



WavEC
Offshore Renewables

LICENSING **GUIDANCE**

for Marine Renewable Energy Projects
in Portugal (Mainland Coast)



LICENSING GUIDANCE

for Marine Renewable Energy Projects in Portugal
(Mainland Coast)

SEPTEMBER 2016

Júlio de Jesus, Margarida Almodovar, Teresa Simas



DESCRIPTION

Guidance on the licensing procedures of marine renewable energy projects in Portuguese coastal waters (mainland).

DATE

September, 2016

AUTHORS

Júlio de Jesus (Júlio de Jesus Consultores; jj@juliodejesusconsultores.com)

Margarida Almodovar (margaridaalmodovar@hotmail.com)

Teresa Simas (WavEC; teresa@wavec.org)

COMMENTS TO THE PRELIMINARY VERSION

The authors would like to thank for the contributions received from the following persons:

Ana Telhado, Sara Cabral and Maria do Carmo Figueira, APA; Isabel Marques, CCDR-LVT; Mafalda Rebelo Sousa, Miguel Hall, Victor Batista and Jorge Canena dos Santos, Enondas – Energia das Ondas, S.A.; Maria José Espírito Santo, DGEG; Paula Simão, DGRM; Helena Coelho, Bioinsight.

RECOMMENDED REFERENCE

Jesus, J., Almodovar, M., Simas, T., 2016. Licensing guidance for marine renewable energy projects in Portugal (mainland coastal waters). WavEC Publications, Lisbon. 95 p.

The digital version of the document is available from the WavEC's website: http://www.wavec.org/content/files/Wavec_Guide_web.pdf

List of contents

| | |
|--|-----------|
| LIST OF ABBREVIATIONS AND ACRONYMS | 05 |
| 1 INTRODUCTION AND OBJECTIVES | 06 |
| 1.1 Context | 07 |
| 1.2 Objectives | 08 |
| 1.3 How to use this Guidance?..... | 08 |
| 2 NATIONAL MARITIME SPATIAL PLANNING | 10 |
| 2.1 Where is the maritime spatial planning applied to? | 11 |
| 2.2 The national maritime spatial planning instruments | 11 |
| 2.2.1 The Situation Plan..... | 12 |
| 2.2.2 The Allocation Plan..... | 13 |
| 2.3 The title for the private use of the national maritime space | 15 |
| 2.3.1 Who is the authority responsible for issuing the TUPEM?..... | 16 |
| 2.3.2 Who coordinates the procedures' instruction?..... | 16 |
| 3 COORDINATION WITH THE SYSTEM OF WATER RESOURCES USE | 20 |
| 3.1 What is the system of water resources use?..... | 21 |
| 3.2 How is the coordination with the system of water resources use performed?..... | 21 |
| 4 LICENSING THE PRODUCTION OF MARINE RENEWABLE ENERGY | 22 |
| 4.1 Production and tariff systems | 23 |
| 4.2 Who are the responsible authorities?..... | 24 |
| 4.3 What are the licensing stages of a project under the regular tariff scheme?..... | 25 |
| 4.3.1 What is the procedure to obtain the production license in the regular tariff system? | 26 |
| 4.3.2 What is the procedure to obtain the operation license in the regular tariff scheme?..... | 30 |
| 4.4 What are the licensing stages of a project under the feed-in tariff scheme?..... | 31 |
| 4.4.1 Reservation of power capacity in the grid | 31 |
| 4.4.2 What is the procedure to obtain the production license in the Feed-In Tariff scheme? | 34 |
| 4.4.3 What are the duties of the production license holder? | 36 |
| 4.4.4 What is the procedure to obtain the operation license under the Feed-In Tariff scheme?..... | 32 |
| 5 LICENSING OF PROJECTS AND ANCILLARY FACILITIES ONSHORE | 38 |
| 5.1 What is the applicable legal system?..... | 39 |
| 5.2 What is the prior information request?..... | 39 |
| 5.3 What are the deadlines for licensing urban development operations?..... | 40 |
| 5.4 What are the constraints to license urban development operations? | 40 |
| 6 ADMINISTRATIVE EASEMENTS AND PUBLIC UTILITY RESTRICTIONS | 42 |
| 6.1 Introduction | 43 |
| 6.1.1 What are administrative easements and public utility restrictions?..... | 43 |
| 6.1.2 What is the relevance of administrative easements and public utility restrictions for planning and licensing?..... | 43 |
| 6.2 Designated conservation areas..... | 43 |
| 6.2.1 What are they? | 43 |
| 6.2.2 Protected areas | 44 |
| 6.2.3 Natura 2000 | 45 |
| 6.2.4 What are the other designated areas and how are they designated? | 46 |
| 6.2.5 What are the other designated areas to be considered?..... | 47 |
| 6.3 National Agricultural Reserve | 48 |
| 6.3.1 What is the National Agricultural Reserve and what are its objectives? | 48 |

| | | |
|-----------------|---|-----------|
| 6.3.2 | What are the consequences of the project location in RAN areas?..... | 48 |
| 6.4 | National Ecological Reserve..... | 49 |
| 6.4.1 | What is the National Ecological Reserve and what are its objectives?..... | 49 |
| 6.4.2 | What are the consequences of the project location in REN areas?..... | 49 |
| 6.5 | Cultural heritage..... | 50 |
| 6.5.1 | What is the legal framework of the designated heritage sites?..... | 50 |
| 6.5.2 | What are the consequences of the project location in a designated heritage site?..... | 50 |
| 6.5.3 | What are the heritage properties to be considered?..... | 50 |
| 6.5.4 | What are archeological parks?..... | 50 |
| 6.5.5 | Are archeological works required?..... | 51 |
| 6.6 | Other administrative easements..... | 51 |
| 7 | ENVIRONMENTAL IMPACT ASSESSMENT..... | 52 |
| 7.1 | What is the legal system of EIA?..... | 53 |
| 7.2 | What are the projects subject to EIA?..... | 53 |
| 7.3 | What are the EIA steps and the advantages of conducting it during the project design phase?..... | 55 |
| 7.4 | What is the case-by-case analysis provided for in the RJIA?..... | 57 |
| 7.5 | What is the scoping procedure and what are its advantages?..... | 58 |
| 7.6 | How is the EIA procedure during the project design phase?..... | 59 |
| 7.7 | How is the procedure for the environmental compliance checking of the detailed project design phase?..... | 61 |
| 7.8 | How is the EIA procedure during the detailed project design phase?..... | 82 |
| 7.9 | What is the post-assessment stage?..... | 82 |
| 7.10 | Competent authorities..... | 83 |
| 7.11 | What is the temporal validity of the decisions and deadlines of the several EIA steps?..... | 83 |
| 8 | ENVIRONMENTAL APPRAISAL OF FER PROJECTS..... | 66 |
| 9 | SYNTHESIS..... | 70 |
| 10 | REFERENCES..... | 73 |
| 10.1 | Bibliography..... | 74 |
| 10.2 | List of websites mentioned in the text..... | 73 |
| 11 | Annex..... | 75 |
| Annex 1 | List of applicable legislation per type of instrument..... | 76 |
| Annex 2 | List of applicable laws per topic..... | 80 |
| Annex 3 | Contact of the authorities..... | 84 |
| Annex 4 | List of protected areas..... | 86 |
| Annex 5 | List of SIC and sites of the National List..... | 87 |
| Annex 6 | List of Special Protection Areas..... | 88 |
| Annex 7 | Entities participating in the EIA procedure of MRE projects..... | 89 |
| Annex 8 | Uses and actions compatible with MRE projects..... | 90 |
| Annex 9 | Administrative easements and use restrictions..... | 91 |
| Annex 10 | Glossary..... | 92 |

List of abbreviations and acronyms

The list below shows both Portuguese and English versions of the acronyms used along the text. When the acronym is recognised as having wide use distribution in English, this version of the acronym is used along the text, although the Portuguese abbreviation and meaning is also shown below. To facilitate the consultation of the legal documents in Portuguese, the acronyms of the national specific terms are used as they are known in Portuguese, although the English meaning is also presented below.

AIA: *Avaliação de Impacto Ambiental*; Environmental Impact Assessment

AlncA: *Avaliação de Incidências Ambientais*; Environmental Appraisal

AMN: *Autoridade Marítima Nacional*; National Maritime Authority

APA: *Agência Portuguesa do Ambiente*; Environmental Portuguese Agency

APAI: *Associação Portuguesa de Avaliação de Impacto ambiental*; Portuguese Association of Impact Assessment

BUE: *Balcão Único Eletrónico*; Licensing Online Platform

CA: *Comissão de Avaliação*; Assessment Committee

CCDR: *Comissão de Coordenação e Desenvolvimento Regional*; Commission of Coordination and Regional Development

CE: *Comissão Europeia*; European Commission

CPA: *Código do Processo Administrativo*; Administrative Procedure Code

CUR: *Consumidor de Último Recurso*; Last Resort Consumer

DCAPE: *Decisão sobre a Conformidade Ambiental do Projeto de Execução*; Decision on the Environmental Compliance of the Detailed project design

DGEG: *Direção Geral da Energia e Geologia*; Directorate-General of Energy and Geology

DGPC: *Direção Geral do Património e Cultura*; Directorate-General of Heritage and Culture

DGRM: *Direção Geral dos Recursos Naturais, Segurança e Serviços Marítimos*; Directorate-General of Natural Resources, Safety and Maritime Services

DGT: *Direção Geral do Território*; Directorate-General of the Territory

DIA: *Declaração de Impacto Ambiental*; Environmental Impact Statement

DlncA: *Decisão de Incidências Ambientais*; Environmental Appraisal Statement

DL: *Decreto-Lei*; Decree-Law

DQA: *Diretiva Quadro da Água*; Water Framework Directive (WFD)

DQEM: *Diretiva Quadro da Estratégia Marinha*; Marine Strategy Framework Directive (MSFD)

DR: *Decreto Regulamentar*; Regulatory Decree

DR: *Diário da República*; Official Gazette

DRAP: *Direção regional da Agricultura e Pescas*; Regional Directorate of Agriculture and Fisheries

DRC: *Direção regional da Cultura*; Regional Directorate of Culture

EEZ: *Zona Económica Exclusiva (ZEE)*; Exclusive Economic Zone

EIA: *Avaliação de Impacto Ambiental (AIA)*; Environmental Impact Assessment

ElncA: *Estudo de Incidências Ambientais*; Report on the Environmental Appraisal

EIS: *Declaração de Impacto Ambiental (DIA)*; Environmental Impact Statement

EMN: *Espaço Marítimo Nacional*; National Maritime Space

ERSE: *Entidade Reguladora dos Serviços Energéticos*; national entity that regulates the energy services

FER: *Fontes de Energia Renovável*; Renewable Energy Source projects

FIT: *Regime de Remuneração Garantida*; Feed-In Tariff scheme

IAIA: International Association for Impact Assessment

ICNF: *Instituto da Conservação da Natureza e Florestas*; Institute for the Conservation of Nature and Forests

IGT: *Instrumentos de Gestão territorial*; Land Management Instruments

LBOGEM: *Lei de Bases do Ordenamento e Gestão do Espaço Marítimo*; Bases of Spatial Planning and Management of the Su National Maritime Space

MRE: Marine Renewable Energy projects

MSP: *Ordenamento do Espaço Marítimo (OEM)*; Marine Spatial Planning

PAA: *Plano de Acompanhamento Ambiental*; Environmental Follow-up Plan

PDA: *Proposta de Definição do Âmbito (do Estudo de Impacto Ambiental)*; Scoping report (of the Environmental Impact Assessment)

PDM: *Plano Diretor Municipal*; Municipal Master Plan

PP: *Plano de Pormenor*; Detailed Spatial Plan

PU: *Plano de Urbanização*; Urban Plan

RAN: *Reserva Agrícola Nacional*; National Agricultural Reserve

RCM: *Resolução de Conselho de Ministros*; Resolution of Minister's Council

RECAPE: *Relatório de Conformidade Ambiental do Projecto de Execução*; Environmental Compliance Report of the Detailed Project Design

REN: *Reserva Ecológica Nacional*; National Ecological Reserve

RESP: *Rede Elétrica de Serviço Público*; Public Electricity Grid

RJAIA: *Regime Jurídico da Avaliação de Impacto Ambiental*; Legal System of the Environmental Impact Assessment

RJCH: *Regime Jurídico da Avaliação da Conservação de Habitats*; Legal System for the Habitats Conservation

RJCNB: *Regime Jurídico da Conservação*; Legal System for the Conservation of Nature and Biodiversity

RJIGT: *Regime Jurídico dos Instrumentos de Gestão Territorial*; Legal System for Instruments of Territorial Management

RJRN: *Regime Jurídico da Reserva Agrícola Nacional*; Legal System of the National Agricultural Reserve

RJREN: *Regime Jurídico da Reserva Ecológica Nacional*; Legal System of the National Ecological Reserve

RJUE: *Regime Jurídico da Urbanização e Edificação*; Legal System of Urban Planning and Building

RNAP: *Rede Nacional de Áreas Protegidas*; National Network of Protected Areas

RND: *Rede Nacional de Distribuição*; National Electricity Distribution Grid

RNT: *Resumo Não-Técnico (do EIA ou ElncA)*; Non-Technical Summary (of EIA or ElncA)

RNTr: *Rede Nacional de Transporte de eletricidade*; National Electricity Transportation Grid

RRD: *Regulamento da Rede de Distribuição*; Regulation of the Electricity Distribution Grid

RRT: *Regulamento da Rede de Transporte*; Regulation of the Electricity Transportation Grid

RTA: *Regulamento de Trabalhos Arqueológicos*; Regulation of Archeological Works

SAC: *Zona Especial de Conservação (ZEC)*; Special Area of Conservation

SCI: *Sítio de Importância Comunitária (SIC)*; Site of Community Importance (SCI)

SEA: *Avaliação Ambiental estratégica (AAE)*; Strategic Environmental Assessment

SEN: *Sistema Elétrico Nacional*; National Electrical System

SIC: *Sítio de Importância Comunitária (SIC)*; Site of Community Importance (SCI)

SNAC: *Sistema Nacional de Áreas Classificadas*; National system of designated areas for conservation

SPA: *Zonas de Proteção Especial (ZPE)*; Special Protection Area

SRUP: *Servidões e Restrições de Utilidade Pública*; Easements and Public Utility Restrictions

TUPEM: *Título de Utilização Privativa do Espaço Marítimo Nacional (EMN)*; Titles for the Private Spatial Use for the EMN

UNCLOS: United Nations Convention for the Law of the Sea

UNESCO: United Nations Educational, Scientific and Cultural Organization

ZEC: *Zona Especial de Conservação (ZEC)*; Special Area of Conservation

ZEP: *Zona Especial de Proteção (de bens imóveis em vias de classificação ou classificados como património cultural)*; Special Protection Zone (of properties designated as heritage sites)



1

INTRODUCTION AND OBJECTIVES

INTRODUCTION AND OBJECTIVES

1.1 Context

The complexity of the licensing process of Marine Renewable Energy (MRE) projects is indicated worldwide as one of the main barriers to the sector development. The reasons for this barrier are attached, among others, to the lack of clarity of procedures (arising from the lack of specific laws for this type of projects), to the varied number of authorities to be consulted and to the process delay. Understanding the factors that consider licensing as a barrier, as well as the discussion of the necessary measures to minimise their effects on the sector implementation in several Member States, have been some of the topics explored in various European-funded projects. This analysis has been based on the description of the licensing process in several countries in order to identify differences and similarities, advantages and disadvantages and good or better practices to streamline the process.

European-funded projects, where aspects related to the licensing of MRE, have been addressed in: WAVEPLAM (1), EQUIMAR (1), SOWFIA (1) and RiCORE (2).

This Guide was partially funded by the RiCORE project and results from an in-depth study conducted in one of the project tasks, more specifically regarding report 2.2 (Le Lièvre & O'Hagan, 2016), which presents and discusses licensing processes in several European countries. This project was funded by the European Commission under the HORIZON 2020 programme and it is aimed at establishing an environmental licensing approach, based on the risk assessment of MRE technologies. This approach has already been successfully implemented in Scotland and can be summed up in the use of information about the natural sensitiveness of the location and project scale to be installed in order to define the level of requirements needed for the environmental studies.

The findings of the aforementioned report include an assessment of the efforts made by the countries represented in the project consortium (Spain, France, Ireland, Portugal and United Kingdom) on the measures adopted to improve licensing processes. These can be summarised in the following aspects:

These findings are detailed in report 2.2, available at the RiCORE project website (3).

- Improved operation of the single platforms or offices to manage the licensing process (the so-called one-stop-shop);
- Better integration of the licensing procedures in order to minimise the process fragmentation and centralise decisions;
- Introduction of a timeline for the various procedures and a maximum period of time for the all licensing process, taking into account the scale of the project;
- Development and provision (in institutional websites) of guidance documents explaining the licensing process in order to instruct their intervening parties.

Throughout the RiCORE project, several workshops were held to discuss the implementation of the environmental licensing risk-based approach in the countries under the project consortium. Representatives from several EU Member States have been invited, regarding the areas of Environmental Impact Assessment (EIA) consultancy, marine environment research (academy), industry (device developers) and public administration (regulators). This Guidance has been developed as a consequence of the need identified by some of the national stakeholders, who together with WavEC, have joined efforts to compile the information presented herein.

The authors believe this document contributes to clarify the licensing process of MRE technologies in Portugal, as well as making it more expedient, since good or better practices are proposed throughout the document.

