

JOINT MINISTERIAL DECREE No. 43/2017

of 21 June

REGULATES THE POWERS OF MUNICIPAL AUTHORITIES AND ADMINISTRATIONS IN THE FIELD OF WATER AND SANITATION

Through the approval of Decree-Law no. 3/2016, of 16 March, which approved the Statute of Municipal Administrations, Municipal Authorities and the Inter-ministerial Technical Group for Administrative Decentralization, the Government proceeded to the organic reform of the State's Local Administration and to the identification of the competences that the State's Central Administration will delegate to the State's Local Administration.

However, as provided for in article 150 of Decree-Law no. 3/2016 of 16 March, the delegation of powers to Municipal Authorities and to Municipal Administrations shall be made in a gradual and progressive manner, in accordance with the capacity installed locally for the exercise of such powers. In accordance with paragraph 2 of the above-mentioned article, in order for Municipal Authorities and Municipal Administrations to be required to exercise the powers provided for in the respective statute, two requirements or conditions must be met beforehand: the regulation of the exercise of powers and the existence of a budget allocation for that purpose.

With the approval of this Ministerial Order, the exercise of some powers delegated to Municipal Authorities and Municipal Administrations in the areas of water and sanitation shall be regulated, and the first requirement or condition shall be met in order for these deconcentrated State services to ensure the provision of services in this area.

Therefore, the Government, by the Minister of Public Works, Transport and Communications and by the Minister of State Administration, orders, under the terms of paragraph 2 of Article 11 of Decree-Law no. 3/2016, of 16 March, to publish the following legislation:

CHAPTER I GENERAL ARRANGEMENTS

Article 1

Subject

This Ministerial Order regulates the exercise of some of the powers delegated by the State Central Administration to Municipal Authorities and Municipal Administrations, through Decree-Law no. 3/2016, of 16 March, in the areas of water and sanitation.

Article 2

Scope of Application

The provisions laid down in this Ministerial Order apply to all Municipal Authorities and to all Municipal Administrations.

Article 3

Competences to be regulated

This Ministerial Order approves the rules for the exercise of the following competencies:

- a) To invest in the construction and rehabilitation of water supply systems in population settlements and ensure their management;
- b) To invest in the construction and rehabilitation of wastewater systems in population settlements and to ensure their management;

- c) Studying, developing and managing systems for the treatment and final disposal of solid waste in population settlements;

Article 4 **Objectives**

The regulation of powers provided for in the previous article aims to achieve the following general objectives:

- a) To enable Municipal Authorities and Municipal Administrations to exercise the powers delegated to them by Decree-Law no. 3/2016, of 16 March;
- b) To establish communication and reporting mechanisms between Municipal Authorities, Municipal Administrations and the Ministry of Public Works, Transport and Communications;
- c) To enable the Ministry of Public Works, Transport and Communications to monitor and evaluate the implementation of the respective programs and public policies, at local level, by Municipal Authorities and Municipal Administrations.

Article 5 **Goods and services to be provided by** **Municipal Authorities and Municipal Administrations**

The regulation of powers provided for in the previous article also aims at the provision of the following public goods and services:

- a) Building and rehabilitating public water supply systems in settlements outside urban areas;
- b) Ensuring the operation and maintenance of public water supply systems to population settlements outside urban areas;
- c) Building and rehabilitating public wastewater systems in population settlements outside urban areas;
- d) Ensuring the operation and maintenance of public waste water systems in population settlements outside urban areas;
- e) Designing, implementing and managing a solid waste treatment systems in settlements;

CHAPTER II **RULES GOVERNING THE EXERCISE OF POWERS**

Article 6 **Building and rehabilitating public water supply systems** **in settlements outside urban areas**

1. Municipal Authorities and Municipal Administrations shall promote the construction and rehabilitation of public water supply systems to settlements located outside urban areas up to the maximum value established in article 133 of Decree-Law no. 3/ 2016 of 16 March.
2. The inclusion of the construction or rehabilitation of public water supply systems to settlements located outside urban areas in the Municipal Investment Plan depends on the prior approval of the Minister of Public Works, Transport and Communications.
3. The approval provided for in the preceding paragraph shall be made within a maximum of thirty days. Failing this deadline, the request made by the President of the Municipal Authority or by the Municipal Administrator shall be considered tacitly granted.

