

Disconnections in the Brussels-Capital Region: Targeted social support over prepayment meters and power limiters

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Energy disconnections due to a person's inability to pay threaten their human right to energy and should be prohibited at EU level, favouring instead mechanisms centred on targeted support to those at risk of being cut off. Alternative measures such as prepayment meters or power limiters are not adequate solutions: they stigmatise people in need, worsen their difficult situation and do not ultimately solve the core issue at stake.

38 > Special thanks to my colleagues Véronique van der Plancke and Marie Hanse for their precious input and to social actors in the Brussels-Capital Region whose tireless work over the years led to a region-wide ban on water disconnections due to a person's inability to pay.

39 > See Marlies Hesselman's contribution to this volume. See also Hesselman, Varo, Guyet, Thomson, 'Energy Poverty in the COVID-Era: Mapping Global Responses to the Pandemic in Light of Momentum on the Universal Right to Energy', *Energy Research and Social Sciences* 18 (2021) ([open access](#)). With regard to EU law, the European Economic and Social Committee considered in 2013 that energy is "an essential common good, so that everyone can lead a decent life" and proposed that a "universal right of access to energy" be enshrined in the EU Treaties (Opinion on "For coordinated European measures to prevent and combat energy poverty, 2013/C 341/05). Article 28 of Directive (EU) 2019/944 of the European Parliament and of the Council of 5 June 2019 on common rules for the internal

Energy (and water) disconnections due to a person's inability to pay are incompatible with international and European human rights law.³⁹ They are inhuman and needlessly punitive and they should be rejected as a purported solution to issues related to the affordability of energy services. Any viable solutions to the difficulties experienced by people in need should come from targeted state support and social services' involvement, rather than technical solutions like prepayment meters or power limiters that are not fit for purpose. In this article, we set out our experience within the Brussels-Capital region and explain the various mechanisms seeking to prevent disconnections there.

Protection against disconnections in the Brussels-Capital Region

It should be noted as a preliminary point that regulations surrounding social protection with regard to the access to energy and water, and therefore policies around disconnections, are a regional competence in Belgium. This means that each one of the three Belgian regions (the Brussels-Capital Region, Wallonia and Flanders)

has very different approaches and procedures in place to address this subject-matter.

Energy disconnections are allowed in the Brussels-Capital Region, but they are subject to a restrictive and protective regulation whose three main pillars are judicial authorisation, the "winter truce" and the so-called "protected client status":

– **Judicial authorisation.** Disconnections due to a residential customer's inability to pay must be authorised by a judge, who verifies that the strict procedure set out by law has been followed by the supplier and the distribution system operator (DSO) and that the disconnection is not abusive. This procedure includes various forms of notification to the household, as well as a notification to the public social services centre (*centre public d'action social*, CPAS).

Despite this protective regulation, we still encounter numerous cases where households are cut off without their being informed, often because they have not received the required notifications and have not had the opportunity of being present at the judicial hearing where the disconnection has been authorised. Moreover, a disconnection can still take place without judicial authorisation if no energy supply contract is active for a given supply point (end-of-contract procedure).

– **The winter truce.** No disconnections of residential customers are allowed between 1 October and 31 March. The household will instead be supplied by the DSO (acting as a social supplier) at the social tariff rate until 31 March.⁴⁰ After this date, they will be given the opportunity to conclude a new contract and/or to apply for other financial and non-financial aid mechanisms.

The downside of this winter truce is the

market for electricity and amending Directive 2012/27/EU (recast) states that “Member States shall take appropriate measures to protect customers and shall ensure, in particular, that there are adequate safeguards to protect vulnerable customers. In this context, each Member State shall define the concept of vulnerable customers which may refer to energy poverty and, inter alia, to the prohibition of disconnection of electricity to such customers in critical times.”

40 ▶ The social tariff rate is fixed by the Belgian federal regulator. At the time of writing (January 2023), the social tariff for electricity represents about half of the average commercial rate, while the social tariff for gas equals 20% of the average commercial rate.