This document also had the engagement of a group of authorities and colleagues with relevant expertise in the field, some of whom with direct intervention in the licensing process that promptly offered themselves to review and validate the document. Given the constant evolution of legal systems, the aim is to update the present information whenever significant change in the law may occur.

1.2 Objectives

This Guidance is aimed at describing the various steps of the licensing process of MRE projects to be located in the Portuguese continental coast, excluding the autonomous regions of the Azores and Madeira and the Portuguese Pilot Zone - Ocean Plug (the concession of this zone is granted by Enondas, Energia das Ondas, S.A. and its designation and management is defined in specific laws; see side bar), in order to support:

- The developers of MRE projects during installation, operation and decommissioning of their device(s) and infrastructures and also,
- Other stakeholders intervening or interested in the licensing process.

It also presents some recommendations of good practices so that parts of the process can be streamlined. This document can also be used to help identifying omissions and procedures that may require simplification or improvement along the licensing process.

1.3 How to use this Guidance?

The Guidance is organised in four main topics corresponding to the relevant components of the licensing process of MRE projects: 1) authorisation for the private use of the maritime space and connection with the authorisation to use water resources, described in chapters 2 and 3; 2) licensing of the power generation activity and tariff regulation, described in chapter four; 3) licensing accessory facilities onshore described in chapter five and six; and 4) EIA process, described in chapter seven and eight.

Although the chapters are independent and aim to synthesise the legal and normative systems of each licensing component, there was a concern in showing the articulation between them, considering the different intervening parties in the process. This articulation is eventually presented in chapter nine, where the entire process is summarised, directing the reader to the document sections where the particular licensing components are described. Furthermore, the various chapters were structured to be directly consulted, with no need to read all previous information to understand each licensing component thoroughly.

Throughout the document, side notes are presented with additional information to clarify concepts or terms as well as reference to other sections of the document that are important for a good understanding of the main text. Side notes also include references to the applicable legal framework, by the identification of the most relevant laws.

Laws on the Portuguese Pilot Zone: DL (Decree-Law) 5/2008, amended by DL 15/2012; DL 238/2008, amended by DL 15/2012; RCM 49/2010; Article 105 of DL 28/2015 (see section 11.2). The contacts of the managing entity of the Portuguese Pilot Zone can be found in annex (section 11.4).

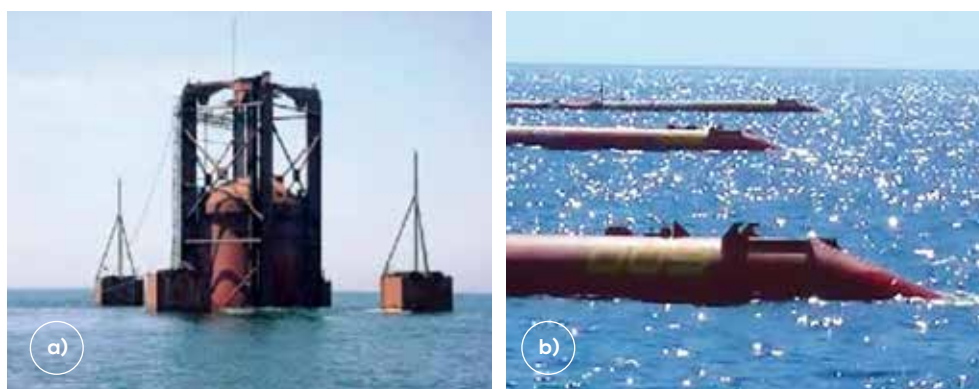
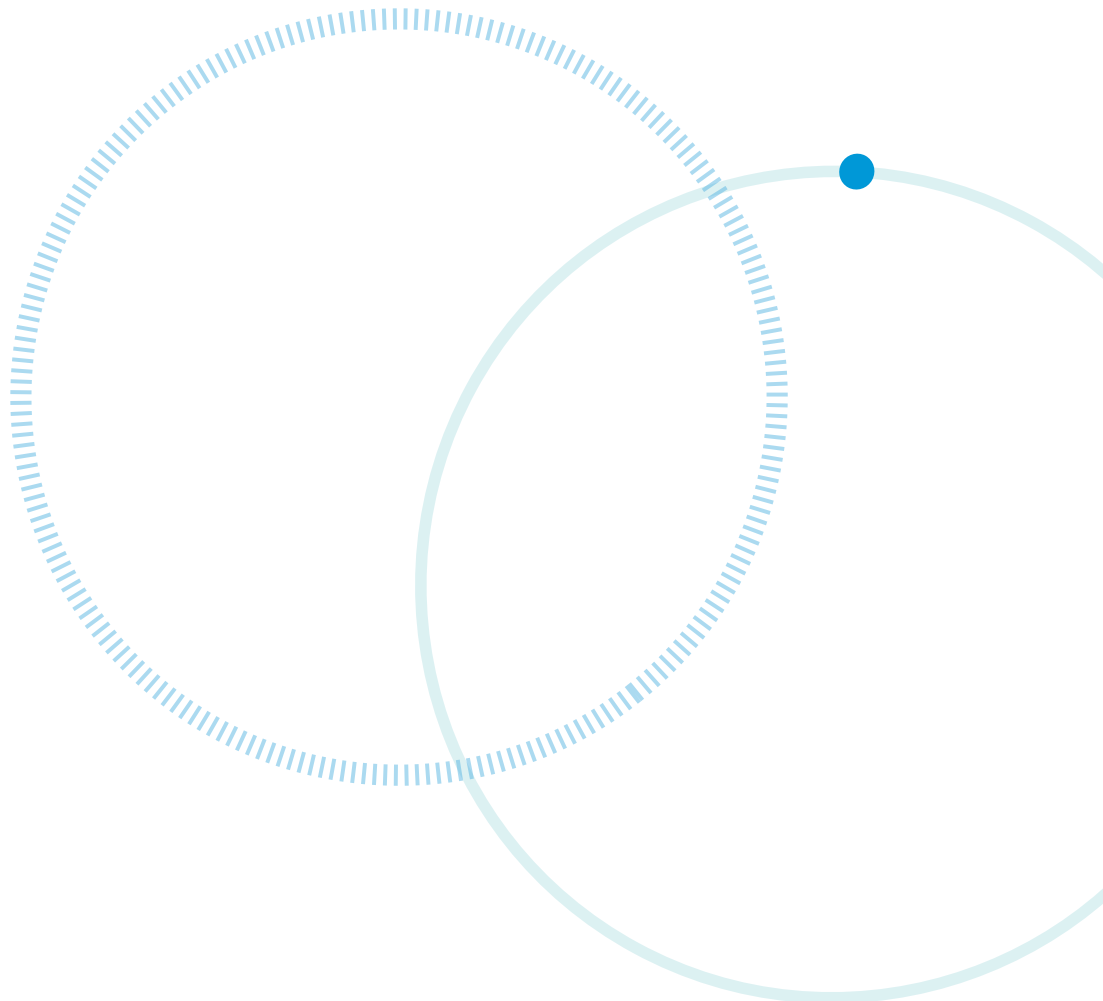


Figure 11 Images of some of the MRE projects installed in Portuguese coastal waters: a) AWS; b) Pelamis; c) WaveRoller; d) WindFloat.



The document also contains a section of annexes where the reader can go to whenever it is required to present more detailed information. The information related to the addresses of several websites listed in brackets throughout the text, is also provided attached hereto.

In order to not overload the Guidance's text, the dates of the laws mentioned along it or in side notes are not indicated. It is always assumed that these laws refer to their wording on the date of issue of the present Guidance (September 2016). Attached hereto, there is also the list, as well as a brief description, of all laws mentioned in the text, containing the indications of dates and respective amendments and rectifications.



2

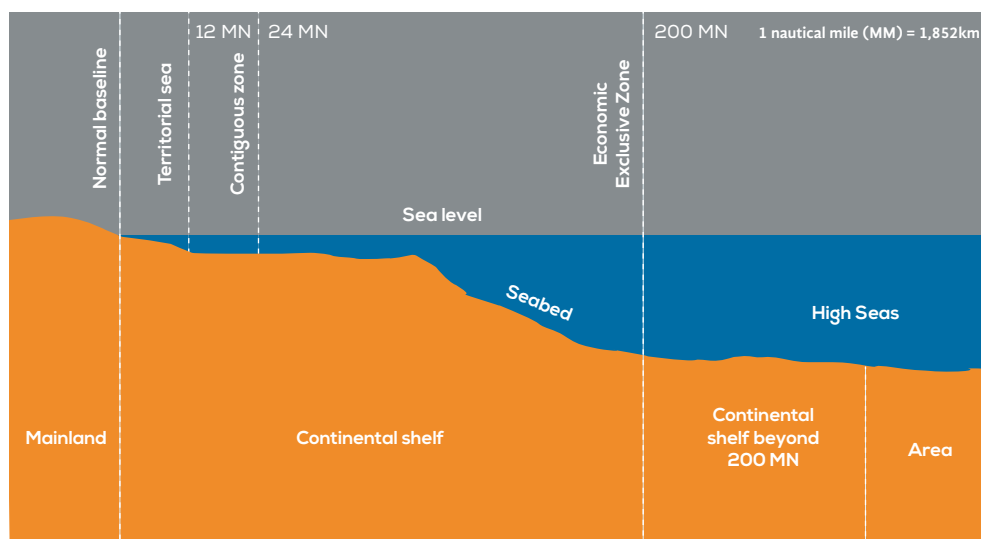
NATIONAL MARITIME
**SPATIAL
PLANNING**

2

NATIONAL MARITIME SPATIAL PLANNING

The national maritime space (NMS) extends from the baselines until the outer boundary of the continental shelf, beyond 200 nautical miles and is organised in the following maritime zones (see Figure 2.1 and glossary for definition of terms):

- The zone comprised between the baseline and the outer boundary of the territorial sea;
- The Exclusive Economic Zone (EEZ);
- The continental shelf, beyond 200 nautical miles.



Act 17/2014 setting forth the Bases of spatial planning and management of the national maritime space (LBOGEM).

Figure 2.1
Maritime zones.

The zones comprising the EMN are in compliance with the limits established in the United Nations Convention on the Law of the Sea (UNCLOS), which establish a legal order for the seas and oceans to facilitate international communication and promote, among other aspects, the equitable and efficient utilization of the sea resources, the conservation of their living resources, and the study, protection and conservation of the marine environment.

The EMN planning and management policy promotes the suitable organisation and use of the NMS regarding its sustainable use. It is aimed at promoting sustainable economic, rational and efficient exploitation of marine resources, seeking the solutions that allow a greater compatibility of uses and activities, without forgetting the commitments assumed for the maintenance of good environmental conditions of marine life, risk prevention, minimisation of effects arising from natural disaster, climate changes and human activities.

The Maritime Spatial Planning (MSP) system consists of instruments, which are developed in two complementary action levels: on one side, strategic instruments of the planning and management policy, from which the National Strategy for the Ocean stands out and, on the other side, the MSP instruments: the Situation Plan and the Allocation Plan.

The MSP acts in compliance with internationally recognised principles, among them, the adaptive management principle, which reflects the dynamic nature of the maritime space and its ecosystems, the evolution on marine knowledge and maritime activities, the principle of the integrated, multidisciplinary and transverse management and the ecosystem management approach to meet the complex and dynamic nature of the marine ecosystems.

The MSP shall also take into account sea/land interactions, since it may play a very useful role in determining guidelines regarding sustainable and integrated management of human activities at sea, habitat conservation, the vulnerability of coastal ecosystems and erosion and socio-economic factors.

Portuguese Parliament Resolution 60-B/97 approves, for ratification, the UNCLOS and the Agreement Related to the Application of Part XI of the same Covenant.

Marine Strategy Framework Directive (2008/56/CE) is transposed to the national law in DL 108/2010

Directive 2014/89/UE of the European Parliament and the Council establishes a framework for the MSP.

Definition of "Situation Plan" and "Allocation Plan": DL 38/2015.

2.1 Where is the maritime spatial planning applied to?

The MSP is applied to all EMN comprised between the baseline and the outer boundary of the exclusive economic zone, beyond 200 nautical miles. The baseline corresponds to the low-water line along the coast, as marked in official nautical charts. In ports and port facilities, it should be considered the boundary line, consisting of the low-water line along the protective breakwaters and the closing line at the entrance to the port or port facility; while in the mouths of the rivers that flow into the sea, river estuaries and coastal lagoons open to the sea, a straight line drawn between points on the low-water lines of the margins should be considered (Figure 2.2). The MSP does not apply to the areas within the baseline and coastal line, where both lines do not coincide, namely inside port areas, river estuaries and coastal lagoons.

The MSP applies to estuaries and coastal lagoons only for aquaculture activity (DL 139/2015).



Figure 2.2 Examples of the definition of baselines in port areas, estuaries and coastal lagoons.

2.2 The national maritime spatial planning instruments

2.2.1 The Situation Plan

The Situation Plan proceeds with the EMN planning, identifying protection and conservation sites for marine life and the spatial and temporal distribution of the existing and potential uses and activities. The Situation Plan is the instrument of reference for the licensing of the private use of EMN. The Situation Plan is subject to the Strategic Environmental Assessment (SEA), as determined by the Order that sets up the Situation Plan. The Situation Plan contents includes, among other information, the location of the elements related to navigation, facilities and structures, the geo-spatial representation of values, existing and potential uses and activities, the implementing rules and restrictions on the use of public resources, safeguard and protection systems of natural and cultural resources and good practices to be followed in the use and management of the maritime space.

Situation Plan: Section II of DL 38/2015.

SEA of plans and programmes: DL 232/2007.

Material and document content – articles 10 and 11 of DL 38/2015.

2.2.1.1 Who are the responsible authorities?

The member of the Government responsible for the maritime area shall determine, by means of an Order, the outline of the plan, indicating who is the responsible entity to develop it. The Situation Plan is always of public initiative and there is only a single Situation Plan, which may be developed in stages.

The Order 11494/2015 established that the responsibility for the development of the Situation Plan in the zones comprised between baseline and the outer boundary of the continental shelf, beyond 200 nautical miles (and except for the zones adjacent to the archipelagos of Madeira and Azores between the baseline and the outer boundary of the continental shelf within 200 nautical miles), belongs to the Directorate-General of Natural Resources Safety and Maritime Services (DGRM). Any information related to MSP instruments, namely regarding their development, as well as the plan follow-up can be obtained at the MSP website developed by DGRM (4).

Operation of the Advisory Committee developing the Situation Plan: Ordinance 11494/2015.

2.2.1.2 Scope and approval of the Situation Plan

The Situation Plan covers the entire EMN including water column, soil and seabed. The Situation Plan is approved by Resolution of the Council of Ministers (RCM), with the final version submitted by the DGRM, as an entity that has been designated as responsible for its elaboration.

2.2.2 The Allocation Plan

The Allocation Plan proceeds with the allocation of areas or volumes of the EMN to uses or activities not identified in the Situation Plan. For the purposes of assessing the impacts of the use or activity in the marine environment, the Allocation Plan is considered a project and, thus, subject to the legal framework of the Environmental Impact Assessment (EIA) within the prescribed cases (see Chapter 7). The EIA of the Allocation Plan should consider the environmental report that has been prepared as part of the SEA of the Situation Plan. The Allocation Plan should include, among other information, the geo-spatial distribution of the uses and activities, the implementing rules and restrictions on the use of public resources, protection schemes and protection of natural and cultural resources and good practices to be followed in the use and management of the maritime space.

Allocation Plan: Section III of DL 38/2015.

DL 38/2015 defines that the Allocation Plan is equivalent to a project, therefore being subject to EIA.

Material and document content – articles 20 and 21 of DL 38/2015.

2.2.2.1 Who are the responsible authorities?

The preparation of the Allocation Plan can be of public or private initiative. Any stakeholder can submit, to the member of the Government responsible for the maritime area, a proposal for the elaboration of an Allocation Plan.

Therefore, any private promotor of an economic activity to be developed in the EMN as well as any municipality or association of municipalities wishing to implement any use or activity in the EMN adjacent to their municipality may submit a proposal for the development of an Allocation Plan. This proposal is then analysed by the competent authorities taking into account the site to be used, the sensitivity of the area regarding nature conservation values and the use or activity to be developed.

The members of the Government responsible for uses or activities to be developed in the EMN may also submit an Allocation Plan for a given use or activity, providing this use or activity is covered by an existing sectoral strategy. In this case the plan is always of public initiative.

2.2.2.2 How does a public initiative process start?

The Allocation Plan developed under a public initiative is determined by an Order of the member of the Government responsible for the maritime area, where the entity responsible for its production is designated as well as the reasons and objectives for developing the plan. The publication of the Order is preceded by a period of consultation with representatives of the ministries that oversee the sectors of the uses or activities developed in the maritime space under the Allocation Plan.

Article 22 of DL 38/2015.

2.2.2.3 How does a private initiative process start?

The promotor interested in preparing an Allocation Plan should submit to the member of the Government responsible for the maritime area, a contract proposal for the draw up of the plan (planning contract), which should contain its objectives and the rationale for its development, as well as the geo-spatial distribution and the duration of the uses and activities to be developed.

The member of the Government responsible for the maritime area evaluates the proposal compliance in terms of completeness, appropriateness and feasibility and proceeds to a statutory consultation process involving representatives from the various ministries that oversee the uses of sectors or activities to be developed within the EMN, as well as representatives of the concerned municipalities.

