

## AMENDMENTS TO THE PUBLIC CONTRACTS CODE MORE TRANSPARENCY AND NEW RULES ON THE INVALIDITY OF CONTRACTS

### PUBLIC LAW

Decree-Law 131/2010, 14 December, approved several rules to bring greater simplicity and transparency to pre-contractual procedures regulated by the Public Contracts Code (CCP).

To that end several provisions of the CCP were amended. Those amendments will come into effect on January 14, 2011.

---

#### *New voluntary transparency announcement*

---

The decree-law also changes Directive 2007/66/EC by updating the rules that apply to public contracts.

A voluntary transparency announcement is now foreseen for contracts signed without prior advertising in the Official Journal of the European Union (JOCE). In those cases to ensure contract transparency, the awarding entity may announce its contracting decision in JOCE, allowing the other parties to know its decision before signing the contract (and reaction time, if applicable).

Also the new rules on contract validity were amended. Contracts signed in violation of public contracts rules may be annulled if:

- i) they are not properly advertised in the JOCE indicating that the awarding entity intends to contract (when such an advertisement is mandatory),
- ii) it is signed less than 10 days after the selected contractor is announced.

In these situations the court may decide not to cancel the contract and instead, reduce its duration or impose a fine. This decision cannot, however, be based on the consideration of economic interests directly linked to the contract, when such interests are based, inter alia, on the costs resulting from legal liabilities arising from the effect of canceling the contract or on the costs resulting from delay in the execution of the contract in the opening of a new procedure or in the changing of the co-contractor or.

---

*New rules on the invalidity  
of contracts*

---

Moreover, the contract not advertised is not annulable if:

- i) the tendering procedure is chosen on the basis of material criteria,
- ii) a voluntary transparency announcement is published,
- iii) the awarding of the contract does not occur before 10 days after the date of publication.

The decree-law also introduced rules to simplify the contracts related to:

- i) the implementation and operation of the Portuguese National Network for Continuous Integrated Care (RNCCI),
- ii) cooperation agreements with Private Institutions for Social Solidarity (IPSS).

The new rules exempt the companies or institutions that sign public contracts from complying with some of the legal formalities set out in CCP.

Contact  
Fernanda Matoso | [fmatoso@mlgts.pt](mailto:fmatoso@mlgts.pt)

MORAIS LEITÃO, GALVÃO TELES, SOARES DA SILVA

& ASSOCIADOS  
SOCIEDADE DE  
ADVOGADOS

[www.mlgts.pt](http://www.mlgts.pt)

LISBON

Rua Castilho, 165  
1070-050 Lisbon  
Telephone: (+351) 213 817 400  
Fax: (+351) 213 817 499  
[mlgtslisboa@mlgts.pt](mailto:mlgtslisboa@mlgts.pt)

OPORTO

Av. da Boavista, 3265 - 5.2  
Edifício Oceanvs – 4100-137 Oporto  
Telephone: (+351) 226 166 950  
Fax: (+351) 226 163 810  
[mlgtsporto@mlgts.pt](mailto:mlgtsporto@mlgts.pt)

MADEIRA

Avenida Arriaga, Edifício Marina Club, 73, 2º  
Sala 212 – 9000-060 Funchal  
Telephone: (+351) 291 200 040  
Fax: (+351) 291 200 049  
[mlgtsmadeira@mlgts.pt](mailto:mlgtsmadeira@mlgts.pt)

MEMBER  
**LEX MUNDI**  
THE WORLD'S LEADING ASSOCIATION OF INDEPENDENT LAW FIRMS

São Paulo, Brazil (In association)  
Mattos Filho, Veiga Filho, Marrey Jr.  
e Quiroga Advogados

Luanda, Angola (In association)  
Filipe Duarte, Helena Prata & Associados

Maputo, Mozambique (In association)  
SCAN – Advogados e Consultores

Macau, Macau (In association)  
MdME | Lawyers | Private Notaries