

## **ICC Verdict: Government of Burkina Faso lost the case against GNR: must pay back USD 15 million**

### **TAMBAO MINE CUT OFF FROM NATIONAL ECONOMIC DEVELOPMENT**

The International Court of Arbitration of the International Chamber of Commerce (ICC) convicted the Government of Burkina Faso to compensate GNR its damage claim of USD 15 million on February 3<sup>rd</sup>, 2016, under Case No. 19/297 MCP. The ICC demanded the immediate execution of the verdict.

On 30 March 2016, GNR's legal counsel FIDAL sent a letter of demand to President Roch Marc Christian Kabore, requesting the Government of Burkina Faso to pay. Unfortunately, neither the President nor the Ministry of Finance or any representative had responded to the letter. Reminders were sent to the Office of the President, but no response received by GNR.

GNR demonstrated its goodwill and patience to the new democratically elected government of Burkina Faso, but concluded after two years that the Government led by Roch Marc Christian Kabore is also not respectful to international agreements with companies. With this political arrogance, the government will never be successful to mobilize foreign development investors in Burkina Faso. The Government will not be able to attract investors for the development of the Tambao Mine and will not be able to build the railway and road connecting with the Capital City.

#### What are the lessons learned from this case?

An Investment Agreement has no meaning in Burkina Faso. Companies must be aware of the fact that the previous and existing Government of Burkina Faso did and still do not weigh much on such international arbitration processes and the losses may not be recovered no matter how clear the outcomes of the ICC are. The total costs of such ICC arbitrations are anywhere around USD 1 million, including costs of International Law Firms. However, even if the ICC would decide that the government must pay the damage claims, there is no legal, political or economic pressure to move the government to pay. Companies must be aware of this!

#### Going forward

If the Government wishes to demonstrate that it is serious with the execution of its foreign investment policies, it shall act in compliance with international law and respect the verdict of ICC. It shall compensate GNR for its damages and it shall invite international mining companies to consider investments in Burkina Faso.

Social and economic development of the increasing and young population of Burkina Faso is only possible by attracting foreign investment capital and technical know how to enter into the country. Foreign investors with a high integrity for sustainable mining and sustainable development, like GNR and its affiliates, are only interested when the government of Burkina Faso would execute the verdict of ICC and the government would open a tender process for investors.