If no constraints are identified to the development of the plan as proposed, particularly regarding the allocation of the area and/or volume or the proposed uses and/or activities, a decision is made for the Allocation Plan to be drawn up by the promotor, which involves signing a planning contract. Prior to the execution of this contract, an Order is issued explaining:

The Allocation Plan shall be subject to EIA as per the legal system of EIA.

- a) The reasons and objectives for drafting the Allocation Plan;
- b) The reasons for the adoption of the contract;
- c) The Allocation Plan articulation and consistency with the Situation Plan;
- d) The spatial scope and, if applicable, the temporal scope of the Allocation Plan;
- e) The submission of the Allocation Plan to an EIA process, if required;
- f) The indication of the promotor responsible for the Allocation Plan development;
- g) The competent public authority responsible for the plan;
- h) The duration of the plan development;
- i) The establishment of an advisory committee to support and monitor the plan development;
- j) The period for public consultation of the proposed plan.

The public consultation is promoted by the member of the Government responsible for the maritime area and aims to inform on the intention of developing an Allocation Plan with specific objectives which should also be communicated. The public consultation is announced by electronic means.

The Allocation Plan can be developed by a public authority whenever, according to the public consultation of the proposed contract, there are expressions of interest from other stakeholders for the development of the use or activity in the proposed contract, or in case of conflict of uses or activities. When any of these situations occur, the procedure for the preparation of the Allocation Plan shall be in accordance with the provisions described in section 2.2.2.2.

2.2.2.4 What is a planning contract?

It is the contract signed between the member of the Government responsible for the maritime area and the promoter or stakeholder interested in drawing up the plan, in which the conditions for its development are described, including the need to carry out an EIA, the implementation period of the plan and other conditions that may turn out to be necessary given the nature of the use or activity that determines the development of the Allocation Plan.

The signing of the planning contract is preceded by a period of public consultation which is promoted by the public authority responsible for the Plan. This consultation aims to announce the intention to execute the contract and allows the existence of any expressions of interest from other stakeholders in the development of the same use or activity of the proposed contract or for the development of competing uses or activities for the same maritime space, allowing the identification of any issues that prevent the execution of the contract. If other proposals are submitted by other promoters or stakeholders, the Allocation Plan becomes a public initiative.

Project EIA: DL 151-B/2013, as amended by DL 47/2014 and DL 179/2015.

2.2.2.5 What is the scope of the Allocation Plan and who develops it?

The spatial and temporal scope of the plan are established according to its objectives and are set in the Order that determines its development. The scope of the plan must therefore reflect the characteristics and requirements of the use or activity that determine its development.

The entity responsible for preparing the Allocation Plan is identified in the Order that determines the development of the Allocation Plan. If the plan is of private initiative the promoter must conduct its development and submit it to the public authority responsible to analyse and approve it, who after compliance validation, promotes its public discussion.

The public discussion period allows all stakeholders to submit their comments on the options for the Allocation Plan. The opinions and or suggestions received are assessed by the responsible public authority, and may determine adaptations to the Allocation Plan.

The preparation of the Allocation Plan is accompanied by an advisory committee that includes representatives of the various public agencies and organisations that are related with the proposed use or activity sector as well as with the area where the project is to be installed. This committee is responsible for ensuring the support and monitoring of the plan development.

2.2.2.6 How is the relocation of uses or activities implemented?

Whenever the proposed occupation of the EMN, resulting from the Allocation Plan, involves the relocation of an use or activity already licensed to another area or volume of the EMN, this should be done in an area with similar natural characteristics and preferably as closer to previous location as possible. All costs arising from the relocation of existing uses or activities as well as the foreseeable administrative costs, are supported by the promoter of the new use or activity.

The holder of the use or activity to be relocated shall have the option to waive the right to private use of the EMN, a situation that requires indemnity by the new user to the current user in the amount of investments made under the current private use title (TUPEM) on fixed and semi-fixed installments (with no amortization) and considering the duration of the unrealised title. The price is agreed between the new use holder and the former use holder within the period established by the public authority responsible for preparing the plan. Compensation is also due when it is not possible to relocate the use or activity.

2.2.2.7 Conflicting uses or activities

When there is a conflict between existing or potential uses or activities, in the same area or volume of the EMN, for which the Allocation Plan is being developed, the responsible public authority assesses the following preference criteria, providing that biodiversity values, the good environmental status of the marine environment and the good conditions of coastal and transitional waters are ensured:

a) Greater social and economic benefit to be determined by the following parameters:

- i) The identification of the number of jobs created;
- ii) The qualification of human resources;
- iii) The investment volume and the economic viability of the project;
- iv) The expected results;
- v) The contribution to sustainable development;
- vi) The value created with the project;
- vii) The synergies that can be created with related activities and
- viii) The social responsibility of the sponsor regarding the developed use or activity;

b) Maximum coexistence of uses or activities, and this criterion is only applicable when there is equality in the valuation of the conflicting uses regarding the parameters listed in the previous paragraph, or when the greater social and economic advantage cannot be determined.

2.2.2.8 Who approves the Allocation Plan?

The Allocation Plan, whether of public or private initiative, is then submitted to the Government by the public authority responsible for the plan, and approved by RCM. Prior to submitting the plan, the responsible public authority considers and disseminates the public consultation results through electronic means. The RCM approving the Allocation Plan includes the identification of the provisions of the programmes or territorial plans that, for incompatibility or noncompliance with such instrument, should be revoked or amended.

[Article 62 -1, 6 and 7 of DL 38/2015.](#)

With the approval of the Allocation Plan, the corresponding title of private use of the EMN (TUPEM) is assigned, which is essential for the start of any use or activity in the maritime space, but does not dismiss any other procedures provided by law and required for the exercise of the activity.

Once approved, the Allocation Plan (material and document contents) is integrated into the Situation Plan that is automatically amended.

2.3 The title for the private use of the national maritime space

The private use of the EMN corresponds to the use of a reserved area or volume of the marine environment for exploitation of its resources or ecosystem services, resulting in a greater benefit than the one obtained through its common use and which results in a benefit to the public interest.

The right to the private use of the EMN is awarded by a title (TUPEM) that may take the form of a concession, license or authorisation. The private use of EMN that makes a long-term use (continuously and for more than 12 months) is subject to a concession that may have a maximum term of 50 years. The private use of EMN that has a temporary use (which is less than 12 months), intermittent or seasonal (occurring in discrete periods of the calendar year), is subject to a license that may have a maximum length of 25 years. There is a fee for the concession and license types of TUPEM except when they are required for the prospection and harnessing of geological and energy resources. An authorisation is given for scientific and non-commercial research and pilot projects related with new uses or new technology testing. The authorisation may have a maximum term of 10 years.

The TUPEM is not the sole condition for the development of a use or activity in the maritime area, it only allows the holder to use the maritime space for the proposed activities, which should comply with the conditions established in the law for that specific use. The assignment of a TUPEM obliges the holder to effectively use the maritime space and to ensure, at any time, the adoption of the necessary measures to guarantee the good environmental status of the marine environment and the good conditions of coastal and transitional waters, as provided under the Water Framework Directive (WFD) and the Marine Strategy Framework Directive (MSFQ).

The combination of the TUPEM with the license to carry out the activity and the fulfillment of all conditions, including environmental ones, results in the conditions for the exercise of the activity.

The TUPEM extinction requires the holder to ensure that the marine environment conditions that have been changed because of the project, and have not resulted in a benefit for the marine environment, need to be restored after the project end. This includes the removal of works and mobile structures that have been required for the use or activity. Situations in which the maintenance of all or part of the works or structures bringing a greater public benefit than their removal are excluded and shall revert to the State.

When considering the allocation of TUPEM to the development of a scientific research activity, the award of the title can be exempted from prior approval of the Allocation Plan by order of the ministers responsible for the maritime area, the environment and the use or activity sector to be developed.

2.3.1 Who is the authority responsible for issuing the TUPEM?

The authority responsible for TUPEM approval is DGRM, which shall ensure the consultation of other public services and bodies. The DGRM is still competent for issuing the TUPEM to the areas or volumes of the maritime space located between 200 nautical miles and the outer boundaries of the continental shelf. However, whenever TUPEM is associated with the use or activity related to geological resources, energy resources and renewable energy, including their infrastructure, the Directorate-General of Energy and Geology (DGEG) is the coordinator of the all licensing process.

2.3.2 Who coordinates the procedures' instruction?

As mentioned in the above section, in case of uses and activities related to geological resources, energy resources and renewable energy, including their infrastructure, the procedure is coordinated by DGEG, notwithstanding the responsibilities of DGRM regarding the licensing of the EMN occupation for private use. DGEG ensures the necessary coordination with the competent authority for allocating TUPEM and other authorities responsible for issuing concessions, licenses, permits, or other acts, for purposes of permission or not, necessary for the development of those uses or activities with a view to streamline the processes, especially regarding the meeting of deadlines and providing information and explanations to stakeholders.

DQA, 2000/60/CE: establishes a policy framework for the protection of inland surface waters, transitional waters, coastal waters and groundwater. Transposed into national law by Act 58/2005.

DOEM, 2008/56/CE: determines the policy framework and the necessary measures to achieve or maintain good environmental status in the marine environment by 2020. Transposed into the national law by DL 108/2010 and DL 201/2012.

As provided for in Article 60 and in accordance with Annex II of DL 38/2015.

The request for the use of the EMN is made through the completion of a form available in the Licensing Online Platform (BUE). At the time of drafting this Guidance the BUE is not yet available since it is still under development. The application for the TUPEM request should contain the identification of the applicant, the information specified in the Code of the Administrative Procedure (CPA) and the following elements:

- a) The indication of the request in clear and accurate terms;
- b) The geographical definition whose reserve is required indicating the ETRS89 coordinates (or equivalent PT TM06);
- c) Detailed description of the use or activity (see Table 2.1), with presentation of the specifications and justification that include:
 - a. The description of the process or equipment, including floating structures and materials to be used, indicating the facilities that shall be built and characteristics of the work to be carried out;
 - b. The environmental monitoring programme,
 - c. The signaling and safety norms,
 - d. The characterisation of the infrastructure (on land and at sea) and emergency and contingency plans,
 - e. If the project involves the installation of infrastructure and equipment, including other floating structures and offshore platforms and submarine cables, the specifications and justification should also present the number, size and construction features, the installation process on the seabed, the plans and the respective safety systems, the longitudinal and transverse profiles on an appropriate scale, the proposed environmental monitoring programme, the signaling and safety systems to be adopted and the emergency and/or contingency plan.
- d) Certificate attesting the tax status, or authorisation to obtain such certificate by the applicable authority;
- e) Commitment related to the deposit to be provided.

The deposit aims to guarantee the maintenance of physical, chemical and biological conditions of the marine environment and ensure, at the time of the TUPEM duration, the removal of structures and works. The deposit can be waived when the use or activity is not likely to change the conditions of the environment, or if under the environmental act or under the exercise of the activity act, the provision of guarantees with equivalent objectives is imposed.

While the BUE is not in operation, the request for the issue of TUPEM regarding projects of MRE should be submitted to the DGEG that articulate with DGRM its analysis and possible issue.

CPA is approved by DL 4/2015.

| ELEMENTS | DESCRIPTION |
|-----------------------------------|---|
| Project description | Description of the process, equipment, including floating structures and materials to be used, with indication of the facilities that will be built and the characteristics of the work to be carried out |
| Monitoring plan | Proposed environmental monitoring programme to be implemented |
| Signaling and safety | Maritime signaling and safety standards to be adopted |
| Infrastructure | Indication and characteristics of infrastructures in the national maritime space and onshore, required for the exercise of the activity, if any |
| Emergency and/or contingency plan | Emergency and/or contingency plan |

Table 2.1 Necessary elements for the application on the TUPEM request regarding MRE projects. According to Annex I, Part IV "Renewables", number 2 "Renewable energy exploitation" of DL 38/2015.



Within 5 working days from the date of delivery of the request to the competent authority (or automatic validation of the request by the licensing online platform, when it comes into operation), the authority responsible for allocating the TUPEM shall issue an order for improvement of the application, in case any clarification is needed or if any of the required elements is missing. The order may also be issued in case of rejection, with the consequent termination of the procedure, when the analysis of the application and other elements shows that the application does not comply with legal or regulatory rules or is of unfeasible correction. If an improvement of the delivered elements is required, a period of 10 working days shall be granted for the developer to deliver them, with a suspension of the procedure terms. If the DGRM order is not delivered within 5 working days, it is assumed that the application is complete, and the consultation with the statutory authorities shall begin within a period of 20 working days. During this period, missing elements can still be required. These should be delivered by the developer to DGRM (through DGEG, the licensing authority of MRE projects) within a maximum of 10 working days, during which the period for the consulted entity to issue the advice is suspended.

Once the deadline for consultation with the authorities has finished, DGRM has 30 days to issue a favourable decision on the application or reject it. If the decision is favourable, DGRM starts a period of public consultation that will take, at least, 15 working days. This public consultation period is intended for the publication of the TUPEM application, so that other interested developers (or stakeholders) can have the opportunity to apply for the same maritime space, providing it is for the same use and purpose, or challenge its allocation. If a similar application for the award is delivered to DGRM during the public consultation period, the authority responsible for assigning the TUPEM, should initiate a tender procedure.

2.3.2.1 Maritime signaling

As mentioned in the previous section, a plan for the maritime signalling of the project needs to be submitted to DGRM as an element of the TUPEM application. Similar to what happens to all project components involving the advice from other authorities, the maritime signaling project will be sent to the competent authority (AMN; National Maritime Authority) through the BUE. The development of maritime signaling projects should include (if applicable) the matters contained in the guide for the preparation thereof which is available at the National Maritime Authority website (4), which is approved by the Lighthouse Department.

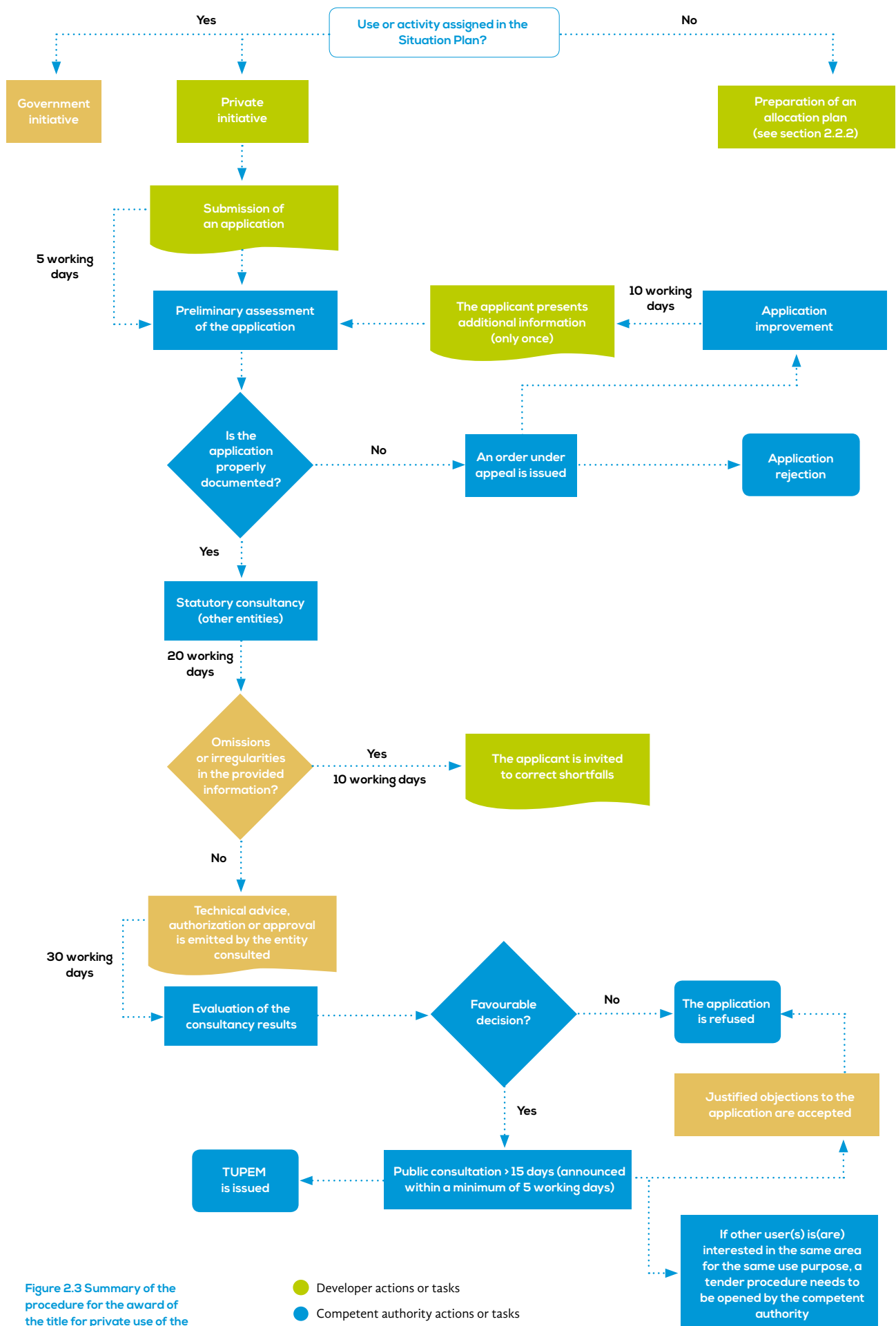


Figure 2.3 Summary of the procedure for the award of the title for private use of the maritime space (TUPEM).

