

**INTERNATIONAL WORKSHOP ON MONITORING AND
REGULATING PUBLIC DRINKING WATER SERVICES IN
RURAL AREAS OF BURKINA FASO**

**MALI'S EXPERIENCE IN MONITORING AND REGULATING
PUBLIC WATER SERVICES**

(OUAGADOUGOU, from 26 to 28 November 2024)

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I. INTRODUCTION

The production, transport and distribution of drinking water to meet the needs of the population constitute a public service. This public service is delegated to operators within the framework of public service management delegations issued under the conditions set out in Ordinance No. 00-020/P-RM of 15 March 2000 on the organisation of the public drinking water service, which sets out the legal framework for the public drinking water supply service in Mali.

The owner of the public water service is ultimately responsible to the local authority for the management, maintenance and development of the water installations and, in general, for all activities required for their proper operation.

The State is the main contractor for public water services in urban centres. As part of the decentralisation process, it may delegate this role to decentralised local authorities.

In rural and semi-urban centres, the decentralised local authorities act as project managers for the public water service:

- or by delegation from the State ;
- or directly when, as part of the decentralisation process, water installations fall within their remit.

With regard to the public service in villages, rural and semi-urban areas, the State authorises decentralised local authorities not served by the public service to develop and operate water facilities to meet public needs.

Municipalities are free to join forces to develop and ensure better management of water installations when the integrated systems go beyond the geographical jurisdiction of a single municipality.

In urban centres where the public drinking water service is delegated (concession, leasing, etc.), regulation is carried out by the Commission de Régulation de l'Electricité et de l'Eau (CREE).

II. REGULATION OF WATER SERVICES IN URBAN CENTRES

Ordinance No. 00-020/P-RM of 15 March 2000 on the organisation of the public drinking water supply service sets out the legal framework for the public drinking water supply service in Mali.

Ordinance No. 00-21/P-RM of 15 March 2000 creating the Electricity and Water Regulatory Commission stipulates that: an independent Electricity and Water Regulatory Commission (CREE) shall be created under the Prime Minister, with legal personality and financial autonomy.

The Regulatory Commission covers the areas granted to Société Energie Du Mali (EDM-SA) in the electricity sector and to Société Malienne de Patrimoine de l'Eau Potable (SOMAPEP-SA) and Société Malienne de Gestion de l'Eau Potable (SOMAGEP-SA) in the drinking water sub-sector. In other words, its scope of action is limited to urban centres with a population of more than 10,000.

The tasks of the Commission de Régulation de l'Electricité et de l'Eau are :

1. Assistance in drawing up sector development policy

It gives its opinion on projects, programmes and studies concerning the electricity sector and the public drinking water service.

2. Control of calls for tender and the granting of concessions and management delegations

All draft invitations to tender, draft concession agreements in the electricity sector and draft delegations for the management of drinking water, as well as all riders, amendments or modifications to these drafts, are submitted to the CREE for its assent prior to their launch or adoption.

3. Approval and control of tariffs

The CREE approves the tariffs presented by the operators. It can also suggest an alternative pricing structure to the operators.

4. Controlling and monitoring agreements

The CREE monitors compliance with the obligations of the contracting authority and operators in terms of pricing policy and quality of service for users, and oversees the principles of competition.

5. Monitoring transactions between operators in the electricity sector

The CREE issues an opinion on all proposed transactions between operators. It supervises contracts for the import or export of electrical energy.

6. Arbitration of conflicts between operators and between operators and project owners

The CREE deals with all disputes arising between operators and between operators and project owners on an amicable basis. Failing this, the parties may refer the matter to the competent courts.

7. Defending the interests of users

The CREE may take any action necessary to protect and defend the interests of users of public electricity and water services.

To carry out its missions, the EERC is made up of two bodies: the Council and the Executive Secretariat.

