

Law n° 2015-12 dated 11 May 2015 relating to the electricity generation from renewable energies (1).

In the name of the People,

The People's Representatives Assembly having adopted,

Having regard to the decision of the provisional authority of control of constitutionality of draft laws dated 27 April 2015,

The President of the Republic enacts the following law:

Chapter one

General provisions

Article one - The present law aims at defining the legal mode relating to the realization of the projects of production of electricity starting from renewable sources of energy, that is to say for subsistence farming or to meet the needs of local consumption or for export, and this, notwithstanding the provisions of the decree-law n° 62-8 dated 3 April 1962 relating to the creation and the organization of the Tunisian Company of electricity and gas, ratified by the law n° 62-16 dated 24 May 1962.

The law herein, has as objective to define the legal mode governing the installations, the equipments, the real goods and the materials necessary to ensure the electricity generations from renewable energies and the transport of this one.

Art. 2 - Within the meaning of the law herein, the following words mean:

- **Electricity generation from renewable energies** : all operations aiming at producing electric power starting from any other the solar renewable source or organic gas, geothermic, biomass, wind power, energy transformation,

- **Producer of electricity starting from renewable energies**: any person is authorized to carry out and exploit a manufacturing unit of electricity starting from renewable energies in accordance with the provisions of this law and its texts of application.

- **Company of project**: the company created by the producer of electricity for the realization, the operation and the exploitation of the manufacturing unit of electricity starting from renewable energies in accordance with the provisions of this law.

(1) Preparatory works:

Discussion and adoption by the People's Representatives Assembly held on 15 April 2015.

Discussion and adoption by the National Constituent Assembly during its session held on 18 September 2014.

- **The public organization**: the Tunisian company of electricity and gas created under the terms of the decree-law n° 62-8 dated 3 April 1962, ratified by the law n° 62-16 dated 24 May 1962.

- **The national electrical supply network** : the network exploited by the public organization, intended for the transport and the distribution of the electric power and all its accessories with knowing the equipment and the materials.

- **Manufacturing unit of electricity starting from renewable energies**: installations, buildings, equipment and accessories intended for the production of electrical energy starting from renewable sources of energy.

- **Site of production**: installation and the exploitation site of a manufacturing unit of electricity from renewable energies.

- **The hot line of electricity transmission**: the power line carried out by a producer of electricity from renewable energies, for the connection of the manufacturing unit to the network established out of the Tunisian territory which is considered to belong to the national electrical supply network.

- **Technical commission of private production independent of electricity starting from renewable energies**: The commission created under the terms of article 29 of this law, quoted hereafter " technical commission ".

- **Higher commission of private production of electricity**: charged commission, in accordance with the legislation in force, to examine all the projects of private production of electricity.

Chapter II

National plan of the electricity generation from renewable energies

Art. 3 - The Ministry in charge of energy, works out after consultation of the national Council of energy, a national plan of the electricity generation from renewable energies which fixes the programs of electricity generations from renewable energies according to national requirements' in electric power while holding account for the capacity for absorption for the national electrical supply network.

The national plan also determines the reserves of energy and the zones of reserve of storage of energy which are exploited within the framework of contracts of concession of electricity generations from renewable energies through an invitation to tender in accordance with the legislation in force.

Moreover, the national plan determines obligatorily the minimum rate of industrial integration of the registered projects.

The energy plan includes an inventory of the zones which suffer from a deficit as regards capacity of integration of the network and in which can be established power stations intended for the projects of renewable energy, and fixes a program of development of these zones.

Art. 4 - The national plan of the electric power is approved by governmental decree on a proposal from the Minister in charge of energy after opinion of the Ministers in charge with finance, defense, state properties, agriculture, environment, equipment and the local communities.

Chapter III

Achievement of projects of electricity generations from renewable energies

Art. 5 - The projects of electricity generations from renewable energies are carried out within the framework of the needs and the means determined by the national plan of the electric power produced from renewable energies and this:

- Either at ends of subsistence farming,
- Or in order to sell it, entirely and exclusively, at the public organization which begins to buy it,
- Or in order to export it.

