



VIII CONSTITUTIONAL GOVERNMENT

DECREE-LAW 35/2021 LAND-USE PLANNING INSTRUMENTS

The approval of the legislation on territorial planning instruments develops the general principles set out in the Basic Law on Spatial Planning.

Chapter One presents the object and definitions of the fundamental concepts applied in this diploma, the concept of a territorial management system, the scope of the planning policy, the technical basis of territorial plans, as well as the principles of the right to information, the articulation of public interests and the general principles for coordinating interventions.

The second chapter, entitled "Territorial Planning System", deals about:

- The definition of the scope of each planning instrument, fundamentally proposing the existence of a national scope and a municipal scope;
- The obligation to weigh public interests with territorial expression among themselves and these with private interests as a limit to the planning freedom of the Public Administration;
- The implementation of the scope of the national scope, which has as its maximum expression the National Spatial Planning Plan, whose material content must reflect its nature as an instrument that establishes the major options for the organization of the national territory and that defines the model for the territorial structuring of the urban system, networks, infrastructures and facilities of national interest, as well as the enhancement and protection of agricultural, forest, environmental and economic areas of national interest. Also, with respect to the national scope, the admissibility of the existence of sectoral planning instruments aimed at establishing the spatial incidence and territorial impact of the programming or implementation of public policies of the various sectors of the Public Administration;
- The definition of the municipal scope, corresponding to the territorial areas of municipalities, which will involve the adoption, in development of the national scope guidelines, of two types of municipal plans: the municipal land use plan, of a more strategic and programmatic content and covering the entire municipal territory; the land use plan, of a more operational nature, defining the regime of occupation, use and transformation of the soil and the forms that ensure its programming and execution, for any area of municipal territory;
- The establishment of forms of coordination of public interests between the various players with responsibilities over the territory, clarifying the relationships between the plans adopted at national level and those of municipal scope.

The third chapter essentially covers the provisions concerning the administrative procedures for the formation and dynamics of the plans:

- The definition of the means of monitoring by specially appointed commissions;
- The consecration of forms of citizen participation in the procedures which ensure their intervention at the moment of the decision to prepare the plan, throughout the various phases of the procedure and, especially, in a specific procedure of public discussion;
- The establishment of mechanisms for the prior evaluation of the impact of the approval of the plans and of ways of evaluating the suitability and implementation of the discipline contained in the plans;
- The establishment of rules on the dynamics and updating of territorial planning instruments, which ensure, due to the evolution or reconsideration of the economic, social, cultural and environmental conditions underlying their preparation and the supervening of laws, administrative regulations or other plans, the adaptation of the territorial plan discipline.

The fourth chapter aims to fundamentally frame the adoption of precautionary measures of the plans, preventing the alteration of the factual circumstances existing in a certain portion of the territory, guaranteeing the freedom of the Administration in the preparation of territorial plans and preventing the future execution of the plan from being compromised. To this end, two figures are established - preventative measures and provisional measures - which differ from one another in that they involve, respectively, the definition of negative forms (prohibitions and limitations) and positive forms (aptitudes and vocations), which determine a transitional regime applicable to a parcel of territory.

The fifth chapter establishes a set of rules governing the execution and programming of plans, highlighting as a fundamental guideline the public programming of plan execution, giving the Public Administration the key role in directing this task and obliging individuals to adapt their claims to the objectives and priorities defined by the public entities;

The sixth chapter concludes the draft statute, containing the final and transitory provisions that may be necessary to enshrine in order to allow for a gradual application of the statute's discipline, without prejudicing previously consolidated situations.

Thus,

The Government decrees, under the terms of paragraphs (o) and (p) of Article 115(1) of the Constitution of the Republic and Article 32 of Law No. 6/2017, of 19 April, which establishes the Bases of Territorial Planning, to be valid as law, the following:

CHAPTER I GENERAL PROVISIONS

Section I General Provisions

Article 1 Object

The present diploma, in development of Law No. 6/2017, of 19 April (Bases of Territorial Planning), establishes the legal regime of territorial planning instruments, which defines, namely, the regime of coordination of the national and municipal scopes of the territorial management system and the regime of approval, execution and evaluation of territorial management instruments.

Article 2

Definitions

1. For the purposes of this statute, the following definitions shall apply:
 - a) Protected area - a portion of territory delimited for the purpose of conserving its natural heritage, which includes ecological, historical, geological and cultural elements;
 - b) Equipment for collective use - buildings and areas of land used to satisfy the collective needs of the population in the areas of health, education, public administration, social assistance, culture, sport, recreation and leisure, defence, public safety, civil protection and others
 - c) Urban perimeter - area that includes the set of urbanised spaces, composed of totally or partially urbanised or built-up land, and of urbanisable spaces, planned for the expansion of urban agglomerations;
 - d) Rural land - corresponds to the land which, due to its recognised suitability, is intended for agricultural, livestock or forestry use, for the conservation and upgrading of natural resources, for the exploitation of geological or energy resources, as well as that which is intended for natural, cultural, tourism and recreational areas, or which does not show suitability or does not justify its allocation for urban purposes;
 - e) Urban land - corresponds to the land destined for urbanisation and construction, including totally or partially urbanised or built-up land and that for which it is possible to plan urbanisation;
 - f) Urban system - a group of urban agglomerations and respective areas of influence which ensure the supply of certain goods and services and which establish, among themselves, relations of a hierarchical order, of dependence or of complementarity.
2. In addition to the definitions set out in the preceding paragraph, the definitions set out in Law No. 6/2017, of 19 April (Bases for Territorial Planning) shall be considered to have been adopted.

