

JOINT MINISTERIAL DECREE NO. 42 /2017

of 21 June

REGULATES THE POWERS OF MUNICIPAL AUTHORITIES AND ADMINISTRATIONS IN THE FIELD OF PUBLIC WORKS

Through the approval of Decree-Law No. 3/2016, of 16 March, which establishes the Statute of Municipal Administrations, Municipal Authorities and the Inter-ministerial Technical Group for Administrative Decentralization, the Government carried out the organic reform of the State's Local Administration and identified the competences that the State's Central Administration delegates to the State's Local Administration.

However, as this Decree-Law opportunely establishes, the responsibility for the exercise of the powers provided for in this Decree-Law by Municipal Authorities and Municipal Administrations is gradually deconcentrated and Municipal Authorities and Municipal Administrations exercise the powers provided for in the said Decree-Law after they have been regulated by ministerial decree and the existence of a budgetary allocation for the satisfaction of the expenses arising from that financial year has been confirmed (articles 150.1 and 2 of Decree-Law no. 3/2016, of 16 March).

This Ministerial Order regulates the exercise of some powers delegated to Municipal Authorities and Municipal Administrations in the field of public works.

The Government, by the Minister of State Administration and by the Minister of Public Works, Transport and Communications, orders, under the terms of paragraph 3 of Article 10 of Decree-Law No. 3/2016, of 16 March, to publish the following Order:

CHAPTER I GENERAL ARRANGEMENTS

Article 1

Subject

This ministerial order regulates the exercise of some powers delegated by the State Central Administration to Municipal Authorities and Municipal Administrations, through Decree-Law No. 3/2016, of 16 March, in the field of public works.

Article 2

Scope of Application

The provisions of this Ministerial Order shall apply to all Municipal Authorities and to all Municipal Administrations.

Article 3

Competences to be regulated

1. This Ministerial Order approves the rules for the exercise of the following competencies:
 - a) To invest in the construction, conservation and repair of municipal roads, urban roads and rural roads, in accordance with the municipal road plan in force;
 - b) To ensure the installation and repair of protection rails, on municipal roads;
 - c) Investing in the construction, conservation and repair of bridges up to 10 meters in length;
 - d) Investing in the construction, conservation, repair and cleaning of rainwater drainage systems;
 - e) Investing in the paving and conservation of the pavement of the population agglomerations' roads;
 - f) Investing in the construction, conservation and repair of footpaths in agglomerations.

2. The competences of points (a) and (d) are excluded with regard to construction on roads or main streets in agglomerations with a population of more than 5,000 inhabitants, which are limited to streets only.

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, maintaining and repairing municipal roads, urban roads and rural roads;
- b) Installing and repairing protective rails on municipal roads;
- c) Building, maintaining and repairing bridges up to 10 meters in length;
- d) Building, maintaining and repairing stormwater drainage systems.

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

Article 6 **Construction of municipal, urban and rural roads**

1. The promotion of the construction of municipal, urban and rural roads is the responsibility of Municipal Authorities and Municipal Administrations up to the maximum value established in article 133 of Decree-Law no. 3/2016 of 16 March.
2. The proposal for the construction of municipal, urban and rural roads shall be subject to the prior provision thereof in the municipal road plan approved by the Minister of Public Works, Transport and Communications.
3. Until the approval of the municipal road plan, before the submission of the projects for the construction of new municipal, urban or rural roads, the Presidents of Municipal Authorities and Municipal Administrators shall request their prior approval from the Minister of Public Works, Transportation and Communications.
4. The requests for approval of proposals for the construction of municipal, urban or rural roads referred to in the previous number shall be decided by the Minister of Public Works, Transportation and Communications within a maximum period of twenty days.
5. Except for the provisions of Section 14 of the present Ministerial Order, at the end of the period stated in the previous number, the request for approval of proposals for the construction of municipal, urban or rural roads shall be considered tacitly granted.

6. Municipal Authorities and Municipal Administrations obtain from the competent entity of the Ministry of Public Works, Transport and Communications the technical construction standards 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 with the foreseen limits of 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 of new urban or rural municipal roads, under the terms, for the purposes and with the limits set forth in No. 1 of this article, considering themselves tacitly approved 30 days after their reception.
8. Municipal Authorities and Municipal Administrations shall manage and supervise the execution of proposed construction 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.
9. The Presidents of Municipal Authorities and Municipal Administrators shall submit, on a quarterly basis, to the Minister of Public Works, Transport and Communications, a report on the evolution of the construction of municipal, urban and rural roads and the expansion of the municipal road network.

Article 7

Conservation and repair of municipal, urban and rural roads

1. Municipal Authorities and Municipal Administrations are responsible for the conservation and repair of municipal, urban and rural roads and may carry out public contracts for that purpose up to the maximum value established in Article 133 of Decree-Law No. 3/2016 of 16 March.
2. Municipal Authorities and Municipal Administrations shall carry out periodic inspections of the state of conservation and the level of degradation of municipal, urban and rural roads.
3. For the purpose of carrying out the periodic inspections provided for in the preceding paragraph, the Ministry of Public Works, Transport and Communications shall produce the necessary manuals and technical guides, which shall be distributed to Municipal Authorities and Municipal Administrations.
4. The Municipal Authorities and Municipal Administrations shall produce weekly reports on the inspection activities provided for in paragraph 2, which shall be sent to the Ministry of Public Works, Transport and Communications.
5. Municipal Authorities and Municipal Administrations shall prepare an annual plan for the conservation and repair of municipal, urban and rural roads, which shall be included in the Municipal Investment Plan.
6. The execution of works for the repair of municipal, urban or rural roads that are not foreseen in the Municipal Investment Plan may be carried out whenever the damage to be repaired in them endangers the normal circulation of people and goods or public safety.
7. The President of Municipal Authority or Municipal Administrator shall decide on the execution of the works provided for in the preceding paragraph through direct administration or through the execution of a public works contract.
8. Municipal Authorities and Municipal Administrations 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 with the limits foreseen 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 rehabilitation of new rural municipal roads, 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.
10. Municipal Authorities and Municipal Administrations shall manage and supervise the execution of proposed 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.
11. The Presidents of Municipal Authorities and Municipal Administrators shall order the closure of the road or highway in situations where the damage to be repaired may constitute a risk for those circulating in the same or, when such risk does not exist, the proper signaling of the damage.
12. The Presidents of Municipal Authorities and Municipal Administrators shall submit to the Minister of Public Works, Transport and Communications, by the last working day of each month, a consolidated report on the state of conservation of the municipal road network and the conservation works that have been initiated and concluded.