The producer of electricity starting from renewable energies must, in the cases envisaged with the second and third indents of this article, to form a «Company of project » in accordance with the legislation in force in the form of a limited company or of a limited liability company whose object is limited to the electricity generations from renewable energies .

Art. 6 - The manufacturing unit of electricity starting from renewable energies is connected to the national electrical supply network by only one point of connection.

The producer of electricity starting from renewable energies can install, for export, a hot line of electricity transmission in accordance with the provisions of this law.

Art. 7 - The technical conditions relating to the connection of the manufacturing unit of electricity starting from renewable energies with the national electrical supply network and the evacuation of the electric power, are fixed by a schedule of conditions approved by an order of the Minister in charge of energy.

Art. 8 - The producer of electricity starting from renewable energies deals with all the expenditure relating to the connection of the manufacturing unit to the national electrical supply network, as well as the expenses of reinforcement of the national electrical supply network if that is made necessary for the operation of evacuation of the electric power which it produces.

Section first - production of electricity for self-consumption

Art. 9 - Any local community or public establishment or private operative in the sectors of industry, agriculture or the tertiary sector can produce electricity from renewable energies on a purely individual basis at ends of subsistence farming. These organizations profit from the right to transport the electricity produced through the national electrical supply network towards the centers of

consumption, and from the right to exclusively sell the surpluses at the public organization within the limits of a maximum rate, and this, within the framework of a standard contract approved by the Minister in charge of energy.

Transport conditions of electricity, of sale of the surpluses, as well as the limiting values of the sale of the surpluses are fixed by governmental decree.

Art. 10 - The projects of electricity generations from renewable energies, referred to by article 9 of this law, connected to the national electrical supply network are approved by an order of the Minister in charge of energy on assent of the technical commission.

The order is published in the Official Gazette of the Republic of Tunisia.

It is proceeded to the sale of the surpluses of electricity produced from the renewable energies, referred to by article 9 of this law, by a contract concluded between the producer from electricity and the public organization and must obligatorily be submitted to the special subcommittee to the assembly of the People's Representatives Assembly.

Art. 11 - Any producer of electricity starting from renewable energies at ends of subsistence farming, connected to the national electrical supply network in low tension, profits from the right to exclusively sell the surpluses of electricity at the public organization, which begins to buy it in accordance with a standard contract approved by the Minister in charge of energy and published to the Official Gazette of the Republic of Tunisia.

The conditions of sale of the surpluses are fixed by governmental decree.

Section 2 - Electricity generations from renewable energies to satisfy the needs for local consumption

Art. 12 - The electricity generation from renewable energies to meet the needs for local consumption is subjected to an authorization delivered by the Minister in charge of energy on opinion of the technical commission, and this, within the limit of a maximum electric output installed fixed by governmental decree.

The contracts of production and sale of the electricity produced from renewable energies to meet the needs for local consumption are submitted to the special subcommittee in the People's Representatives Assembly, accompanied by a copy of the final authorization, agreement in principle and official report.

The granting of the authorizations intervenes after the publication of an annual opinion fixing the national requirements in renewable energies, emanating from the Minister in charge of energy.

Art. 13 - The projects of electricity generation from renewable energies to satisfy the needs for local consumption, which exceed the maximum electric output installed referred to by article 12 of this law, are carried out in accordance with the principles of competition, of the transparency and equal opportunity in accordance with the legislation in force as regards attribution of the concessions by the State.

The contracts of investment y related are submitted to the special subcommittee at the People's Representatives

Assembly. The conventions concluded with regard to these contracts are submitted to the assembly for approval.

Art. 14 - The Minister in charge of energy gives an agreement in principle, on opinion of the technical commission, allowing the applicant of the authorization to achieve the procedures of creation of a company of project and the realization of a manufacturing unit of electricity from renewable energies.

If the project is built on pieces of the field of the State or local communities, the file is obligatorily submitted to the manager of the interested field for opinion, and this, after of the technical commission makes sure of the serious character of the project.

The methods of application relating to the authorization for the realization of a unit of electricity generation starting from renewable energies and the deadlines to answer it are laid down by governmental decree.

The procedures governing the relations between the investor and the administration, including the public organization, are also fixed by governmental decree.

