According to the programme of the XVIII Constitutional Government, in order to foster the country’s competitiveness, the establishment of simplified and accelerated licensing schemes and previous conditions for the access to and exercise of such activities should be regarded as a priority. This way, the necessary expediency of procedures is guaranteed and it is possible to decrease disproportionate administrative costs.

Less bureaucracy, quicker procedures and an easier pursuit of activities make the services market more competitive, contributing to promote economic growth and to create jobs.

To this end, this Decree-Law establishes simplified principles and rules on free access and exercise on the national territory of service activities performed for an economic consideration.

There are several mechanisms able to simply and reduce bureaucracy, for the benefit of people and service providers. Thus, in the first place, points of single contact are established to provide all necessary information to pursue the activity in Portugal, as well as relevant information for recipients of services. That is, it is now possible, through a single portal, for any person or company that wishes to provide services on national territory, to know the requirements which must be fulfilled to pursue the activity and the necessary acts and administrative permits. The point of single contact also allows the necessary procedures and formalities to be processed electronically, in a simple and quick way.

The point of single contact also provides relevant information for service recipients, and allows the sending of complaints or requests for information.

In the second place, the cases that require licenses or authorizations for the provision of services on national territory are restricted. As such, licenses or authorizations that correspond to more complex and lengthy administrative procedures are now required only on exceptional situations, justified on compelling grounds of public interest. The streamlining of procedures is accompanied by the necessary reinforcement of means and ways of supervision. The simplification now established thus entails, on the one hand, giving responsibility to the players concerned and, on the other, the reinforcement of supervision.

In the third place, formalities deemed to be redundant are abolished, such as the need to obtain specific prior opinions or to carry out surveys, in the scope of administrative procedures.

Finally, in the fourth place, the freedom of provision of services and of establishment within national territory is acknowledged for any European Union person or company. This measure thus strengthens European integration and enables the single market to be further consolidated.

These measures guarantee not only the competitiveness of the services market, but also an increased transparency and information for consumers, giving them wider choice and better services at lower prices.

Services of general interest which are not performed for an economic consideration are not covered by the scope of this regime. Legal, regulatory or conventional schemes on labour, social security, tax or criminal nature are also excluded, as well as rules which do not specifically regulate or specifically affect the service activity but have to be respected by providers in the course of other economic activities, as in the case of industry.

This Decree-Law also transposes to the national legal order Directive 2006/123/EC of the European Parliament and of the Council, of 12 December 2006, on services in the internal market. This directive is one of the Lisbon Strategy’s priorities, which determined goals such
as the improvement of employment and social cohesion and the achievement of a sustainable economic growth.

The Comissão Nacional de Protecção de Dados (National Data Protection Commission) and the Autoridade da Concorrência (Competition Authority) were heard.

Therefore:

Pursuant to paragraph 1 a) of article 198 of the Constitution, the Government hereby decrees as follows:

CHAPTER I
General Provisions

Article 1
Purpose

1 - This Decree-Law lays down simplified principles and rules on free access and exercise of service activities pursued on national territory.


Article 2
Subjective scope

1 - This Decree-Law applies to service providers established within national territory, or in other Member States of the European Union or of the European Economic Area, hereinafter referred to as Member States.

2 - Provisions of articles 5, 6, paragraph 4 of article 7, and articles 8, 16, 20 and 22, also apply to service providers of States not belonging to the European Union or to the European Economic Area.

3 - "Service provider" shall be deemed to mean any natural person who is a national of a Member State, or any legal person established in the national territory or in another Member State, who offers or provides a service.

Article 3
Objective scope

1 - This Decree-Law covers services which are performed for an economic consideration and which are offered or provided in the national territory, including specific services referred in the annex hereto, which is deemed to be an inherent part hereof.

2 - "Service" shall be deemed to mean any self-employed economic activity, normally provided for remuneration, as referred to in the Treaty on the Functioning of the European Union (TFEU).

3 - The following services and activities are excluded from the scope hereof:

a) Financial services such as those provided by credit institutions and financial corporations, insurance, reinsurance, and occupational or personal pension schemes;

b) Electronic communications services and networks, and associated facilities and services, with respect to matters covered by legislation on electronic communications;
c) Services in the field of transport, including air and sea transport, port and airport services, insofar as they are covered by title VI of TFEU;

d) Services provided by temporary work companies or agencies;

e) Healthcare services whether or not they are provided via healthcare facilities, and regardless of the ways in which they are organised and financed at national level or whether they are public or private;

f) Cinematographic, radio broadcasting and audiovisual services, including on demand television and audiovisual services, whatever their mode of production, distribution and transmission;

g) Gambling activities which involve wagering a stake with pecuniary value in games of chance, including lotteries, bingos, gambling in casinos and betting transactions;

h) Social services relating to social housing, childcare and support of families and persons permanently or temporarily in need which are provided by the State, by providers mandated by the State or by charities recognised as such by the State;

  i) Private security services;

j) Services provided by any entity in the exercise of official authority, as set out in article 51 of TFEU;

l) Services provided by notaries.

4 - This Decree-Law does not apply to the field of taxation, as regards services and providers covered by the scope of tax laws.

5 - Where an administrative authorization scheme has been specifically established for a service activity at Community level, or by law or decree-law transposing to the national legal order a Community directive, this Decree-Law shall only apply to aspects not foreseen in the administrative authorization scheme.

Article 4
Freedom of establishment and free provision of services

1 - Service providers are free to establish themselves and pursue their activity within national territory namely by establishing companies, subsidiaries, branches, agencies or offices, without any prior administrative authorization or mere communication, except in those cases where the law provides for such administrative authorization, and it is granted, under the terms and subject to the conditions laid down in Chapter III.

2 - For the purposes hereof, "establishment" shall be deemed to mean the actual pursuit by the provider of an economic activity, as referred to in Article 49 of TFEU, as well as the set up and management of undertakings, in particular of commercial companies, for an indefinite period and through a stable infrastructure from where the business of providing services is actually carried out.

3 - Service providers established in other Member State are free to pursue their activity and to provide their services on national territory, without any prior administrative authorization or simple prior communication, except in those cases where the law provides for such administrative authorization, and it is granted, under the terms and subject to the conditions laid down in Chapter III.

CHAPTER II
Administrative Simplification
Article 5
Reduction of bureaucracy and simplification

Administrative procedures covered by this Decree-Law and associated administrative procedures shall be conducted in such a way that burdens imposed on service providers and recipients in all Member States are minimised, as well as procedures, documents and acts that must be performed or sent to competent administrative authorities, and the need for travelling, including, specifically:

a) All applications, communications and notifications between service providers and other actors and the competent administrative authorities must be allowed to take place by electronic means through the point of single contact, in the scope of the necessary procedures for obtaining administrative authorizations;

b) All procedures shall be centralised in the electronic point of single contact in order to avoid duplication of applications and documents sent in;

c) At the choice of service providers, procedures to enable the granting of an administrative authorization may take place simultaneously with other procedures necessary for the exercise of the service activity to be pursued;

d) Service providers may apply for documents held by any national public administrative authority, being incumbent upon the public administrative authority responsible for the procedure to supply such documents;

e) Failure to observe deadlines for the provision of advice or for the performance of acts shall not prevent the procedure from moving forward and from being brought to a decision.

Article 6
Point of single contact and dematerialisation of procedures

1 - An electronic point of single contact is hereby established, allowing the electronic access to the competent administrative authorities by any service provider or recipient, in all States.

2 - The electronic point of single contact shall be made available in a website accessed through the Enterprise’s Portal.