The Board comprises five (05) members who hold a higher education diploma, namely :

- An electrical engineer
- A hydraulic engineer
- A lawyer
- An economist specialising in pricing
- A financier.

The Executive Secretariat is made up of permanent technical staff and assists the Regulatory Commission in carrying out its duties.

The Commission is headed by a Chairman elected from among its members for a 5-year term, renewable once.

The CREE's resources come from :

- The regulatory charge levied on operators,
- Grants from the State, decentralised local authorities and national or international public or private bodies;
- Proceeds from borrowings ;
- Donations and legacies ;
- All other extraordinary resources.

The CREE has powers of enquiry, investigation, injunction and sanction.

The CREE's administrative decisions are applicable at national level and are binding on project owners, operators and users as soon as they are published in the official gazette. These decisions may be appealed to the courts.

The amount of the financial penalties depends on the seriousness of the breach and the benefits that the perpetrator may have derived from it. These penalties may not exceed 5% of the pre-tax turnover achieved by the offender during the last financial year for which the accounts have been closed.

It should be noted that the CREE's scope of action is limited to urban centres within the EDM-SA electricity concession area and the SOMAPEP-SA/SOMAGEP-SA drinking water concession area.

Within the framework of Ministerial Regulation, the competent ministers shall exercise the tasks, powers, rights and obligations of the Regulatory Commission as defined in this Ordinance with regard to operators in the sector concerning :

- Electricity licensees,
- Delegated water managers in urban and semi-urban centres.

The classification of centres in Mali is based on population size:

- Urban centres are those with more than 10,000 inhabitants,
- Semi-urban centres have a population of between 5,000 and 10,000;
- The rural centres have a population of between 2,000 and 5,000;
- The villages have fewer than 2,000 inhabitants.

Since 2002, water supply has been one of the powers transferred to local authorities under Decree no. 02-315/P-RM of 04 June 2002, which sets out the details of the powers transferred from the State to local authorities in the area of rural and urban water supply.

As a result of decentralisation, local authorities are now in charge of drinking water supply. To this end, local authorities sign service delegation agreements with agents to manage their water supply in return for payment of a 5% fee.

III. REGULATION OF WATER SERVICES IN LOCAL AUTHORITY CENTRES

Regulation of the centres belonging to local authorities is carried out by the Direction Nationale de l'Hydraulique, which has set up a technical structure for Technical and Financial Monitoring (STEFI). STEFI signs a protocol with the town hall to monitor the service provider. It is responsible for monitoring the installations and drawing up the drinking water supply management report.

In order to better monitor drinking water supply at rural level, a set of ten (10) indicators for regulating drinking water supply systems has been set up and divided into three (3) categories, as follows

- Service quality (4 indicators): rate of access to the service; average selling price per m³ ; water quality control and continuity of service.
- Economic efficiency (4 indicators): cost per m³ produced; collection rate; state of the collection fund; self-financing capacity.
- Management sustainability (2 indicators): network efficiency; number of employees per 1,000 consumers.

IV. INSTITUTIONAL FRAMEWORK OF THE PUBLIC DRINKING WATER SERVICE IN MALI

The institutional framework of the public drinking water service in Mali is structured as follows:

ENVIRONMENT	ACTORS	ROLE
Rural areas	Ministry responsible for water (MEE)	Water authority, responsible for drawing up and implementing the National Water Policy (PNE)
	Direction Nationale de l'Hydraulique (DNH)	Central structure responsible for drawing up the elements of the SOP, coordinating its implementation and applying the regulations.
	Local authorities	Project owners
	Civil society and private individuals	Service management and other support

	Technical and Financial Partners (TFP)	Technical and financial support
Concession area SOMAPEP-SA	National Water Laboratory (LNE)	Controlling the quality of distributed water and water resources and controlling pollution
	SOMAPEP-SA	Delegated project manager, responsible for infrastructure development
	SOMAGEP-SA	Drinking water service provider
	COMMISSION CREATED	Independent regulator, sets drinking water tariffs
	Technical and Financial Partners (TFP)	Technical and financial support