Art. 15 - No request can be presented for obtaining a new agreement in principle at the title of the same source of renewable energy, in case where the realization of the generation unit, object of the preceding agreement in principle, was not completed and was put in exploitation.

Art. 16 - Prior agreement is considered null, in the event of non-achievement of the unit of electricity generation from renewable energies, within the time allowed by the governmental decree mentioned at article 17 of this law.

Art. 17 - The Minister in charge of energy grants to the company of the project an authorization to exploit a unit of electricity generation from renewable energies, after the realization of the necessary tests by the public organization and the signature of an official report of report of conformity of the manufacturing unit in particular for the licensing requirements and the provisions of the schedule of conditions mentioned in article 7 of this law.

The company of project can dispute the minute of the report near the technical commission.

Are fixed by governmental decree, the conditions and the procedures of granting the agreement in principle and the authorization, the fixing of their duration and the conditions of extension, as well as average the techniques and financial having to be available for obtaining the agreement in principle and the authorization.

Art. 18 - The authorization can be withdrawn by the Minister in charge of energy, after opinion of the technical commission, in case where the manufacturing unit of electricity starting from renewable energies ceases any activity during one year, for reasons which are not technically or financially justified, or following the incapacity of the company to continue the exploitation.

Art. 19 - The authorization is granted to the Company of project to registered security and does not confer to its recipient any exclusive right.

The transfer of the authorization, the transfer of the manufacturing unit, the participation with the manufacturing unit in another company or the change of the

composition of the capital of the company of the project can be done only after agreement of the Minister in charge of energy on opinion of the technical commission.

Art. 20 - The granting of an authorization within the meaning of the present law does not exempt obtaining the necessary authorizations in accordance with the legislation in force.

Art. 21 - Is subjected to an authorization delivered in accordance with the provisions of this section, the increase in the capacity of the manufacturing unit of electricity starting from renewable energies without going beyond of the maximum electric output mentioned in article 12 of this law, or the modification of the source of renewable energy used for the production of electricity.

Art. 22 - The producer of electricity from renewable energies sells electricity produced exclusively and entirely at the public organization which begins to buy it, and this, within the framework of a sale contract concluded between the two parts in accordance with a standard contract approved by an order from the Minister in charge of energy, in particular determining the technical and commercial conditions relating to the purchase of the electricity produced from renewable energies.

The purchase prices are periodically fixed and revised each time that it is considered to be necessary, by an order of the Minister in charge of energy.

Art. 23 - The projects of electricity generation from renewable energies envisaged by the present section, are carried out on buildings belonging to private owners, and if necessary, an authorization can be granted for their realization on parts belonging to the State Properties or the local communities in case where the opportunity of the realization of the project is proven, have regard to the national strategy fixed by the national plan of electricity generation from renewable energies.

Section 3 - Electricity generations from renewable energies for export

Art. 24 - The projects of electricity generation from renewable energies for export are carried out within the framework of contracts of concession while taking account of the national requirements in renewable energy. These contracts of concession are concluded in accordance with the principles from competition, of the transparency and equal opportunity in accordance with the legislation in force as regards granting of concessions by the State.

Art. 25 - The technical commission examines the schedule of conditions and the offers relating to the realization of the projects of electricity generation from renewable energies for export. The commission checks economic and technical opportunity of the projects and makes sure that the tenderers have financial and technical means and of the banking guarantees.

The technical commission submits to the commission higher private production of electricity the final results of the examination of the offers and its proposals. In case where the higher commission of private production of electricity gives its agreement, a contract of concession is concluded between the State represented by the Minister in charge of energy and the company of project.

In case where the project is carried out on parts of the State properties , the Minister in charge of State properties or the elected Minister must have left to the contract.

The contract of concession is approved by law.

Art. 26 - The contract of concession must conclude the following mentions in particular:

- The nature and contents of work considered,
- Duration of the concession and methods of its entry into force, its end, its cancellation and, if necessary, the conditions of its extension,
- The revision or the control which can exert conceding it on the dealer and information having to be the subject of declaration,
- Conditions of transfer of the shareholders of their actions or shares in the company of project, if necessary,
- General standards of the equipment and materials of the project,
- Its operations and conditions and completion dates of the project,
- Fate of the installations, buildings and materials at the end of the concession,
- Conditions of occupation of the affected ground to the project,
- The royalty returning to the State and methods of its actualization,
- The share expressed as a percentage returning to the State on the produced electricity intended for export,
- guaranteed minimum percentage of industrial integration,
- Technical and financial conditions of the realization and exploitation of the project,
- Cases of forfeiture other than those referred to by article 36 of this law,
- Methods of settlement of the disputes.