3 - The electronic point of single contact shall provide service providers and recipients of all States clear, unambiguous and up to date information, at least in Portuguese, English and Spanish, on the following:

a) Requirements that apply to the provision of services, namely those concerning procedures and formalities relating to access to a service activity and to the exercise thereof;

b) Addresses and contact details of competent administrative authorities;

c) The means of, and conditions for, accessing public databases, namely register and notary databases;

d) The means of judicial or extrajudicial settlement of disputes between service providers, between the competent administrative authorities and service providers, or between a provider and a recipient;

e) Addresses and contact details of any entities from which providers or recipients may obtain assistance;
f) Illustrative list of documents that competent administrative authorities accept as a replacement for legally required documents, for the purposes of paragraphs 1 and 4 of the following article;

g) List of documents which must be produced in original, authentic or authenticated form, or as a certified copy or as a certified translation, or with handwriting and signature recognition, or merely signature recognition, in the cases where such a requirement is justified by an overriding reason relating to the public interest, for the purposes of paragraphs 2 and 4 of the following article.

4 - The electronic point of single contact shall also allow service providers and recipients of all States to directly and immediately perform all necessary acts and formalities to access and pursue a service activity, including means of electronic payment, as well as to follow up and consult procedures.

5 - All applications, communications and notifications between service providers and other actors in procedures, including the competent administrative authorities, must be allowed to take place by electronic means through the point of single contact.

**Article 7**

**Documents**

1 - Where evidence of a fact concerning a requirement for the access to or pursuit of a service activity depends on the presentation of a document, competent administrative authorities shall accept documents with an equivalent purpose or which ascertain that fact, whether they have been issued in the national territory or in another Member State.

2 - Competent administrative authorities shall not require documents issued in another Member State to be produced in original, authentic or authenticated form, or as a certified copy or as a certified translation, except where such requirements are provided for in Community statutory instruments or in the law by an overriding reason relating to the public interest, within the meaning of paragraph 1 of article 30.

3 - The preceding paragraph does not apply to the following documents:

a) Documents referred to in paragraph 1 of article 5 and in article 47 of Law number 9/2009, of 4 March, which transposes to the national legal order paragraph 2 of article 7 and article 50 of Directive 2005/36/EC of the European Parliament and of the Council, of 7 September 2005, on the recognition of professional qualifications;

b) Documents referred to in paragraph 1b), paragraph 5b) and paragraph 6 of article 81, paragraphs 2 and 3 of article 164 and article 246 of the Public Procurement Code, which transposes to the national legal order paragraph 3 of article 45 and articles 46, 49 and 50 of Directive 2004/18/EC of the European Parliament and of the Council, of 31 March 2004, on the coordination of procedures for the award of public works contracts, public supply contracts and public service contracts;

c) Documents referred to in paragraph 3 of article 198 of the internal rules of the Bar Association, approved by Law number 15/2005, of 26 January, as amended by Decree-Law number 226/2008, of 20 November, and by Law number 12/2010, of 25 June, which transposes to the national legal order paragraph 2 of article 3 of Directive 98/5/EC of the European Parliament and of the Council, of 16 February, to facilitate practice of the profession of lawyer on a permanent basis in a Member State other than that in which the qualification was obtained;

d) Documents referred to in Decree-Law number 257/96, of 31 December, where it transposes to the national legal order First Council Directive 68/151/EEC, of 9 March, on co-ordination of safeguards which, for the protection of the interests of members and others, are required by Member States of companies within the meaning of the second paragraph of
Article 58 of the Treaty, with a view to making such safeguards equivalent throughout the Community;

e) Documents referred to in Decree-Law number 225/92, of 21 October, which transposes to the national legal order Eleventh Council Directive 89/666/EEC, of 21 December, concerning disclosure requirements in respect of branches opened in a Member State by certain types of company governed by the law of another State.

4 - Paragraphs 1 and 2 also apply to documents issued in another Member State, listed in an Administrative Rule of the members of the Government responsible for the area of administrative modernization and for the procedure at stake.

5 - Competent administrative authorities may require non-certified translation into Portuguese of any of the documents referred to in this article, except for those in original English language.

CHAPTER III
Administrative authorization for access to or exercise of service activities

Article 8
Administrative authorizations

1 - Administrative authorizations are administrative acts or contracts which aim to enable the access to or exercise of a service activity in situations where such activity may not be performed freely or through a mere prior communication, and concern, specifically, licenses, permits, validations, authentications, certifications, acts issued following prior communications with a deadline and registers.

2 - For the purposes hereof, the following definitions shall apply:

a) "Prior communication with a deadline" shall mean a declaration by the service provider which is necessary to start the activity, and which allows the pursuit thereof where the administrative authority fails to provide a response within the time period set;

b) "Mere prior communication" shall mean a declaration by the service provider which is necessary to start the activity, and which allows the pursuit thereof immediately after its communication to the administrative authority;

3 - The legal scheme of administrative authorizations for the access to or exercise of a service activity is subject to the following principles provided for in the Administrative Procedure Code (APC):

   a) Principle of legality;

   b) Principle of pursuit of the public interest and protection of consumer rights and interests;

   c) Principle of equality;

   d) Principle of proportionality, including the principles of appropriateness, necessity and proportionality in a narrow sense;

   e) Principle of justice;

   f) Principle of impartiality, including the principle of objectivity;

   g) Principle of good-faith;

   h) Principle of assistance of administrative authorities to individuals, including the principle of publicity;
i) Principle of participation, including the principle of transparency;

j) Principle of decision;

l) Principle of reduction of bureaucracy and efficiency, including the principles of simplicity, swiftness and final decision in the shortest period of time possible, clarity and transparency;

m) Principle of no payment of costs, except in those cases where, in the light of the principle of proportionality, the service provider may be charged a fee for the procedure costs by law;

n) Principle of access to justice.

Article 9
Conditions to require an administrative authorization

1 - The establishment of a legal scheme requiring an administrative authorization for the access to or exercise of a service activity depends on the following conditions:

a) The objective pursued cannot be attained by means of a less restrictive administrative measure, namely a mere prior communication scheme for the exercise of the activity at stake, with the possibility of an immediate start of the activity after the formality has been fulfilled;

b) Its existence and formalities are provided for in the law in a clear and unambiguous way;

c) The administrative authorization must be absolutely essential;

d) The requirement is proportionately justified by an overriding reason relating to the public interest, within the meaning of paragraph 1 of article 30.

2 - Where, under the preceding paragraph, a legal scheme requiring an administrative authorization for the access to or exercise of a service activity is adopted, the following rules must be complied with:

a) The competent administrative authority shall notify the applicant of the reception of the application for administrative authorization, providing thereto information on the legal time limit for the issue of a final decision, the effects resulting from failing to provide a response within the time period set, and available means of redress.

b) The tacit approval rule provided for in article 108 of the APC shall be adopted, or otherwise failing a response within the time period set, the silence of the administrative authority shall be given positive effects, except where justified by overriding reasons relating to the public interest, within the meaning of paragraph 1 of article 30, including a legitimate interest of third parties.

Article 10
Equality between and non-discrimination of service providers

1 - Access to or exercise of a service activity by a service provider shall not be made dependent on discriminatory assumptions, requirements or conditions based on nationality, place of residence or location of the registered office.

2 - "Assumption, requirement or condition" shall be deemed to mean any obligation, prohibition, condition or limit imposed specifically on the access to, or the exercise of, a service activity, and provided for in the legislation or in rules of professional bodies, except for rules laid down in collective agreements negotiated by social partners.

