

## POWER PRODUCTION REGIMES IN MALI

### *Executive summary*

***Electricity sector in Mali is governed by the Order N. 00-019/P-RM dated March 15, 2000 and its implementing Decree N. 00-184/P-RM dated April 14, 2000.***

***The Malian law leaves the possibility for IPP to produce electricity through power concession or self-energy production.***

### *Reform of the legal framework*

The electricity sector in Mali was significantly reformed in 2000 and is now governed by the Order N. 00-019/P-RM dated March 15, 2000 (hereinafter the “*Order 2000*”) and its implementing Decree N. 00-184/P-RM dated April 14, 2000. Through this Order 2000, the Government of Mali has expressed the wish to liberalise the electricity market.

Basically, the power production, transportation and distribution are public services managed by the State. Malian State is nonetheless entitled to grant concession of these services to private entities.

*Energie du Mali*, a mainly State owned private company, is the concessionaire of part of the power production in Mali, national grid and the distribution network. *Energie du Mali* is also off-taker of the energy injected in the national grid.

In parallel, the Malian State granted concession for independent power production. The granting of concession as well as the concession to the grid or the tariff fixing are under the control of the Water and Power Regulatory Commission (hereinafter the “*CREE*”)<sup>1</sup>.

Other entities can play a role in the development of energy production in Mali such as the Malian Renewable Energy Agency, in charge inter alia of determining the national strategy in terms of development of the renewable energy<sup>2</sup> or the Malian Agency for the Development of Domestic Energy and Rural Electrification<sup>3</sup>.

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<sup>1</sup> *Commission de Régulation de l'Electricité et de l'Eau – CREE*. The CREE was created by the order N. 00-021/P-RM dated March 15, 2000.

<sup>2</sup> Order N. 2014-12 dated October 1<sup>st</sup>, 2014, *creating Agence des Energies Renouvelables du Mali*.

<sup>3</sup> *Agence Malienne pour le développement de l'énergie Domestique et de l'Electrification Rurale – AMADER*.

### **Authorisation and Concession regimes**

Following the Order 2000, the production of electricity is ensured through either a concession or an authorisation, granted by the Ministry of Energy.

Below 250kW rated capacity, power production is submitted to an authorisation<sup>4</sup>. Such authorisation is granted by decision of the Ministry of Energy, taken on the basis of certain criteria such as the candidate's ability to respect its obligations and to develop the delegated service, to comply with security and environmental protection requirements, etc<sup>5</sup>. Ministry of Energy's decision may be taken after the consultation of local representatives in whose territories the project will be carried out<sup>6</sup>.

Above said 250kW rated capacity production is subject to the concession regime. For such project, the Ministry of Energy will issue a tender according to the terms and conditions set out by the Regulation Commission. The Ministry will then award the concession after receiving the assent of the CREE<sup>7</sup>.

A concession comes into force after being approved by decree of the Minister's Council<sup>8</sup>. Section 18 of the Order 2000 sets out the principal terms and conditions of the agreement<sup>9</sup>, namely its subject, term, scope of territory. The concession shall also provide information regarding the conditions for land use, rights and obligations of the parties, tariff conditions, operation and maintenance obligations for power plants, sanction for breach, litigation, etc<sup>10</sup>.

The concession provides moreover the security and property rights to the concessionaire<sup>11</sup>, thus facilitating future credit facilities (mortgage, pledge agreement<sup>12</sup>, etc). Further, the concession gives the right for the concessionaire to enforce vis à vis third parties any easement for the realisation of the project.

Both authorisation and concession are not tacitly renewed. At the term of the authorisation or the concession, a new one shall be delivered<sup>13</sup>.

### **Power purchase agreements**

In the event that the power plant is connected to the grid, concessionaires have to conclude a power purchase agreement with *Energie du Mali*.

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<sup>4</sup> Article 15 of the Order N. 00-019/P-RM dated March 15, 2000.

<sup>5</sup> Article 3 of the Decree N. 00-184/P-RM dated April 14, 2000.

<sup>6</sup> Article 15 of the Order N. 00-019/P-RM dated March 15, 2000.

<sup>7</sup> Article 9 of the Decree N. 00-184/P-RM dated April 14, 2000.

<sup>8</sup> Article 17 of the Order N. 00-019/P-RM dated March 15, 2000.

<sup>9</sup> Such as the scope of the concession, financial aspects, rights and obligations of the concessionaire, acquisition rights, prices conditions, securities, etc.

<sup>10</sup> Article 18 of the Order N. 00-019/P-RM dated March 15, 2000.

<sup>11</sup> Article 30 of the Order N. 00-019/P-RM dated March 15, 2000.

<sup>12</sup> Article 31 of the Order N. 00-019/P-RM dated March 15, 2000.

<sup>13</sup> Article 27 of the Order N. 00-019/P-RM dated March 15, 2000.

There is no standard form of power purchase agreement. However, power purchase agreement to be signed shall be submitted beforehand to the CREE, which will issue indicative recommendations<sup>14</sup>.

The tariff shall be the one mentioned in the concession for the power production.

***Self-production regime***

Operators are entitled to produce electricity only for their own use<sup>15</sup>. In this respect, the operator shall either submit a declaration or obtain an authorisation, depending on the rated capacity of the power plant. Below 250kW rated capacity, the submission of a declaration is required. Above the 250kW rated capacity, the operators shall obtain an authorisation, granted by the Ministry of Energy.

Term of the granted authorisation varies according to the self-production needs and may be renewable.

The self-producer is entitled to sell the excess of its power to a production, distribution or transport concessionaire, provided that more than 50% of the annually produced electricity is consumed for its own needs. Where the public service failed in the related area and provided that 70% of annually produced electricity is consumed for its own needs, the self-producer may sell excess of its power to the close users. In such a case, the self-producer, depending of the rated capacity used to the electricity supply for the public, shall obtain either an authorisation or a concession for public distribution.

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<sup>14</sup> Chapter II of the Order N. 00-021/ P-RM dated March 15, 2000.

<sup>15</sup> Article 13 of the Order N. 00-019/P-RM dated March 15, 2000.