- Developer actions or tasks
- Competent authority actions or tasks
- Other statutory authorities actions or tasks



3

COORDINATION WITH
THE SYSTEM OF
WATER
RESOURCES USE

COORDINATION WITH THE SYSTEM OF WATER RESOURCES USE

3.1 What is the system of water resources use?

It is the system applicable to the use of water resources and their titles. It has spatial application in inland, coastal and transitional waters, under the Water Act and reflects a set of environmental obligations, particularly regarding the quality of resources. This system sets forth, among others, the issue of Title for the Use of Water Resources (TURH) for coastal and transitional waters.

However the approval of the LBOGEM establishes the limits of national maritime space and the private use system of the NMS forced a coordination between the two systems namely where there is spatial overlap. Thus, and in coastal waters, the licensing of private uses of the EMN, has been made in accordance with the provisions of LBOGEM and additional laws. In this space, the system of water resources use and capture and rejection of water resources, is applicable. The competent authority for licensing the private use of water resources is the Portuguese Environmental Agency (APA). The APA is the licensing entity of all the infrastructures located within 50 meters from the maximum high sea level or the limit of the beach. In those areas APA issues the TURH.

Water Act: Act 58/2005.

Title of use of Water resources (TURH): DL 226-A/2007.

Coastal waters - space between land and a line whose points are at a distance of 1 nautical mile seaward from the nearest point of the baseline from which is measured the delimitation of territorial waters, extending where appropriate up to the outer limit of transitional waters.

3.2 How is the coordination with the system of water resources use performed?

The coordination with the system of water resources use should be guaranteed upon filing the procedure through the BUE. Until the entry into operation of the BUE, the coordinator of the process, which in the case of MRE is the DGEG, should ensure coordination with other authorities responsible for issuing concessions, licenses, permits, or other acts, permitting or not, the development of those uses or activities in order to streamline the process.

The coordination should also be performed at a planning level by aligning the NMS planning instruments with territorial programmes and plans, made with the different plans affecting the NMS and adjacent coastal territory, especially in the preparation of coastal programmes and river basin management plans. The private use of the maritime space should be consistent with the provisions in these instruments, which are under the responsibility of the APA.

Thus, the good environmental conditions of coastal and transitional waters cannot be compromised nor pose a threat to the protection of the coastal zone, in the fight against erosion and adaptation to climate change. The APA has a period of 20 working days to issue an advice (see section 2.3.2).



4

LICENSING THE
PRODUCTION OF
**MARINE RENEWABLE
ENERGY**

4

LICENSING THE PRODUCTION OF MARINE RENEWABLE ENERGY

4.1 Production and tariff systems

Small-scale electricity generating plants have long been included in the Portuguese Law and have since been a reality always considered by the legal system, given their recurrent mention in subsequent laws. The applicable rules to electricity generation from renewable resources are also established in the Portuguese Law, but later in 1988.

The regulation of **electricity production** is established in two pieces of legislation that entered into force in 2012 and considers two types of production systems which correspond to two different legal schemes:

- **Ordinary Production;**
- **Special Production**, which includes electricity production by means of Renewable Energy Sources (FER).

In this context, the licensing process of MRE projects follows the procedures related to the special electricity production. The law establishes a preliminary control procedure, which shall follow one of these procedures: 1) **Production license** or 2) **Preliminary communication**. The installation of renewable energy plants is subject to obtaining the **production license** whenever:

- a) The network connection power is higher than 1MW;
- b) The power plant is subject to an Environmental Impact Assessment (*Avaliação de Impactos Ambientais*, AIA) or to an Environmental Appraisal (*Avaliação de Incidências Ambientais*, AlncA) (see chapter 6 and 7);
- c) The installation of a power plant is projected for the **maritime space under Portuguese sovereignty or jurisdiction;**
- d) The applicable tariff regime is the Feed-In Tariff.

If any of the abovementioned cases applies to the project then a preliminary communication control procedure needs to be followed. Since the common location for all MRE projects is the maritime space, the preliminary control procedure to follow is the one established for the **production license**. Regarding the aspect mentioned in paragraph d) above, the produced electricity can be paid under two different schemes:

- **Regular Tariff scheme:** Producers sell the produced energy, as per the ordinary production system, in organised markets or by means of bilateral agreements with end users;
- **Feed-In Tariff scheme:** Producers deliver the produced electricity to the Consumer of Last Resort (CUR; currently the EDP Serviço Universal) against payment to the power plant producer during an established period of time.

The type of tariff sets forth the legal procedure that shall be followed to license the electricity production activity of the project to be installed in the marine environment. The performance of the activity under the **regular tariff scheme** only depends on the acquisition of the **production and further operation licenses**. The performance of the activity under the **Feed-In Tariff scheme** depends on getting a **reservation for power capacity** into the Public Electricity Grid (RESP), before the award of the **production and operation licenses**. Figure 4.1 summarises the relationship between the production and tariff schemes and the type of procedure to follow in the licensing process.

The figure of the small-scale power producer was first established in the Portuguese legal system in the Law 2002 of December 26, 1944.

DL 215-A/2012 and 215-B/2012 are the latest pieces of regulation on electricity production. The two types of production systems are defined in DL 215-A/2012, Articles 16, 17 and 18.

Criteria that determine the type of procedure to follow during the preliminary examination: Article 33-E of DL 215-B/2015.

Types of tariff schemes regarding produced electricity: Article 33-G of DL 215-B/2015.

Type of legal procedure to be followed depending on the type of tariff scheme: Article 33-G 2 and 3 of DL 215-B/2012.

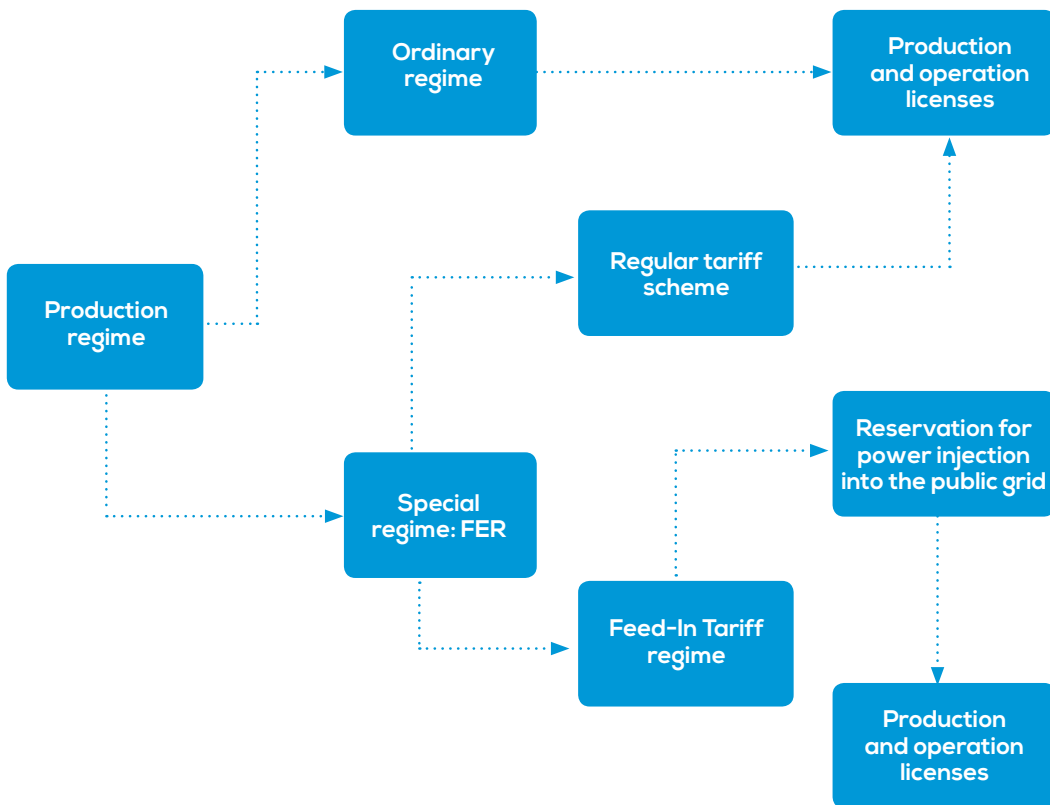


Figure 4.1 Types of production systems, tariff schemes and type of procedure be followed during project licensing.

The procedure to be followed to license a project under the Feed-In Tariff scheme is set forth in a specific law (see side bar) and starts, as mentioned above, with a request to get a reservation for power capacity into the public grid and a power reception point, which ends, if accepted, with the granting of a power reception point.

In the case of the Feed-In Tariff scheme, the project licensing is established in Ordinance 243/2013 (amended by Ordinance 133/2015).

The licensing application for electricity production activity, as well as all communications and notifications relating to this process are conducted through the electronic platform available on the Internet (BUE), which is still under development. For now and until then, the whole process is managed directly with the Directorate General for Energy and Geology (DGEG), who coordinates all the licensing process.

To have access to the Feed-In Tariff scheme, a public bid procedure should be carried out or, in alternative, another procedure that ensures equality and transparency to all developers and respective projects that meet the requirements (see section 4.4.1). In this context, by the end of 2015, a procedure was defined in Order 14704/2014 by the Secretary of State of Energy, for the reservation of up to 50 MW of power capacity into the grid (RESP), through MRE technologies in experimental or pre-commercial stage, to be paid under a Feed-In Tariff scheme.

4.2 Who are the responsible authorities?

The competent authority to grant and cancel the production license of power plants with installed capacity higher than 10 MW is the member of the Government in charge of the energy sector (Secretary of State of Energy). It is also the responsibility of this authority, to choose and promote tenders, or other similar procedures, to award the energy reception points, as well as to approve their respective regulations and procedural parts, representing the State in signing the power capacity contracts and to decide on the proposals for changes on the applicable tariffs.

In the case of power plants with a maximum capacity of 10 MW or lower, the power to grant and cancel the production license belongs to the Directorate-General of Energy and Geology (DGEG). It is also the responsibility of this authority, the authorisation for the operation of a power plant on an experimental basis and the approval and amendment of the operation license of all power plants. DGEG is in charge of coordinating the all licensing process, including the instruction and conduction of bid procedures, modification, transfer and cancel of power reception points, licenses and authorisations. DGEG also represents the State in signing contracts of power capacity into the grid (RESP), where this representation is out of the scope of the member of the Government responsible for the energy sector.

Ordinance 243/2013 (amended by Ordinance 133/2015).

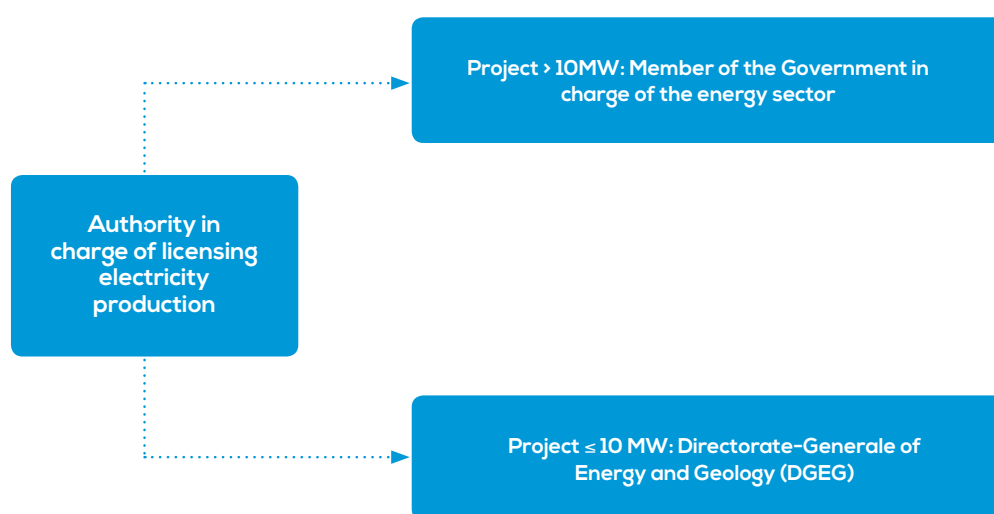


Figure 4.2 Authorities in charge of licensing the electric power production.

Regarding the connection of the project to the RESP, there are two different authorities managing the process depending on the production system. In general, production under the ordinary system (usually thermal power plants and large hydro power plants with over 50 MVA capacity) is made through the National Transmission Network (RNTR), and the National Electric Network (REN) is the authority that manages the process.

The RNTR and RND are governed by regulations published in Ordinance 596/2010, Annex I and Annex II respectively.

In the case of projects under the special production system, as MRE projects, these usually connect to the National Distribution Network (RND) and EDP Distribuição is the managing body of the process. These are general rules and there may be exceptions depending on the type of project.

4.3 What are the licensing stages of a project under the regular tariff scheme?

The special production regime of electricity production can be exercised under the general tariff system. In this case, the licensing of the production activity depends only on obtaining the production license and the respective operation license.

Regular tariff scheme: Article 33-V DL 215-B/2012.

The application for the award of production licenses shall be submitted in the first 15 days of each quarter of year (1 to 15 of January, May or September). However, it may be possible to provide the submission of such applications in other dates if this is established by decree launched by the Government.

Possibility of submitting applications on other dates: Ordinance described in Article 33-G – 4 of DL 215-B/2012.

A description is presented below on the following procedures regarding the application for the production and operation licenses under the regular tariff scheme.

4.3.1 What is the procedure to obtain the production license in the regular tariff system?

The procedure for obtaining the production license begins with the submission of an application to the licensing authority, accompanied by the following elements:

- a) Full identification of the applicant, including name or company name, address, tax number, access code to the permanent certificate, if any, and the contact details: name, telephone number, fax number and email address;
- b) Description of the power plant project and other elements shown in Table 4.1;
- c) Disclaimer for the design of electrical installations;
- d) Proof of the right to use the space for the installation facilities;
- e) Reports from authorities when the facilities interfere with their domains or activities;
- f) Favourable or conditionally favourable Environmental Impact Statement (EIS; *Declaração de Impacto Ambiental*, DIA) and report of the accordance of the project with the EIS (DIA), when required, under the respective legal regime, or, if applicable, proof of having produced favourable tacit act under the same legal regime (see sections 6 and 7);
- g) Environmental Appraisal report (*Estudo de Incidências Ambientais*, EInCA), when required (see sections 6 and 8);
- h) Favourable advice from the regional administration (CCDR) regarding the location of the power plant when the project is not subject to the legal regimes of EIA (AIA) or Environmental Appraisal (AlnCA).
- i) TUPEM certificate issued by the responsible authority (DGRM);
- j) Title for the Use of Water Resources (TURH) issued by the responsible authority (APA), if applicable.

Application procedure for allocating the production license: Article 33-J of DL 215-B/2012.

| SPECIFICATIONS | | |
|--|---|---|
| <p>1) Project location, type of production, nature, importance, function and features of facilities and equipment, general conditions of its establishment and operation, grounding systems, main provisions adopted for the production of electricity, its processing, transport and use or the origin and destination of the electricity to be transported and protections against over current and over voltages and their calculations, where appropriate.</p> | <p>2) Description, type and characteristics of the power generators, transformers, switch gear and protection, as well as boilers, turbines and other equipment. Total installed power and maximum power to be installed on the network (if not indicated, consider the installed power), number, power and type of the generators to be used, location of the power reception point, date from which it is expected to start using the connection to the grid and possible alternatives.</p> | <p>3) Indication if the facilities to be installed are located in any protected area (National Ecological Reserve, National Agricultural Reserve, for example).</p> |
| DRAWINGS | | |
| <p>1) Map with a scale not less than 1:25 000 including the power plant location, and main facilities e.g. devices, power substations, switching substations, transformer substations and roads, railways, watercourses, urban constructions.</p> | <p>2) Plan views, elevations and cross sections, in convenient scale ratio, selected according to the NP-717 standard, of the main facilities mechanical and electrical equipment layout, with enough detail to verify the compliance with safety rules.</p> | <p>3) Electrical drawings of the main facilities, including indication of all the machines, plus measuring, protection and control equipment, using standardized symbols.</p> |

Table 4.1 Documentation to be delivered by the applicant, regarding the description of the power plant, for the purposes of the completeness of the production license application, in accordance with Article 33-J of DL 215-B/2012.

Information about the existence of power reception capacity and grid connection conditions (paragraph c above) are provided by the operator of RNTr or RND and should be given within 40 working days, or 90 working days for projects involving consultation with another network operator connected with RNTr. These periods are counted from the date of submission of the applicant's request, taking into account the general criteria for granting a license, and upon payment of a fee for the service which is established by the Regulation of Commercial Relations. The applicant shall carry out the necessary procedures to obtain the elements of paragraphs f), g), h), i) and k) and the licensing authority (DGEG) shall provide the assistance that may be requested to obtain them.

[Information about the existence of reception capacity in the RESP and grid connection conditions: Article 8 – 5, 6 and 7 of DL 215-B/2012.](#)

Then, after the delivery of the complete application by the applicant to DGEG, this authority checks its compliance, within 20 working days from the receipt thereof and, where appropriate, asks the applicant for the missing or additional elements, to attach them within 10 working days. Failure of the applicant in submitting, within the established deadline, the information requested under the preceding paragraph, implies the refusal of the application.

[Application compliance check: Article 9 of DL 215-B/2012.](#)

If the application is properly filed, DGEG shall:

- a) Issue the guidelines for payment of the administrative fees, the amounts of which are defined in an Ordinance issued by the member of the Government responsible for the energy sector; the fees amount constitute state (60%) and licensing authority (40%) revenues, except in cases of the competence of municipalities, in which the revenue is fully theirs;
- b) Order the applicant to carry out the publication of enactments prepared by DGEG when the project is not subject to EIA procedure in compliance with their legal system (see sections 6 and 7);
- c) Send a copy of the file, or its relevant parts, to the consulting authorities.