3 - The provision in paragraph 1 hereof covers the service provider, his staff, and persons holding the share capital or members of the provider's bodies.
Article 11
Prohibited assumptions, requirements and conditions

1 - Access to or exercise of a service activity shall not be made subject to compliance with any of the following:

a) Administrative authorizations, assumptions, requirements, conditions, obligations or controls which are equivalent or essentially comparable as regards their purpose to which the provider is already subject in the national territory or in another Member State;

b) Prohibition of access to or exercise of a service activity to providers who, in more than one Member State, have an establishment, entry in a register or registration with a professional body or association;

c) Restrictions on the freedom of a provider to choose in the national territory between a principal or a secondary establishment, and in this case, the freedom to choose between the form of an agency, branch or subsidiary;

d) Conditions of reciprocity with the Member State in which the provider already has an establishment;

e) Application of an economic test making the granting of authorization subject to proof of the existence of an economic need or market demand, an assessment of the potential or current economic effects of the activity or an assessment of the appropriateness of the activity in relation to the economic planning objectives;

f) Direct or indirect involvement of competing service providers, including within consultative bodies, with the exception of public professional associations or other organizations acting under the law as the competent administrative authority;

g) Obligation to provide a financial guarantee or to take out insurance from a provider or body established in the national territory, without prejudice to article 13;

h) Obligation to have been pre-registered in the registers held in the national territory or to have previously exercised the activity for a given period in the national territory;

i) Quantitative or territorial restrictions, in particular in the form of limits fixed according to population or of a minimum geographical distance between providers;

j) Obligation on a provider to take a specific legal form;

l) Requirements which relate to the shareholding of a company;

m) Requirements which reserve access to the service activity in question to particular providers by virtue of the specific nature of the activity, other than those concerning professional qualification matters, covered by Law number 9/2009, of 4 March;

n) Ban on having more than one establishment in the national territory;

o) Requirements fixing a minimum number of employees;

p) Requirements fixing minimum or maximum tariffs, prices or fees;

q) Obligation on the provider to supply other specific services jointly with his service.

2 - As regards the free provision of services by providers established in another Member State, the access to or the exercise of a service activity shall not be made subject to compliance with any of the following:
a) Obligation on the provider to have an establishment in the national territory;
b) Obligation on the provider to obtain an administrative authorization from the competent authorities, except where provided for herein or in instruments of Community law;
c) Obligation on the provider to be entered in a register or registration with a public professional association;
d) Ban on the provider setting up the necessary infrastructure to supply the services in question;
e) Ban or restriction of service provision by the self-employed;
f) Obligation on the provider to possess an identity document issued by administrative authorities specific to the exercise of a service activity;
g) Requirements which affect or limit the use of the necessary equipment and material for the service provided, except for those related to health and safety at work;
h) Discriminatory limits imposed on service recipients as regards the grant of financial assistance by reason of the fact that the provider is established in the national territory or by reason of the location of the place at which the service is provided;
i) Obligation on service recipients to obtain an administrative authorization or to make a prior declaration or communication to access a certain service activity.

Article 12
Derogations from the freedom to provide services

Provisions in paragraph 3 of article 4 and in paragraph 2 of the preceding article shall not apply to the following services and matters:

a) Economic services of general interest, namely:

i. In the postal sector, services covered by Law number 102/99, of 26 July, as amended by Decree-Law number 116/2003, of 12 of June, establishing the general conditions to be respected for the establishment, management and operation of postal services in the national territory, as well as international services originating or terminating in the national territory, and Decree-Law number 448/99 of 4 November, as amended by Decree-Law number 150/2001 of 7 May, by Decree-Law number 116/2003, of 12 June, and by Decree-Law number 112/2006, of 9 June, that approves the premises for the concession of the universal postal service, concluded between the Portuguese State and CTT Correios de Portugal, S. A.;


iii. In the gas sector, services covered by Decree-Law number 30/2006, of 15 February, and by Decree-Law number 140/2006, of 26 June, as amended by Decree-Law number 65/2008, of 9 April, on the national gas system organization and operation, and on the exercise of activities of natural gas reception, storing, transport, distribution and marketing, and organization of natural gas markets;

iv. Water distribution and supply services and waste water services;

v. Treatment of waste.
b) Matters covered by articles 6 to 8 and 108 of the Labour Code, approved by Law number 7/2009, of 12 February, as amended by Law number 105/2009, of 14 September, on the posting of workers in the framework of the provision of services;

c) Matters covered by Law number 67/98, of 26 October, on the protection of individuals with regard to the processing of personal data and on the free movement of such data;

d) Matters concerning the effective exercise by lawyers of freedom to provide services, covered by chapter V of the internal rules of the Bar Association, approved by Law number 15/2005, of 26 January, as amended by Decree-Law number 226/2008, of 20 November;

e) The activity of judicial recovery of debts;

f) Matters covered by chapter II of Law number 9/2009, of 4 March, on the recognition of professional qualifications, as well as requirements which reserve an activity to a particular profession;


h) As regards administrative formalities concerning the free movement of persons and their residence, matters covered by the provisions of Law number 37/2006, of 9 August, that lay down administrative formalities of the competent authorities with which beneficiaries must comply;


j) Copyright, neighbouring rights and rights on the legal protection of topographies of semiconductor products, covered by the Industrial Property Code, approved by Decree-Law number 36/2003, of 5 March, and rights referred to in Decree-Law number 122/2000, of 4 July, on the legal protection of databases, as well as industrial property rights;

l) Acts requiring by law the involvement of a notary, without prejudice to article 7;

m) Matters on the statutory audit of annual accounts and consolidated accounts, covered by the internal rules of the Certified Auditors Association (approved by Decree-Law number 487/99, of 16 November, amended and republished by Decree-Law number 224/2008, of 20 November, and subsequently amended by Decree-Law number 185/2009, of 12 August), by the Code of Commercial Companies and by Decree-Law number 225/2008, of 20 November;

n) The registration of vehicles leased in another Member State;

o) Provisions regarding contractual and non-contractual obligations, including the form of contracts, determined pursuant to the rules of private international law.

**Article 13**

**Professional liability insurance**

1 - The pursuit of the activity by providers established in the national territory whose services present a direct and particular risk to the health or safety of the recipient or a third person, or to the financial security of the recipient, may be subject to the subscription to professional liability insurance appropriate to the nature and extent of the risk, or to the provision of a guarantee or equivalent arrangement.
2 - A service provider established in another Member State shall not be required to subscribe professional liability insurance for the developed activity in the national territory, where such activity is already fully or partially covered by insurance, guarantee or equivalent instrument subscribed to or provided in another Member State in which the provider is already established.

3 - Where insurance, guarantee or equivalent instrument covers risks only partially, the service provider shall complement it to cover those aspects not already covered.

4 - Attestations of insurance cover issued by credit institutions and insurers established in any Member State shall be deemed as sufficient evidence of compliance with the requirement of activity coverage by insurance, guarantee or other equivalent instrument subscribed to or provided in another Member State in which the provider is already established.

**Article 14**

**Conditions prohibiting commercial advertising**

1 - No conditions seeking to impose total prohibitions on commercial advertising by the regulated professions shall be allowed.

2 - "Commercial advertising" shall be deemed to mean any form of advertising designed to promote, directly or indirectly, the goods, services or image of an undertaking, organization or person engaged in commercial, industrial or craft activity.

3 - "Regulated profession" shall be deemed to mean a professional activity or a group of professional activities, the access to which, or the exercise or one of the exercise modalities of which, depend, directly or indirectly, on holding certain professional qualifications, within the meaning of Law number 9/2009, of 4 March.

**Article 15**

**Conditions on the exercise of an activity exclusively, jointly or in partnership**

1 - No conditions seeking to make providers subject to requirements which oblige them to exercise a given specific activity exclusively or which restrict the exercise jointly or in partnership of different activities shall be allowed.

2 - Conditions which impose on service providers the exercise of a given specific activity exclusively or which restrict the exercise jointly or in partnership of different activities may be allowed in the following situations:

a) As regards service providers who pursue regulated professions, in so far as is justified to ensure their independence and impartiality and to guarantee compliance with the rules governing professional ethics and conduct;

b) As regards service providers who pursue certification, accreditation, technical monitoring, test or trial services, in so far as is justified in order to ensure their independence and impartiality.