Article 3

Spatial planning system

1. Public policy for spatial planning shall be based on a structured and integrated system of spatial planning instruments, with the following scopes:
 - a) The national scope;
 - b) The municipal scope.
2. The national sphere shall be implemented through the following territorial planning instruments:
 - a) The national spatial planning plan;
 - b) The sectoral plans with territorial jurisdiction.

3. The municipal sphere shall be implemented through the following territorial planning instruments:
 - a) Municipal land use plans;
 - b) Soil use plans.

Article 4

Binding

1. Territorial planning instruments shall be binding on public entities.
2. Soil use plans shall also be binding directly and immediately upon private individuals.
3. Sectoral plans and municipal land use plans may also be directly and immediately binding to private parties, wholly or partially, when so determined by the Government decree that approves them.

Article 5

Technical basis of territorial plans

1. Territorial plans shall clearly set out the grounds for the respective forecasts, indications and determinations, to be established on the basis of the knowledge acquired:
 - a) The physical, morphological and ecological characteristics of the territory;
 - b) Natural resources and the architectural, historical, cultural and religious heritage;
 - c) Natural and migratory demographic dynamics;
 - d) Environmental, economic, social and cultural transformations;
 - e) Regional asymmetries and the conditions of access to infrastructures, equipment, services and urban functions.
2. Territorial plans shall contain the qualitative and quantitative indicators for the purposes of the evaluation provided for in Article 30.

Article 6

Right to information

1. All interested parties shall have the right to be informed on the territorial management policy and, in particular, on the preparation, approval, execution and evaluation of territorial plans.
2. The right to information referred to in the preceding paragraph includes the right to:
 - a) To consult the various processes, namely, the basic studies and other documentation, written and drawn, which substantiate the options established;

- b) Obtain information about the provisions contained in territorial plans, as well as to know the conditioning factors, administrative easements and utility restrictions applicable to the use of the soil.
3. The entities responsible for the preparation of territorial plans shall create and keep updated a system that ensures the exercise of the right to information, namely through the use of computerised means.

Article 7

Right to participation

1. All natural and legal persons, including associations representing economic, social and cultural interests, shall have the right to participate in the preparation, modification, review, implementation and evaluation of territorial planning instruments.
2. The right of participation referred to in the previous point includes the possibility of formulating suggestions and requests for clarification, within the scope of the procedures provided for in this statute, to the entities responsible for the preparation of territorial planning instruments.
3. The public entities responsible for the preparation, alteration, review, execution and evaluation of territorial planning instruments shall disclose, through the most appropriate means, namely through the media:
 - a) The decision to trigger the process of preparation, amendment or review, identifying the objectives to be pursued;
 - b) The conclusion of the drafting, modification or review phase, as well as the content of the elements to be submitted to public discussion;
 - c) The opening and duration of the public discussion phases;
 - d) The conclusions of the public discussion;
 - e) The mechanisms for implementing territorial plans;
 - f) The beginning and the conclusions of the evaluation procedures.
4. The entities referred to in the preceding paragraph shall be subject to the duty to weigh the proposals submitted.

Section II

Public interests with territorial expression

Article 8

Identification and weighing of public interests

1. The pursuit of public interests with territorial expression involves the identification of territorial resources, namely:

- a) The areas allocated to national defence, security and civil protection;
 - b) Natural resources;
 - c) Agricultural and forestry areas;
 - d) Architectural, historical, cultural and religious heritage;
 - e) The transport, infrastructure and collective facilities networks;
 - f) The urban system;
 - g) The location and distribution of economic activities.
2. The territorial planning instruments shall, within the scope of natural resources and values, consider as of strategic relevance for the development of the territory:
- a) The coastal zone and the seashore;
 - b) Protected areas;
 - c) Other areas and resources relevant to the conservation of nature and biodiversity.
3. The territorial planning instruments shall articulate, among themselves, the various public interests with territorial incidence, in order to enable an optimised and sustainable use of the territory.

Article 9

Graduation of the public interest

1. In territorial areas where incompatible public interests converge, priority must be given to those whose pursuit determines the most appropriate use of the soil, in environmental, economic, social and cultural terms.
2. Excepted from the provisions of the preceding paragraph are interests pertaining to national defence, security, public health, civil protection and risk prevention and minimisation, the pursuit of which shall have priority over other public interests.

Section III

Coordination of interventions

Article 10

Principles of coordination and articulation

1. The coordination of spatial planning strategies, determined by the pursuit of public interests with territorial expression, imposes on the Government and the municipalities the duty to coordinate their respective interventions in territorial matters.

2. The preparation, approval, amendment, review, execution and evaluation of territorial planning instruments shall require the identification and consideration, in the different spheres, of plans, programmes and projects, whether of private initiative or of the Public Administration's initiative, with incidence in the area concerned, taking into account those that already exist and those that are being prepared, in order to ensure the necessary compatibility.
3. Coordination between Central and Municipal Public Administration entities constitutes an imperative for action, with a view to national and municipal development, establishing expeditious compatibility solutions between territorial plans whose approval and entry into force follow one another in time.
4. The coordination, at municipal level, of the policies enshrined in municipal plans, shall be the responsibility of the respective bodies with attributions and competencies in the territorial planning of the respective municipality.

CHAPTER II TERRITORIAL PLANNING SYSTEM

Section I Relationship between territorial plans

Article 11 Public intervention Public intervention on land through territorial planning instruments

1. The Public Administration shall intervene in relation to the soil in pursuit of the purposes assigned to it and in compliance with the laws and regulations through the adoption of territorial planning instruments.
2. Territorial planning shall contribute to the achievement of the objectives of land use policy at national and municipal level.

