VanHoorick@UGent.be
        - Valérie Vandenabeele (director Landelijk Vlaanderen):
            - info@landelijk.vlaanderen
    - Peter Van Gossum (Institute for Nature and Forest Research)
    - peter.vangossum@inbo.be
- Provide **key books or articles analysing the national and/or regional forest legislation** in your country, particularly if they compare it with other countries, if they analyse the effect in actual management of SFM.
    - Van Hoorick, G., *Boswetgeving en privé-bos in het Vlaamse Gewest*, Rechtskundig Weekblad, 1996, 27 pages. https://core.ac.uk/download/pdf/55683362.pdf
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  (It must be noted that not many articles or books have been published on forest regulation after legislative changes in the Nature and Forest Decrees in 2017)

PARTNERS



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