**Article 16**

**Duration**

1 - Administrative authorizations for the access to or exercise of an activity shall not be granted for a limited period, without prejudice to their expiry, revocation, alteration or replacement.

2 - Administrative authorizations for the access to or exercise of an activity may be granted for a limited period where they concern one of the following situations:

a) Authorizations are being automatically renewed;
b) Authorizations are subject only to the continued fulfilment of requirements which justify their granting;

c) The number or duration of authorizations is limited by an overriding reason relating to the public interest, within the meaning of paragraph 1 of article 30.

**Article 17**

**Territorial scope and limitation of administrative authorizations**

1 - Administrative authorizations shall enable the provider to exercise the service activity, throughout the national territory.

2 - Where the administrative authorization scheme so requires, the service provider shall inform the competent administrative authority, through the point of single contact, of the setting up of agencies, subsidiaries, branches or offices.

3 - Where justified by the scarcity of available natural resources or technical capacities, the law may limit the number of administrative authorizations available for a given activity, by applying a selection procedure to potential candidates, under the terms of the Code of Public Procurement.

4 - Administrative authorizations granted pursuant to the preceding paragraph shall be for a limited period, deemed to be appropriate according to the scarcity of available natural resources or technical capacities, and may not be open to automatic renewal.

5 - Upon expiry of the administrative authorization, service providers in favour of whom the authorization was granted, or any person having any kinship or marriage links, as well as company or labour links, with those providers, shall not be conferred any other advantage on account of that circumstance in order to obtain a new administrative authorization.

**Article 18**

**Expiry**

1 - Administrative authorizations shall expire where assumptions, requirements or conditions on which depended their granting cease to be fulfilled.

2 - The expiry shall be declared by the competent administrative authority.

3 - The service provider shall inform the competent administrative authority, through the electronic point of single contact, of changes in assumptions, requirements or conditions which imply the expiry of his administrative authorization.

**CHAPTER IV**

**Rights of recipients of services**

**Article 19**

**Non-discrimination of recipients**

1 - Service recipients shall not be made subject to discriminatory requirements based on their nationality, place of residence or location of the registered office.

2 - The general conditions of service provision defined by the service provider shall not contain discriminatory provisions relating to the nationality, place of residence or location of the registered office of the service recipient, except where those differences are directly justified by objective criteria.

3 - The law shall not make recipients subject to any conditions, limitations, prohibitions or other requirements which restrict the use of a service supplied by a provider established in another Member State.
4 - "Recipient" shall be deemed to mean any natural person who is a national of a Member State or who benefits from rights conferred upon him by Community acts, or any legal person established in a Member State, who, for professional or non-professional purposes, uses, or wishes to use, a service.

Article 20
Information on providers and respective services

1 - In addition to other legally required elements, the service provider shall supply the recipient, in a simple, summarized, unambiguous and easily accessible manner, preferably by electronic means or through an address previously communicated, with the following:

a) Name of the provider, his legal status and form;
b) Address of the registered office and direct contacts, including electronic contacts;
c) Elements allowing the access to data of the trade register where the provider is registered, namely the provider’s registration number;
d) Address and contacts of the competent administrative authority or of the point of single contact, where the activity is subject to a scheme of administrative authorization or mere prior communication;
e) Tax identification number, where the provider exercises an activity which is subject to value added tax;
f) In the case of the regulated professions, any professional body or similar institution with which the provider is registered, the professional title and the Member State in which that title has been granted;
g) General conditions and clauses, if any, used by the provider;
h) Contractual clauses used by the provider concerning the law applicable to the contract and the competent courts, if any;
i) Information on the existence of an after-sales guarantee not imposed by law, if any;
j) Price of the service, where it is pre-determined;
k) Main features of the service, if not already apparent from the commercial context;
m) Information on insurance referred to in article 13 and in particular the address and contacts of the insurer or guarantor and the territorial coverage.

2 - The obligation in the preceding paragraph may be also fulfilled by providing information at the place where the service is provided or the contract concluded.

3 - At the recipient’s request, the provider shall supply the following additional information:
a) Where the price is not pre-determined, the price of the service or, if an exact price cannot be given, the calculation method, or in the alternative, a sufficiently detailed estimate;
b) A reference to the professional rules applicable in the Member State of establishment and how to access them;
c) Information on multidisciplinary activities pursued and partnerships engaged in which are directly linked to the service in question and on the measures taken to avoid conflicts of interest;
d) Codes of conduct to which the provider is subject, the language version available and the address at which these codes may be consulted by electronic means;

e) Where a provider is subject to a code of conduct, or member of a trade association or professional body which provides for recourse to a non-judicial means of dispute settlement, information in this respect, specifying how to access detailed information on the respective characteristics and conditions.

4 - Particulars referred to in paragraphs 1 and 3 shall be made available to the recipient in a clear and unambiguous manner, and in good time before conclusion of the contract or, where there is no written contract, before the service is provided, sufficiently in advance to allow the recipient to understand its contents, according to the specific nature of the activity.

5 - Particulars referred to in paragraphs 1 and 3 c) shall be included in all documents where the provider sets out a detailed description of services provided, regardless of the means used.

Article 21
Assistance for recipients of services

1 - The point of single contact, the European Consumer Centre and the European Business Network shall provide recipients of services, at their request, and at a distance, including by electronic means, general, clear, unambiguous and up-to-date information on:

a) Requirements applicable in other Member States relating to access to and exercise of service activities, in particular those relating to consumer protection;

b) Judicial and extrajudicial means of redress available in the case of a dispute between a provider and a recipient;

c) Contact details of any entities which may provide practical assistance.

2 - Where justified by the complexity of the matter, the assistance provided shall include a simple step-by-step guide.

3 - The point of single contact, the European Consumer Centre and the European Business Network shall provide bodies of other Member States, holding similar functions to those defined in the preceding paragraph, the information requested, as soon as possible.

Article 22
Requests for information and complaints

1 - Without prejudice to the legal scheme provided for in Decree-Law number 156/2005, of 15 September, on the Book of Complaints, as amended and republished by Decree-Law number 371/2007, of 6 November, Decree-Law number 118/2009, of 19 May, and Decree-Law number 317/2009, of 30 October, recipients of services shall be able to send directly to the provider a complaint or a request for information about the service provided.

2 - Where recipients send directly to the provider a complaint or a request for information, service providers shall respond within ten working days at the most, or where justified by the simplicity of the matter, a time-limit not exceeding five working days, identifying the arrangements pursued to handle the matter.

3 - Service providers shall supply recipients with their postal address, e-mail address, telephone number and fax number, so that rights provided for in paragraph 1 may be enforced.

CHAPTER V
Supervision and breach regime
Article 23
Supervision
1 - National administrative authorities shall be responsible for:

a) Supervision of compliance with requirements imposed on service providers in the national territory, regardless of their place of establishment;

b) Supervision of compliance with requirements imposed on service providers established in the national territory, even if the service has caused damage or has been provided in another Member State.

2 - Service providers established in the national territory shall supply the competent administrative authorities all the necessary information for the supervision of their activities.

Article 24
Breaches
1 - Violation of paragraphs 1 and 2 of article 19, of articles 20 and 22, and of paragraph 2 of article 23, as well as failure to provide any information requested by competent administrative authorities or by the national point of single contact, which are compulsory hereunder, shall be deemed to be serious breaches.

2 - Failure to provide in time compulsory information requested by competent administrative authorities or by the national point of single contact shall be deemed to be a minor breach.

Article 25
Fines
1 - Breaches provided for in paragraph 1 of the preceding article are liable to a fine between (Euro) 250 and (Euro) 3 000, or between (Euro) 500 and (Euro) 25 000, whether the agent is a natural or a legal person.