Article 12 Relationship between national and municipal plans

1. Territorial plans of national and municipal scope shall undertake a reciprocal commitment to make their respective options compatible.
2. The national land-use planning plan and sectoral plans shall pursue objectives of national interest and shall establish the principles and rules that must be complied with by plans at municipal level.
3. Municipal land use plans define the strategic and programmatic framework for the management and use of the municipality's territory, in accordance with the local development strategy and ensuring the implementation of policies assumed by territorial plans of national scope.
4. Land use plans operationalise the strategic and programmatic framework defined in municipal land use plans, respecting the provisions of these plans and of territorial plans of national scope.

Section II National Framework

Article 13 Territorial planning instruments of national scope

1. The national land use plan shall establish the major options for the organisation and development of the national territory, namely by defining the model for the urban system, transport networks, infrastructures and facilities of national interest and the productive specialisation of areas in accordance with their characteristics and potential.
2. Sectoral plans shall establish the spatial incidence and territorial impact of the programming or implementation of public policies of the various sectors of the State.
3. The territorial planning instruments referred to in the preceding paragraphs establish a commitment to the integration and reciprocal compatibility of the respective options.
4. The options and the territorial development model established by the national land use plan shall guide and frame the preparation of sectoral plans.

Article 14 National Plan of Territorial Planning

1. The specific purposes of the National Territorial Planning Plan are as follows:
 - a) The definition of a model of organisation and territorial development at national level that promotes the integrated, harmonious and sustainable development of the country, without prejudice to the identity of its various parts;
 - b) To guarantee territorial cohesion, reducing territorial asymmetries and ensuring equal opportunities;
 - c) The strengthening of the territory as an integrating factor of sectoral policies, in particular housing, transport, infrastructure, collective facilities, energy, agriculture, forestry, industry and tourism policies;
 - d) The promotion and protection of land with agricultural aptitude;
 - e) The protection and enhancement of the environment and the heritage of natural, landscape and cultural resources;
 - f) The spatial forecasting of economic and social development strategies;
 - g) The rationalisation of population and the structuring of the urban system;
 - h) The definition and location of transport networks, infrastructures and structuring collective equipment;
 - i) The establishment of major territorial policies for the use, occupation and transformation of the territory by the various sectors, in order to guide development and prevent territorial conflicts;

- j) The orientation of territorial policies at lower scales - regional, municipal, urban and local;
 - k) The establishment of guidelines for their implementation through an action programme.
2. The territorial organisation and development model consists of the spatial translation of the objectives, principles and strategies assumed by the State for territorial development, taking into account the geographical, ecological and environmental characteristics of the territory, its demographic, social and economic dynamics and the functional and productive vocations of the different spaces.
 3. The model of organization and territorial development establishes on a national scale, namely:
 - a) The guidelines concerning the structuring and development of the urban system and settlement structures;
 - b) The characterisation, location, structuring and development of communication networks, infrastructures and collective facilities of national interest;
 - c) The selection, characterisation and location of structuring public investments with territorial expression;
 - d) The guidelines for the productive specialization of the spaces in accordance with their characteristics and potentialities, translated by the definition of the location of economic activities and support infrastructures and services
 - e) The selection, characterisation and location of areas of national interest in environmental, heritage and rural development terms, subject to safeguard and valorisation measures
 - f) The guidelines for the identification, location and management of natural and environmental risks;
 - g) The guidelines for the coordination of territorial planning policies and sectoral policies with spatial translation.
 4. The documentary content of the National Spatial Planning Plan comprises a Report and an Action Programme.
 5. The Report characterises the national territory, makes a strategic territorial diagnosis, defines territorial development scenarios, establishes planning proposals and respective guiding norms and provides the basis for strategic guidelines and priorities for political-administrative intervention in matters of spatial planning, and is accompanied by graphic illustrations of the established territorial organisation and development model.
 6. The Action Programme must define:
 - a) The directives, criteria, priorities and objectives to be achieved in the medium and long term;
 - b) The public investment programmes and preventive, legislative and other measures deemed appropriate to achieve the objectives set out in the plan;

- c) The programs and actions of cooperation with municipalities and private sector entities, which prove to be convenient for the good execution of the plan;
- d) An inventory of the financing resources required for the proper implementation of the plan.

Article 15

Sectorial plans

1. Sectorial plans may take the following forms:
 - a) Plans, programmes and development strategies concerning the various sectors of the Public Administration, namely in the fields of transport, communications, energy and geological resources, education, training, culture, health, housing, tourism, agriculture, trade, industry, forests, environment, nature conservation, water resources, solid waste and basic drainage and sanitation;
 - b) Decisions on the location and implementation of large public undertakings with territorial incidence.
2. With regard to their material content, sectorial plans shall set out, namely:
 - a) The sectorial options and the objectives to be attained in accordance with the applicable national guidelines;
 - b) The actions to implement the sectorial objectives to be achieved in the medium and long term;
 - c) The territorial area covered by the defined sectorial policy;
 - d) The mechanisms for articulating the sectorial plan with other territorial plans in force.
3. Sectorial plans shall obligatorily include the following documents:
 - a) The Regulation, which defines the implementation rules in articulation with the other territorial plans;
 - b) The Report, which proceeds with the diagnosis of the territorial situation of the sector and defines the assumptions that serve as technical basis to the options and objectives established in the respective territorial plan;
 - c) Graphic material to support the territorial diagnosis and to represent the territorial expression of the regulation norms, indicating the areas of public domain subject to constraints or limits on the free use and benefit.

Section III

Municipal Scope

Article 16

Territorial planning instruments of municipal scope

1. Municipal spatial planning instruments shall establish the regime for occupation, use and transformation of the soil, including parameters for land use, for the intervention area, defining

models for the foreseeable evolution of human occupation and territorial organisation of urban systems, productive systems and infrastructure and equipment networks, on the appropriate scale.