4. The President of Municipal Authority or Municipal Administrator shall be responsible for ordering the execution of rehabilitation works to the public water supply systems of population settlements located outside urban areas, whenever the need for them arises from unforeseeable or unforeseeable events, with the limits of number 1 of this article.
5. The execution of works for the rehabilitation of public water supply systems to settlements located outside urban areas in the cases mentioned in the previous paragraph shall be carried out by direct administration or through the execution of a public works contract with the limits set forth in paragraph 1 of this Article.
6. Municipal Authorities and Municipal Administrations shall ensure the existence of alternative means of water supply to population settlements whose supply has been interrupted due to fortuitous facts or unforeseeable events that have caused damage or breakdown to the public water supply systems.
7. The Presidents of Municipal Authorities and Municipal Administrators shall submit, by the last working day of each quarter, to the Minister of Public Works, Transport and Communications, a report on the development of the construction and rehabilitation work on public water supply systems for population settlements outside urban areas.
8. Municipal Authorities and Municipal Administrations shall obtain from the competent entity of the Ministry of Public Works, Transport and Communications the technical standards of construction and rehabilitation that must be included in the documents of the provisioning procedures with a view to the adjudication of the proposed public contracts under the terms, for the purposes and within the limits set forth in No. 1 of this Article.
9. Municipal Authorities and Municipal Administrations obtain from the competent entity of the Ministry of Public Works, Transport and Communications the approval of the technical proposals for the construction or rehabilitation of public water supply systems, under the terms, for the purposes and with the limits set forth in No. 1 of this article, being considered tacitly approved 30 days after receiving them.
10. Municipal Authorities and Municipal Administrations shall manage and supervise the execution of proposed construction and rehabilitation contracts under the terms, for the purposes and within the limits of subsection 1 of this Article, notwithstanding the supervisory power of the competent entity of the Ministry of Public Works, Transport and Communications.

Article 7

To ensure the operation and maintenance of public water supply systems for population settlements outside urban areas

1. The operation and maintenance of public water supply systems for population settlements outside urban areas is the responsibility of Municipal Authorities and Municipal Administrations.
2. Municipal Authorities and Municipal Administrations shall carry out surveys of public water supply systems in agglomerations outside urban areas with the aim of:
 - a) verifying the quantity and quality of water supply to settlements outside urban areas;
 - b) identifying damage or malfunctioning of public drinking water supply systems in agglomerations outside urban areas;
 - c) monitoring the quality and properties of water supplied and its fitness for human consumption;
 - d) ensuring that the water supplied is intended for human consumption only.

3. The assessment parameters of drinking water supply systems for population settlements located outside urban areas shall be approved by the competent entity of the Ministry of Public Works, Transport and Communications, which shall inform the Presidents of Municipal Authorities and Municipal Administrators thereof.
4. Municipal Authorities and Municipal Administrations shall prepare reports on the inspection activities of the water supply systems to population settlements located outside urban areas, which they shall inform the competent entity of the Ministry of Public Works, Transport and Communications, on a quarterly basis or whenever requested.
5. Municipal Authorities and Municipal Administrations shall conclude agreements with water management groups or Sucos on the management of water supply systems for population settlements, where this will improve the efficiency of the management of these systems.
6. The conclusion of water management agreements with the water management groups or with the Sucos depends on the prior authorization of the Ministry of Public Works, Transport and Communications and is subject to the provisions of Decree-Law No. 4/2004 of 11 February.
7. The Minister of Public Works, Transportation and Communications shall decide on requests for authorization, referred to in the previous number, within a maximum period of ten working days, after which they shall be considered tacitly granted.
8. The powers provided for in Decree-Law no. 4/2004, of 11 February 2004, concerning the management of supply systems to population settlements outside urban areas and technical assistance to water management groups and communities, shall be exercised by Municipal Authorities and Municipal Administrations.

