



NEWSLETTER | PUBLIC LAW

CONTENTS

PUBLIC LAW NEWSLETTER | 1ST QUARTER 2017

I GOVERNMENTAL ORDER NO. 69/2017, 16 FEBRUARY	2
<hr/>	
II NATIONAL LEGISLATION AND ADMINISTRATIVE DECISIONS	3
<hr/>	
III NACIONAL CASE LAW	5
<hr/>	



PUBLIC LAW NEWSLETTER

I NEW ORDER REGARDING THE RETURN OF THE ENERGY SUBSIDIES

Governmental Order no. 69/2017, 16 February

Governmental Order no. 69/2017, 16 February (the "Governmental Order") entered into force on 17 February and revoked Governmental Order no. 268-B/2016, which set forth the obligation of the Supplier of Last Resort ("SLR") to deduct the duplicated amounts from the payments to be made to the power plants that cumulatively benefited or are benefitting from feed-in tariff and public incentives and established that the Last Resort Supplier must deduct said overpaid amounts from the producers as soon as possible and that 50% of the same shall be used to reduce the tariff deficit.

This new Governmental Order also establishes a step-plan for the Ministry of Economy to proceed to the "correction" of the "overpaid" amounts and will be the legal ground for the subsequent administrative acts, having the same regulatory structure of the previous diploma: Governmental Order no. 268-B/2016.

For that purpose, the Governmental Order establishes two subsequent acts to be enacted:

- i) An act identifying the excessive amounts received and which will be corrected;
- ii) An act identifying the value in euros per MWh to reduce from the remuneration to be paid by the SLR to each producer.

There is an important change regarding this new Governmental Order which was the provision of article 171^o of the State Budget for 2017 which is now the legal ground for the issuance of the referred Governmental Order. This means that this new Governmental Order now directly derives from a legislative act.

Article 2^o of the new Governmental Order withdraws the 30 days deadline for DGEG to present a proposal for the decision of the Economy Minister regarding the excess amount of each power plant.

Also, there is no longer a reference to a study, from DGEG, regarding the public policies to be implemented in the energy sector where it was found that the electro producing centers that benefited from a guaranteed remuneration scheme received an excess amount of 140 million euros.



II NATIONAL LEGISLATION AND ADMINISTRATIVE DECISIONS

Public finances

*Decree-Law no. 25/2017 - Diário da República no. 45/2017, Series I of 2017-03-03
State Budget*

Establishes the rules of execution of the State Budget for 2017.

Regional Regulatory Decree no. 3/2017 / M - Diário da República no. 47/2017, Series I of 2017-03-07. Of the Government Presidency of the Madeira Autonomous Region

Approves the execution of the Budget of the Autonomous Region of Madeira for the year 2017.

Urban Planning

Notice no. 2099/2017 - Diário da República no. 40/2017, Series II of 2017-02-24, of the Municipality of Lisbon

Simplified amendment to the Lisbon Municipal Master Plan.

Energy

Decree-Law no. 21/2017 - Diário da República no. 37/2017, Series I of 2017-02-21

It lays down the rules applicable to the placing on the market of electrical equipment intended to be used within certain voltage limits, transposing Directive 2014/35/EU.

Order No. 1823-A / 2017 - Diário da República no. 43/2017, 1st Supplement, Series II of 2017-03-01, of the Energy State Secretary

It convenes the auction and its terms and establishes the remuneration of the security reserve provided to the National Electric System through availability services provided by electric power producers and other market agents.

Regulation no. 122/2017 - Diário da República no. 50/2017, Series II of 2017-03-10, of the ENMC - National Entity for the Fuel Market, E. P. E.

Proceeds to the second amendment of Regulation no. 851/2015 of 17 December to include the terms of registration of biofuel producers.



Decree-Law no. 38/2017 - Diário da República no. 65/2017, Series I of 2017-03-31

Approves the legal regime applicable to the change of electricity and gas trader logistic operator activity.