V. WATER GOVERNANCE CONSTRAINTS AND AREAS FOR IMPROVEMENT

The water sector is faced with a number of structural governance constraints, as follows by level:

5.1 GOVERNANCE CONSTRAINTS AT STATE LEVEL :

- **Weak financial mobilisation and absorption capacity :**
- ✓ insufficient budget to prepare new projects ;
 - ✓ modest state budget allocations for investment ;
 - ✓ over-reliance on external financing for investment ;
 - ✓ limited autonomy of action of the structures.

Areas for improvement :

- ✓ Inclusion in projects of initiatives to nurture project ideas (feasibility and preliminary project studies), to be generalised;
- ✓ Inclusion of new structuring projects in the Special Investment Budget (SIB), to be pursued in line with Mali's SWA commitments;
- ✓ Budget dialogue already underway with the group of TFPs, to be continued and strengthened;
- ✓ Intensified lobbying of decision-makers to increase State budget allocations to the sector, with a view to speeding up the implementation of the State's budgetary commitments under the SWA initiative.

Outlook:

- ✓ Restructuring of the Direction Nationale de l'Hydraulique into a Direction Générale ;
- ✓ Drawing up a national strategy for sustainable financing of the sector.

➤ **Weak technical and operational capacity of national and decentralised services:**

- ✓ shortage of qualified human resources (less than 35% of posts filled) ;
- ✓ insufficient ongoing training for managers (sporadic training) ;
- ✓ insufficient operating budgets and logistical resources.

Areas for improvement :

- ✓ Staffing of more than 100 managers over the period 2016-2019;
- ✓ DNH training plan to be updated and implemented.

Outlook:

- ✓ Relaunch of the preferential executive staffing scheme with the Ministry of the Civil Service.

➤ **Tariff inequality between the concession area and rural areas :**

- ✓ policy of cross-subsidisation and tariff compensation in force within the concession area ;
- ✓ single tariff band practices in rural areas ;
- ✓ poor regulation of drinking water services in rural areas.

Areas for improvement :

- ✓ Concession area extended to 72 semi-urban and rural centres in 2017;
- ✓ Standard contract available for the delegation of multi-village grouped management of the service in rural areas ;
- ✓ Regulated technical and financial management audit activity (STEFI Order) ;
- ✓ Draft texts available for the extension of the CREE's remit to rural areas.

Outlook:

- ✓ Extension of the multi-village grouped management delegation contract in rural areas ;
- ✓ Harmonisation of the sizing of works in rural centres with the concession perimeter ;
- ✓ Extension of the CREE's remit to the rural environment ;
- ✓ Assistance to the municipal contracting authority ;
- ✓ Development of a policy of tariff equalisation between the concession area and rural areas.

➤ **Inadequate systems for planning, programming and monitoring-evaluating actions:**

- ✓ discrepancies between national and local planning and programming ;
- ✓ low funding for monitoring and coordinating activities ;
- ✓ Weak approach tools: no standardised survey.

Areas for improvement :

- ✓ Existence of sectoral coordination frameworks with stakeholders at national and devolved levels, to be strengthened ;
- ✓ Existence of a database system on drinking water points, to be strengthened;
- ✓ Comprehensive AKVO/DNH inventory carried out between 2015 and 2018 with a view to involving local authorities in monitoring progress.

Outlook:

- ✓ Finalisation of the SIGMA 5 database development project;
- ✓ Completion of phase 2 of the AKVO/DNH inventory (updated by the Communes) ;
- ✓ Integration of strategic indicators into the EMOP survey system.

