

E-Mobility | Possibility of ad hoc re-charging binding for charging points in Germany commissioned from December 2017

Through an amendment regulation dated 1 June 2017, the Federal Ministry of Economy and Energy (*Bundesministerium für Wirtschaft und Energie*) has implemented the requirement of Directive 2014/94/EU according to which operators of charging points shall, beside the so-called “contract-based recharging”, also offer *ad hoc* recharging without any authentication requirement. This obligation applies to charging points with a capacity of more than 3.7 kW and commissioning on or after 14 December 2017. Operators should adapt these regulations already now into their design of the future charging stations.

Up to now, predominantly "contract-based recharging"

Hitherto, the "Regulation on technical minimum requirements for the secure and interoperable installation and operation of publicly accessible charging points for electric vehicles" (*Ladesäulenverordnung*, "LSV") only contained standards for achieving technical interoperability through the use of the so-called "Mennekes-plug", leaving out the arrangement of contractual relations concerning the charging process. Therefore, operators of charging points mainly offer contract-based recharging,

where the user of the electrical vehicle must have previously entered into an electricity supply contract (cf. explanatory memorandum to the amendment regulation, *Bundesrat* publication 256/17, page 6). Electric vehicle users mostly enter into such contracts with the electricity supplier for their homes. Starting the recharging process requires an authentication at the charging point. Due to the different forms of authentication, a simple and nationwide use of publicly accessible charging points for electric vehicles is so far not possible.

Until now, the possibility of *ad hoc* recharging without previous authentication was only necessary for charging points supposed to receive financial support under the "Support Guideline Charging Infrastructure for

Electric Vehicles in Germany" dated 15 February 2017 (see our previous newsletter of February 2017: [E-Mobility | Charging Infrastructure](#) .

In the future also also *ad hoc* re-charging

Due to the change of the LSV, which became effective on 14 June 2017, operators of the charging points are in principle obliged to offer *ad hoc* recharging to electric vehicle users (section 4 LSV). Charging points with a maximum charging capacity of 3.7 kW (section 7 LSV) as well as charging points commissioned before 14 December 2017 (section 8 LSV) are exempted from this obligation.

Ad hoc recharging is defined as "charging of an electric vehicle which does not qualify as the performance of continuing obligations between the electric vehicle user and its electricity supplier or charging point operator" (section 2 no.13 LSV).

In accordance with section 4 LSV, operators of charging points comply with the obligation to enable *ad hoc* recharging by offering one of the following charging (and payment) models:

Model 1: Gratuitous recharging

Ad hoc recharging within the meaning of the LSV may be offered through enabling gratuitous recharging and parking without previous authentication (section 4 sentence 2 no.1 lit. a LSV).

Model 2: Cash payment close to charging point

In the event of non-gratuitous recharging and parking, *ad hoc* recharging within the meaning of the LSV may be effected through cash payment without any authentication requirement (section 4 sentence 2 no. 1 lit. b LSV). Such cash payment

does not necessarily have to be offered at the charging point itself, but only within direct proximity. According to the explanatory memorandum to the amendment regulation, this requirement may be fulfilled by an easily accessible box office that accepts cash payment, usually located on the same site, for example at a petrol station or a parking lot (cf. *Bundesrat* publication 256/17, page 6).

Model 3: Payment by an established card payment system

Another option for *ad hoc* payment in accordance with the LSV is to offer a cash-free payment based on an established card payment system in direct proximity of the charging point (section 4 sentence 2 no. 2 alternative 1 LSV). Such card payment systems must be in common use and easily accessible with reasonable efforts (cf. *Bundesrat* publication 256/17, page 7).

Model 4: Payment by an established web-based system

Finally, an *ad hoc* payment may be

offered through an established web-based payment system, i.e. a website or app (section 4 sentence 2 no. 2 alternative 2 LSV). If such payment is offered only by app, at least one app must be made available free of charge.

The German Energy & Infrastructure Team is at your disposal for more detailed explanations.

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