2 - Breaches provided for in paragraph 2 of the preceding article are liable to a fine between (Euro) 50 and (Euro) 1 500, or between (Euro) 100 and (Euro) 5 000, whether the agent is a natural or a legal person.

3 - In case of negligence, minimum and maximum amounts of fines provided for in the preceding paragraphs shall be halved.

4 - Where the breach results from failure to perform a duty, the application of the penalty and payment of the fine shall not exempt the offender from complying with the duty, if there is time.

5 - In case the fine is voluntarily paid, its minimum value may be established.

6 - The detection of the offence, drawing up of the notice and investigation procedure shall be incumbent on the Autoridade para a Segurança Alimentar e Económica (the Food and Economic Safety Authority), as well as to administrative authorities to whom supervision powers over service providers have been granted by specific legal schemes of service activities.

7 - The application of penalties provided for in paragraphs 1 and 2 is incumbent on the Comissão de Aplicação de Coimas em Matéria Económica e Publicidade - CACMEP (the Economic and Advertising Penalties Application Commission).

8 - Fine amounts collected in breach proceedings shall revert:
a) at 60% to the State or to the Autonomous Regions, depending on the location where the
offence was committed;

b) at 30% to the administrative authority who investigates the proceedings;

c) at 10% to the CACMEP.

9 - Fine amounts collected in breach proceedings for which municipal administrative
authorities are responsible shall revert:

a) at 60% to the State or to the Autonomous Regions, depending on the location where the
offence was committed;

b) at 40% to municipalities.

CHAPTER VI
Cooperation between Member States

Article 26
Cooperation between administrative authorities

1 - The competent administrative authorities shall provide and request mutual assistance
from administrative authorities of other Member States and the European Commission,
within the shortest possible period of time, and shall put in place measures for effective
cooperation, in order to ensure the supervision of providers and the services they provide,
namely through:

a) The exchange of the necessary information;

b) Checks, inspections and investigations carried out to service providers, where requested
on duly justified grounds.

2 - Results of checks, inspections and investigations shall be supplied by electronic means
and within the shortest possible period of time to the requesting competent administrative
authority, as well as measures taken as a result of arrangements put in place and any
difficulties in meeting a request for information.

3 - The competent administrative authorities shall guarantee the protection of personal data
to which they have access in the exercise of obligations conferred thereto by this chapter,

4 - Communications between administrative authorities of different Member States and
between such authorities and the European Commission shall be made by electronic means,
through the Internal Market Information System.

5 - The Ministry responsible for the economy area shall indicate to the European Commission
and to Member States the name and address of a liaison point, to ensure the functions of
mutual assistance and cooperation between competent administrative authorities, conferred
therein the scope of the Internal Market Information System.

6 - The national liaison point shall inform the European Commission of situations of failure to
comply with administrative cooperation obligations by competent administrative authorities
of another Member State.

Article 27
Good repute of providers
1 - At a duly substantiated request of a competent administrative authority in another Member State, the competent administrative authorities shall communicate, in conformity with the national law:

   a) Criminal, administrative or disciplinary non-appealable sanctions;

   b) Decisions concerning insolvency or bankruptcy involving fraud in respect of the provider which are directly relevant to the provider's competence or professional reliability, as well as provisions pursuant to which the decision was taken.

2 - Information provided pursuant to the preceding paragraph shall also be communicated to the provider.

3 - Where decisions concerning insolvency or bankruptcy involving fraud are communicated, the competent administrative authority shall specify whether a particular decision is final or whether an appeal has been lodged in respect of it, in which case an indication of the date when the decision on appeal is expected must be provided.

Article 28
Concrete measures of restricted freedom to provide services

1 - Where Member States do not harmonize their legal schemes relating to the safety of services, the competent administrative authority, in exceptional circumstances only, may take measures relating to the safety of services provided by a provider established in another Member State, where the following conditions are fulfilled:

   a) The competent administrative authority shall previously request the Member State of the European Union (EU) where the provider is established to take the necessary measures to guarantee the safety of services provided;

   b) The Member State of establishment shall communicate to the competent administrative authority the measures taken or envisaged or, as the case may be, the reasons why it has not taken any measures;

   c) The competent administrative authority shall notify the European Commission, the national liaison point and the competent administrative authority of the Member State where the provider is established of the measures intended to be taken, listing the reasons for which the measures taken or envisaged by the Member State of establishment are deemed to be inadequate, and which justify the adoption of national measures;

   d) The safety measures against a service provider established in another Member State may not be taken until fifteen working days after the date of notification provided for in the preceding subparagraph;

   e) The application of safety measures shall observe principles listed in paragraph 3 of article 8;

   f) The measures provide for a higher level of protection of the recipient than would be the case in a measure taken by the Member State of establishment in accordance with its national provisions.

2 - Provisions in subparagraphs a) to d) shall not apply in the case of urgency, in which case the competent administrative authority shall notify the measures within the shortest possible period of time to the Commission and the Member State of establishment, stating the reasons for which it is deemed that there is urgency.

3 - Provisions in this article shall be without prejudice to any criminal, administrative, disciplinary or civil liability the service provider may be subject to in the national territory.
Article 29
Alert mechanism

Competent administrative authorities shall inform, within the shortest possible period of time, the involved Member States, especially the Member State of establishment, the Commission, and the respective liaison contact, of any specific conduct or act performed by a service provider, whether established in the national territory or not, that could cause serious damage to the health or safety of persons or to the environment.

CHAPTER VII
Overriding reason relating to the public interest

Article 30
Overriding reason relating to the public interest

1 - "Overriding reason relating to the public interest" shall be deemed to mean an exceptional circumstance, based on grounds of public policy, public security, civil protection, public safety, public health, preserving the financial equilibrium of the social security system, the protection of consumers, recipients of services and workers, fairness of trade transactions, combating fraud, the protection of the environment and the urban environment, the health of animals, intellectual and industrial property, the conservation of the national historic and artistic heritage, social and cultural policy objectives, which justifies in a non-discriminatory and proportionate way, the adoption of a different legal scheme than that provided for herein as regards any of the following aspects:

a) The possibility of competent administrative authorities requiring documents issued in another Member State to be produced in original, authentic or authenticated form, or as a certified copy or as a certified translation, pursuant to paragraphs 2 and 4 of article 7;

b) The establishment of a legal scheme requiring an administrative authorization, pursuant to paragraph 1 d) of article 9;

c) The departure from the tacit approval rule provided for in article 108 of the APC or the granting of positive effects to silence, pursuant to paragraph 2 b) of article 9;

d) The possibility of establishing any of the conditions provided for in subparagraphs i) to q) of paragraph 1 of article 11;

e) The possibility of setting prohibitions on commercial advertising, without prejudice to article 14;

f) The possibility of establishing the number or duration of administrative authorizations, pursuant to paragraph 2 c) of article 16;

g) The possibility of imposing a specific administrative authorization for each establishment or limiting the territorial scope of the administrative authorization, except for paragraph 1 of article 17.

2 - Some of the conditions listed in paragraph 2 of article 11 may be imposed on service providers established in another Member State, insofar as they are based on overriding reasons relating to the public interest exclusively related to public policy, public security, public health, and the protection of the environment, being safeguarded the principles of non-discrimination and proportionality.

CHAPTER VIII
Sector schemes

SECTION I
Legal spa activity scheme
**Article 31**  
Amendment to Decree-Law number 142/2004, of 11 June

Article 1 of Decree-Law number 142/2004, of 11 June, is hereby amended to read as follows:

«Article 1
[...]

1 - ...

2 - ...

3 - ...

4 - Without prejudice to article 4, establishments which are not intended for the prevention of diseases, therapeutic purposes, rehabilitation and sustaining health, and are exclusively dedicated to the pursuit of aesthetic, beauty and relaxation purposes, shall be deemed to be tourism management equipment, being subject to the legal scheme provided for in Decree-Law number 108/2009, of 15 May.»