[Administrative fees: Article 68 of DL 215-B/2012.](#)

The enactments referred to in paragraph b) make public the essential elements of the request as any stakeholder can submit suggestions and complaints within 10 working days. These enactments shall be published on DGEG's website, in a national newspaper and sent by DGEG to the town hall and councils in whose area the project is to be deployed. The enactments should be displayed in public places of the mentioned offices. Upon receipt of the enactments, the applicant shall have them published in a newspaper of national distribution and submit to the licensing authority documents proving the fulfillment of this requirement.

[Consultation with the RESP operator and other authorities: Article 10 of DL 215-B/2012.](#)

Notwithstanding other situations provided by law or where the licensing authority considers to be necessary to request information to other authorities, the operator of the public network that connects the power plant to be licensed should be asked to issue a comment on the request. The deadline for the operator to provide information or advice is 30 working days from the date of receipt of the request by the licensing authority. The operator (or any other consulted entity at this stage) has 10 working days after receiving the request, to ask for clarification or additional information, in which case the 30 working days' period referred previously shall be suspended until the response from the licensing authority. The information or advices provided should be objective, reasoned and conclusive.

[Decision on the allocation of the production license: Article 11 of DL 215-B/2012.](#)

Once the consultation procedure is complete, the licensing authority makes the decision within 30 working days, considering all the information involved in the process and the general criteria for the award of the production license. In case of favourable or conditionally favourable final decision, the production license is deemed granted. In case of refusal, the applicant must be informed of the decision including the reasons for it, which must be objective and non-discriminatory. The decision on the application for granting of the production license must be made known to the relevant network operator and publicised on the licensing authority website.

[General criteria for the award of the production license: Article 6 of DL 215-B/2012.](#)

The duration of the production license is subject to the time limit laid down in the respective TUPEM (see section 2.3). The contents of the license includes the complete identification of the holder, the main features of power plant and its location, indicating the renewable energy source and technology used, the interconnection point, the maximum power capacity on the network and gross and net installed capacity in MW and MVA, as well as the construction works and network reinforcement works that need to be carried out by the license holder and, if applicable, the tariff scheme, the deadline for

[Duration of the production license: Article 33-O of DL 215-B/2012.](#)



the start of the power plant operation and other obligations or special conditions to which the license may be subject. The EIS (DIA), Environmental Appraisal Statement (*Decisão de Incidências Ambientais*, DInCA) or other licenses, permits, advices or declarations of acceptance issued by the authorities under the applicable legislation are requirements for the installation licensing and power plant operation and conditions, and should integrate the obligations to which the production license holder is committed to. When the EIS (DIA) has been issued in a project design phase, the allocation of the production license is subject to the issuance of a Decision on the Environmental Compliance of the detailed project design (DCAPE) by the EIA (AIA) authority (see section 7).

The production license holder must complete the installation works of the power plant and start its operation within the period established in the production license, which, according to the general rule should not exceed two years. However, if needed other limits maybe set by the member of the Government responsible for the energy sector in a specific Ordinance. The period shall run from the date of the production license issuance. As a guarantee for the completion of works, the production license holder shall provide a suitable, independent and irrevocable deposit, corresponding to 2% of the expected investment of the project (although not exceeding 10 million Euros) payable on the first demand from DGEG. The deposit is returned to the holder of the production license by the time of the plant operation starting date when it occurs within two years, or at the end of an extension granted by the licensing authority upon request, duly justified by the developer, which may not exceed half of the initial period established for the beginning of the plant operation.

The production license expires when the holder does not complete the power plant installation works on time. At this time DGEG delivers the deposit to the RNT operator to be reflected in the global tariff scheme.

Figure 4.3 shows a summary of the procedure for obtaining the production license in the regular tariff scheme.

Content production license: Article 33-M of DL 215-B/2012.

Deadlines for the facilities installation and operation as well as termination of the production license: Article 33-P of DL 215-B/2012..

Value of the deposit to be paid by the production license holder: Article 20 – 2 of DL 215-B/2012.

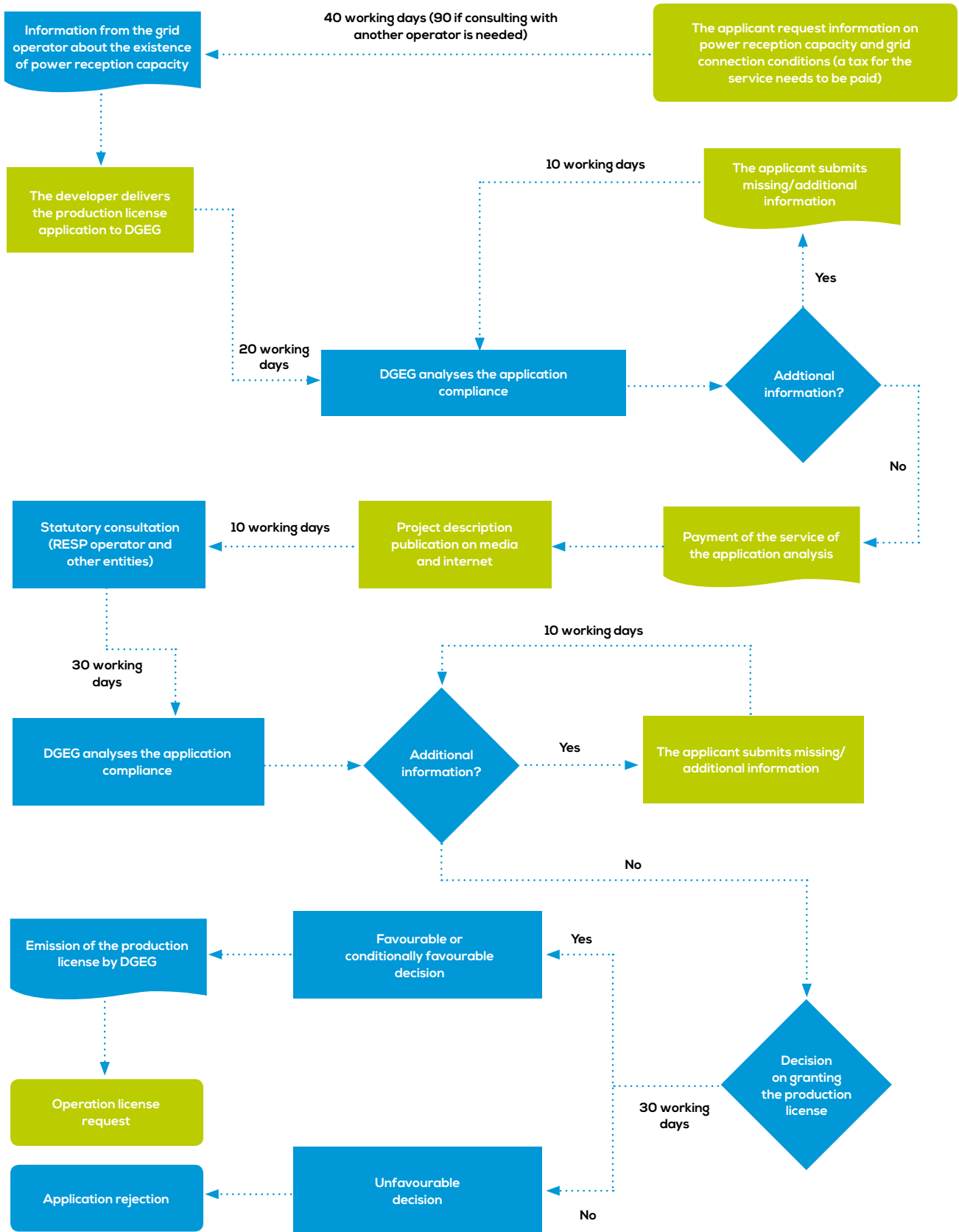


Figure 4.3 Summary of the procedure for obtaining the production license in the regular tariff scheme, according to DL 215-B/2012.

- Applicant actions or tasks
- Licensing authority actions or tasks

4.3.2 What is the procedure to obtain the operation license in the regular tariff scheme?

The production license holder can only start the operation of the power plant after obtaining the respective operation license. This license is issued by DGEG following an inspection to the project facilities. The operation license defines the conditions to which the operation of a power plant is subject to and, once granted, it becomes part of the production license conditions referred above.

The request to obtain the operation license shall be accompanied by the following items:

- a) Declaration signed by the technicians responsible for the design and supervision of the construction, stating, under oath, that the installation is complete and the power plant prepared to operate in accordance with the approved project and the conditions incorporated in the final decision of the respective production license and, where appropriate, that the changes made are in accordance with the laws and regulations applicable to it;
- b) Proof of purchase of a civil liability insurance;
- c) The acceptance statement of the safety report and waste management authorisation or license as per the applicable law.

Regarding the civil liability insurance (paragraph c above), the holder of the production license must prove the existence of the insurance policy upon request for inspection. The proof of an insurance policy is also required until 31st of January of each year and the risk coverage should start from the date of the operation license date or from the date established in the license for the operation beginning. The insurance contract has a minimum capital requirement in respect of each annuity, regardless of the number of claims incurred and the number of injured persons. The insurance value is determined by order of the member of the Government responsible for the energy sector, considering the opinion of the Insurance Institute of Portugal, depending on its nature, its size and the degree of risk, automatically updated on March 31st of each year and published by the National Statistics Institute. The insurance shall cover claims incurred during the term of the insurance policy, provided that they are claimed within two years after their occurrence. The amount may be revised in the light of changes occurring in nature, size and degree of risk. The Insurance Institute of Portugal sets, in a regulatory standard, the rules for the liability insurance mentioned above.

After the delivery of the application for the request for granting the operation license, and within 30 working days, DGEG shall carry out an examination of the facilities. To perform this examination, DGEG may be accompanied by representatives of the network operator and other related authorities who have been consulted during the licensing process, and also experts DGEG may consider important regarding the verification of the facilities' compliance with licensing conditions, applicable regulations and, if that's the case, with the conditions imposed previous examination.

The date and time of the examination is communicated to the applicant by DGEG until eight days in advance. After the examination, and within a period corresponding to five working days, a report is prepared which, if any, will list the measures and their respective period to be implemented by the holder of the production license. This report is signed by the parties in the examination and copies are delivered to the license holder on the last day of completion of the examination or within 5 working days. If in the previous examination, conditions and time limits have been imposed for its achievement, DGEG performs new survey for verification of their compliance, and only one more and final inspection, may be held if the breach of previously imposed measures persists. The decision on the operation license granting is issued within 20 working days from the receipt of the survey report made by DGEG; such decision is notified to the applicant and to the network operator.

The application for an operation license may be refused only after prior hearing of the applicant in accordance with the CPA, based on any of the following reasons:

- Facilities in noncompliance with legal and regulatory conditions or with conditions set forth in the production license;
- Refusal of the environmental license requested, if applicable;
- Missing document related to the emission of greenhouse gases, if applicable.

Operation license in the regular tariff scheme: Article 20-B of the DL 215-B/2012.

Elements to submit as part of the application for granting of an operation license: Article 20-B – 2 of DL 215-B/2012.

The terms of the safety report statement of acceptance are set out in DL 254/2007.

Civil liability insurance: Article 29 of DL 215-B/2012.

Inspection of the project facilities: Article 21 of DL 215-B/2012.

Rejection of the application for granting the operation license: Article 20-B – 5 of DL 215-B/2012.

CPA is approved by DL 4/2015.

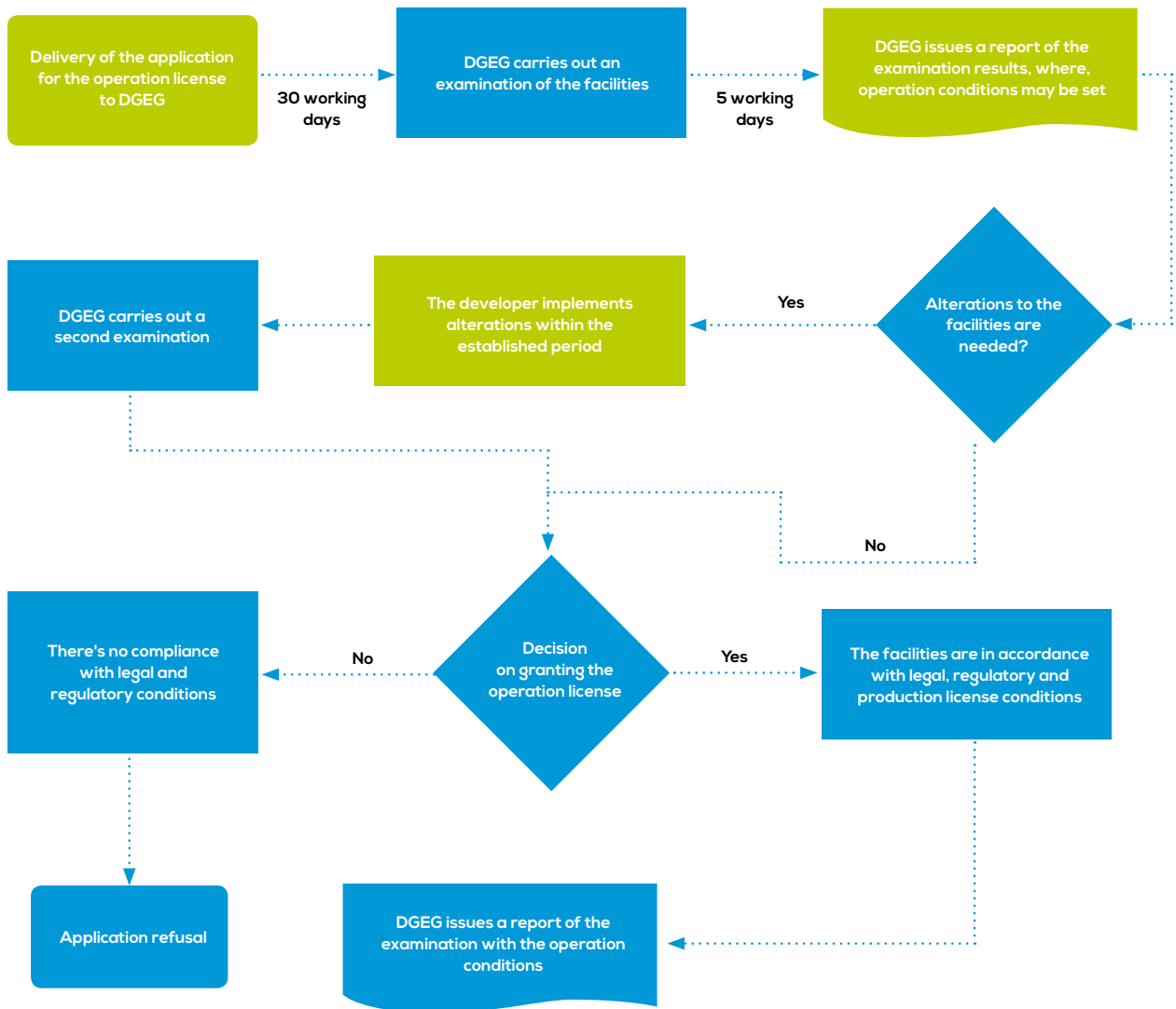


Figure 4.4 Procedure for granting the operation license according to DL 215-B/2012.

- Applicant actions or tasks
- Licensing authority actions or tasks

4.4 What are the licensing stages of a project under the feed-in tariff scheme?

4.4.1 Reservation of power capacity in the grid

Although MRE prototype test projects do not always require the connection to the public grid (RESP), to date, all projects of this type installed in Portugal have gone through the device connection to a submarine cable linked to the grid. The reservation of power capacity in the feed-in tariff system is given by one of two procedure types of public initiative:

a) A bid procedure, which may be managed through an electronic auction; this procedure is governed by Decree 133/2015, by Order of the member of the Government responsible for the energy sector and by the general principles of public procurement, applying the selection criteria set out in the legislation; the developer signs a contract with the member of the Government responsible for the energy sector, or

Type of procedures for the allocation of power capacity in the grid (RESP): Article 5 of Ordinance 243/2013 (amended by Ordinance 133/2015).

with DGEG, as appropriate, containing the execution deadlines, guarantees of fulfillment and conditions for the feed-in tariff;

b) Another procedure that respects the principles of equality, competition and transparency, to ensure the participation of all candidates; this procedure is governed by Order of the government, published in the Official Gazette (*Diário da República*), approving the opening, rules and award criteria; this procedure gives rise to an award decision.

The selection criteria referred to in paragraph a) above, consist of an assessment of the project's compliance with the objectives and priorities of the energy policy as well as several other general criteria which can be summarised in the following points:

1. Impact of the project on the economic and financial costs of the national electrical system;
2. Existence of appropriate connection conditions in the grid to receive the power generated by the project;
3. Grid safety and reliability of the project associated facilities and equipment;
4. Contribution to a greater energy efficiency;
5. Compliance with the applicable law regarding spatial occupation and use, location, environmental protection and public health and safety conditions;
6. Contribution of the project to national and European Union electricity production targets under the scope of renewable energies and energy consumption;
7. Contribution of the electricity generated by the project to the reduction of greenhouse gases;
8. Contribution of the project to the local development and wealth;
9. Technical, economic and financial status of the applicant.

General criteria for the award of the production license: Article 33-F of DL 215-B/2012.

