

**DECREE-LAW No. 5/2021
of April 23**

**SEVENTH AMENDMENT TO DECREE-LAW NO. 10/2005, OF NOVEMBER 21, WHICH
APPROVES THE PROCUREMENT LEGAL REGIME**

Tropical Cyclone Seroja hit the national territory in the early morning of April 4, 2021, Causing strong winds, torrential rains, floods, flooding and land slope movement.

As a result, several dozen people lost their lives and several thousand people were left homeless, and public infrastructure and equipment, as well as private property, were destroyed or damaged.

Recognizing that living conditions and the socio-economic standards of the respective territorial area were intensely affected, a state of disaster was declared in the municipality of Dili by Government Resolution No. 32/2021, of 9 April.

All these events and the associated context of urgency require a particularly effective action from public administration.

With regard, in particular, to administrative action through public procurement, the current legal regime provides, for cases of urgency, the choice of sole source procurement as the type of procurement procedure able to ensure the effectiveness of public administrative performance.

However, even the sole source procurement procedure may, according to the general rules of procedure, prove ineffective in situations of qualified urgency as the one currently experienced.

On the other hand, the agility of the sole source procurement procedure and the speed of awarding will be useless if it is not matched by an agile and swift regime for entering into and formalizing the contract.

The amendment approved by the present diploma aims precisely at adding a simplified regime for the processing of direct award and the conclusion and formalization of the contract, within the legal hypotheses of sole source procurement award based on urgency, which are not changed.

On the other hand, based on the same order of reasons, a flexibilization is introduced in the requirements of the procedure for requesting quotations, through the removal of the application of the quantitative criterion.

This more flexible regime, however, applies only in situations of a state of siege, state of emergency or declaration of a situation of alert, contingency or calamity, and only to meet the procurement needs of the organs and competent services that specifically result from the facts that justify the state of exception or the situation of alert, contingency or calamity and have a counterpart in expenditure of the categories of goods and services and minor capital.

Thus, the Government decrees, under the terms of paragraph d) of Article 116 of the Constitution of the Republic, to be valid as law, the following:

Article 1

Object

The present legal diploma approves the seventh amendment to Decree Law No. 10/2005, of November 21.

Article 2

Alteration to Decree-Law no. 10/2005, of November 21

Article 94-A is hereby added to Decree-Law No. 10/2005, of 21 November, with the following wording:

"Article 94-A

Special procedure of the urgent direct adjustment

1. The special procedure provided for in this article shall apply when, in the cases provided for in article 92.1(a) and in article 94.1(a) and (b), in view of the circumstances of the specific case, immediate performance of the contract is necessary.
2. The competent organ for the signature of the contract can perform the acts of the procurement procedure and sign the contract without any formalities, without prejudice of what is stated in the following paragraph.
3. The effects of the contract are produced immediately, but the procurement acts and the contract must be reduced to writing within a maximum period of 60 days.
4. The acts of authorization and approval foreseen in article 15, are dispensed with.
5. Commitment of funds is ensured until the moment of the reduction in writing of the contract.
6. In the case of work contracts, the price shall be determined by applying the unit values foreseen in a Joint Ministerial Diploma of the members of the Government responsible for public works and for the plan and land use planning."

Article 3

Transitory Provisions

1. The amendments approved by the present legal diploma shall become effective as of April 4, 2021.
2. The provision of paragraph 6 of article 94-A of Decree Law No. 10/2005, of November 21, 2005, in the wording resulting from the amendment approved by the present legal diploma, shall only become effective with the entry into force of the Ministerial Diploma to which it refers.
3. In the context of the declaration of a state of exception, as well as the declaration of an alert situation, contingency or calamity, the procurement procedure by request of quotes can be used, regardless of the value of the contract, to meet the procurement needs of the organs and competent services that:
 - a) specifically result from the facts that justify the state of exception or the situation of alert, contingency or calamity; and
 - b) have a counterpart in expense of the categories of goods and services and minor capital.
4. The provision of the previous paragraph enters into force on February 2, 2021.

Article 4

Entry into force

The present legal diploma enters into force on the day following its publication.

Approved by the Council of Ministers on April 14, 2021.

The Prime Minister,

Taur Matan Ruak

The Minister of Finance,

Rui Augusto Gomes

Promulgated on 23 / 04 / 2021

Be it published.

The President of the Republic,

Francisco Guterres Lú Olo