2. The regime for occupying, using and transforming the soil referred to in the previous paragraph shall be implemented by means of the soil classification and qualification criteria and the classification categories of rural and urban land established in the legal regime for classification and qualification of soil.
3. The objectives of territorial planning instruments of municipal scope are:
 - a) The translation, at municipal level, of the territorial development framework established in instruments of a strategic nature and of national scope;
 - b) The definition of the vision and objectives to be achieved at the horizon of the plan, with the definition of qualitative and quantitative parameters for the municipality's demography and economy;
 - c) The territorial expression of the municipal development strategy through the municipal spatial planning model and the regime for occupation, use and transformation of the soil;
 - d) The definition of municipal guidelines for the planned management of the municipal territory;
 - e) The design of the development strategy for the municipal urban system, linked to national and municipal policies for supporting the development of the housing sector;
 - f) The establishment of principles and criteria for locating municipal infrastructures and collective facilities and their articulation with socioeconomic development strategies;
 - g) The definition of criteria for the location and distribution of urban and rural housing areas, as well as industrial, tourism, commercial and service activities;
 - h) The definition of the conditions and parameters for the use of the soil and public space.

Article 17

Municipal Land Management Plan

1. The municipal land-use plan shall establish the strategy for territorial development and the municipal policy for land-use planning and urbanism, shall integrate and articulate the other municipal policies with territorial expression and shall establish the municipal land-use planning model, based on the local development strategy and on the guidelines set out in the national land-use planning instruments.
2. The municipal spatial planning model defined in the Municipal Territorial Planning Plan shall be developed on the basis of the economic, demographic, social and biophysical characterisation of the municipality and of the municipal development strategy, establishing, namely:
 - a) The structuring and development of the municipal urban system, including the delimitation of urban perimeters

- b) The definition of transport networks, infrastructures and collective facilities
 - c) The productive specialization of the municipal territory;
 - d) The development of the residential function within the municipality, including the definition of housing programmes
 - e) The territorial referencing of uses and activities, namely through the definition of soil classes and categories in accordance with the legal regime of soil classification and qualification.
 - f) The systems for protecting natural, cultural, agricultural and forestry values and resources, as well as for protecting any land rights of the populations of rural areas;
 - g) The identification of areas of natural, environmental or technological risk and the definition of measures for the occupation and use of the soil for the protection of people and property and measures to prevent and mitigate such risks.
4. The Territory Element encompasses the plan documents and complementary documents to the plan.
5. The following are considered plan documents:
- a) The Regulation, which establishes the rules and guidelines to which the occupation, use and transformation of the soil in the municipal territory must obey and the criteria to be used in the execution of the plan;
 - b) The Planning Map, which represents the spatial organization of the proposed municipal territory, considering the urban systems and the collective infrastructure and equipment networks, and the classification and qualification of the soil;
 - c) The Map of Constraints, which identifies the easements and restrictions of public utility in force that may constitute limitations or impediments to any specific form of land use, namely protected areas, coastal areas and the municipal seashore or other special areas subject to specific protection.
4. The following are considered complementary documents to the plan:
- a) The Characterisation and Diagnosis Report, with the physical and socio-economic characterisation of the municipal territory, with the characterisation of the institutional and legal framework for the implementation of the plan and with the territorial diagnosis;
 - b) The Territorial Organisation Model Report, detailing the municipal development strategy and the corresponding territorial organisation model, namely through the technical justification of the strategic objectives and the territorial base options adopted in their definition, considering the evaluation of the environmental, economic, social and cultural conditions and the necessary articulation with the National Territorial Planning Plan;
 - c) The Environmental Report, with the evaluation of the environmental impact arising from the implementation of the plan and the definition of measures to prevent, reduce or even eliminate possible negative environmental impacts;

- d) The Action Programme and Financing Plan, with the identification and timing of the main municipal interventions, namely in the field of infrastructures and collective equipment, and respective financial plan, with the estimate of the proposed municipal investment and possible financing sources;
- e) The Municipality framing plan, prepared in a scale smaller than the plan for the regional and national framing of the municipality, namely in relation to the urban and infrastructures networks
- f) Soil occupation map, showing the distribution of soil occupation throughout the municipality on the date the plan is prepared.

Article 18 **Land Use Plan**

1. The Land Use Plan shall develop and specify the terms of occupation of any area of municipal land, in accordance with the directives of the Municipal Land Use Plan, establishing, namely, the spatial organisation of uses based on soil qualification, the location and specific forms of implantation of the main infrastructures and collective facilities, including their urban design and urban insertion, as well as the form of construction and the discipline of their integration into the landscape.
2. The material content of the Land Use Plan aims and establishes, in particular, the following, always with due regard for the appropriate and necessary adaptation to the urban or rural nature of the area subject to the plan and to the specificity of each case:
 - a) The definition and physical and socio-economic characterization of the intervention area, including its territorial diagnosis;
 - b) The definition of the regime of use, occupation and transformation of the soil, namely through the definition of classes and categories of spaces in accordance with the provisions of the legal regime of classification and qualification of the soil;
 - c) The urban design, expressing the definition of public spaces, road and pedestrian circulation, alignments, implantations, terrain modelling and the location of equipments and green areas;
 - d) The distribution of functions and the definition of implantation and urbanistic parameters, namely occupation and impermeability indexes, density of dwellings, number of floors and height;
 - e) The rules for the occupation and management of public spaces
 - f) The location, development and rules for the implantation of infrastructure networks;
 - g) The location, distribution, dimensioning and criteria for urban insertion of public equipment for collective use;
 - h) The identification of special public interventions in specific areas, namely within the scope of social housing construction, urban renewal or rehabilitation interventions