After signing the contract or award decision regarding the allocation of power capacity in the grid, the developer shall submit to the grid operator (*EDP Distribuição*), with DGEG acknowledge and according to the terms defined in the contract or award decision, a request for information on the connection conditions of the power receiving point. If the receiving point is still not known or identified in the contract, information on the existence of reception capacity in the desired network area shall also be provided by the grid operator. This inquiry shall be accompanied by the following elements:

Request for information about the existence of power capacity in the grid (RESP): Article 7 of Ordinance 243/2013 (amended by Ordinance 133/2015)..

1. Full identification of the applicant, including name or business name, address, taxpayer number, access code to the permanent certificate, if any, and the name, telephone number, fax number and email address for contact;
2. Project description:
 - a. Brief description of the power plant, the maximum power capacity allocated to the grid and the gross and net installed capacity in MW and MVA, the primary energy source, technology and fuel to be used, in particular, if applicable, for start-up or central heating and the target production of electricity and its location by indicating the district, county and municipality;
 - b. Technical conditions of the grid (RESP) according to the Distribution Network Regulation (*Regulamento da Rede de Distribuição*; RRD) or Transmission Network Regulation (*Regulamento da Rede de Transporte*; RRT), as applicable, and interconnections' protection according to the Technical Guide of Independent Electricity Production Facilities and Grid Access Regulation (5);
 - c. Floor plan in proper and readable scale, of the site containing the implementation of the power plant and the respective coordinates in the reference system EN-TM06 / ETRS89.

Items to be included in the request for information on the existence of power capacity in the grid (RESP): point A of Annex I of the Ordinance 133/2015.

The RRT and RRD were published in Ordinance 596/2010, Annex I and Annex II respectively.

The grid operator, with the knowledge of DGEG, gives information on the grid connection conditions within 30 working days from the date of delivery of the above information, issuing favourable or unfavourable technical advice indicating the technical conditions of the grid connection. The network operator has 10 working days, after receiving the request, to ask the applicant or DGEG for clarification or additional information. This period is suspended until the last response is obtained by the grid operator. After receiving the information from the grid operator, the applicant can comment on the provided information / decision within 5 working days, hence the procedure is suspended until there is response from the grid operator.

Notification from the RESP operator: Article 9 of Ordinance 243/2013 (amended by Ordinance 133/2015).

The technical information of the grid operator shall indicate in particular, the maximum power capacity and any technical restrictions to be observed, the location of the power reception point and respective network area, the nominal voltage, the neutral point treatment and short circuit power, and the works to be made at the developer's expense, including any reinforcements, and if necessary, the indicative date from which there is reception capacity available in the grid. For this purpose the network operator may request additional information to DGEG or to the applicant. The applicant has 15 days to present the information requested by the grid operator.

Technical information to be provided by the grid operator: Article 10 of Ordinance 133/2015. This article also includes legal procedures relating to situations of competition between two or more requests for information on power capacity.

If the technical advice from the network operator is favourable, this implies the reservation of the respective power reception point for a maximum period corresponding to the deadline to submit the application for the production license (in general four months; see below). However, the reservation of the power reception point only becomes effective after payment of a deposit, to the order of the grid operator, within a maximum of 30 working days from the date of notification of the favourable technical information mentioned above. The deposit is of € 5,000 per MW of required power capacity, which returns to the applicant after the presentation of the production license. The issuance of an unfavourable technical information from the grid operator shall be duly justified, after hearing the applicant.

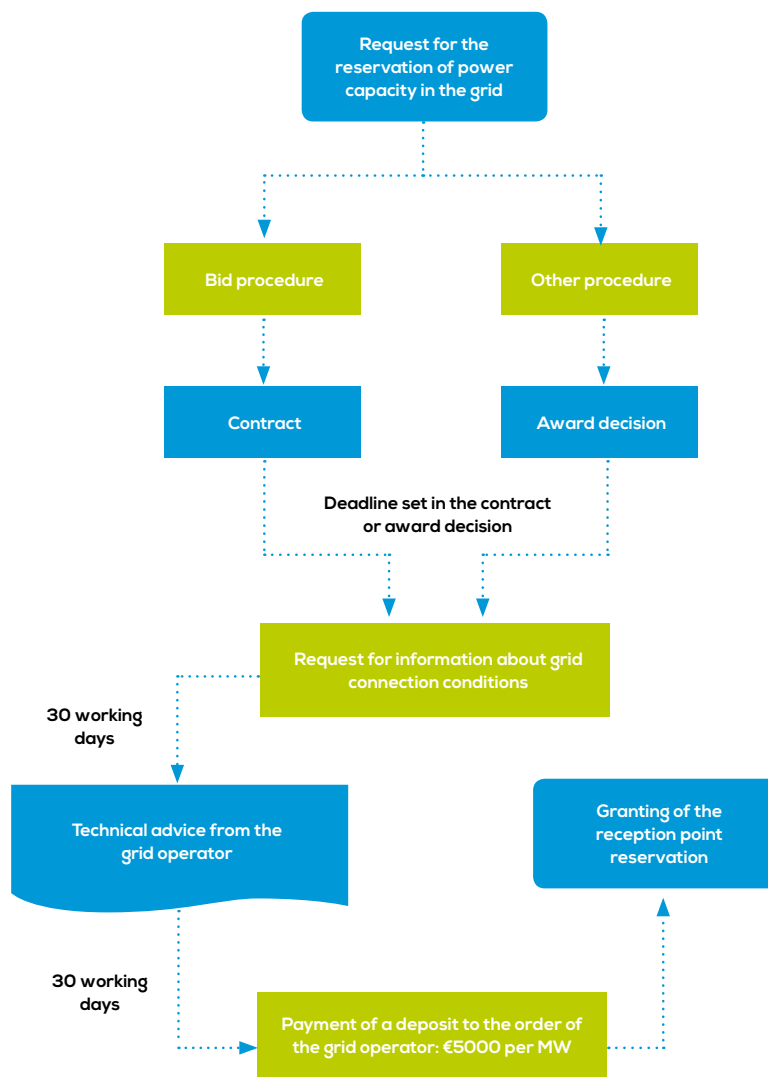


Figure 4.5 Summary of the procedure for obtaining the reservation of the power reception point according to Ordinance 243/2013 (amended by Ordinance 133/2015).

- Applicant actions or tasks
- Authority actions or tasks

4.4.2 What is the procedure to obtain the production license in the Feed-In Tariff scheme?

Unless another deadline is established in the contract or award decision, the holder of the grid reception point in the RESP has 4 months to apply for the respective production license. This period is counted from the deadline of the deposit payment (see section 4.4.1). This period is extended to 24 months if the point of reception is intended for power stations whose the production license assignment is subject to one of the following:

- a) EIA procedure (AIA) (see Chapter 7);
- b) Environmental Appraisal procedure (AlncA) (see Chapter 8);
- c) Issue of the Title for the Use of Water Resources (TURH) (see Chapter 3);
- d) Issue of TUPEM (if power plants are to be installed in the EMN) (see Chapter 2);
- e) Public bid procedure, as per the Public Procurement Code.

The deadlines referred above can be extended for a period of 2 and 12 months, respectively, if the developer provides a proper justification on the unaccountability of the delay. If this justification is not accepted, the time extension is only possible by reducing the tariff values that may be applicable to the licensing date and operations' commissioning, which needs to be accepted by the member of the Government responsible for energy sector.

The request to obtain the production license shall be accompanied by the following items:

- a) Full identification of the applicant including name or business name, address, taxpayer number, access code to the permanent certificate, if any, and the name, telephone number, fax number and email address for contact;
- b) DGEG order that assigned the reception point, or copy of said notification;
- c) Power plant project (Table 4.1; section 4.3.1);
- d) Disclaimer for the electrical installation project;
- e) Proof of the right to use the implementation space;
- f) Advices from authorities when the facilities interfere with their domains or activities;
- g) Favourable EIS (DIA) or conditionally favourable EIS (DIA) under the EIA legal system (*Regime Jurídico de Avaliação de Impactos Ambientais*, RJAIA) or, if it is the case, evidence that a tacit decision was granted under the same legal system (see Chapter 7) or, if otherwise, Environmental Appraisal Statement (DIncA), if required (see Chapter 8);
- h) Records regarding the location of the power plant issued by the CCDR with regional jurisdiction when the project is not subject to EIA (AIA) or Environmental Appraisal (AlncA).

After the submission of the production license application, DGEG checks, within 20 working days, its compliance and, if needed, asks the applicant the missing elements, additional information or corrections to the application documents. The applicant must submit the identified elements or the required corrections within 10 working days. During this period the licensing timeline is suspended and failure to comply with the delivery of the requested information within the selected period determines the rejection of the application.

At the end of this process it is necessary to pay DGEG a fee for the examination of the application. Then and if the project is not subject to AIA or AlncA, DGEG orders the applicant to obtain, at his own expense, a publication on the project prepared by DGEG, in a national newspaper. This publication is also made available on DGEG website and sent to the city council and municipal councils in whose area the project is to be deployed. The publication is then displayed in a public place in their respective offices. The publication shows the essential elements of the request for allocation of the production license and any stakeholder can then submit suggestions or complaints within 10 working days from the date of the publication posting.

Deadline to apply for production license: Article 11 Ordinance 243/2013 (amended by Ordinance 133/2015). Also stipulate the tariff reduction rules if the sponsor wants to extend the deadline for submission of the production.

Elements that must accompany the production license application: Point B of Annex I to Ordinance 243/2013 (amended by Ordinance 133/2015).

The need to carry out an AlncA is required when the project is not covered by a full AIA (or EIA) and the project is to be located in REN area, Natura 2000 or RNAP area (see Chapter 8).

Application compliance for the allocation of the production license: Article 13 of Ordinance 243/2013 (amended by Ordinance 133/2015).

Appreciation rate of application for production license: Article 13 of Ordinance 243/2013 (amended by Ordinance 133/2015).

DGEG can also consult with the following authorities:

- The grid operator that will be connected to the power plant; the former shall issue a comment within 20 working days on the technical conditions related to the network connection;
- Other authorities, whenever required or justified, within 30 working days.

Consultation with the RESP operator and other authorities: Article 14 of Ordinance 243/2013 (amended by Ordinance 133/2015).

The consulted organisation has 10 working days, after receipt of the request, to ask for clarification or additional information. This period is then suspended to allow DGEG or the applicant to answer as appropriate.

After the consultation period, DGEG has 30 working days to comment on the decision of granting the production license. The favourable decision covers the classifications of "approved" or "conditionally approved".

Decision on the allocation of production license: Article 15 of Ordinance 243/2013 (amended by Ordinance 133/2015).

Figure 4.6 summarises the procedure for obtaining the production license in the Feed-In Tariff scheme.

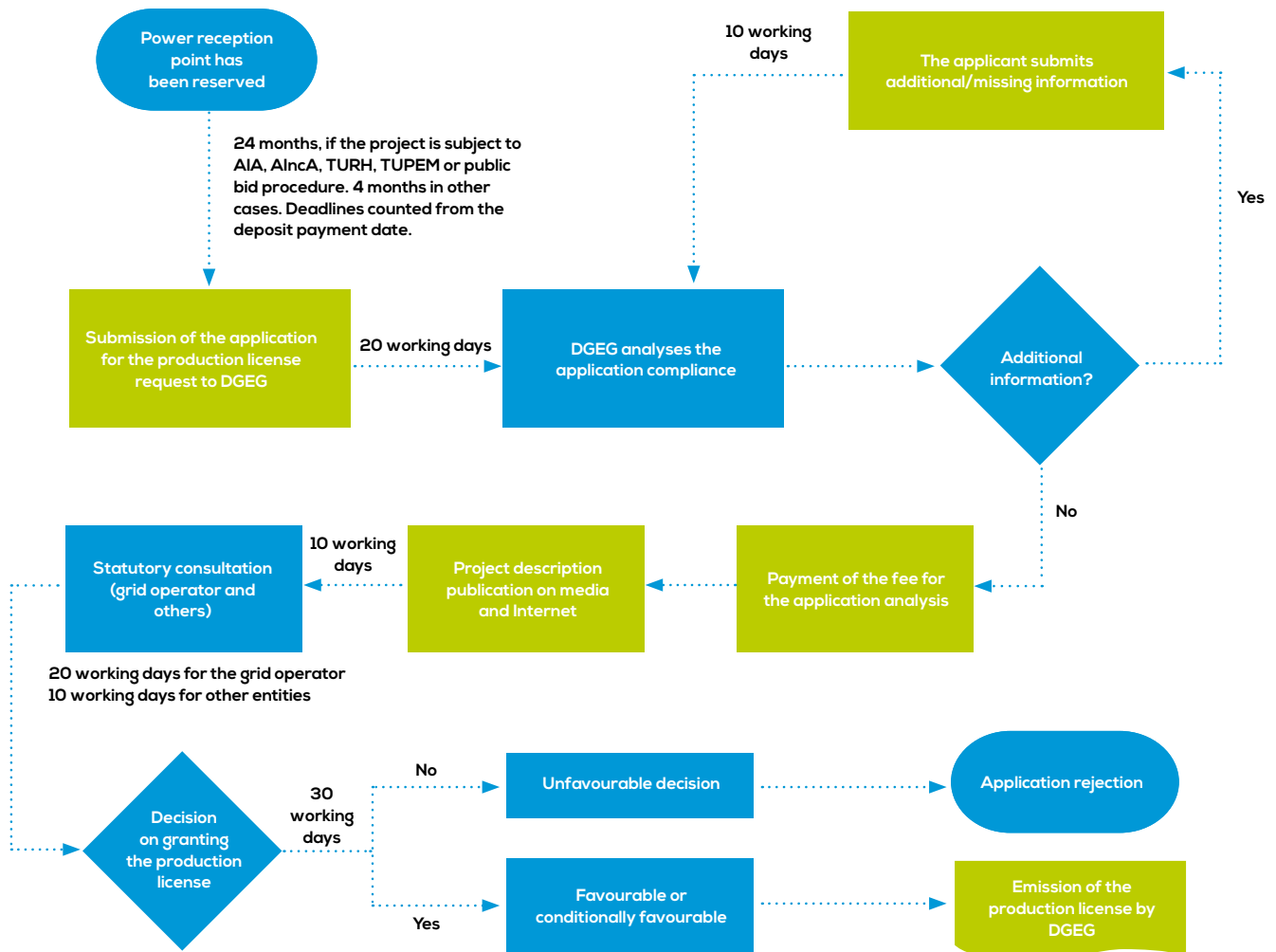


Figure 4.6 Summary of the procedure for obtaining the production license in the Feed-In Tariff scheme, according to Ordinance 243/2013 (amended by Ordinance 133/2015).

- Applicant actions or tasks
- Responsible authority actions or tasks

The production license has a duration corresponding to the period established in the respective TUPEM (see section 2.3) and its content includes the complete identification of the holder, the main characteristics of the power plant, the duration of the license, the deadline for the start of the operation, the Feed-In Tariff conditions, other obligations and special conditions and the power reception point. The EIS (DIA) or the Environmental Appraisal Statement (DInCA), as well as other licenses, permits, opinions or declarations of acceptance by the relevant authorities are all part of the licensing conditions for the installation and operation of the power plant, to which the production license holder is bound to.

Content and duration of the production license: Articles 16 and 17 of Ordinance 243/2013 (amended by Ordinance 133/2015).

If the EIS (DIA) has been issued during the project design phase, the production license granting is subject to the emission of a Decision on the Environmental Compliance of the detailed project design (DCAPE) by the EIA (AIA) authority (see Chapter 7). The works for the construction and implementation of the power plant can only start after the DCAPE is issued.

4.4.3 What are the duties of the production license holder?

The production license holder must pay a deposit to the order of DGEG within 30 working days from the production license date, which is intended to ensure compliance with all the obligations set out in it. The amount of this deposit shall correspond to 2% of the power plant investment amount, although it cannot exceed 10 million Euros. This deposit is only collected, if the production license holder does not start the operation of the power plant within the period established in the production license. In which case, this value is delivered to the RNTr operator to be reflected in the global use of the tariff system. The deposit is, however, released on the starting date of the power plant operation, when it occurs before the deadline.

Duties of the holder of the production license: Article 19 of Ordinance 243/2013 (amended by Ordinance 133/2015).

The production license holder must make all the necessary steps to obtain the authorisation provided by law for the construction of the power plant in order to comply with the schedule established in the license for the development and implementation of the project, including, if applicable, the conditions established in the environmental assessment declaration. The installation work and commissioning of the corresponding power plant in the EMN may not exceed 5 years from the date of the production license issuance. This period may be extended for a period not exceeding half of the original deadline if there are evidences, shown by the license holder to the licensing authority, that the justification for the operation delay is not attributable to the production license holder or to the changing conditions of the electricity and financial markets. If the justification given for the proposed extension is not accepted or if the extension granted has been shown insufficient, the licensing authority may grant a further extension for a period not exceeding half of the initial period, if the production license holder offers a discount to the applicable tariff at the start of the operation. This discount proposal needs to be accepted by the member of the Government responsible for the energy sector.

The project developer shall inform DGEG and the grid operator about the completion of the power plant installation and submit an application to get the respective operation license within the period specified in the production license. The project must also comply with all laws and regulations in force as well as those derived from the production license and comply, where applicable, with the provisions of the following documents:

- a) Commercial Relationship Regulation (6);
- b) Regulation of the Grid Operation (7);
- c) Regulation of the Grid Distribution (8);
- d) Regulation of Access to Grids and Interconnections (5);
- e) Guidebook of Data Measurement and Availability (9);
- f) Technical Guide of Independent Electricity Production Facilities.

