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RESEARCH ARTICLE

LEGAL ENERGY SOLAR SYSTEM IN MOROCCO: MYTH AND REALITY

ANOUAR Khadija

PhD student – Department of Private Law, Center of Doctoral Studies, Faculty of Law Sciences, University Mohammed V-Souissi, Rabat, Morocco

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**Corresponding Author*

ANOUAR Khadija

Abstract

This paper presents the legal regime of solar energy in Morocco, gaps and opportunities to improve the legal system.

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Introduction

Morocco has implemented itself to develop electricity production from renewable energy, with its purpose to improve its independence with respect to fossil energy. As well as, the reduction of the transmissions of greenhouse gas and continue to contribute in the general framework (1).

It is in this vision that our Kingdom gave a considerable priority to the solar energy that is concretized in the new specific legislation No.13-09 regarding the renewable energy and dispositions of our Constitution. In which, for the first time the sustainable development is acknowledged, so that they contribute also to the protection and preservation of our environment which eventually is the future of our nation as well as our planet (1).

Nevertheless, the right of the photovoltaic energy establishes an advanced measurements and the recognition of their benefits; in the reduction of the greenhouses effects, and the reduction of the dependence of fossil energy. Notably in the consecration of the sustainable development it leaves many points unclear, interrogations, and gaps which raises the following questions:

Which is the legal framework relating to the photovoltaic energy to Morocco?
What are the sides or parties that can invest in the domain of photovoltaic energy?
What are the modalities, conditions to efficiently implement these laws, and to develop projects of the photovoltaic energy?

There is a noticeable absence of efficient laws of photovoltaic energy. The lack of judicial clarity of these laws prevents its development. Thus, to organize this field of photovoltaic energy, a specific law with its decree of application must be made for this implementation. In order to organize the field of photovoltaic energy in Morocco, we must have an efficient and complete legal

framework; all this will enable us to arrange this energy in a better way. To address with this topic, I will first show the limits of the legal framework of solar energy then suggest reflecting the issue of better solar energy.

I. THE LEGAL FRAMEWORK OF THE DEVELOPMENT OF THE SOLAR ENERGY SECTOR IN MOROCCO

The law of energy is thus the ensemble of rules of the law that accompany the exploration, production, exploitation, importation, transport, distribution, and usage.

Exploitation of the projects of solar energy

The equipment's that produce this type of solar energy must be eligible through a system of authorization and reporting.

For any installation, modification, or exploitation of the electric capacity of the solar energy, the legislation applies according to the installed power :

- * The production of electric energy whose installed power is inferior than 20KW electric is subjected to a free system;
- * an installed power that is inferior to 2MW is liable to a declaration system;
- * at length, an installation of power which is equal or superior than 2MW is the object of an authorization request system.

The projects that use solar energy, of which the combined power is superior or equals to 2MW, are obliged to be situated in zones selected by the administration according to the law NO.2657-11 of the 19th September 2011. which certifies the zones that are destined to have sites of the electrical energy production of a solar nature.

However, if the production does not start within a period of three years, or if there was a stop in the procedure that lasts for two consecutive years, the heads of the projects must then get another authorization since the first one becomes ineffective (article 22 and 23 of the law NO.13-09).

As for the authorization system, it is applicable to the installations of electric energy production projects of solar type of energy, and it is mentioned in the article 3 of the law NO. 13-09, and heads of projects need a provisional authorization granted by the administration, after the latter consults the National Office of Electricity and Water in Morocco (2). This contemporary authorization is valid for 25 years and can be renewed a single time for the same period (3)maintaining the integrity of the specifications.

II. TOWARDS A BETTER LEGAL FRAMEWORK IN THE FIELD OF SOLAR ENERGY IN MOROCCO

To begin with I will show the different gaps of the legal framework of the solar energies (A). Subsequently, I will propose legal solutions (B).

A- Legal gaps and ambiguity of the solar energies system in Morocco

There appears to be a noticeable legal gap. The legal system of implantation of solar energy is neither clearly defined nor implemented.

1- The legal framework gaps

Laws linked to the solar energy are not complete and are of various legal insufficiencies. Several texts of applications do not exist yet. It is in this case for example the details of the applicable general prescriptions, the way of rehabilitation (4), the specifications of projects, and the dismantling and purchases prices of energy that are not

present in a clear legal text.

On one hand, It is to be noted that the law NO.13-09 concerning the renewable energy and precisely the law NO. 2657-11 of the 19th September 2011, defining the zones selected to have the sites of production of electric energy installations of solar energy type, doesn't allow the territorial communities any power to contribute to the zones selection. On the other hand, heads of projects must dismantle and rehabilitate, but the legislation doesn't, through legal texts, clarify the responsibility of the first company in case the head of project faces any problem or makes any mistakes.

It is obvious that the consequences of the massive implementation of solar projects are very crucial because they lead to the production of toxic substances and provoke other problems concerning the continuity of these projects. They could stop working and become useless, something that the law doesn't take into consideration.

2- Absence of solar-projects encouraging measurements

There are no laws that encourage the solar energy projects. Territorial communities do not encourage people to invest in the field of solar energy. In this view, they don't give financial help to encourage this sector. So by doing that, they don't give value to the energy sector. Also, there is no institution which may help enterprises willing to invest in this domain, and no help in the research procedure or development of their projects (5).

B- The need for establishment of a specific legal framework that takes the ecological preoccupations into consideration

There is a real need to setup a specific legal framework concerning the solar energy. It is in this framework that I will reflect regarding the development of the projects of solar energy respecting environmental specificities, and accompanied measures of strategic urban planning (6).

1- The necessity of a power rule of the territorial communities in the development of solar energy

There must be given, through law, a right to run and exploit the production of solar energy. Territorial communities must invest themselves and exploit solar energy but also allow other people to do the same.

2- Organizing the solar sector through regional planning

Regional planning of developing this energy is necessary. With this view, the law of urbanism must acknowledge the regional plans of the domain of solar energy specifically so that each region makes its own plan (7). These specific plans must be created by regional order to avoid the unorganized massive installation projects that take place everywhere which destroys the landscape and the city as well.

CONCLUSION

The government passed the laws of the renewable energy, including solar energy, in one year. However, it is noticeable that the territorial communities must also contribute to the development of the solar energy sector in Morocco.

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