



Reform and Simplification of Environmental License Procedures (Environmental SIMPLEX)

Decree-law no. 11/2023, of 10th february



Object and Scope

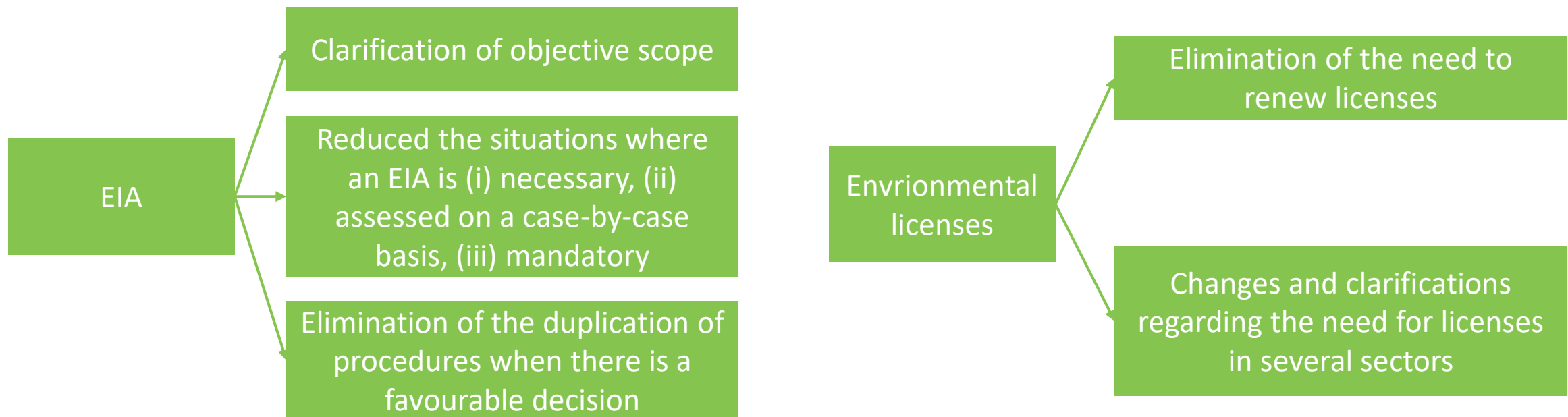
- Under Article 1, the aim of this decree-law is to reduce the administrative burdens and simplify procedures for business in terms of environmental licensing. In that regard, this decree-law eliminates licenses, authorizations, acts and procedures that are dispensable or redundant with regard to the protection of environmental resources.
- For this purpose, changes and updates are introduced with regard to matters such as Environmental Impact Assessments, environmental licensing, water resources, and administrative procedure.



Object and Scope

Article 1 - Object

→ Reduce administrative burdens and simplify procedures on business by:



Changes to the EIA regime

It is no longer necessary an EIA in the following situations:

- Modernization of railroads;
- Alterations to energy projects, production and transformation of metals, mineral, chemical, food, textile, leather, wood, paper, and, in some cases, rubber industries;
- Replacement of equipment, with or without changes in installed capacity, provided certain conditions are met;
- Hydrogen production from renewable sources and from the electrolysis of water;
- Industrial development parks or poles, industrial and logistics zones and logistics platforms that have been subject to strategic environmental assessment, without prejudice to the possible need for EIA for specific projects.



Changes to the EIA regime

It is no longer required an EIA, for projects (previously subjected to a case-by-case assessment) not located in sensitive areas, such as:

- Electricity production from solar source when
 - The installed area is <15ha;
 - It is not located less than 2km from other photovoltaic plants with over 1MW and their combined area is not larger than 15ha;
 - The connection to the public servisse electric grid switching station is made by a 60kV or higher woltage line, with a length of less than 10km.
- Production of electricity by wind source when 1 tower is involved, provided that it is more than 2km away from another tower;



Changes to the EIA regime

(continuation)

- Use of sludge in wastewater treatment plants, in a circular economy logic, through hydrolysis (thermal or biological), solar drying or composting;
- Food, textile, tanning, wood and paper, and rubber industries, when
 - The projects are located in industrial parks or poles, located at least 500m from residential areas and occupying an area of less than 1ha.
- Industrial installations for the transport of electric power through overhead lines with a voltage equal to or lower than 30 kV and a length of less than 10 km;
- Urban development projects in consolidated urban areas or occupying an area of less than 2ha.



Changes to the EIA regime

It is no longer required an EIA, albeit maintaining the need for a case-by-case assessment for:

- Solar power plant projects when the area occupied by solar panels and inverters is 100ha or less (non-sensitive areas) or 10ha (sensitive areas);
- Wind farms and overpowering in a larger number of situations;
- Installation of power transmission network up to 20km and 110kV (non-sensitive areas);
- Intensive fish farming projects in a larger number of situations (non-sensitive areas).



Changes to the EIA regime

Simplification of procedures

By the introduction of Article 31-A in the EIA regime, the **environmental analysis procedure of linear infrastructure corridors** is created, aimed at selecting the most environmentally adequate alternatives to the infrastructures to be built.

The decision obtained in this procedure, which identifies the most environmentally sustainable corridors, empowers the interested party to initiate the EIA in the execution project phase.

The initiative to carry out this procedure is up to the operator.



Changes to the EIA regime

Simplification of procedures

The environmental analysis procedure for linear infrastructure corridors is applicable:

- To utilities in the areas of water supply, transport and distribution of electricity, natural gas, piped liquefied petroleum gases and gases of renewable origin;
- Operation and management of municipal public water supply and urban wastewater sanitation systems by qualified entities;
- Public transportation in own corridor;
- Infrastructures related to public electronic communications services.