Article 8

Building and rehabilitating public wastewater systems in population settlements outside urban areas

1. Municipal Authorities and Municipal Administrations shall promote the construction, and rehabilitation of public wastewater systems to settlements located outside urban areas, including the construction and rehabilitation of sanitary and public baths facilities, up to the maximum values established in Article 133 of Decree-Law No. 3/2016 of 16 March.
2. Municipal Authorities and Municipal Administrations shall ensure the existence of sanitary and public baths facilities in all Sucos, with priority being given to the construction of such facilities in Sucos located in the most remote areas of the national territory.
3. The inclusion of construction works or rehabilitation of public waste water systems to the population settlements located outside urban areas in the Municipal Investment Plan depend on a prior order of agreement from the Minister of Public Works, Transport and Communications.
4. The order provided for in the previous paragraph shall be issued within a maximum period of thirty days. Failing this deadline, the request made by the President of the Municipal Authority or by the Municipal Administrator shall be considered tacitly granted.
5. The Presidents of Municipal Authorities and Municipal Administrators shall submit, by the last working day of each quarter, a report to the Minister of Public Works, Transport and Communications on the progress of the construction and rehabilitation of public wastewater systems to the population settlements located outside urban areas.

6. The Municipal Authorities and the Municipal Administrations shall obtain from the competent entity of the Ministry of Public Works, Transport and Communications the technical standards of construction and rehabilitation that must be included in the documents of the procurement procedures with a view to the adjudication of the proposed public contracts under the terms, for the purposes and within the limits foreseen in no. 1 of this article.
7. Municipal Authorities and Municipal Administrations obtain from the competent entity of the Ministry of Public Works, Transport and Communications the approval of the technical proposals for the construction or rehabilitation of public wastewater systems, under the terms, for the purposes and with the limits set forth in No. 1 of this article, being considered tacitly approved 30 days after their reception.
8. The Ministry of Public Works, Transport and Communications shall approve the types of sanitary and public baths facilities, as well as their technical specifications, which shall vary according to the population size of the Sucos served by them.
9. Municipal Authorities and Municipal Administrations shall manage and supervise the execution of proposed construction and rehabilitation contracts under the terms, for the purposes and within the limits set out in paragraph 1 of this Article, notwithstanding the supervisory power of the competent entity of the Ministry of Public Works, Transport and Communications.

Article 9

To ensure the operation and maintenance of public wastewater systems to population settlements located outside urban areas

1. The operation and maintenance of public wastewater systems to settlements outside urban areas is the responsibility of Municipal Authorities and Municipal Administrations.
2. Municipal Authorities and Municipal Administrations shall carry out surveys of public waste water systems in agglomerations located outside urban areas with the aim of:
 - a) Verifying the quantity and quality of wastewater systems in population settlements outside urban areas;
 - b) Identifying the existence of damage or malfunctioning of public waste water systems to population settlements outside urban areas;
 - c) Monitoring the quality and properties of waste water discharged into the receiving environment.
3. Sanitary and public baths facilities are managed by Municipal Authorities or by Municipal Administrations directly or through the Sucos, through the conclusion of inter-administrative contracts for the management of sanitary facilities and public baths.
4. Inter-administrative contracts for the management of sanitary and public bathing facilities shall be subject to the legal framework for inter-administrative contracts for the delegation of powers and responsibilities laid down in Article 7 of Law No. 9/2016 of 8 July.
5. The evaluation parameters of wastewater systems for population settlements located outside urban areas are approved by the competent entity of the Ministry of Public Works, Transport and Communications, which shall inform the Presidents of the Municipal Authorities and the Municipal Administrators thereof.
6. Municipal Authorities and Municipal Administrations shall prepare reports on the inspection activities of the urban water systems to the population centers outside urban areas, which they shall

inform to the competent authority of the Ministry of Public Works, Transport and Communications, on a quarterly basis or whenever requested.

7. Municipal Authorities and Municipal Administrations shall conclude agreements with local sanitation groups or Sucos on the management of waste water systems for population settlements, whenever this provides for an improvement in the efficiency of the management of these systems, also coordinating with the competent authority of the Ministry of Public Works, Transport and Communications.