The transmission, change and other aspects related with the power reception point or the production license are regulated in Chapter V of the Ordinance 243/2013 (amended by Ordinance 133/2015).

After getting the operation license and power plant commissioning, the project developer must send DGEG and ERSE (the national entity that regulates energy services) monthly data on the power plant operation until the end of the following month, and a summary of the annual operation data until March of the following civil year.

The developer must keep up the required liability insurance and permit and facilitate the access of the supervisory entities to its facilities, providing them with the necessary information and data for the exercise of its supervisory activity.

The developer must facilitate, to the competent authorities, the access to the power plant facilities for the purposes of compliance verification and notify DGEG in advance and get DGEG prior approval, if any changes to the power plant are required.

4.4.4 What is the procedure to obtain the operation license under the Feed-In Tariff scheme?

As mentioned in the previous section, the project developer should require from DGEG the operation license, which is issued following an approved report on the power plant inspection. The developer can only start the exploitation of the power plant after the operation license is issued, since it defines the operation conditions to which the power plant is subjected. Once granted, the operation license becomes part of the production license conditions.

The request for the operation license starts with an application request that shall be accompanied by the following items:

- a) Full identification of the applicant, including name or business name, address, tax number, access code to the permanent certificate, if any, and the name, telephone number, fax number and email address for contact;
- b) Identification of the production license mentioning its date and power plant reference, or through the submission of a copy of its notification;
- c) Declaration of commitment from the production license holder certifying that the installation of the power plant is completed and able to enter into operation, respecting the terms and conditions of the production license and the laws and regulations in force; this document must also be accompanied by the disclaimer, signed by the technicians responsible for the design and implementation of the installation or a delivery term signed by the manufacturer or supplier, stating, under oath, that the installation is complete and the power plant prepared to operate in accordance with the approved project and the conditions incorporated in the production license; where appropriate, the eventual changes made in the installations need also to be mentioned as in accordance with the applicable laws and regulations;
- d) Final drawings of the project;
- e) Proof of payment of the administrative fee;
- f) Proof of purchase of the civil liability insurance;
- g) Statement of acceptance of the safety report and waste management authorisation or license, if required by law.

The civil liability insurance (paragraph f above) is governed by the same law cited for the procedure of the operation license in the regular tariff scheme (section 4.3.2). Similarly, the procedure for obtaining an operation license under the Feed-In Tariff scheme follows the same procedure as the regular tariff scheme (see section 4.3.2 and Figure 4.4).

The application for an operation license may be refused, but this can only be done after hearing the applicant in a meeting. This procedure is in accordance with the CPA, and refusal is issued on the basis of any of the following reasons:

- a) Non-compliance of the facilities with the production license terms, namely EIS (DIA), DCAPE or Environmental Appraisal Decision (DIncA);
- b) Noncompliance of the facilities with legal and regulatory conditions.

The operation can begin, tentatively, for a maximum period of 90 working days, when DGEG does not perform the inspection within 30 working days or allows, based on a survey to be completed, the minimum compliance of the installation for the purpose of provisional start of operation.

[Allocation of the operation license in the Feed-In Tariff scheme: Article 21 of Ordinance 243/2013 \(amended by Ordinance 133/2015\).](#)

[Elements to be submitted in the application for the operation license request: Point C of Annex I to Ordinance 243/2013 \(amended by Ordinance 133/2015\).](#)



5

LICENSING OF
PROJECTS AND
**ANCILLARY
FACILITIES
ONSHORE**

LICENSING OF PROJECTS AND ANCILLARY FACILITIES ONSHORE



5.1 What is the applicable legal system?

Ancillary facilities may be electrical installations such as substations, switching stations and overhead or underground power transmission lines, or other interventions (buildings, access paths).

For electrical installations an electrical permit is required (treated in Chapter 4), as well as a municipal license, pursuant to the legal framework of urban development and construction (RJUE). The RJUE establishes, among others, the following definitions:

- Building: the activity or the result of the construction, reconstruction, extension, alteration or maintenance of a building for human use, as well as any other permanent construction on land;
- Urban development operations: the material operations of urbanization, building, use of buildings or land provided, in the latter case, for purposes other than exclusively agricultural, livestock, forestry, mining or public water supply.

Under the RJUE, municipalities approve municipal regulations that must be taken into account in the prior checking of urban development operations.

The prior checking can take the following forms:

- Administrative license;
- Prior notice;
- Use authorisation.

The following urban development operations are subject to an administrative license, which is granted by the municipality:

- Refurbishment works in areas not covered by allotment;
- Construction works in areas not covered by allotment or, in some cases, by detailed spatial plan.

Among others, the building works and other construction works promoted by concessionaires of public services are exempt from prior checking, regarding the object of the concession. This means that a power transmission line built by *EDP Distribuição* and REN (National Electric Network) is exempt from prior checking.

5.2 What is the prior information request?

The RJUE allows any stakeholder to request the municipality, prior information on the feasibility of carrying out a particular urban development operation or a set of them, as well as on the respective legal or regulatory constraints, regarding infrastructures, administrative easements and restrictions of public utility, construction design parameters, maximum heights of the buildings, spacing between buildings and other conditions applicable to the claim.

The RJUE approved by DL 555/99 has been amended several times, and was republished in an annex to DL 136/2014.

The deadline for the decision of the municipality on the request for prior information is:

- 20 working days;
- 30 working days from the receipt of the last advice, when there is a consultation of external authorities and they provide the advice; or
- 30 working days from the end of the period of the deadline of the advices requested to external authorities, when there is a consultation of external authorities and they do not provide the advice.

A favourable prior information from the municipality binds all consulted authorities in the decision on a possible request for licensing.

Consulted external authorities have 20 working days for comments.

5.3 What are the deadlines for licensing urban development operations?

The municipality has 8 working days to validate the request for licensing the proposed urban development operations and the applicant may be asked to complete or refine the application with additional information. During this period, the request may also be rejected, when its analysis concludes that the proposed operations do not comply with the applicable regulation. The deadline for the municipality decision on the request is 45 working days, counted from the receipt of the application, or the date of delivery of additional information (if required by the authorities), or, when external consultation with other authorities is needed, the date of the last advice reception, or the expiry date for receiving advices. This period is suspended when the applicant is invited to correct or complete the application, until the delivery of the requested information.

External authorities consulted during this process have 20 working days for delivery their advice and comments.

5.4 What are the constraints to license urban development operations?

Licensing of urban development operations is conditioned by the provisions of spatial planning instruments (*Instrumentos de Gestão Territorial*; IGT) directly applicable to private entities or individuals. The IGTs, which bind the private entities or individuals are only the territorial plans at municipal or inter-municipal level:

- Municipal (or inter-municipal) Master Plan (PDM);
- Urban Plan (PU);
- Detailed Spatial Plan (PP).

Special programmes (previously designated as special plans) include, among others, coastline and protected areas' programmes. The rules of these programmes that affect spatial occupation and spatial use distribution should be integrated into territorial plans.

Project location can be inconsistent with the provisions established in territorial plans where the use or activity is prohibited by the regulation or be regarded as an incompatible use regarding the expected dominant uses. It is therefore important to know the territorial plans applicable to a particular location.

In addition to the provisions of territorial plans, it must be noted that there are administrative easements and public utility restrictions (treated in chapter 6), usually marked in the map of spatial constraints, which is part of the PDM and may constitute a limitation or impediment to any specific use.

Finally, the RJUE states that urban development operations may be refused if there is evidences of a negative effect on "archaeological, historical, cultural or landscape, natural or built heritage" or "scenic beauty".

The legal system of IGT (RJIGT) is established by Decree 80/2015.

A transitional period is ongoing until 2017, where the rules of special plans in place directly bind private entities or individuals.

On the DGT (Directorate-General of the Territory) website there is a database of all IGT, organised by region, county and IGT type.

Article 24 of DL 555/99 with the redaction of DL 136/2014 (RJUE).



6

ADMINISTRATIVE
EASEMENTS AND
**PUBLIC UTILITY
RESTRICTIONS**

ADMINISTRATIVE EASEMENTS AND PUBLIC UTILITY RESTRICTIONS

6.1 Introduction

6.1.1 What are administrative easements and public utility restrictions?

The safety and security of infrastructure and equipment to be installed in public spaces led to the establishment of administrative easements, restricting the use or occupation of the territory. Also, the protection of public interests related to the environment, cultural heritage or public health and safety, led to the imposition of a set of public utility restrictions, with a territorial impact.

Due to its importance for the purposes of this guide, specific sections deal with designated areas, including protected areas and Natura 2000 (section 6.2), the National Agricultural Reserve (RAN) (section 6.3), the National Ecological Reserve (REN) (section 6.4) and cultural heritage (section 6.5). The remaining administrative easements and public utility restrictions considered relevant are briefly mentioned in section 6.6.

6.1.2 What is the relevance of administrative easements and public utility restrictions for planning and licensing?

Administrative easements and public utility restrictions should be considered at an early stage of the project design, when location options are considered. This approach helps to avoid later difficulties or delays in the licensing process.

Although some of these easements and public utility restrictions also apply to the maritime space, the majority focuses on land, therefore they are particularly relevant to ancillary facilities such as electricity transmission lines or substations.

6.2 Designated conservation areas

6.2.1 What are they?

The National System of Designated Areas (SNAC) is composed by the following types of areas:

- Areas of the National Network of Protected Areas;
- Areas of the Natura 2000 Network;
- Areas designated under international commitments signed by Portugal.

Many of these areas have overlapped limits and there are areas with the same name and different designations and limits.

SNAC, along with continuity areas (REN, RAN, public hydric domain) is the fundamental network for nature conservation. The continuity of areas establish the link and genetic exchange of wild species populations between the different nuclear areas of conservation, contributing to an adequate protection of natural resources, promoting spatial continuity of the ecological coherence of designated areas and connectivity of the biodiversity components across the territory, as well as the proper integration and development of human activities (Article 5).

The legal system of nature and biodiversity conservation (RJCNB) was approved by DL 142/2008.

The Institute for the Conservation of Nature and Forests (ICNF; Instituto da Conservação da Natureza e das Florestas) is the national authority for the conservation of nature and biodiversity, holding various responsibilities for protected areas and the Natura 2000 network.

6.2.2 Protected areas

6.2.2.1 What are they and which are their objectives?

The RJCNB states that "inland, aquatic and maritime areas should be designated as protected areas, when biodiversity or other natural resources present, due to their rarity, scientific, ecological, social or scenic value, a special relevance that requires specific conservation actions and management, to promote the enhancement of natural and cultural heritage, through the regulation of the artificial interventions likely to degrade them".

Article 10 – 2 of DL 142/2008 (RJCNB).

Protected areas defined exclusively in maritime waters under national jurisdiction and areas of "marine reserves" and "marine parks" delimited in protected areas constitute the national network of marine protected areas.

Article 10 – 4 of DL 142/2008 (RJCNB).

In protected areas covering the marine environment to the limit of the territorial sea, marine reserves or marine parks can still be defined in special programmes and EMN planning instruments, with the following objectives:

Article 22 of DL 142/2008 (RJCNB).

- a) In marine reserves, the adoption of measures directed to the protection of communities and sensitive marine habitats in order to ensure marine biodiversity;
- b) In marine parks, the adoption of measures aimed at protection, recovery and sustainable use of marine resources, through an adequate integration of human activities.

Protected areas are designated at national, regional and local level. Private protected areas may also be designated. Table 6.1 indicates the types of protected areas foreseen in the legislation.

| NATIONAL LEVEL | REGIONAL LEVEL | LOCAL LEVEL |
|---------------------|------------------------------|---------------------------|
| National Park | Regional Natural Park | Local Natural Monument |
| Natural Park | Regional Natural Reserve | Local Natural Reserve |
| Natural Reserve | Regional Protected Landscape | Local Protected Landscape |
| Protected Landscape | Regional Natural Monument | Local Natural Monument |
| Natural Monument | | |

Table 6.1 Types of protected areas.

6.2.2.2 What are the protected areas to be considered?

Annex 4 shows the current list of protected coastal and marine areas, not including protected areas in transitional waters. Figure 6.1 shows a map with the location of these protected areas. ICNF is the management body for the protected areas at national level. The management bodies for the protected areas at regional or local levels are indicated in the respective designation acts.

6.2.2.3 What restrictions can be imposed to a project located in a protected area?

National parks and natural parks, nature reserves and protected landscapes of national level must have a special programme. Special programmes of protected areas establish, according to the needed protection of natural resources and values, the allowed actions, the actions subject to compliance with certain parameters and the conditions laid down therein as well as the forbidden actions.

Article 23 – 3 of DL 142/2008 (RJCNB).

"Special programme" is the new name of the special development plans, including protected area land-use plans. These can be found on the ICNF website (10).

In protected areas that do not have a special programme, conditional and forbidden actions are set out in the respective designation act.

MRE projects, as well as all other FER projects, which are to be located in protected areas, are automatically subject to an Environmental Appraisal procedure (see Chapter 8).

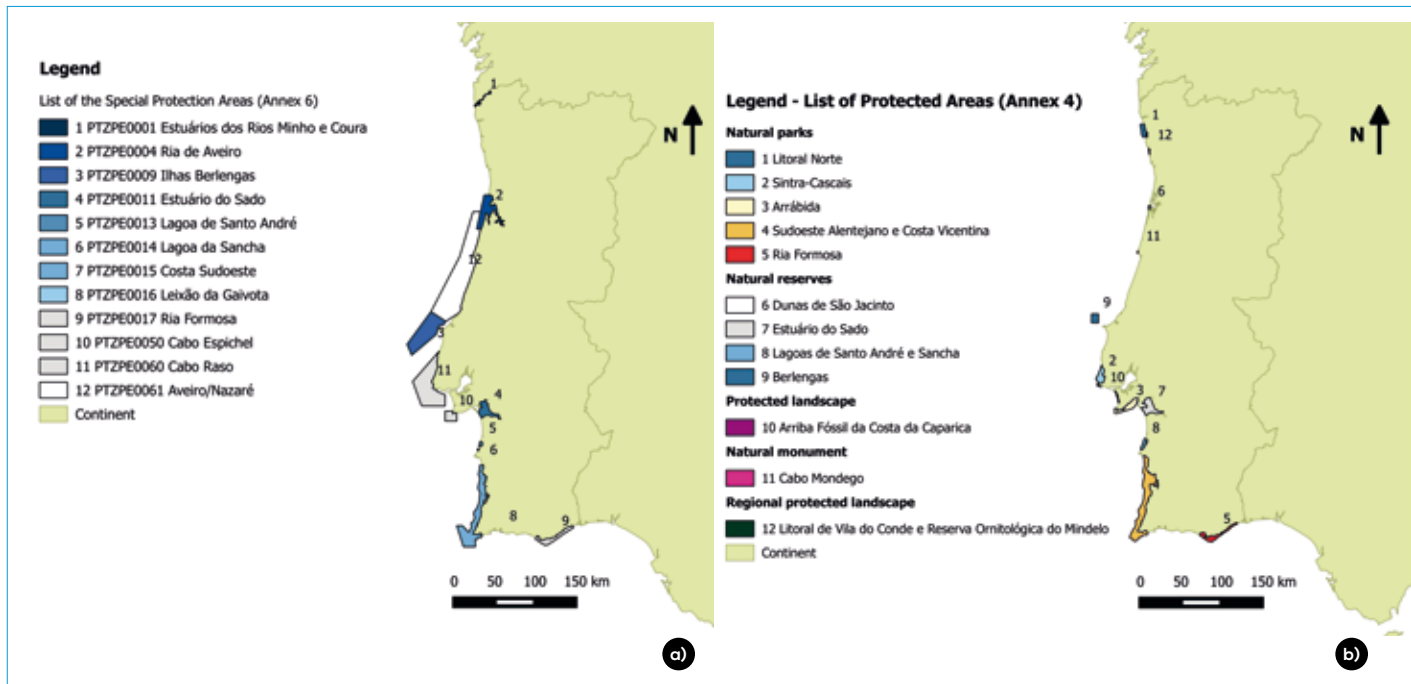


Figure 6.1 Map of a) Special Protection Areas and b) Protected Areas. The boundaries of the protected areas can be found in the ICNF website (11).

6.2.3 Natura 2000

6.2.3.1 What is Natura 2000 network and what are its objectives?

The Natura 2000 is an ecological network of areas within the European Union, resulting from the application of the Birds and Habitats Directives, which aims to ensure the long-term conservation of species and most threatened habitats in Europe, contributing to the reduction of biodiversity losses. It is the main instrument for the conservation of nature in the European Union, which also applies to the marine environment, and consist of:

- **Special Protection Areas (SPA):** established under the Birds Directive, which are intended primarily to ensure the conservation of birds and their habitats, listed in Annex I and migratory bird species not listed in Annex I with regular occurrence;
- **Special Areas of Conservation (SAC):** established under the Habitats Directive, with the purpose of "contribute to ensuring biodiversity through the conservation of natural habitats (Annex I) and species of flora habitats and of wild fauna (Annex II), considered threatened in the European Union space".

The Birds and Habitats Directives have been transposed into the national law by Decree-Law 140/99 (amended by DL49/2005 and DL 156-A/2013), which establishes the legal framework for conservation of habitats (RJCH).