- i) The identification of the ways for implementing the plan and the programming of associated public investments, as well as their articulation with private investments.
3. The Land Use Plan may adopt specific modalities, with material content adapted to specific intervention purposes provided for in the terms of reference and in the Government resolution that determined its preparation.
4. The documental content of the Land Use Plan considers the plan documents and the complementary documents to the plan.
5. The following are considered to be plan documents:
 - a) The Regulation, which establishes the land use regime for the intervention area, represented in the Zoning Plan, and defines the rules for the execution of the plan, integrating them with the other territorial plans in force;
 - b) The Zoning Map, which represents the adopted territorial structure and the regime of occupation, use and transformation of the soil in the area of intervention
 - c) The Constraints Map, which identifies the easements and public utility restrictions in force that may constitute limitations or prohibitions to any specific form of land use.
6. The following are considered complementary documents to the plan:
 - a) The Technical Report, which presents and technically justifies the solutions, guidelines and strategies adopted by the plan, namely based on the evaluation of the physical, socio-economic, cultural and institutional conditions for its execution;
 - b) The Environmental Report, with the evaluation of the environmental impact arising from the implementation of the plan and with the definition of measures to prevent, reduce or even eliminate eventual negative environmental impacts
 - c) The Action Programme and Financing Plan, identifying and scheduling the main municipal interventions and their respective financial plan, with an estimate of proposed municipal investment and possible sources of funding
 - d) The Framework Map, prepared in a scale smaller than the Land Use Plan, for the framing of the intervention area, namely in relation to the main infrastructures and collective equipment or other structures considered relevant
 - e) The Land Use Map, with the representation of the land use distribution in the intervention area on the date of the beginning of the plan's preparation
7. By resolution of the Government, it may be decided that the land use plan shall cover areas of two or more territorially contiguous municipalities and its approval shall dispense with the need to prepare land use plans for each of the municipalities in the respective areas.
8. The Land Use Plan shall establish a minimum period of validity, during which it cannot be revised or altered, unless exceptional circumstances arise.

CHAPTER III

FORMATION AND DYNAMICS OF THE PLANS

Section I
Preparation and approval

Article 19
Preparation and approval of planning instruments

1. The preparation of the National Territorial Planning Plan shall be the responsibility of the government department in charge of spatial planning and shall be approved by the Government in the form of a decree-law.
2. For sectoral plans, the responsibility referred to in the preceding paragraph shall be shared with the government department with responsibility for the target sector of the plan, and shall be approved by Government decree.
3. The preparation of territorial planning instruments of municipal scope shall be the responsibility of each of the municipalities and shall be approved by Government decree.
4. The preparation, revision and amendment of land use plans may be carried out by private entities under a planning agreement with the competent municipal body.
5. The planning agreement referred to in the preceding subsection shall be subject to approval by the government department responsible for spatial planning, prior to the respective production of results.
6. The determination for the preparation of a territorial planning instrument of national scope shall be adopted by resolution of the Government and of municipal scope by decision of the competent municipal body, and shall be included therein:
 - a) Its nature, the purposes for which it is intended and the definition of public interests pursued;
 - b) The definition of the objectives to be achieved
 - c) The methodology for sectorial articulation and compatibility between the different territorial planning instruments of different scopes
 - d) The indication of the departments and services of the Public Administration responsible for their preparation;
 - e) The territorial scope with the indication of the area of the plan
 - f) The deadline for its preparation;
 - g) The constitution and functioning of the Advisory Commission.

Article 20
Monitoring the preparation of planning instruments

1. The preparation of territorial planning instruments shall be monitored by a Advisory Commission composed of representatives of the entities and services of the direct and indirect administration of the State, which ensure the pursuit of relevant public interests, namely in the areas of state administration, environment, forestry and nature conservation, housing, public works, transport and communications, tourism, finance, petroleum and mineral resources, agriculture and fisheries, education, health, security, culture and sport.

2. The Commission shall be obliged to assiduously and continuously monitor the preparation of the future plan, and shall at the end submit a written opinion on the adequacy and appropriateness of the solutions proposed therein.

Article 21 **Conciliation**

1. The monitoring of the preparation of the draft plan includes consultation, for the necessary time, with any entities that, in the course of the work, express objections to the solutions defined for the future plan.
2. Once the preparation of the draft plan has been concluded and the opinion of the advisory committee has been issued, the entity responsible for its preparation shall, within thirty days of the issuing of that opinion, promote the holding of consultation meetings with the entities that, within the scope of that committee, have formally disagreed with the solutions defined for the future plan, with a view to obtaining a joint solution.
3. When consensus is not reached, the public entity responsible for the preparation of the plan shall present the version of the proposed plan to be submitted for public discussion, choosing the solutions it considers most appropriate and safeguarding the respective legality.

Article 22 **Public discussion**

1. Once the opinion of the Advisory Commission has been issued and, where applicable, once the additional consultation period has elapsed, the public entity responsible for the preparation of the plan shall proceed to:
 - a) Opening of a public discussion period, through a notice to be published in the Official Gazette;
 - b) Publicise the public discussion period through the media and its Internet site, which shall indicate the discussion period, any public sessions to be held and the places where the proposal is available for consultation, as well as the way in which interested parties can present their comments or suggestions.
2. The public discussion consists of collecting observations and suggestions on the guidelines of the proposal.
3. Without prejudice to the participation of all interested citizens, the public discussion of territorial planning instruments of municipal scope must include the holding of public sessions with the participation of traditional community leaders.
4. The public discussion period shall be announced at least 15 days in advance and shall not be less than 60 days, and may be reduced by half in cases of urgency justified by resolution of the Government or decision of the competent municipal body, which determines the preparation of the plan.
5. In the case of land use plans, the timeframes referred to in the preceding paragraph shall be 8 and 30 days, respectively.

