

LICENSING WITH THE URBAN SIMPLEX



Joana Gomes dos Santos and André Ferreira Carujo

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Following on from the Simplex Program, which began in 2006 and has already seen several reforms, the package of measures set out in the recent Decree-Law no. 10/2024, this time has an impact on licensing in the fields of urban planning, land use planning and industry, continuing the related path also begun by Decree-Law no. 11/2023 of February 10, regarding the reform and simplification of environmental licensing. All these issues are part of and aim to comply with the Recovery and Resilience Plan (PRR) submitted by Portugal.

In this sense, the measures represent a significant change in how companies interact with the Public Administration. Still, they also have a tremendous impact on the citizens' guarantees and the better functioning of the State. The main objective is to deregulate, reduce bureaucracy and digitize a sector with considerable weight in the Portuguese economy, such as construction and real estate. The administrative inefficiency resulting from excessive bureaucratic and regulatory control, which is sometimes archaic, has over the years been the reason for significant hindrances to investment and business development, as well as to the quality of life of citizens who are dependent on the progress of the most diverse administrative procedures, which take time to complete. On the other hand, deregulation and less control by public entities call for a greater sense of responsibility for citizens in their actions, both towards the public administration and when entering into legal transactions, which now require greater caution and legal support.

Having given this brief introduction, what can we expect?

SIMPLIFICATION IN THE URBAN PLANNING AREA

- 1.** Elimination of the need to obtain urban planning licenses, with new cases of prior communication, exemption and waiver of previous control:
 - a.** About the new cases of prior communication, these are given with the consequent exemption from obtaining an urban planning license in situations where there is a detailed plan or execution unit that has specific attributes. And whenever it is possible to follow this simplified procedure, it is now obligatory and not optional.
 - b.** As for the new cases of exemption, they occur in the absence of any prior administrative control procedure in the following situations:
 - i.** increase in the number of floors without increasing the height or façade;
 - ii.** interior works that affect the stability structure but where the qualified technician ensures that this is acceptable about the situation the property was in before the work was carried out;
 - iii.** there is sufficient and accurate prior information;
 - iv.** replacement of openings with externally identical ones that promote energy efficiency.
 - c.** About the new cases in which prior control is waived, these are the waiving of urban planning licenses or other prior control acts, which are replaced by the issuing of a non-binding opinion by the competent municipality in the following situations of works promoted by companies in the state business sector, municipal and inter-municipal companies:
 - i.** installation of equipment or infrastructure to install public services;
 - ii.** direct and immediate use by the public;
 - iii.** port areas or areas in the public railway or airport domain;

- iv. housing or for people benefiting from social policies;
- v. industrial, business or logistics parks, and the like;
- vi. safeguarding cultural heritage;
- vii. management of the State's housing stock, among others.

2. Simplification of administrative procedures for obtaining urban planning licenses, prior communications, and prior information through the following:

- a.** Approval of a tacit approval regime for building permits, with the individual being able to carry out the desired project when the respective decision has not been adopted within the due time limits.
- b.** Eliminating the building permit, to be replaced by a receipt for payment of the fees due.
- c.** Counting deadlines in a more transparent and extended way to make them easier to understand, with:
 - i. time limits start when the individual applies.
 - ii. time limits only being suspended if the individual takes more than ten days to respond to requests for information, additional documents or other requests from the Public Administration;
 - iii. the possibility of only requesting information, additional documents, or other requests once in the procedure.
- d.** Elimination of the need for an opinion from the competent cultural heritage authority in situations where:
 - i. the works inside the property do not have an impact on the subsoil or alterations to tiles, stucco, stonework, joinery, carvings or metalwork;
 - ii. are exterior conservation works;
 - iii. installing advertising hoardings, signs, awnings, terraces and street furniture.

- e.** Streamlining urban license procedures, with the delegation of powers by the councillor responsible to the respective department heads, to avoid concentration.
 - f.** Extending the validity period of prior information to two years without requesting an extension.
 - g.** Changing the deadline extension for carrying out the works to a single time and for a period not exceeding half the initial deadline.
- 3.** Standardization of urban planning procedures to eliminate the asymmetries that are felt throughout the country, without ever calling into question the autonomy of municipalities, but facilitate the interaction of individuals with them through:
 - a.** restricting the scope of municipal regulations to matters related to administrative procedures or instructional documents;
 - b.** preventing municipalities from requesting documents other than those provided for by law and by ordinance, creating for this purpose a non-exhaustive list of documents that cannot be required by any of the types of regulation mentioned or by the practice of each municipality, namely:
 - i.** copies of documents held by the council;
 - ii.** land registry;
 - iii.** forwarding of the permanent certificate or its code when its period has expired, but it was valid at the time the application was submitted;
 - iv.** scanned construction book;
 - v.** declarations of the professional capacity of the technicians responsible for the projects.
 - c.** the creation of an Electronic Platform for Urban Planning Procedures, which municipalities will be obliged to use **from January 5, 2026**, to, among other things:

- i. submit applications online;
- ii. check the status of processes and deadlines;
- iii. receive electronic notifications;
- iv. obtain certificates of exemption from urban planning procedures;
- v. standardize procedures and documents required by municipalities;
- vi. future submission of applications in Building Information Modeling (BIM) format, with automation of verification of compliance with applicable plans, which will be mandatory **from January 1, 2030**.

- 4.** Clarification of the powers of municipalities in the area of prior urban planning control about the issuing of licenses, without prejudice to their general power of supervision, in particular:

- a.** They have the power to:

- i. the insertion of the building in the territory: control of compliance with plans, preventive measures, priority urban development and priority construction areas, administrative easements, public utility restrictions and proposed use;
- ii. the exterior aesthetics and insertion of the project into the landscape;
- iii. the sufficiency of the infrastructure.

- b.** They need to be more competent in all matters relating to the interior of buildings or issues relating to specialities (water, electricity, gas, among others).

- 5.** Elimination of excessive requirements in terms of prior urban planning control, such as:

- a.** the obligation to have bidets in bathrooms;
 - b.** allowing showers in bathrooms instead of baths;
 - c.** enabling the concept of kitchens as kitchenettes or walk-throughs;
 - d.** the elimination of the need to obtain a specific license for the occupation of public space, specifically for rubble bins or scaffolding, which is now included in the building permit;
 - e.** the elimination of sieves for mailboxes, as well as the obligation for municipalities to check compliance;
 - f.** removing the obligation to request public security forces to be present at construction sites, which is now optional.
- 6.** Simplification of the process for obtaining authorization for use, whenever the work has been subject to prior control, replacing license with the simple delivery of documents, with no possibility of rejection - once again, without prejudice to the power of inspection. If the work has yet to be subject to prior control, an initial notice must be submitted, with a deadline of 20 days set by the municipality. If no response is received, the request for authorization is deemed to have been accepted.
- 7.** Simplification of the specialities processes at various levels, in which the municipalities do not assess or approve the respective projects but only acknowledge them and place them on file, accompanied by the terms of the responsibility of the technicians responsible.
- 8.** Simplification of the processes for receiving urbanization works, eliminating the costs of new guarantees, through the obligation for municipalities to accept the assignment to their contractual position of the warranty given by the contractor to the developer for the urbanization works and also, at the critical moment of everything, when the contract for the purchase and sale of the property is signed, the elimination of the obligation to show proof of the existence of a technical housing file and a use permit, or even the fact that these are not required.

SIMPLIFICATION FOR SPATIAL PLANNING

- 1.** Simplification of the process of reclassifying rustic land as urban land for industrial, storage or logistical purposes, provided that it does not cross sensitive areas or national ecological or agricultural reserves, through the following:
 - a.** holding only one public consultation;
 - b.** a procedural conference where all the entities have their say at the same time;
 - c.** the procedure does not stop during the public consultation but continues to develop;
 - d.** the municipal assembly is given the power to approve it.
- 2.** Creating the conditions to speed up approval procedures for urbanization plans and detailed plans by:
 - a.** eliminating the monitoring of their preparation by the regional coordination and development commissions;
 - b.** eliminating the consultation phase.
- 3.** Creating the conditions for simplifying urban planning control by:
 - a.** creating new cases of prior communication that replace urban planning licenses;
 - b.** densifying the content of the execution units without taking away their flexibility, which may have (with the first two assumptions, the need for a building or subdivision permit is eliminated, and it is possible to carry out urban operations based on prior communications):
 - i.** urban design;
 - ii.** the programming of urbanization works;
 - iii.** the urbanization contract for its development.

FINAL CONSIDERATIONS

It will still take a certain amount of time for the Public Administration to keep up with all this development, whose employees will receive training **until January 6, 2025** - under the responsibility of the Agency for Administrative Modernization, and from that date, it will be compulsory to request and issue opinions via the Electronic System for Issuing Opinions. On the other hand, by April 8, 2024, urban planning regulations must be made available systematically and by the municipality in the Diário da República.

Apart from the time mentioned above indications and those mentioned above, the rest of the law will enter into force on March 4, 2024, some of which have already entered into force on January 1, 2024, and will now make their way naturally. Retroactively, the changes will apply to procedures that have already been started and are pending, except the formation of tacit approval in urban planning procedures.