Article 10

Design, implementation and management of a system of treatment and final disposal of solid waste in population settlements

1. Municipal Authorities and Municipal Administrations shall study and develop the municipal system of treatment and final destination of solid waste, in consultation with the competent authority of the Ministry of Public Works, Transport and Communications.
2. Municipal Authorities and Municipal Administrations shall promote the opening of procurement procedures for the execution of construction works or rehabilitation of treatment systems and final destination of solid waste, up to the maximum values established in Article 133 of Decree-Law No. 3/2016 of 16 March, complying with the guidelines and technical specifications of the competent central services.
3. Municipal Authorities and Municipal Administrations shall propose to the President of the Municipal Authority or the Municipal Administrator the opening of procurement procedures for the supply of the equipment necessary for the treatment and final destination of solid urban waste.
4. Municipal Authorities and Municipal Administrations, in coordination with the competent Central Administration bodies, shall manage the systems for treatment and final disposal of solid urban waste.

CHAPTER III FINANCIAL MEANS

Article 11

Expenditure on the exercise of powers

1. The funds necessary for payment of expenses resulting from the exercise of the powers regulated in this Ministerial Order are allocated in the municipal budgets.
2. The execution of the budget for expenses inherent to the exercise of the powers regulated in this Ministerial Order shall be carried out in accordance with the law.
3. The report on the execution of the budget for expenditure inherent to the exercise of the powers regulated in the present Ministerial Order shall be sent quarterly to the Ministry of Public Works, Transport and Communications.

CHAPTER IV SPONSORSHIP

Article 12

Conservation and management of the heritage

1. Municipal Authorities and Municipal Administrations shall be responsible for the safekeeping and conservation of the State assets allocated to the provision of the public goods and services provided for in this Ministerial Order.

2. Expenses resulting from the activities of custody and conservation of the State assets assigned to the provision of public goods and services provided for in this Ministerial Order shall be borne by the municipal budget.

CHAPTER V FINAL ARRANGEMENTS

Article 13

Existing water management agreements

The entry into force of this Ministerial Order is without prejudice to the rights of the water management groups that are constituted.

Article 14

Interruption of deadlines

The time limits laid down in this diploma for tacit approval or acceptance and for tacit rejection shall be interrupted when the body competent to decide requests clarification or additional information or when it decides to carry out the studies necessary to substantiate the act to be performed.

Article 15

Implementation of the guidelines of the Ministers of State Administration and Public Works, Transport and Communications

The Presidents of Municipal Authorities and Municipal Administrators shall ensure compliance with the guidelines of the Ministers of State Administration and Public Works, Transport and Communications in the exercise of the powers regulated by this Ministerial Order, provided that they do not oppose the law.

Article 16

Interpretation

1. The rules contained in this Ministerial Order shall be interpreted by the Presidents of Municipal Authorities and by the Municipal Administrators.
2. The Presidents of Municipal Authorities and Municipal Administrators shall request the Ministry of State Administration to issue an opinion on the content, meaning and scope of the rules contained in this ministerial decree.
3. Before issuing the opinion provided for in the previous paragraph, the Ministry of State Administration shall carry out the consultations deemed necessary by the Ministry of Public Works, Transport and Communications.

Article 17

Evaluation of the application of the Ministerial Order

1. The application of the rules of this Ministerial Order and the quality of the provision of goods and services provided for therein shall be subject to annual joint assessment by the Ministries of Public Works, Transport and Communications and the State Administration.
2. The evaluation shall be carried out by a commission appointed for that purpose by the Ministers of Public Works, Transport and Communications and the State Administration.
3. A report shall be prepared from the evaluation carried out by the committee provided for in the previous paragraph, which shall be subject to discussion in the Inter-ministerial Technical Group for

Administrative Decentralization and approval by the Ministers of Public Works, Transport and Communications and the State Administration.

Article 18

Entry into force

This Ministerial Order shall enter into force on the day following its publication.

Dili, 19 June 2017

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