5.2 WATER GOVERNANCE CONSTRAINTS AT THE LOCAL LEVEL :

➤ **Financial imbalance of SOMAPEP-SA and SOMAGEP-SA:**

- ✓ tariff imbalance in relation to production and distribution costs ;
- ✓ stagnation of tariffs in the face of continually rising production and distribution costs (tariffs frozen since 2004);
- ✓ worsening of the deficit by extending the concession area to rural centres ;
- ✓ Continuing accumulation of unpaid invoices owed by the State;
- ✓ chronic balance sheet deficits ;
- ✓ difficulties encountered by SOMAGEP-SA in paying concession and heritage fees to SOMAPEP-SA;
- ✓ SOMAPEP-SA's limited capacity for equity financing;
- ✓ socio-economic constraints for the tariff review.

Areas for improvement :

- ✓ Tariff study carried out on the public drinking water service within the concession area;
- ✓ Tariff review project under way (suspended in 2022).

Outlook:

- ✓ Completion of the tariff revision project.

5.3 WATER GOVERNANCE CONSTRAINTS AT THE LEVEL OF PROJECT OWNERS AND OPERATORS :

➤ **Insufficient local authority investment budgets:**

- ✓ limited financial resources transferred to local authorities for investment ;
- ✓ Weak financial mobilisation and execution capacity of TCs ;
- ✓ investment practices under project management (PM) delegated de facto by DNH and decentralised cooperation players;
- ✓ difficulties in mobilising water charges to ensure the sustainability of the service.

Areas for improvement :

- ✓ Regulated technical and financial management audit activity (Technical and Financial Monitoring Order (STEFI)) ;
- ✓ Transfer of certain decentralised State services to local authorities ;
- ✓ Existence of support structures specific to local authorities: Regional Development Agencies.

Outlook:

- ✓ Assistance to local authorities ;
- ✓ Developing synergies with the Regional Development Agencies (RDAs) ;
- ✓ Strengthening STEFI to intensify monitoring of water tax collection.

➤ **High drinking water tariffs in rural areas :**

- ✓ prevalence of management contracts per locality with a non-compensatory tariff structure ;
- ✓ lack of synergies between TCs ;
- ✓ low level of professionalism among water supply operators ;
- ✓ poor regulation of drinking water services in rural areas.

Areas for improvement :

- ✓ Standard contract available for the delegation of multi-village grouped management of the service in rural areas ;
- ✓ Regulated technical and financial management audit activity (STEFI Order) ;
- ✓ Draft texts available for the extension of the CREE's remit to rural areas.

Outlook:

- ✓ Tariff study in rural areas ;
- ✓ Generalisation of the standard multi-village management delegation contract through inter-authority mechanisms;
- ✓ Assistance with municipal project management.

➤ **Discrepancy between local planning and programming and national and global objectives:**

- ✓ Modest TC planning and programming in relation to national objectives ;
- ✓ Elected representatives take little ownership of national political and strategic guidelines and regulations;
- ✓ difficulties in accessing advisory support services offered by decentralised technical services ;
- ✓ insufficient ongoing training for elected representatives.

Areas for improvement :

- ✓ Transfer of certain decentralised State services to local authorities.
- ✓ Updated guide to drawing up Economic, Social and Cultural Development Plans (ESDCP), taking into account the SDG targets.

Outlook:

- ✓ Ongoing training for elected representatives and operators ;
- ✓ Assistance to municipal project management ;

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| <ul style="list-style-type: none">✓ Strengthening coordination with the TCs ;✓ Drawing up a national communications strategy for the sector. |
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All of the above measures are set out in the draft National Water Sub-Sector Governance Programme (PNGSSE 2024-2035), which is one of the guiding programmes of the draft National Water Policy currently being finalised, with a view to its imminent adoption by the Government.

VI. CONCLUSION

The observations made in the provision of the public drinking water service sufficiently demonstrate the need for review and improvement with a view to achieving the objectives of the MDGs.

This reform, which is currently underway, must be accompanied by a review of the texts governing the public drinking water service in rural and urban areas. Above all, it must ensure not only a quality service but also one at a lower cost.