Article 8

Installation and repair of protective rails on municipal roads

1. The Presidents of Municipal Authorities and Municipal Administrators increase in the proposals of Municipal Investment Plans of the respective municipalities the installation of protection rails in the municipal roads.
2. The protection rails installed on municipal roads shall comply with the technical specifications approved by the Ministry of Public Works, Transport and Communications, which shall be communicated to Municipal Authorities and Municipal Administrations.
3. Municipal Authorities and Municipal Administrations shall promote the installation of priority protection rails on sections of municipal roads that show a higher accident rate and whose risks for those circulating on the same may be reduced through the installation of such equipment.
4. Municipal Authorities and Municipal Administrations shall carry out monthly inspection and repair activities of the protective rails installed on municipal roads.
5. The Presidents of Municipal Authorities and Municipal Administrations shall submit a report on the coverage of protective rails on municipal roads by the last working day of each calendar year.

Article 9

Construction, conservation, and repair of bridges up to 10 meters in length

1. The provisions of Articles 6 and 7 concerning the construction, maintenance and repair of municipal, urban and rural roads shall apply to the construction, maintenance and repair of bridges up to 10 meters in length, with the following adaptations:
 - a) Projects for the construction, conservation and repair of bridges up to 10 meters in length shall be submitted, by the Presidents of Municipal Authorities and by Municipal Administrators, for approval, to the Minister of Public Works, Transport and Communications;
 - b) Except as provided for in article 14 of this Ministerial Order, the Minister of Public Works, Transportation and Communications shall decide on the requests referred to in the previous sub-

paragraph within a maximum period of thirty days, at the end of which, without an express decision, the request shall be deemed to have been tacitly rejected.

2. The National Civil Engineering Laboratory shall provide Municipal Authorities and Municipal Administrations with the support requested by them in relation to the matter:
 - a) The quality and feasibility of construction, conservation or repair projects for bridges up to 10 meters long;
 - b) The quality of construction, maintenance or repair work for bridges up to 10 meters in length;
 - c) The need to ban road or motorway traffic in bridges up to 10 m in length because of sudden damage or poor state of repair.
3. The Presidents of Municipal Authorities and Municipal Administrators shall submit by the last working day of each quarter of each calendar year a detailed report on the state of conservation of the bridges up to 10 meters long in the municipality.

Article 10

Construction, conservation and repair of rainwater drainage systems

1. The provisions contained in Articles 6 and 7 of this Ministerial Order shall apply, with the necessary adaptations, to the construction, conservation and repair of rainwater drainage systems.
2. The Presidents of the Municipal Authorities and the Municipal Administrators shall present a report to the Minister of Public Works, Transport and Communications every six months on the evolution of the construction, conservation and repair of rainwater drainage systems.

Article 11

Cleaning of rainwater drainage systems

The cleaning of wastewater drainage systems complies with the scheme approved by Ministerial Order No. 32/2016 of 20 April.

CHAPTER III

FINANCIAL MEANS

Article 12

Expenditure on the exercise of powers

1. The funds necessary for the payment of expenses resulting from the exercise of the powers regulated in this Ministerial Order are allocated to the municipal budgets.
2. The execution of the budget for the expenses inherent to the exercise of the powers regulated in this Ministerial Order shall be carried out under the terms of the law.
3. The report on the execution of the budget for the 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 13

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 PERSONNEL RESOURCES

Article 14 Management, supervision, and control

1. Civil servants assigned to the deconcentrated services of the *Direção Nacional de Edificações*¹ shall be transferred to the staff of Municipal Authorities or Municipal Administrations, as the case may be, of the municipality where they are carrying out their professional activities.
2. Public Administration agents and workers exercising their respective activities in the deconcentrated services of the *Direção Nacional de Edificações* shall henceforth perform their respective functions in the Municipal Authority or the Municipal Administration, as the case may be, of the municipality where they are carrying out their respective professional activities.

CHAPTER VI FINAL ARRANGEMENTS

Article 15 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 16 Implementation of the guidelines of the Minister of Public Works, Transport and Communications

The Presidents of Municipal Authorities and Municipal Administrators shall ensure that the guidelines of the Minister of Public Works, Transport and Communications are punctually and regularly complied with in the exercise of the powers regulated by this Ministerial Order.

Article 17 Evaluation of enforcement of the ministerial order

1. Enforcement of the rules contained in this Ministerial Order and the quality of the provision of the goods and services provided for therein shall be subject to annual joint assessment by the Ministry of State Administration and the Ministry of Public Works, Transport and Communications.
2. The evaluation shall be carried out by a committee appointed for that purpose by the Ministers of State Administration and Public Works, Transport and Communications.
3. A report shall be drawn up 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.

¹ *Direção Nacional de Edificações* - National Directorate of Constructions

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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