Directive no. 1/2017 - Diário da República no. 2/2017, Series II of 2017-01-03, of ERSE

Rates and prices for electricity and other services in 2017.

Order no. 20/2017 - Diário da República no. 8/2017, Series I of 2017-01-11, of the Ministry of Economy

Defines the reference tariff applicable during the current year to the electricity sold in its entirety to the public service electricity grid (RESP), which comes from small production units (UPP) that use renewable energy sources.

Environment

Decree-Law no. 34/2017 - Diário da República no. 60/2017, Series I of 2017-03-24

Establishes, by spin-off, the multi-municipal sewage system of the Tejo Atlântico and the multi-municipal sanitation system of the Setúbal Peninsula, and of the respective management entities.

Indirect Administration

Decree-Law no. 20/2017 - Diário da República no. 37/2017, Series I of 2017-02-21

Transforms the Universidade Nova de Lisboa into a public foundation under a private law regime and approves its bylaws.

Agriculture, Forestry and the Sea

Order no. 87/2017 - Diário da República no. 41/2017, Series I of 2017-02-27, of the Ministry of Agriculture, Forestry and Rural Development

Lays down the reductions to be applied for failure to comply with the obligation to declare the entire area of the holding referred to in Article 72 (1) of Regulation (EU) No 1306/2013 of the European Parliament and of the Council, Of December 17.



III NACIONAL CASE LAW

Constitutional Court

*Judgment (extract) no. 675/16 - Diário da República no. 38/2017, Series II of 2017-02-22
Constitutional court*

Rules unconstitutional the rule extracted from paragraphs 4 and 5 of article 46 of the Sanctioning System of the Energy Sector, approved by Law no. 9/2013, of January 28 (effects of the judicial challenge to ERSE's decisions).

*Judgment (extract) no. 39/2017 - Diário da República no. 53/2017, Series II of 2017-03-15
Constitutional court*

It refuses to acknowledge the request for a declaration of unconstitutionality, with general obligatory force, of the rule contained in article 5 of Decree-Law no. 174/2014, of December 5, which identifies the State as grantor of the public service concession Of collective public transport of passengers in the city of Lisbon; Does not declare the unconstitutionality of the rule extracted from article 8 of Decree-Law no. 175/2014, of December 5, which identifies the State as grantor of the concession of public transport service by metropolitan of passengers in the city of Lisbon and in the neighboring districts of Greater Lisbon, covered by their respective area corresponding to level III of the Nomenclature for Territorial and Statistical Purposes (NUTS).



CUATRECASAS

CONTACT

CUATRECASAS, GONÇALVES PEREIRA & ASSOCIADOS, RL
Sociedade de Advogados de Responsabilidade Limitada

LISBOA

Praça Marquês de Pombal, 2 (e 1-8º) | 1250-160 Lisboa | Portugal
Tel. (351) 21 355 3800 | Fax (351) 21 353 2362
cuatrecasasportugal@cuatrecasas.com | www.cuatrecasas.com

PORTO

Avenida da Boavista, 3265 - 5.1 | 4100-137 Porto | Portugal
Tel. (351) 22 616 6920 | Fax (351) 22 616 6949
cuatrecasasporto@cuatrecasas.com | www.cuatrecasas.com

This Newsletter was prepared by Cuatrecasas, Gonçalves Pereira & Associados, RL for information purposes only and should not be understood as a form of advertising. The information provided and the opinions expressed herein are of a general nature and should not, under any circumstances, be a replacement for adequate legal advice for the resolution of specific cases. Therefore, Cuatrecasas, Gonçalves Pereira & Associados, RL is not liable for any possible damages caused by its use. Access to the information provided in this Newsletter does not imply the formation of a lawyer-client relationship or of any other sort of legal relationship. This Newsletter is published free of charge and may not be copied or distributed without formal prior consent. If you do not wish to continue receiving this Newsletter, please send an e-mail to cuatrecasasportugal@cuatrecasas.com.