6. At the end of the public discussion period, the public entity responsible for the preparation of the plan shall consider and publish the respective results, namely through the media and its web page, and prepare the final version of the draft plan to be submitted for approval.

Article 23

Publicity

Without prejudice to publication in the Official Gazette as provided for in the Basic Law on Spatial Planning, spatial planning instruments in force shall be published, on a permanent basis and in their updated version, on the website of the government department responsible for spatial planning and on the websites of the ministries or municipalities, depending on whether they are sectoral or municipal plans.

Section II

Amendment, review, suspension and revocation

Article 24

Dynamics of planning instruments

Pursuant to the Basic Law on Spatial Planning, territorial planning instruments may be subject to amendment, revision, suspension, amendment by adaptation and revocation.

Article 25

Amendment

1. Regulation or part of the respective area of intervention and shall result from:
 - a) The evolution of the environmental, economic, social and cultural conditions that underlie and justify the options set out in the instrument to be amended;
 - b) The non-conformity with other approved territorial planning instruments;
 - c) The entry into force of laws or regulations that conflict with the respective provisions or establish administrative easements or restrictions of public utility that impede or in any other way limit the execution of the same instrument.
2. The amendment of territorial planning instruments shall follow, with the necessary adaptations, the same procedures for their preparation, approval and publication.

Article 26

Review

1. The review of territorial planning instruments implies the reconsideration and comprehensive reassessment, of a structural or essential nature, of the strategic options adopted, of the principles and objectives of the defined territorial organisation and development model, of the established land use regime or of the regimes for the safeguarding and enhancement of territorial resources and values.

2. The review of the plans takes place:
 - a) The need to adapt them to the medium and long-term evolution of the environmental, economic and social conditions that determined their preparation;
 - b) The suspension of the plan and/or the need to adapt it to the pursuit of the public interests that determined it.
 - c) The suspension of the plan and/or the need to adapt it to the pursuit of the public interests that determined it.
2. The review provided for in subparagraph a) of the preceding paragraph may only take place after at least five years have elapsed since the plan came into force.
3. The review of territorial planning instruments shall, with the necessary adaptations, follow the same procedures as their preparation, approval and publication.

Article 27 Suspension

1. The suspension of territorial planning instruments may arise from the verification of exceptional circumstances that have repercussions on spatial planning, threatening the pursuit of relevant public interests and rendering their execution wholly or partially impossible.
2. The suspension of spatial planning instruments shall be determined by a resolution of the Government, following a proposal by the Government member responsible for spatial planning, after consultation with the public entity responsible for the preparation of the plan, if different from the proposing governmental entity.
3. The partial or total suspension of territorial planning instruments of municipal scope shall necessarily imply the establishment of preventive measures and the opening of a procedure for the preparation, review or amendment of a municipal plan for the area in question, under the terms of the Government's resolution, which shall be concluded within the timeframe in which the preventive measures are in force.

Article 28 Amendment by means of adaptation

1. The amendment by adaptation of territorial planning instruments shall result from:
 - a) The entry into force of laws or regulations;
 - b) the entry into force of other instruments with which they must be compatible.
2. The amendment by adaptation of territorial planning instruments is limited to transposing the content of the legislative or regulatory act or of the territorial programme or plan that determined the amendment, and may not involve an autonomous planning decision.
3. The amendment by adaptation of territorial planning instruments depends on a mere declaration by the entity responsible for their preparation, through the alteration of the elements that integrate or accompany the territorial management instrument to be amended, in the relevant part or parts.

4. The declaration referred to in the preceding paragraph shall be transmitted in advance to the body competent for the approval of the instrument to be adapted, when this is different from the body responsible for its preparation, and publication in the Official Gazette, under the terms provided for in the Basic Law on Spatial Planning.

Article 29 Revocation

1. Territorial planning instruments may be subject to revocation whenever the assessment of the evolution of environmental, economic and social conditions so determines.
2. The revocation of territorial planning instruments shall follow, with the due adaptations, the procedures established in the Basic Law on Spatial Planning and in this statute for their approval and publication.
3. Without prejudice to the provisions of the preceding paragraphs, revocation of territorial plans of municipal scope shall only become effective upon the entry into force of new regulations for the same area.

Article 30 Assessment

1. The entities and services of the Public Administration responsible for the preparation of territorial planning instruments shall regularly promote an assessment of the adequacy and implementation of the rules contained in the instruments they have drawn up, based on the qualitative and quantitative indicators provided for therein.
2. The assessment may be the basis for proposals to change the planning instrument or the respective enforcement mechanisms, namely with a view to:
 - a) Ensure the achievement of the objectives of the planning instrument, both at the level of implementation and of the strategies and measures established for the medium and long term;
 - b) Ensure the coordinated creation or alteration of collective infrastructures and equipment
 - c) To guarantee the supply of land and lots destined for edifications, namely within the scope of social housing construction projects or urban renewal or rehabilitation operations;
 - d) Promote the improvement of the suitability and protection of environmental and landscape values.
3. The Government shall promote, through the Directorate-General for Regional Planning, the creation and development of a National Centre for Geospatial Information, integrating relevant territorial information on different scales that can support the regular evaluation process of planning instruments.

CHAPTER IV PRECAUTIONARY MEASURES

Article 31 Jurisdiction, procedure and compensation

1. Establishment of preventive measures or provisional measures shall be limited to cases where, on reasonable grounds, it is anticipated that the damages resulting from a possible change in the characteristics of the site are socially more serious than those resulting from adoption of such measures.
2. Precautionary measures shall be approved by resolution of the Government.
3. The preparation and approval of precautionary measures shall exempt from public discussion and hearing of interested parties.
4. The adoption of precautionary measures may give rise to compensation when such measures result in damage to pre-existing and legally consolidated rights, and the regime provided for in Article 43 shall be applicable.

