

PUBLIC
LAW

SIMPLIFICATION OF URBAN LICENSING PROCEDURES

On June 28th, the Decree-Law number 26/2010, March 30th came into effect, introducing several amendments to the Legal Regime for Construction and Land Development (Decree-Law number 555/99, December 16th henceforth known as RJUE).

By issuing that legal diploma, our legislator had two sorts of purposes in mind:

- i) To simplify procedures and to make the decision-making process for approval of urban operations (such as allotments, urbanisation and construction works, among others) more agile;
- ii) To correct and clarify several dispositions of the legal reform to the RJUE, that occurred in 2007, with the publication of Decree-Law number 60/2007, September 4th.

On the path of simplifying procedures, Decree-Law number 26/2010 allows for **municipal directors** to approve urban operations that are subjected to prior communication, rather than leaving the competence solely with the elected officials.

“Majority of the urban operations are subjected to a simplified procedure called previous communication”

In terms of procedure agility, the Decree-Law in question states that the majority of urban operations is now subject to the simplified procedure of **prior communication**, which is now the “rule” in what concerns municipal control over urban operations.

The prior communication procedure is far more expedient than the licensing procedure since the prior communication is approved after **20 business days** (or **60 business days**, should the project in question be subjected to opinions from other legal entities) from the presentation of the prior communication, if it is not rejected by the Municipality within that time frame.

Regarding the **division of real estate terrains**, by legally detaching parcels of land, the publication of Decree-Law puts to rest several doubts concerning situation in which the terrain that is the object of the operation is located, simultaneously, inside and outside the urban perimeter, as so defined by the land use plans. In those situations, the defining element for determining the applicable legal regime is the location of the parcel of land that is to be detached: if it is located inside or outside the urban perimeter. And if this parcel, in itself, is situated both outside and inside the urban perimeter, then the applicable legal regime is the one regarding detachments inside, or outside, the urban perimeter, according to the location of the largest amount of area.

Also, the Decree-Law number 26/2010 came to rectify a legal provision that, in practical terms, was ineffective. The prior wording in article 44 of the RJUE foresaw that the **assignment of land to the Municipality**, due to the approval of allotment licenses, would have to take place before the admission of the prior communication. Now, the law clearly states that such an assignment takes place within **20 days after the prior communication's admission**.

“The liability term from the author of the projects is no longer needed for issuing the use permit title”

In what concerns the **use of buildings** (and autonomous units), the Decree-Law number 26/2010 simplifies the procedure for requesting the title of the use permit, **since it is no longer necessary the liability term from any of the project's authors** (architecture and specialty projects), but only the liability term signed by the general foreman or project supervisor.

The issuing of use permit is also simplified as the conformity of the construction works with the speciality projects is now **exempted from surveys, certification, approval or opinion, from the Municipality or other entities**, whenever there is a liability term signed by the legal qualified technician that can verify that conformity.

Finally, this new Decree-Law now clarifies that the title ownership of the use permit is **transmitted automatically** with the ownership over the real estate.

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