

ENVIRONMENT

SIMPLIFICATION OF LICENSING
PROCEDURES: NEW LEGISLATIVE
PACKAGE

VdA EXPERTISE



February 2023

The legislative package named “Ambiente + Simples” was published on 10 February. This package focuses on streamlining investments and curbing climate change, with the aims of accelerating the energy transition, intensifying the decarbonization of the economy, accelerating the circular economy and reducing the level of bureaucracy in citizens’ day-to-day relationship with the Public Administration .

The legislative package now enacted by Decree-Law no. 11/2023 was preceded by a public consultation procedure, launched on 3 August 2022 in the context of the goal of simplification of administrative activity, selected by the Portuguese Government as a priority within the SIMPLEX framework.

Among the many legislative changes introduced to simplify environmental licensing procedures, we highlight the following:

Environmental Impact Assessment (EIA)

1. Elimination of the need to carry out mandatory EIAs, particularly in the following cases:

- modernization of railways
- changes to/expansion of energy projects, the production and processing of metals, and the mineral, chemical, food, textile, leather, wood and paper, and rubber industries, in certain situations
- replacement of equipment, with or without change in installed capacity, if certain conditions are met
- solar power plant projects, when the area occupied by solar panels and inverters is ≤ 100 ha
- wind farms and over-equipment, in certain cases
- case-by-case analysis for electric power generation based on solar and wind sources, in certain situations
- green hydrogen production from renewable sources and water electrolysis
- case-by-case analysis for the use of WWTP sludge from a circular economy perspective, through hydrolysis (thermal or biological), solar drying or composting

- urban allotments located outside sensitive areas, when located in a consolidated urban area or occupy an area of < 2 ha
 - case-by-case analysis in the food, textile, leather, wood and paper, and rubber industries, when projects are located in industrial parks or clusters 500 meters away from residential areas and occupy an area of < 1 ha
 - industrial development parks or clusters and logistics platforms, whenever a Strategic Environmental Assessment has been carried out
- ##### 2. Reduced duplication of procedures, authorizations or opinions through the inclusion, in the Environmental Impact Statement, of:
- Prior notice to the regional development and coordination commission regarding projects being developed in National Ecological Reserve areas
 - Authorization for the clearing or grubbing of cork oaks and holm oaks
 - Opinion for non-agricultural uses in National Agricultural Reserve areas
 - Authorizations/opinions foreseen in the general framework for the protection of nature and biodiversity
 - Prior report and inspection by the entities responsible for cultural heritage

Environmental License (EL)

- The EL ceases to have a term, thus abolishing the need for its renewal, without prejudice to situations which determine its expiry or when it is necessary to update the license in line with the evolution of the best available techniques, as well as any other cases provided for by law
- Waiver of the EL in certain facilities of the chemical sector



The new Decree-Law no. 11/2023 clarifies the functioning of the tacit approval regime, avoids the suspension of decision-making deadlines and prevents the untimely issuance of opinions.

The Environmental License ceases to have a term and the License for the Use of Water Resources is automatically renewed.

- Waiver of the Air Emissions Permit whenever an EL is issued
- Elimination of accredited entities' participation in the process of obtaining an environmental license
- The use of accredited verifiers for the purposes of reporting by operators of facilities subject to the integrated pollution prevention and control regime is optional

Single Environmental Report

- Only one environmental report will now be submitted, combining the existing reporting obligations in more than 20 situations

Permits for the Use of Water Resources (TURH)

- The license is replaced by mere prior notice in works for the construction of hydraulic infrastructure and abstraction of water for the use of private water resources, in certain situations
- The license for the use of water resources will now be automatically renewed
- Waiver of the production license and of the license to reuse water for different purposes

Responsible Industry System (SIR) and Waste Management

- Whenever an industrial establishment holds a permit subject to the SIR, the license for the installation of waste treatment facilities extrinsic to the industrial activity is replaced by a binding opinion within the scope of the SIR
- The use of waste, as an alternative to raw materials, whenever the process allows its reuse, does not change the typology of the industrial establishment

Tacit approval

- Creation of a mechanism for the free electronic certification of tacit approvals, providing a simple and effective way to obtain an official document proving that a license/authorization was approved due to the Administration's silence on the matter past a given deadline
- The deadlines for establishing tacit approval will commence from the date on which the request is submitted



Although the general deadline for conducting an EIA has been extended, the counting of the decision deadline has been clarified.

Decision-making and opinion deadlines

- The administrative entities may only request new documents, clarifications, supplementary elements or information from the interested party once
- The decision-making deadline is not suspended whenever new documents, clarifications, supplementary elements or information are requested, provided that the individual replies within 10 business days or 7 business days, in the case of environmental impact assessment procedures
- The Public Administration can no longer determine when deadlines are suspended

Entry into force

The simplification measures detailed above, as well as most of the other legislative changes approved by Decree-Law no. 11/2023, of 10 February, will enter into force on 1 March 2023, with the exception of the Single Environmental Reporting scheme and the certification of tacit approval, which shall only take effect from 1 January 2024.

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