Art. 27 - In addition to the royalty for the granting of the concession or the constraint, the export of the electricity produced starting from renewable energies is subjugated with the obligation to provide to the State a share produced electricity intended for export.

The share of electricity returning to the State can be replaced by a counterpart in cash or a part in cash and a part in kind, and this, according to the agreement between the State and the dealer.

The contract of concession determines the royalty of granting the concession or the constraint and the share expressed as a percentage returning to the State.

Art. 28 - The electricity produced starting from renewable energies is exported through a hot line of electricity transmission or through the national electrical supply network if the technical capability of this network allows it, without compromising the objectives of the national plan of energy.

In case where the electricity produced from renewable energies is transported through the national electrical supply network, a contract fixing the technical, financial and commercial conditions in particular for the electricity

transmission is concluded between the company from project and the public organization.

In the event of realization of a hot line of electricity transmission, the dealer deals with all the expenses of his realization and his maintenance. The property of the aforementioned line is obligatorily transferred on a purely free basis at the public organization as of completion from its realization.

It is granted to the dealer, under the terms of a convention, a priority right to exploit the aforementioned line and to have which it.

Chapter IV

Technical commission of private electricity generation from renewable energies

Art. 29 - Is created, under the supervision of the Minister in charge of energy, a technical commission of private electricity generations from renewable energies , it is in particular charged with:

- To give an opinion on the requests for authorization of realization of projects of electricity generation from renewable energies, as well as the extension and the withdrawal of this authorization,
- To give an opinion on the granting of concessions of electricity generation from renewable energies,
- To give an opinion on the convention of concession before its approval,
- To check the appropriateness of the realization of the project on the parts of the field of the State,
- To examine any question this is subjected to him by the Minister in charge of energy and in charge of the achievement of the projects of electricity generation from renewable energies.

The composition and the operating modes of the commission are fixed by governmental decree.

Chapter V

Fate of the properties intended for electricity generation from renewable energies

Art. 30 - The producer of electricity from renewable energies proceeds, his expenses, the dismantling and the removal of the manufacturing unit of electricity renewable energies and the handing-over of the site of production in his state of origin at the end of the exploitation.

The Minister in charge of energy can, at the end of the exploitation, to authorize the continuation of the exploitation of the unit by the public organization within the framework of a convention concluded between the public organization and the owner from the building.

Art. 31 - In case where the project is carried out on parts of the public domain, it is created for the profit of the dealer a special right conferring the pleasure of the rights and obligations to him envisaged by the legislation in force as regards concessions.

These goods cannot be the subject safe of transfer or guarantee under the cases and the conditions envisaged by the legislation in force as regards concessions.

Chapter VI

Control, infringements and sanctions

First section - control and report of the infringements

Art. 32 - The manufacturing units of electricity starting from renewable energies are subjected to the control of the services of the Ministry in charge of energy and all the bodies of control entitled for this purpose under the terms of their specific texts, with an aim to the control of the respect by the producer of electricity starting from renewable energies of the conditions relating to the realization of these units, their operation, their exploitation, their maintenance and the general requirements as regards safety, of environmental protection, prevention of the fire hazards and explosion, and generally the respect of the legislation in force.

Art. 33 - The agents of control are entitled, in the framework of the performance of their duties and following a notice, to reach the manufacturing unit of electricity starting from renewable energies, to visit its various components and to reach all informations and the data as well as all the documents relating to the work of the achievement of the generation unit, its functioning methods, its exploitation, its operation, maintenance, exceptionally for document referring to the intellectual property of the producer. The producer of electricity commits himself giving all the facilities to the above mentioned agents, provided the controllers comply with the safety requirements and abstain from interfering into the operation of the installation.