Article 32 **Territorial and temporal limits**

1. The area subject to precautionary measures shall have an extension that is adequate for the satisfaction of the purposes for which it is intended.
2. Precautionary measures shall be valid for the period of time necessary to achieve the purposes for which they are intended, with a maximum limit of two years, extendable for a further two years.
3. The precautionary measures shall cease to be in force:
 - a) With the entry into force of the planning instrument they are intended to protect;
 - b) With the expiration of the validity period;
 - c) By revocation;
 - d) By withdrawal or abandonment of the preparation of the planning instrument they intend to protect.

Article 33 **Preventive Measures**

1. The establishment of preventive measures motivated by the preparation, modification or review of a planning instrument shall aim at avoiding changes in circumstances and in existing factual conditions that may condition or limit the planning process and shall determine the suspension of the validity of its provisions in the territorial area covered by the preventive measures.
2. Prohibitions or limitations contained in preventive measures shall be limited to that which is strictly necessary to prevent the occurrence of alterations to the territory or to existing legal situations that may limit planning options or hinder their execution.
3. Preventive measures may consist of prohibiting, limiting or making subject to a binding opinion the following actions:
 - a) Allotment and urbanisation operations, construction, extension, alteration and reconstruction works, except those exempt from prior administrative control;
 - b) Land remodelling works;

- c) Demolition works of existing buildings, except those exempt from previous administrative control;
 - d) Cutting down of trees or destruction of vegetation and ground vegetation.
- 4. Preventive measures shall not apply to physical or legal alterations of the territorial area covered which have been authorised prior to their entry into force.
- 5. When preventive measures imply the submission of a binding opinion, the body competent for their establishment shall determine the entities to be consulted.
- 6. To safeguard exceptional situations of recognised public interest, namely the execution of relevant undertakings, situations of public calamity or other situations of risk, as well as to guarantee the preparation, alteration or review of sectoral plans, the Government may establish preventive measures, and the system provided for in the preceding paragraphs shall apply, with the necessary adaptations.

Article 34 **Interim measures**

- 1. When the safeguarding of public interests to be pursued through the preparation, modification or review of a municipal planning instrument cannot be achieved through the imposition of the prohibitions or limitations arising from preventive measures, as provided for in the Basic Law on Spatial Planning, provisional measures may be established that positively define the regime provisionally applicable to a certain area of the territory and which are necessary to safeguard those interests.
- 2. The establishment of provisional measures falls within the competence of the public entity responsible for the preparation, modification or review of the planning instrument and depends on the prior definition of the planning options that they are intended to pursue.
- 3. The establishment of provisional measures depends on the cumulative verification of the following conditions
 - a) Existence of planning options sufficiently specified and documented within the scope of the procedure for change, review or amendment of the territorial planning instrument;
 - b) The need for such measures to ensure public interests regarding the preparation, review or amendment of the plan in question.

CHAPTER V **IMPLEMENTATION OF LAND USE PLANS** **General Principle**

The execution of land use plans consists in the implementation of the options and urbanistic interventions provided for therein, through the practice of urbanistic management acts and the necessary material operations, by the Central Public Administration, by the bodies belonging to the municipal administrations and by private persons.

Article 36 **Implementation Programme**

1. The competent municipal bodies and services may implement land use plans through an implementation programme, approved by a Government decree, following a proposal by the Government member responsible for the area of land use planning.
2. The implementation programme shall obligatorily identify the following aspects:
 - a) The area of intervention;
 - b) The timetable for the intervention;
 - c) The types and means of intervention;
 - d) The public financial resources necessary for the intervention.
3. The implementation programme shall only come into force after publication in the Official Gazette of the Government decree approving it.
4. Termination of validity, suspension or alteration of the plan that the programme seeks to execute shall determine its expiry.

Article 37 **Areas of intervention**

1. The area of intervention of the implementation programme may coincide with that of the land use plan or consist of an implementation unit with an area smaller than that of the plan.
2. If a unit of execution is chosen, the perimeter must be clearly delimited through the geographical coordinates of its vertexes and the representation of its physical limits on a cadastral plan.

Article 38 **Means of intervention**

1. The implementation programme may provide for the following means of intervention means of intervention, necessary for the implementation of the plan:
 - a) The acquisition of the right of ownership and other rights in rem or obligations over land or buildings included in the area of intervention;
 - b) The right of preference over transfers, for consideration, of land or buildings included in the area of intervention
 - c) The expropriation of land or buildings included in the area of intervention;
 - d) Reparcelling of land included in the area of intervention.

Article 39 **Pre-emption right**

1. The Public Administration shall have the right of preference in transfers for consideration, between private individuals, of land or buildings located in the intervention area, if such transfer is included in the land use plan.
2. For the purposes of exercising the Public Administration's right of preference, the transferor of any land, building or fraction of a building located within the intervention area of an implementation programme in force shall notify the municipal executive body in writing of the intention to transfer and the agreed price at least 60 days prior to the date of transfer.
3. The transfer of any land, building or fraction of a building located in an area of intervention of an implementation programme in force without the prior communication referred to in the preceding paragraph, or before the expiry of the 60-day period subsequent to that communication, is voidable, under the terms of the applicable general regime.