41 ▶ The Federation of Social Services (FdSS) is a member of RWADE. The podcast series is available here: www.rwade.be/ressources/?090dceb-category=podcast

wave of disconnections that takes place every year from April onwards, especially when households have not fully understood that they must take action to avoid a disconnection. Moreover, disconnections are still allowed the rest of the year, including during the summer, when recent heatwaves have shown the importance of being able to cool the home.

— **The protected client status.** This status allows for a household to be supplied by the DSO (acting as a social supplier) at the social tariff rate while it reimburses its outstanding debt with a commercial supplier. Disconnection is not allowed as long as the household benefits from this status. The protected client status lasts for 5 years, but it can terminate earlier if the debt is fully reimbursed, if the reimbursement plan is not complied with or if the other conditions are no longer met. These conditions are, in a nutshell: to be declared vulnerable following an enquiry of the public social services centre or to participate in a debt management or restructuring procedure or to have income below a certain threshold (in practice 70% of the population satisfy this last criteria).

Despite this protective measure, the rate of non-take-up is extremely high: according to the regional energy regulator, there are slightly over 3,000 protected clients for electricity and slightly over 2,000 protected clients for gas in the Brussels-Capital Region, which has a population of over 1.2 million.

The false solutions: prepayment meters and power limiters

Prepayment meters and power-limiting devices are not used in the Brussels-Capital Region. Prepayment meters were never authorised, unlike in the other two Belgian regions, as they are regarded as punitive devices leading to self-disconnections and structural underconsumption when compared to actual household needs. The devastating effects of prepayment meters for households in Wallonia have been recently documented in a series of podcasts created by the Walloon Network for Sustainable Access to Energy (*Réseau wallon pour l'accès durable à l'énergie*, RWADE).⁴¹

Power-limiting devices could be installed in the Brussels-Capital Region until April 2022. These limiters could be placed by the DSO as part of the disconnection procedure launched by a supplier if certain conditions were met. They limited power to the household to 2,300 watts, although the public social services centre could demand, after conducting a social enquiry, that this limit go up to 4,600 watts.

Power limiters were punitive devices, that did not allow to use multiple household appliances at the same time and that required significant changes to daily routines. For example, these limiters would not allow any appliances to be plugged in at the same time as a fridge, a TV and a cooking plate. Moreover, they did not reduce consumption: the household would still consume the same amount of electricity and it would develop strategies to bypass the power limiter, notably by using appliances subsequently rather than simultaneously. This meant in turn that no additional disposable income was available for households to try to limit their indebtedness, defeating the intended purpose of these devices and needlessly compounding the suffering experienced by people in this situation.

A legal reform in early 2022 thus prohibited the installation of any new power limiters and compelled the DSO to remove all power limiters that were already installed in the region. This is now replaced by an obligation for the DSO to contact the household to explain the consequences of non-payment and the social protection measures that exist (including the protected client status). The DSO must also communicate the contact information of the public social services centre and other associations that can help the household to conclude a new supply contract.

Towards a ban on disconnections

A parallel can be drawn with the right to water: Since 1 January 2022, water disconnections due to a person's inability to pay are prohibited in the Brussels-Capital Region. The alternative to disconnections proposed by the legislator was the creation of a taskforce led by the public social services centre in collaboration with local actors to support households who cannot afford their water bills. This taskforce should take a targeted approach to each household and make sure that they benefit from the existing social protection measures while addressing any outstanding issues.

In summary, disconnections due to a person's inability to pay should be forbidden, as demanded by international and European human rights law. Neither prepayment meters nor power-limiting devices are valid solutions to prevent this. Alternatives to disconnection should be focused on targeted support to those at risk of being cut off, reinforcing social services to allow them to provide a personalised approach and help households in need without stigmatising them or worsening their predicament. It is time for the EU to take a stance and ban disconnections once and for all.