The agents of control can carry out the seizure of the materials and the equipment suspected of being harmful with the environment. In waiting of the results of control, the seized materials and equipment remain under the guard of their owners. The seizure cannot exceed one month, without the authorization of the Public prosecutor territorially qualified. At the end of this time, and unless the Public prosecutor does not decide to extend it, the seizure ends full.

Art. 34 - The infringements with the provisions of this law and its texts of application or with the seizure are noted by official reports written by sworn in agents and abilities for this purpose, mentioning the date, the place of the report or control and the kind of infringement. The minute comprises the signature of the contravener or his representative, or failing this, mention is made absence of the contravener or his refusal to sign the minute in the event of presence of the contravener to his drafting.

Section 2 - Sanctions

Art. 35 - If the results of the check operations revealed an infringement with the provisions of this law or its texts of application, or non-observance by the producer of electricity starting from renewable energies of the conditions referred to by article 32 of this law, the services of the Ministry in charge of energy send a setting in residence to the contravener by a registered letter with acknowledgement of delivery and grant a time to him to cure the noted failures.

Art. 36 - The Minister in charge of energy can withdraw the authorization, upon opinion of the technical

commission, or disqualify the dealer, upon opinion of the higher commission of private production of electricity, after convocation of the producer of electricity starting from renewable energies and allow him to present his observations, and this, in the following cases:

- The non-observance of the provisions of this law and its texts of application and of the technical conditions of electricity generation from renewable energies, in spite of a setting in residence and the granting of a time to the dealer to cure it,

- The loss of human, technical and financial capacities allowing him the realization of work or the continuation of the exploitation of the project,

- The refusal to give access to the agents of control to the documents relating to its activity, or dissimulation or the falsification of these documents,

- The refusal to pay the royalty of concession, constraint, the share returning to the State or the royalty of electricity transmission,

- The transfer of the authorization without respect of the legal procedures,

- The commission of serious offences relating to public safety or the environment,

- The extension of the project or modification of the source of energy without obtaining an authorization.

The dealer can be opposed to the decision withdrawal of the authorization near the specialized authority created under the terms of the present law.

The withdrawal of the authorization or the forfeiture of the dealer does not give right any compensation.

Art. 37 - Whoever puts obstacle at the exercise of the missions of control, envisaged with the section first of chapter VI of this law, or refuses to give access, with the agents of control, the documents relating to its activity or dissimulates these documents, is liable to a fine oscillating between ten thousand dinars (10 000D) and a hundred and thousand dinars (100. 000D).

Chapter VII

Various provisions

Art. 38 - Is created a specialized authority in charge of the examination of the problems relating to the projects carried out within the framework of this law.

The composition, attributions and the procedure of this authority are laid down by governmental decree.

Art. 39 - No Member of the technical Commission, the higher commission of private production of electricity or of the specialized authority must have a direct or indirect interest, in the projects of production of electricity starting from the renewable energies submitted to the commission on opinion.

In the event of existence of a direct or indirect interest in a project being the subject of a study, the member in question must declare it with the President of the commission and abstain from assisting to with it.

He is interdict with each Member of the technical Commission, the higher commission of private production of electricity, or of the authority specialized to be owner of a project or partner, consultant or employed in any

company of project of electricity generation from renewable energies, and this, for one five years period after having left the function in connection with the energy sector.

If it is recruited during the five years or if it perceives a reward of some nature which is, on behalf of the investors, it incurs a fine of five hundred and thousand dinars (500.000D).

Art. 40 - The national plan of the electricity generation from renewable energies must be finalized and approved within a time not exceeding five years as from the date of entry into force of this law.

In waiting of the development of the national plan, the granting of the authorizations and concessions of electricity generation from renewable energies are done under the terms of the opinion referred to by article 12 of this law.

Art. 41 - The lawful texts relating to the present law will be taken within a time not exceeding six months as from the date of its entry into force.

Art. 42 - All contrary provisions, former to the present law and in particular the provisions of articles 14 (a) and 14 B of the law n° 2004-72 dated 2 August 2004 relating to the control of energy are repealed.

The law herein shall be published in the Official Gazette of the Republic of Tunisia and implemented as State law.

Tunis, 11 May 2015.

The President of the Republic

Mohamed Béji Caïd Essebsi