Article 40 **Expropriation for public utility**

1. The Public Administration may expropriate the land, buildings and fractions of buildings required for the execution of a land use plan.
2. The following, namely, may be expropriated:
 - a) The land, buildings or fractions of buildings whose disposal is necessary for the pursuit of the objectives of the plan, namely for compliance with the defined urban design or for the construction of public infrastructures and facilities provided for in the plans in execution;
 - b) The buildings or parts of buildings that must be rebuilt or refurbished, due to functional or constructive requirements or poor health or safety conditions, when the owners or other holders of rights in rem on the building or part thereof, notified to proceed with the reconstruction or refurbishment, do not complete it within 18 months from the date of notification;
 - c) Land with constructive aptitude adjacent to public roads in urban agglomerations, when the owners or holders of other real rights over the land who have been notified to use it for construction do not do so within 18 months from the date of notification.
3. Without prejudice to the provisions of the preceding paragraphs, expropriation for the execution of land use plans shall be subject to the legal regime defined in the Expropriation Act.

Article 41 **Reparcelling of urban land**

1. Reparcelling shall consist of grouping the land identified in the implementation program for that purpose and subsequently dividing it up in accordance with the objectives and rules of the plan in execution, namely with the adopted land use regime, with the allocation of the resulting plots to the owners involved.
2. Reparcelling is carried out taking into account, namely, the size and location of the affected area.
3. Reparcelling implies the prior agreement, to be obtained by the Municipal Administration and expressed in writing in a single document, of all the owners involved.

4. In the absence of agreement, the Municipal Administration may acquire by private right, expropriate the land of the disagreeing owners or desist from the reparcelling.
5. The reparcelling agreement is homologated by the Government member responsible for land management and has full legal effect, being the municipal executive body responsible for communicating it to the General Directorate of Land and Property for inclusion in the National Property Cadastre.

Article 42

Compensation

1. The restrictions imposed on owners by territorial plans determine the duty to compensate, whenever compensation is not possible.
2. The following shall be liable to compensation:
 - a) Restrictions on pre-existing and legally consolidated rights that determine the expiry, revocation or modification of the conditions of authorization, valid and effective prior information;
 - b) Restrictions to urban development included in the certificate of a land use plan, determined by its amendment, revision or suspension, during the period of execution of the plan;
 - c) Individual restrictions to the objective possibilities of land use, imposed on owners, resulting from the amendment, suspension or revision of territorial planning instruments, which entail an abnormal burden or damage, provided that they occur within three years from the date on which the plan comes into force.
3. In the situations provided for in the preceding paragraph, compensation shall also be paid for expenses incurred in the implementation of a type of use provided for in the territorial planning instrument if that use is subsequently changed or suppressed as a result of the review or suspension of that instrument and those expenses have lost their usefulness.
4. Duly founded restrictions determined by the physical and natural characteristics of the soil, by the existence of risks for persons and property or by the lack of vocation of the soil for the process of urbanisation and construction resulting from the respective classification provided for in the territorial planning instrument are not subject to compensation.
5. The compensation provided for in the preceding paragraphs, with the necessary adaptations, shall follow the regime established in the Expropriation Act.
6. The right to compensation shall expire five years after the date on which the territorial planning instrument comes into force.

Article 43

Programme contracts

1. The competent municipal body may, by means of a contract, entrust a private entity with the realisation of a programme for the execution of a Land Use Plan.
2. The execution programme contract shall specify the powers of the public entity, namely those of execution direction and supervision, as well as the powers of unilateral modification and unilateral termination of the contract for duly justified reasons of public interest, and the rights and obligations of the private entity, to which the legal regime of public contracts shall apply, with the necessary adaptations.
3. In the implementation of the execution programme, the concessionaire shall exercise on its own behalf the powers of intervention of the Public Administration, with the exception of the ratification of reparaelling agreements.

CHAPTER VI FINAL AND TRANSITORY PROVISIONS

Article 44 Application

The rules established in this diploma shall apply to the preparation of any territorial planning instruments whose preparation procedure is underway at the date of entry into force and is not yet at the public discussion stage.

Article 45 Adaptation of existing instruments

1. All territorial planning instruments currently in force must be adapted to the modalities provided for in this statute, under the terms provided for in the following number.
2. Within 90 days of the entry into force of this statute, the member of the Government responsible for land use planning shall be in charge of identifying the planning instruments whose adaptation is necessary.
3. 180 days after the identification referred to in the preceding paragraph, the Government shall promote the adaptation of planning instruments.
4. The procedure established in Article 29 shall apply, with the necessary adaptations.

Article 46 Administrative decentralisation

1. Until the actual establishment of each municipality, the competencies conferred upon the respective bodies with respect to spatial planning shall be exercised by the Government, through the member of the Government responsible for the area of spatial planning.
2. The actual institution of each municipality shall be accompanied by the determination of resources, means and the manner of transfer of the exercise of the territorial planning competencies provided for in this law to the bodies of the municipality.

3. Whenever a planning instrument covers the territory of more than one municipality, the specific institution of one of those municipalities shall be accompanied by the determination of the regime applicable to the exercise of competencies regarding that planning instrument.

Article 47

Special Administrative Region of Oe-Cusse Ambeno

1. The land use plan for the Special Administrative Region of Oe-cusse Ambeno shall be a municipal land use plan of supra-municipal scope.
2. The zoning plan referred to in the preceding paragraph, as well as sectoral plans, land use plans and other territorial planning instruments promoted for the region are approved by Government decree, on the proposal of the Special Administrative Region of the Sahara Authority.

Article 48

Regulation

The present decree-law shall be regulated by Government decree, except where it is expressly provided that the regulation shall be effected through other normative instruments.

Article 49

Entry into force

This decree-law shall enter into force on the day following its publication.

Approved by the Council of Ministers on 27 October 2021.

The Prime Minister,

Taur Matan Ruak

The Vice-Prime Minister and Minister of Planning and Organization,

José Maria dos Reis

Promulgated on 23.12.2021.

To be published.

The President of the Republic,

Francisco Guterres Lú Olo