**SECTION II**  
Whale-Watching Regulation in Mainland Portugal Waters

**Article 32**  
Amendment to Decree-Law number 9/2006, of 6 January

Articles 10, 12, 13, 15, 16, 17, 20, 24, 25, 27 and 28 of the Whale-Watching Regulation in Mainland Portugal Waters, approved in annex to Decree-Law number 9/2006, of 6 January, are hereby amended to read as follows:

«Article 10
[...]

1 - ...

2 - ...

3 - The application for authorization shall be sent in an electronic form, duly completed and attaching all documents required hereunder.

4 - ...

5 - ...

Article 12
[...]

1 - The authorization is valid for three years, and shall be renewable for three-year periods.

2 - The authorization renewal depends on whether there are significant risks for whale welfare and assessment of requirements based on which the authorization was granted.

3 - (Former paragraph 2).

Article 13
[...]
1 - (Former body of article).

2 - Where the limit provided for in the preceding paragraph has been reached, the issue or renewal of authorizations shall take place through public procurement, pursuant to the Code of Public Procurement, as adapted by Administrative Rule approved by the member of the Government responsible for the environment area, who shall lay down the tender eligibility requirements and selection criteria.

3 - Without prejudice to other criteria defined in the Administrative Rule referred to in the preceding paragraph, the granting of authorizations shall take place according to the technical and human resources, as well as to tourism whale protection programmes submitted by tenderers.

**Article 15**

[...]

In the scope hereof, the following duties fall on the operator:

a) ...
b) ...
c) ...
d) ...
e) ...
f) To supply electronically to the Instituto da Conservação da Natureza e da Biodiversidade, I. P. (ICNB, I. P.) - the Institute for Nature Preservation and Biodiversity - in January every year, the monthly statistics of the number of participants in the company’s programmes, which have a confidential nature and which shall be used exclusively for statistical purposes, as well as whale sightings as regards the number, species and location, for the previous year;

g) ...
h) ...

**Article 16**

[...]

1 - ...

2 - The application shall be sent in an electronic form, at least 30 days in advance, specifying the following:

a) ...
b) ...
c) ...
d) ...
e) ...
f) ...
The observer shall send via electronic means to ICNB, I.P., a detailed report on operations pursued and the appropriateness of methods used, as well as a copy of the resulting work:

a) ...

b) ...

Article 20

1 - ...

2 - The application shall be sent in an electronic form, at least 30 days in advance, specifying the following:

a) ...

b) ...

c) ...

d) ...

e) ...

f) ...

g) ...

h) ...

3 - ...

Article 24

1 - The commission of acts listed below shall be deemed to be a very serious environmental offence, punishable under Law number 50/2006, of 29 August, as amended by Law number 89/2009, of 31 August:

a) Violation of prohibitions laid down in paragraph 3 of article 5;

b) Whale-watching during the period of activity suspension provided for in article 9;

c) The pursuit of whale-watching tourism operations without the authorization required by article 10;
2 - The commission of acts listed below shall be deemed to be a serious environmental offence, punishable under Law number 50/2006, of 29 August, as amended by Law number 89/2009, of 31 August:

a) Violation of watching rules laid down in paragraph 2 of article 5 and in article 7;

b) Violation of approach rules laid down in paragraph 2 of article 6;

c) Violation of prohibitions laid down in paragraph 4 of article 5, paragraph 3 of article 6 and paragraph 1 of article 8;

d) Whale-watching for scientific purposes without the authorization required by article 16;

e) Failure to comply with general rules of behaviour provided for in subparagraph b) of article 21.

3 - The commission of acts listed below shall be deemed to be a minor environmental offence, punishable under Law number 50/2006, of 29 August, as amended by Law number 89/2009, of 31 August:

a) Failure to comply with article 14;

b) Violation of duties provided for in article 15;

c) Violation of the special rule of behaviour provided for in article 19.

d) Violation of the specific rule on audiovisual registration operations provided for in subparagraph a) of article 21.

4 - Offences committed in the attempted and negligent forms shall be punishable.

Article 25

Accompanying sanctions and precautionary seizure

1 - Where justified by the seriousness of the infringement, the competent authority is entitled to determine, together with the fine, the application of the appropriate accompanying sanctions, according to Law number 50/2006, of 29 August, as amended by Law number 89/2009, of 31 August.

2 - Conviction for commission of very serious and serious offences provided for in the preceding paragraph may be advertised, in accordance with article 38 of Law number 50/2006, of 29 August, as amended by Law number 89/2009, of 31 August, where the specific fine applied exceeds half the maximum abstract fine amount.

3 - The administrative authority may, where appropriate, determine the precautionary seizure of goods and documents, in accordance with article 42 of Law number 50/2006, of 29 August, as amended by Law number 89/2009, of 31 August.

Article 27

[...]

The distribution of the amount of fines provided for herein shall be made pursuant to article 73 of Law number 50/2006, of 29 August, as amended by Law number 89/2009, of 31 August.

Article 28

[...]
1 - The administrative authority may, where appropriate, determine the application of interim measures, in accordance with article 41 of Law number 50/2006, of 29 August, as amended by Law number 89/2009, of 31 August.

2 - (Repealed).»

**Article 33**

Addition to Decree-Law number 9/2006, of 6 January

The following article 30 is hereby added to the Whale-Watching Regulation in Mainland Portugal Waters, approved in annex to Decree-Law number 9/2006, of 6 January:

«Article 30

Point of single contact and computer records

1 - All communications and notification provided herein, as well as the sending of documents, applications or information, shall take place via electronic means, through the services’ electronic point of single contact.

2 - Records which operators are bound to store pursuant hereto shall be available in computer-readable format.

3 - In case electronic platforms are not available, and thus compliance with paragraph 1 is not possible, the transmission of information at stake may take place by other legal means.»

**Article 34**

Repeal to Decree-Law number 9/2006, of 6 January

Paragraph 2 of article 28 of the Whale-Watching Regulation in Mainland Portugal Waters, approved in annex to Decree-Law number 9/2006, of 6 January, is hereby repealed.

**SECTION III**

Legal scheme on quality of water intended for human consumption

**Article 35**

Amendment to Decree-Law number 306/2007, of 27 August

Articles 26, 27, 31 and 37 of Decree-Law number 306/2007, of 27 August, are hereby amended to read as follows:

«Article 26

[...]

1 - Only testing laboratories accredited for the conduct of water quality analyses in sampling points referred to in paragraph 2 of article 10 shall be deemed to be apt for the purpose, as regards the assessment of compliance herewith.

2 - The collection of samples shall be undertaken by laboratories accredited for the purpose, or, in the alternative, by the managing entity, and, in this case, it shall be performed by water sampling technical staff duly certified for the purpose by an accredited certification body.

3 - The accreditation shall be granted by a national accreditation body, within the meaning of Regulation (EC) No 765/2008 of the European Parliament and of the Council of 9 July 2008, who has signed the relevant Mutual Recognition Agreement of the European accreditation infrastructure provided for in the referred regulation.
Article 27
Evidence of accreditation

1 - Laboratories that fulfil requirements provided for in the preceding article shall submit to the competent authority, by electronic means, a copy of the document attesting their accreditation, issued by a competent accreditation body pursuant to paragraph 3 of the preceding article, so that managing entities that engage their services are able to submit the online PCQA, pursuant to paragraph 3 of article 14.

2 - Without prejudice to the preceding paragraph, the competent authority may forbid an accredited laboratory from carrying out certain tests where it is deemed not to fulfil the necessary technical requirements that ensure the reliability of analytical results, namely on account of the failure to comply with analyses deadlines specified in applicable testing rules.

3 - The rejection decision by the competent authority, taken in accordance with the preceding paragraph, shall be communicated to the laboratory within at the most 10 working days from the reception of the communication provided for in paragraph 1.