Changes to the EIA regime

Simplification of procedures

The time limit for the decision of the authority conducting the EIA procedure is increased to 150 days.

The time limit begins on the date of submission of the application and is only suspended when the interested party, having been instructed to submit additional elements or information, fails to do so within seven working days.



Changes to other regimes subject to EIA

Elimination of duplication of procedures

The need to carry out certain procedures, obtain certain authorizations and other additional acts or procedures regarding issues already subject to EIA and authorized through a favorable or conditionally favorable decision is eliminated for:

- Prior communication procedures to the competent Regional Coordination and Development Commission, for project located in areas of the National Ecological Reserve;
- Request for opinions for non-agricultural uses in areas of the National Agricultural Reserve;
- Solicitar pareceres para utilizações não agrícolas em áreas da Reserva Agrícola Nacional;
- Authorizations and opinions according to the General Regime of Nature Protection and Biodiversity;
- Reports and authorizations from the entities competent in matters of cultural heritage.



Changes to the licensing regime

Regarding environmental licenses, the following changes are introduced:

- The need to renew the environmental license is eliminated, except when there are substantial changes in the industrial facility or new techniques available;
- The obligation to hire/participate with accredited entities in the environmental licensing procedure is eliminated (it becomes optional).



Changes to the licensing regime

(continuation)

- Clarification of the concept of "industrial scale" for the purpose of waiving the environmental license. It is considered "no scale":
 - The experimentation of a new technology;
 - The final preparation of products in a store;
 - The production in commercial establishments;
 - The production in retail stores;
 - Small craft manufacturing activities.
- Elimination of the precedence between the approval of the livestock effluent management plan and the issuance of the environmental permit;
- Waiver of the Air Emissions Certificate for holders of an environmental license.



Changes to the Water Resources Use regime

We highlight the following changes to the Water Resources Use Regime:

- Revision of the transmission regime of titles of use of hydric resources;
- Substitution of the authorization for the use of water resources for prior communication for
 - Construction projects inserted in the urban network with a second generation municipal master plan;
 - Recovery of (existing) structures without changing their initial characteristics.
- A single title (authorization and/or license) will be issued per operator (and establishment);
- Automatic renewal of the water resources license in the specified situations;
- Changes of administrative deadlines.



Changes to the Water Resources Use regime

Regarding the changes to administrative deadlines, mentioned on the previous slide, the following changes are made:

Deadline	Current	Change
Decision of the request for prior information	45 days	30 days
Issuing Opinions	45 working days	10 working days – counted from the date of promotion of the consultations that are legally and regularly demandable
Tacit deferral	2 months	45 working days



Changes to the Water Law

The following changes are made to article 72 of Law no. 58/2005 (Water Law):

- Titles of use of private water resources are transferable by mere prior communication to the competent authority, 10 days in advance;
- Titles of use of public water resources may be transferred by authorization of the competent authority.



Changes to the production of water for reuse

Regarding the regime of production of water for reuse, the need for a production license for the utilization of water for reuse is eliminated in the following cases:

- The reuse is performed by the same person (natural or legal) or by entities included in the same group;
- The reuse of water in centralized systems, provided that the environmental receptors are the same as the discharge of treated wastewater from which it originates.



Changes to the production of water for reuse

Along with the elimination of licenses, the following changes are introduced:

- Substitution of licenses by prior communications with a deadline in decentralized systems or centralized systems (use);
- Procedures related to water for reuse are made free of charge - prohibiting the charging of fees, most notably the water resources fee.



Changes to the waste management regime

We highlight the following changes to the waste management regime:

- Replacement of the waste management operation license by a binding opinion under the Responsible Industry System (SIR) licensing in certain situations;
- Reduction in the number of producers of hazardous waste subject to the obligation to present a waste production minimization plan, required only for cases of production exceeding 1000t per year.



Changes to administrative procedures

We highlight the following changes:

- Creation of a Single Environmental Report, which aggregates the various environmental reporting obligations;
- Institution of a mechanism for certifying tacit deferrals, free of charge and dematerialized, by an administrative entity to be designated;
- A request for additional elements in the administrative procedure may only be submitted once to the interested party, and the decision period will no longer be suspended if the interested party replies within 10 working days.
- Time limit for the issue of opinions in administrative proceedings is reduced to 15 working days; outdated opinions are prohibited (mandatory opinions are now considered favorable opinions).



Transitional rules

The changes introduced to the license regime are applicable to environmental licenses valid on the date this decree-law comes into effect – February 12, 2023.

The legislative changes made by the present diploma apply to administrative procedures in progress.

For pending procedures, when they are no longer subject to mandatory EIA or case-by-case evaluation the following regime applies:

- No environmental impact decision issued - pending procedures expire ex officio, without any need for a declaration;



Transitional rules

(continuation)

- Environmental impact decision issued, project in the preliminary design phase – it is no longer necessary to carry out a procedure to obtain a declaration of environmental conformity verification for the execution project, and the project may be approved by the licensing or competent entity to authorize it without observing the conditions contained in the environmental impact decision;
- Environmental impact decision issued, or declaration of environmental compliance verification, for project in execution phase – the project may be approved by the licensing or competent entity to authorize it without observing the conditions contained in the decision or declaration.
- Projects where EIA is no longer mandatory but is subject to case-by-case assessment, with environmental impact decision or environmental conformity declaration already issued – the environmental impact decision or declaration may be used, and the project must comply with the conditions contained therein.



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