



## PROJECTS

INFRASTRUCTURE,

ENERGY &

NATURAL RESOURCES

**Vanda Cascão**

[vc@vda.pt](mailto:vc@vda.pt)

**Ana Luís de Sousa**

[als@vda.pt](mailto:als@vda.pt)

10 October, 2012

## Recent modifications to the Electric Sector

The most expected modifications to the electric sector's legal framework are in force since yesterday as a result of the transposition of the Directives included in the Third Energy Package.

Decree-Laws nr. 215-A/2012 and 2015-B/2012 published on Monday the 8<sup>th</sup>, establish significant modifications to Decree-Law nr. 29/2006, 15 February, 2006 and Decree-Law 172/2006, 23 August, 2003.

Even though a detailed analysis would be justified at a later stage, it is important to highlight some of the major changes foreseen by these diplomas, in particular:

- > The diplomas finally aggregate the legal framework applicable to the production in ordinary and special regimes. As such, the latter will no longer be ruled by scattered legislation.
- > They clarify that the special production comprises all the electricity generation based on endogenous resources whether subject to special incentive regimes or to the market system.
- > A licensing procedure will no longer be required for the production under the special regime with a connection to the grid equal or lower to 1 MVA, whenever the generation activity is not subject to environmental evaluation process and does not benefit from a guaranteed remuneration purchase, a previous notification being now sufficient.
- > The obligation to purchase electricity produced under the special regime shall be limited to the period covered by a guaranteed remuneration or feed-in tariff. In order to assure the purchase of all the electricity produced under the special regime, even though remunerated by market prices, a new instrument called *Agregador Facilitador de Mercado* has been created. To such entity will be granted a specific license and shall be responsible for purchasing energy from interested producers.
- > The rules regarding the access to the energy trading activity have been simplified in line with the underlying principles of the Internal Market Services Directive.
- > In compliance with the Directives and following the reprivatisation process of the grid transportation and distribution operators', the decree-laws address in a detailed manner several relevant issues. Rules for independency and for legal and asset separation have been created for the operators (the latter being only applicable to the RNT – *Rede Nacional de Transportes* operator, including rules relating to certification), a clarification and reinforcement of their obligations has been made, and public supervising mechanisms have been established.

In order to assess the impact that these changes will have in the sector a closer follow-up of the implementation of the decree-laws must be undertaken in order to confirm whether they will effectively promote liberalization and increase transparency and competition within the electric market.

### LISBON

Av. Duarte Pacheco, 26  
1070-110 Lisboa Portugal  
[lisboa@vda.pt](mailto:lisboa@vda.pt)

### OPORTO

Av. da Boavista, 3433 - 8º  
4100-138 Porto Portugal  
[porto@vda.pt](mailto:porto@vda.pt)

### MADEIRA

Calçada de S. Lourenço, 3 - 2ºC  
9000-061 Funchal Portugal  
[madeira@vda.pt](mailto:madeira@vda.pt)