4 - Testing laboratories shall ensure the update of the document attesting their accreditation with the competent authority, where any alterations occur which may have an impact on the scope of action herein or on the validity of their accreditation.

5 - The competent authority shall disclose an up-to-date list of testing laboratories referred to in paragraph 1 via its website, which may be accessed through the Citizen’s Portal or the Enterprise’s Portal.

6 - Without prejudice to the resource to other means of communication, procedures provided for in this article shall take place via electronic means, through the services’ electronic point of single contact.

7 - Laboratory activities in the scope hereof are subject to supervision by the competent authority, namely for control of provision in article 18 and sub-engagement of testing activities to other laboratories accredited for the purpose.

8 - Laboratories shall cooperate with the competent authority as regards the clarification of activities provided for in the scope hereof.

Article 31
[...]

1 - ...

2 - ...

a) ...

b) ...

c) ...

d) ...

e) ...

f) ...

g) ...
i) Failure to update the document attesting accreditation, pursuant to paragraph 4 of article 27.

3 - ...

4 - ...

Article 37

3 - The study referred to in the preceding paragraph shall be disclosed via the competent authority’s website, which may be accessed through the Citizen’s Portal or the Enterprise’s Portal.

4 - ...

5 - ...

6 - ...

7 - ...

8 - (Repealed.)

9 - (Repealed.)»

Article 36

Addition to Decree-Law number 306/2007, of 27 August

The following article 37-A is hereby added to Decree-Law number 306/2007, of 27 August:

«Article 37-A

Point of single contact and computer records

1 - All communications and notification provided herein, as well as the sending of documents, applications or information, shall take place via electronic means, through the services’ electronic point of single contact.

2 - Records which operators are bound to store pursuant hereto shall be available in computer-readable format.

3 - In case electronic platforms are not available, and thus compliance with paragraph 1 is not possible, the transmission of information at stake may take place by other legal means.»

Article 37

Repeal to Decree-Law number 306/2007, of 27 August

Paragraphs 8 and 9 of article 37 of Decree-Law number 306/2007, of 27 August, are hereby repealed.
SECTION IV
Legal framework of water supply and treatment of waste water and waste municipal services

Article 38
Amendment to Decree-Law number 194/2009, of 20 August

Articles 27 and 36 of Decree-Law number 194/2009, of 20 August, are hereby amended to read as follows:

«Article 27
[...]»

1 - ...
2 - ...
3 - ...
4 - ...
5 - ...
6 - ...
7 - Where the fulfilment of requirements and conditions imposed on tenders is examined, the requirements, conditions or controls which are equivalent or essentially comparable as regards their purpose to which the provider was already submitted in Portugal or in another Member State shall be taken into account.

Article 36
[...]»

1 - ...
2 - ...
3 - Where the fulfilment of requirements and conditions imposed on tenders is examined, the requirements, conditions or controls which are equivalent or essentially comparable as regards their purpose to which the provider was already submitted in Portugal or in another Member State shall be taken into account.»

SECTION V
Legal framework of water supply and treatment of waste water and waste multi-municipal services

Article 39
Amendment to Decree-Law number 379/93, of 5 November

Article 4-A of Decree-Law number 379/93, of 5 November, as amended by Law number 176/99, of 25 October, by Decree-Law number 439-A, of 29 October, by Decree-Law number 14/2002, of 26 January, by Decree-Law number 103/2003, of 23 May, by Decree-Law number 194/2009, of 20 August and by Decree-Law number 195/2009, of 20 August, are hereby amended to read as follows:

«Article 4-A
[...]»
1 - ...
2 - ...
3 - ...
4 - ...
5 - ...
6 - ...

7 - The participation of private entities, which must be placed in a subordinate position, in the social capital of managing entities of multi-municipal systems, shall be preceded of the applicable legal procedures.

8 - Where the fulfilment of requirements and conditions imposed on tenders is examined, the requirements, conditions or controls which are equivalent or essentially comparable as regards their purpose to which the provider was already submitted in Portugal or in another Member State shall be taken into account.

9 - (Former paragraph 8).

10 - (Former paragraph 9).

11 - (Former paragraph 10).

SECTION VI
Waste incineration and co-incineration legal scheme

Article 40
Amendment to Decree-Law number 85/2005, of 28 April

Articles 6, 7, 8, 9, 10, 13, 14, 15, 18, 41, 42 and 44 of Decree-Law number 85/2005, of 28 April, as amended by Decree-Law number 178/2006, of 5 September, are hereby amended to read as follows:

«Article 6
[...]

1 - The application for a licence for a waste incineration or co-incineration installation shall be sent to the competent authority in computer-readable format and via electronic means, and designed pieces may be presented in paper.

2 - ...

3 - ...

4 - (Repealed.)

5 - ...

Article 7
[...]

1 - ...
a) Identification of the applicant: name, tax number, code of economic activity, address, telephone, fax and email address, all of which may be replaced by a code of access to the commercial register and email permanent certification;

b) ...

c) (Repealed.)

2 - ...

3 - ...

4 - The application for the installation license shall also include a non-technical summary of data listed in the preceding paragraphs, to facilitate public consultation, which may be provided via electronic means;

5 - Where the operator is provided with data or information made available to the administration in accordance with environment legislation in force, including in safety matters, such data or information may be used to examine applications. The operator shall indicate which data or information have already been made available and in which scope.

Article 8

[...]

1 - ...

2 - ...

3 - ...

4 - For the purpose of paragraphs 1 and 2 of article 36, the competent authority shall send the proceedings by electronic means to the regional coordination and development commission responsible for the area in question.

Article 9

[...]

1 - ...

2 - ...

3 - For the purpose of the preceding paragraph, in the cases provided for in article 4 a) and b), the granting of the installation license depends on a favourable opinion from the Agência Portuguesa do Ambiente (APA) - the Portuguese Environment Agency - issued in accordance herewith within 30 days from the date of application.

4 - In the case provided for in article 4 c), the granting of the installation license depends on a favourable opinion from the regional coordination and development commission responsible for the area in question and from the Direcção-Geral de Veterinária (Veterinary Directorate-General), issued in accordance herewith within 30 days from the date of application.

5 - ...

6 - ...

7 - ...
9 - The competent authority shall inform by electronic means the Inspecção-Geral do Ambiente e do Ordenamento do Território (IGAOT) - the Inspectorate-General for the Environment and Territorial Planning - and other consulted bodies, of the final decision on the installation license.

10 - ...

**Article 10**

[...]

1 - Without prejudice to legally applicable requirements, in accordance to provisions in Decree-Law number 236/98, of 1 August, as amended by Decree-Law number 243/2001, of 5 September, and by Decree-Law number 135/2009, of 3 June, in Law number 58/2005, of 29 December, as amended by Decree-Law number 245/2009, of 22 September, in Decree-Law number 276/99, of 23 July, as amended by Decree-Law number 279/2007, of 6 August, in Decree-Law number 173/2008, of 26 August, and in Decree-Law number 183/2009, of 10 August, the installation license shall establish the conditions under which, pursuant hereto, the incineration or co-incineration installation may be licensed, namely:

a) ...

b) ...

c) ...

d) ...

e) ...

f) ...

g) ...

h) The period of validity of the license, which shall not exceed five years, for reasons concerning population safety and environment protection.

2 - ...

3 - ...

4 - ...

**Article 13**

[...]

1 - ...

2 - The inspection shall be requested by the applicant at least 30 days ahead of the date foreseen for the operation of the installation and shall take place within 20 days from the date of application, the applicant being notified for the purpose by the licensing entity at least 10 days ahead.

3 - ...

4 - ...
Article 14

[...]

