MORAIS LEITÃO
GALVÃO TELES, SOARES DA SILVA
& ASSOCIADOS

# LEGAL ALERT

# ELECTRONIC SERVICESS OF PROCESS AND NOTIFICATIONS TO CITIZENS AND COMPANIES – NEW DEVELOPMENTS

## DECREE-LAW 87/2024

### Contextualisation

On 7 November 2024, Decree-Law 87/2024, which governs electronic servicess of process and notifications to individuals and legal entities, was published in the *Diário da República* [Official Gazette], stipulating that they should, as a rule, be made digitally.

Decree-Law 87/2024, which makes the twelfth amendment to the Code of Civil Procedure (CCP) and whose objective is to dematerialise and streamline the processing of legal proceedings:

- It made the service of process to legal entities mandatory where, before then, they could be served electronically, but only through interoperability between the court support information system (e.g. CITIUS or SITAF) and the served party's information system;
- It has allowed individuals to choose to be served electronically instead of by post;
- It has harmonised the rules on notifications, taking these amendments into accounts.

With regard to changes to the Code of Procedure in Administrative Courts (CPTA), Decree-Law 87/2024 also made electronic servicess of process mandatory for all public entities, eliminating the need to list by ordinance which of these entities could receive services of process and communications electronically.

As was already apparent from the previous framework, the rules on service of process and notifications provided for in the CCP are subsidiarily applicable to administrative proceedings, and also apply to private individuals within the scope of these proceedings – in this regard, it should be noted that these rules will only take effect in cases pending before the Administrative and Tax Courts from 15 September 2025.

With regard to legal entities, the following is noted:

- The rule is for electronic services of process, with legal entities being served by this means, unless this is not possible;
- With the exception of legal persons whose registration in the central file of legal entities at the National Register of Legal Persons (RNPC) is not mandatory, to which the rules on the service of process of individuals will apply, i.e. they will only be served electronically if they choose this route instead of postal delivery, as explained below;
- Electronic services of process depends on the legal entity **registering the email address** it intends to associate with its reserved digital area;
- The service of process is made by **making it available** to the served party in its **reserved digital area**, associated with the registered email address;
- In addition to it being made available, a **notice** is also **sent to the recipient** to that email address, identifying the court from which it comes, the case to which it relates and indicating how to access the reserved digital area;
- The court support information system certifies the **date the service of process was made available** in the reserved digital area and the date of electronic consultation of the service of process in that area;
- The **service of process** is deemed to be **made on the date of electronic consultation** in the reserved digital area, recorded under the noted terms;
- If the **service of process cannot be made electronically**, due to the email address **not being registered**, a second attempt is made to serve it by post, by sending a registered letter with acknowledgement of receipt to the served party's registered office recorded in the RNPC central register of legal entities;
- If the service of process **is not consulted by the 8th day after** it is made available in the reserved area, a new notice is sent to the served party by post to its registered office, ensuring that it is made aware that the service of process is available for consultation in the

reserved area, but sending this notice does not suspend the period in which the legal person is considered to have been served. Therefore, after the end of the eight days, the court support information system certifies that there has been no consultation, and the recipient is presumed to have timely knowledge of the information left for them and the **service of process is considered to have been made on that date**;

- Thus, if the service of process is consulted electronically within **30 days after the date on which it is deemed to have been made**, the defence period begins to run from that consultation, with the days already elapsed being considered an **extension of that period**;
- The implementation, for the purposes of service, of interoperability between the court support information system and the information system used by the served party depends on: (i) in the case of a **public entity of the direct or indirect administration of the State**, this is provided for in an ordinance by the members of the Government responsible for justice and by the public entity concerned; (ii) in the case of other legal entities, as provided for in a protocol entered into between the legal entity and the Instituto de Gestão Financeira e Equipamentos da Justiça, I.P., and in these cases, the service is presumed on the third day after its submission by interoperability between the systems, with no delay as per Article 245 of the CCP.

On the other hand, individuals may opt for digital service of process by registering their email address with the public electronic notifications service, and service of process is carried out in the above terms, with the following differences compared to legal entities:

- If the service of process **is not consulted by the 8th day after** it is made available in the reserved area, the service of process notice is sent by post to the served party's residence or place of work;
- If it is not possible to leave the notice for the recipient, the postal service distributor draws up a note of the occurrence and returns the case to the court, presuming a refusal to receive (unless otherwise demonstrated) and the service of process is considered returned and is made by an enforcement agent or judicial officer;
- In the event of **non-consultation up to the 30th day after** the date the service of process is made available in the reserved area (inclusive), the court support information system certifies the non-consultation, which is presumed to be a refusal to receive, and proceeds as set out in the previous point.

The following is noted as regards notifications:

- The main amendment concerns the notifications to parties that do not constitute legal representatives. The notifications will be made: (i) electronically, by making the notification available in the reserved digital area, for legal entities that can be served in this way and for individuals who have opted to be served in this way; (ii) electronically, via interoperability between the court support information system and the information system used by the notified party; or (iii) by post, by sending a registered letter, addressed to their residence or registered office or to the domicile chosen for the purpose of receiving them.

## Transition period

Decree-Law 87/2024 provides for a transitional period of six months after it enters into force (until May 2025), as follows:

- If it is not possible to send service of process electronically, as provided for in Article 246(6) of the CCP, due to the served legal entity not registering its email address, paragraph 13 of that article applies;
- Neither Article 246(9) of the CCP nor the fee provided for in Article 9(2) of the Court Costs Regulation applies.

## Effective date

Decree-Law 87/2024 entered into force on 10 November 2024.

MORAIS LEITÃO
GALVÃO TELES, SOARES DA SILVA
& ASSOCIADOS

Nuno Peres Alves
Andreia Guerreiro
Vera Calado
Margarida Boieiro

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