1 - The operator must take out non-contractual liability insurance, which must be adequate to the nature and weight of risks insured, under a company legally qualified to perform the activity in the territory of the European Union or of the European Economic Area, with effects from the date on which the waste incineration or co-incineration installation starts operating, in accordance with the terms and subject to the conditions required by the competent authority.

2 - ...

3 - ...

4 - Where justified on grounds of public interest, namely on grounds of population safety and environment protection, the competent authority shall notify the operator to update, within a reasonable deadline, the contract conditions of the insurance guarantee.

Article 15

[...]

1 - ...

2 - ...

3 - ...

4 - The competent authority shall inform by electronic means the APA of licenses issued in accordance with this article, where this Agency is not involved in the procedure, as well as IGAOT.

Article 18

[...]

1 - ...

a) ...

b) ...

c) ...

d) ...

e) ...

f) Submit to APA every year, by 31 January, a report on the previous year operation and control of the installation, in computer-readable format, in the case of incineration or co-incineration installations with a nominal capacity of 2 t/h or more.

2 - ...

Article 41

[...]

1 - The commission of acts listed below shall be deemed to be a very serious environmental offence, punishable under Law number 50/2006, of 29 August, as amended and republished by Law number 89/2009, of 31 August:
c) Violation by operators of exceptional operation conditions set out in the license, pursuant to article 11;

d) (Repealed.)

e) (Repealed.)

f) (Repealed.)

g) (Repealed.)

h) (Repealed.)

i) ...

j) ...

l) ...

m) (Repealed.)

n) Violation of conditions for waste delivery and reception defined in article 22 and 23;

o) ...

p) (Repealed.)

q) (Repealed.)

r) (Repealed.)

s) (Repealed.)

t) (Repealed.)

u) ...

v) ...

2 - The commission of acts listed below shall be deemed to be a serious environmental offence, punishable under Law number 50/2006, of 29 August, as amended by Law number 89/2009, of 31 August:

a) Failure to comply with paragraph 1 of article 14;

b) Violation of the obligation set out in paragraph 1 of article 17;

c) Violation of waste management rules defined in article 28;

d) Failure to comply with the duty to control and monitor emissions pursuant to article 29;
e) Non-compliance with monitoring criteria of air pollutants established in paragraphs 1 to 3 and 10 of article 30;

f) Non-compliance with emission limit values provided for in paragraph 1 of article 32;

g) Non-compliance with measurement criteria of waste water discharges established in paragraphs 1 and 3 of article 33.

3 - The commission of acts listed below shall be deemed to be a minor environmental offence, punishable under Law number 50/2006, of 29 August, as amended by Law number 89/2009, of 31 August:

a) Failure to comply with paragraph 3 of article 14;

b) Failure to comply with paragraph 5 of article 31.

4 - Offences committed in the attempted and negligent forms shall be punishable.

**Article 42**

1 - Where justified by the seriousness of the infringement, the competent authority is entitled to determine, together with the fine, the application of the appropriate accompanying sanctions, according to Law number 50/2006, of 29 August, as amended by Law number 89/2009, of 31 August.

2 - Conviction for commission of very serious offences provided for in paragraph 1 of article 41, as well as of serious offences provided for in paragraph 2 of the same article, may be advertised, in accordance with article 38 of Law number 50/2006, of 29 August, as amended by Law number 89/2009, of 31 August, where the specific fine applied exceeds half the maximum abstract fine amount.

3 - The administrative authority may, where appropriate, determine the precautionary seizure of goods and documents, in accordance with article 42 of Law number 50/2006, of 29 August, as amended by Law number 89/2009, of 31 August.

**Article 44**

The distribution of the amount of fines provided for herein shall be made pursuant to article 73 of Law number 50/2006, of 29 August, as amended by Law number 89/2009, of 31 August.

**Article 41**

Addition to Decree-Law number 85/2005, of 28 April

The following article 35-A is hereby added to Decree-Law number 85/2005, of 28 April, as amended by Decree-Law number 178/2006, of 5 September:

«Article 35-A

**Point of single contact and computer records**

1 - All communications and notification provided herein, as well as the sending of documents, applications or information, shall take place via electronic means, through the services' electronic point of single contact.

2 - Records which operators are bound to store pursuant hereto shall be available in computer-readable format."
3 - In case electronic platforms are not available, and thus compliance with paragraph 1 is not possible, the transmission of information at stake may take place by other legal means.

**Article 42**

Repeal to Decree-Law number 85/2005, of 28 April

Paragraph 4 of article 6, paragraph 1 c) of article 7 and subparagraphs d) to h), m) and p) to t) of paragraph 1 of article 41 of Decree-Law number 85/2005, of 28 April, as amended by Decree-Law number 178/2006, of 5 September, are hereby repealed.

**CHAPTER IX**

Final and transitional provisions

**Article 43**

Coming in, staying, leaving and expulsion of foreign citizens from the national territory

The schemes of freedom of establishment and free provision of services set out herein shall be without prejudice to the application of Law number 23/2007, and of other complementary legislation.

**Article 44**

Temporal application of the law and transitional legislation on the point of single contact and on dematerialization of acts and procedures

1 - Provisions in articles 5 and 6 shall take effect as from 1 January 2011, and until this date it must be ensured that all applications, communications and notifications provided for therein take place through the single email address, created for the purpose by competent administrative authorities, which must be indicated in the respective websites and also in the Citizen's Portal and in the Enterprise's Portal.

2 - The provision of information through the services’ point of single contact, provided for in articles 5 and 6, shall be regulated by Administrative Rule of the members of the Government responsible for the administrative modernization area and for the respective matter.

**Article 45**

Entry into force

This Decree-Law shall enter into force of the first day of the third month following its publication.


Promulgated on 14 July 2010.

Let it be published.

The President of the Republic, ANÍBAL CAVACO SILVA.

Counter-signed on 16 July 2010.
ANNEX

Illustrative list of service activities referred to in paragraph 1 of article 3:

- Travel agencies;
- Private placement agencies;
- Industrial property agents and associates;
- Car rental without a driver;
- Estate agencies and real property brokerage;
- Tourism management and maritime tour operators;
- Audiotext and message-based value added services;
- Co-generation energy auditors;

Energy audits and energy consumption rationalization plans and drawing up of implementation and progress reports;

- Artificial tanning;
- Property registration;
- Rating of non-audiovisual shows;
- Free market electricity supply;
- Free market gas supply;
- Itinerant trading and fairs;
- Itinerant wholesale trading and wholesale fairs;
- Building and construction;

Analytical control of the quality of water for human consumption;

- Training courses for gas professionals;
- Workplace safety, hygiene and health training courses;
- Installer courses;
- Driving instructor and sub-director courses;
- Technical director of sports facilities open to the public;
Distribution, sale and application of plant protection products, whether aerial or not, as well as services provided by responsible operators and technicians;

Installation of gas networks;

Water parks;

Driving schools;

Shows of an artistic nature;

Sex shops;

Social support establishments;

Trade establishments;

Operation of waste landfills;

Operation of fixed artistic enclosures;

Operation of class i and ii gas distribution networks and branches;

Training of technicians providing technical support in the areas of integrated pest management, integrated production and organic production method;

Undertakers;

Inspection of lifts, skip hoists, escalators and moving walkways;

Inspection of gas distribution networks and branches in buildings;

Inspection of petroleum derived fuels installation;

Set up of telecommunications;

Sports facilities open to the public;

Performing licence;

Maintenance of lifts, skip hoists, escalators and moving walkways;

Amateur diving;

Set up and/or repair of gas appliances;

Whale watching tourism operations;

Underground water research, abstraction and set up of extraction equipment;

Basic topographical or thematic map production;

Promotion and organization of holiday camps;

Bullfights;
Restaurants and bars;
Services provided by training entities and courses they provide, in agricultural matters;
Workplace safety, hygiene and health external services;
Technicians conducting electrical installations as a particular service;
Aerial work;
Sports coach.