The designation of SPA (ZPE) is made by the Government, through the issuance of an implementing decree (*Decreto Regulamentar*). The classification of SAC (ZEC) depends on a prior approval of these areas as Sites of Community Importance (SCI) by the competent bodies of the European Union. This approval is based on the National List of Sites and should be made according to the procedure laid down in the Habitats Directive. The classification of the SCI as SAC by the national Government must take place within six years from the recognition of the areas as SCI.

6.2.3.2 What are the Natura 2000 sites to be considered?

Annex 5 shows the current list of SCI and the National List of Sites not yet recognised as SCI, located on the coast or in the maritime area of the Portuguese mainland. Annex 6 presents a table with the current list of SPAs located on the coast or in the maritime area of the Portuguese mainland. Figure 6.2 contains a map with the location of the SCI and the Sites of the National List of Sites not yet recognised as SCI. The location of the SPA is shown in Figure 6.1.

Birds Directive
2009/147/EC of 30th
November 2009
from the European
Parliament and of the
Council (coded version).

Habitats Directive:
Directive 92/43/EEC of
21st May 1992.

6.2.3.3 What restrictions can be imposed to a project located in a Natura 2000 site?

The implementation of the Natura 2000 network has a sectoral plan (PRSN2000) that establishes guidelines for the conservation of fauna and flora species as well as habitats. Territorial plans at inter-municipal or municipal level must be adapted to integrate the conservation measures set out in PRSN2000.

In situations where the territorial management tools have not yet been adapted to PRSN2000 the RJCH provides a set of actions and activities, which are conditioned on a favourable advice from ICNF. Among these the following are relevant to the present guidance:

- Construction works outside urban zones;
- Change of the current uses in wetlands or marine areas, as well as changes to their setting and topography;
- The installation of electrical and telephone, aerial or underground infrastructure (...) and the utilization of renewable energies or similar energy projects outside urban zones.

The RJCH establishes a system for an Appropriate Assessment of projects to be located in such areas which is defined as follows: "The actions, plans or projects not directly related or necessary to the management of a site included in the national list of sites, SCI, SAC or SPA, but which may affect this area significantly, alone or in combination with other actions, plans or programmes, must be subject to an Appropriate Assessment, taking into account the conservation goals of the referred area".

Depending on the project dimension and location, this assessment should follow the EIA procedure (or AIA, defined by the RJAIA), described in Chapter 7, or an Environmental Appraisal procedure (AlncA) procedure described in Chapter 8. In both cases, EIA (AIA) or the Environmental Appraisal (AlncA), the conservation objectives of the SACs or SPAs should be taken into account.

Despite their dimension, MRE projects to be located in a Natura 2000 site (i.e. Site of National List of sites, SCI, SACs or SPAs) are automatically subject to an Environmental Appraisal procedure (AlncA; see Chapter 8). Projects can only be authorised in such areas when they do not affect the integrity of the protected site.

If the EIA or Environmental Appraisal of a project is globally evaluated as negative, the project can only be executed if it is recognised, by a joint decision of the member of the Government responsible for the environment and the member of the Government responsible for the use under approval, that there is an "absence of alternative solutions and the project is needed for imperative reasons of overriding public interest, including of social or economic nature."

If the project adversely affects a priority habitat or a priority species, the decision to proceed may only be invoked for the following reasons:

- a) Public health or safety;
- b) Beneficial consequences for the environment;
- c) Other imperative reasons of public interest, upon prior advice from the European Commission.

In the cases referred to, compensatory measures shall be adopted and communicated to the European Commission.

6.2.4 What are the other designated areas and how are they designated?

SNAC also includes other designated areas by international legal agreements of nature conservation and biodiversity where Portugal is a party, in particular under:

- a) The Man and the Biosphere programme, by the United Nations Educational, Scientific and Cultural Organization (UNESCO), launched in 1970;
- b) The Convention on Wetlands of International Importance Especially as Waterfowl "habitat" (Ramsar Convention), adopted in Ramsar on February 2, 1971;
- c) The Convention concerning the Protection of the World Cultural and Natural Heritage, adopted in Paris on November 16, 1972, in what regards the natural values;

The PSRN2000 on the mainland territory, was approved by RCM 115-A/2008.

Article 9 of DL 140/99 on RJCH (amended by DL 49/2005 and DL 156-A/2013).

Urban limits are defined in territorial plans of inter-municipal or municipal level.

Article 10 of DL 140/99 on RJCH (amended by DL 49/2005 and DL 156-A/2013). This provision applies to SCI and to the sites of national list sites not yet recognised as SCI.

Article 10 – 9 and 10 of DL 140/99 on RJCH (amended by DL 49/2005 and DL 156-A/2013).

Article 10 – 11, 12 and 13 of DL 140/99 on RJCH (amended by DL 49/2005 and DL 156-A/2013).

Priority habitats are "natural habitat types in danger of extinction existing in the national territory". "Priority species" are defined as such at European Union level.

Portugal approved the Ramsar Convention through Decree 101/80.

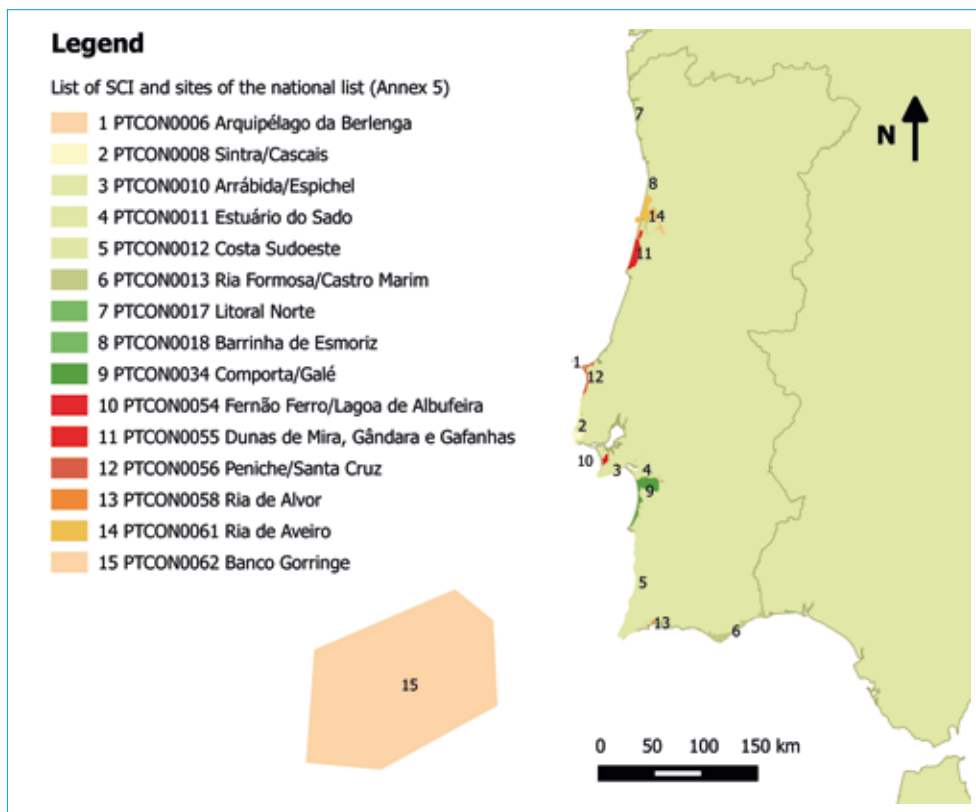


Figure 6.2 Location of SCIs and Sites of the National List of Sites that have not yet been designated as SCIs.

- d) The Resolution of the Council of Ministers paragraph (76) 17 - Biogenetic Reserves of the Council of Europe - and (98) 29 - Diploma Areas of the Council of Europe;
- e) The Convention for the Protection of the Marine Environment of the North-East Atlantic (OSPAR Convention), adopted in Paris on September 22, 1992;
- f) The decision of the UNESCO Executive Board (161 EX/Decisions, 3.3.1), adopted in Paris in 2001 on geosites and geoparks.

Portugal approved the Convention concerning the Protection of the World Cultural and Natural Heritage, by Decree 49/79.

6.2.5 What are the other designated areas to be considered?

Only a single Biosphere Reserve ("Man and Biosphere" programme), Berlenga, at Peniche municipality, has yet been designated in the Portuguese maritime space of the mainland. This reserve includes the Berlengas archipelago, an area on the mainland and a maritime corridor between the mainland and the islands. The ICNF is the authority responsible for the management of this area.

Portugal approved for ratification, the OSPAR Convention by Decree 59/97; Portugal approved the amendments to the Convention, established in Annex V and Appendix 3 of the Convention by DL 7/2006.

Under the Ramsar Convention, Portugal has designated several areas to be included in the List of Wetlands of International Importance - Ramsar Sites. The sites located in coastal or maritime space, coinciding with protected areas or sites of the Natura 2000 network, are currently the following:

- a) Ria Formosa (code 3PT002);
- b) Lagoon of Albufeira (3PT006);
- c) Estuário do Sado (3PT007);
- d) Lagoons of Santo André and Sancha (3PT008);
- e) Ria de Alvor (3PT009).

The boundaries of the Ramsar Sites can be found in the ICNF website (12).

All of these sites cover only inland areas, except Ria de Alvor that also covers a portion of its adjacent marine area.

None of the current national sites registered under the World Heritage List of the Convention on the Protection of the World Cultural and Natural Heritage are located on the coast or maritime space of the Portuguese mainland. In the mainland, there are no Biogenetic Reserves of the Council of Europe nor marine protected areas designated under the OSPAR Convention. The existing Geoparks are not located on the coast or on the Portuguese maritime space as well.

6.3 National Agricultural Reserve

6.3.1 What is the National Agricultural Reserve and what are its objectives?

The National Agricultural Reserve (RAN) is a public utility restricted area, which has a specific legal framework (RJLAN) where a specific land management system is applied. The RAN has the following objectives:

- a) To protect the soil resource, a key element of the land, as a basis for the development of agricultural activity;
- b) To contribute to the sustainable development of agriculture;
- c) To promote the competitiveness of rural areas and contribute to the territory spatial planning;
- d) To contribute to the conservation of natural resources;
- e) To ensure that the current generation respects the values designated to be conserved, allowing next generations the access to diverse and sustainable resources, which conditions should at least be similar to the legacy of previous generations;
- f) To contribute to the connectivity and ecological coherence of the Fundamental Nature Conservation Network;
- g) To adopt precautionary management measures that take into account the need to prevent situations that may prove unacceptable to the sustainability of the soil resources.

The RAN integrates the soils of the A1 and A2 classes under the FAO classification, and may further integrate land and soil:

- Submitted to important investments aimed to increase the production capacity of the soil;
- Decisive for the feasibility of farming activities;
- With strategic, genetic and heritage interest.

RAN boundaries are marked in public utility restrictions' maps, which are part of the territorial plans developed at intermunicipal or municipal levels.

6.3.2 What are the consequences of the project location in RAN areas?

The RJLAN requires the allocation of the areas to agricultural activities and establishes a set of forbidden actions. However, it also establishes the possibility of using RAN areas for other purposes, although always subject to advice from the authorities or to the submission and approval of a prior notice to and from, respectively, the authorities. The activities considered to be relevant for the public interest are still admitted in RAN areas.

The uses for non-agricultural purposes can only be approved when, cumulatively, do not cause serious damage to the objectives of the RAN and there is no other viable alternative outside of that area, regarding technical, economic, environmental and cultural components. These activities should preferably be located on land and soil designated as less suitable for the agricultural activity.

The "facilities or equipment for energy production from renewable energy sources" and "construction, rehabilitation or upgrading of public infrastructure transmission and distribution of electricity" are amongst the non-agricultural uses permitted.

Limitations and conditions for projects of non-agricultural uses located on RAN areas are defined in a dedicated Ordinance. This Ordinance also establishes the criteria used to approve the installation of facilities or other equipment for energy production from FER and access paths (Article 5), as well as the criteria to approve overhead or underground power lines and substations (Article 12).

Prior notice requests should be submitted to the licensing authority of the project (DGEG see Chapter 4), who forward the request to the RAN regional authority, or directly to the RAN regional authority.

The legal system of the RAN (RJLAN) is established in DL 73/2009.

Article 4 of DL 73/2009 on RJLAN.

Transiently RAN integrates soils of classes A, B and Ch (Rating former CNROA), soils of alluvial and colluvial low and complex respective.

Territorial plans at intermunicipal and municipal levels are the Municipal Master Plans (PDM), Urban Plans (PU) and the Detailed Spatial Plans (PP).

Articles 20 to 25 of DL 73/2009 on RJLAN.

Article 22 – 1 of DL 73/2009 on RJLAN.

Article 22 – 1, paragraphs d) and l) of DL 73/2009 on RJLAN.

Limitations and conditions of RAN: Ordinance 162/2011.

RAN Regional Authorities work close to the Regional Directorates of Agriculture and Fisheries (DRAP).

6.4 National Ecological Reserve

6.4.1 What is the National Ecological Reserve and what are its objectives?

The National Ecological Reserve (REN) is a public utility restricted area, which has a specific legal framework (RJREN) where a specific land management system is applied. REN seeks to contribute to the occupation and the sustainable use of the national territory aiming:

- a) To protect the natural resources, water and soil as well as to safeguard systems and biophysical processes associated with coastal areas and the terrestrial water cycle, which provide environmental goods and services essential to human well-being and activities;
- b) To prevent and reduce the adverse effects on the degradation of aquifers recharge, the risks of maritime and river floods, soil erosion, and mass movements in slopes, contributing to the adaptation to climate change effects and promoting environmental sustainability and the safety of people and material assets;
- c) To contribute to the connectivity and ecological coherence of the Nature Conservation Fundamental Network;
- d) To contribute to the implementation, at national level, of the priorities of the European Union Territorial Agenda regarding the ecological aspects and the trans-European management of natural hazards.

The REN network integrates three groups of areas:

- Coastal protection areas;
- Relevant areas for the sustainability of the terrestrial hydrological cycle;
- Areas for the prevention of natural hazards.

The delimitation of REN areas is mandatory and must be made in maps at the municipal level. The approval of REN maps is the responsibility of the regional administration (CCDR) and is published in the Official Gazette (*Diário da República*), 2nd series (*IIª Série*).

6.4.2 What are the consequences of the project location in REN areas?

The RJREN establishes a set of forbidden uses and actions in REN areas. The RJREN also lists a set of compatible uses and activities, which do not require any legal procedure to be executed or are subject to the approval of a prior notice by the authorities. An exceptional regime is also established for uses and activities considered to be relevant for the public interest.

Compatible uses and actions are those that do not cumulatively undermine the functions of the REN areas that are described in the RJREN. The most relevant REN compatible uses and actions regarding the installation of MRE projects in coastal REN areas are listed in Annex 8 together with the information on the action classification as allowed or forbidden and if it is subjected or exempted from a prior notice procedure.

The conditions and requirements that the compatible uses and actions are subject to, within REN areas, as well as situations that require mandatory and binding advice from the Portuguese Environment Agency (APA), are defined in a dedicated Ordinance. APA's advice is issued upon request from CCDR, who is the authority responsible to receive and approve the prior notice submitted by the developer. The prior notice application should be submitted according to the information contained in Annex III of the referred Ordinance (see lateral note).

The exceptional regime referred above (applied when the uses or activities are considered of public interest) involves providing the following information in the prior notice application:

- The demonstration of the lack of an alternative to avoid occupying the REN area;
- An advice from the municipal authority stating the public interest of the use or activity;
- A joint order of the member of the Government responsible for the areas of environment and spatial planning and the member of the Government responsible for the Energy sector (in the case of MRE projects).

REN's legal system (RJREN) is established in DL 166/2008.

Article 2 of RJREN
The RCM 81/2012, from October 3, adopts the strategic guidelines at national and regional level, which embody the guidelines and criteria for the delimitation of areas integrated into REN at the municipal level.

Approved maps of REN areas are deposited in DGT and can be found on the DGT website (13), the CCDR and cities.

Articles 20 and 21 of DL 166/2008 on RJREN.

The functions of each type of REN area are defined in Annex I of DL 166/2008 on RJREN.

Ordinance 419/2012 define the conditions and requirements that the compatible uses and actions are subject to within REN areas.

Article 21 of DL 166/2008 on RJREN.

The recognition of the relevant public interest is requested to the territorially competent CCDR.

MRE projects located in areas integrated into REN are automatically subject to an Environmental Appraisal (see Chapter 8).

A favourable decision advice from the EIA (AIA) authority under the EIA (AIA) or the Environmental Appraisal procedures exempts the applicant of submitting a prior notice application to the licensing authority required under the REN's legal system (RJREN).

[Article 24 of DL 166/2008 on RJREN.](#)

6.5 Cultural heritage

6.5.1 What is the legal framework of the designated heritage sites?

Act 107/2001 (Act on the Cultural Heritage) establishes the basis for the cultural heritage sites policy as well as their protection and promotion regime.

[Article 15 of Act 107/2001 \(Act on Cultural Heritage\).](#)

Cultural heritage properties may belong to the categories of monument, ensemble or site and are designated as national interest, public interest or local interest.

[DL 309/2009 regulates the criteria for the designation of cultural heritage sites and the management of their buffer zones.](#)

Properties designated as “national interest”, whether monuments, ensembles or sites, adopt the name of “national monument”. Cultural heritage properties included in the World Heritage List are all designated, in the respective category, as properties of “national interest”.

6.5.2 What are the consequences of the project location in a designated heritage site?

Heritage properties automatically benefit from a general buffer zone in force from the date of the decision to initiate the designation procedure. The general buffer zone is 50 m counted from the external boundaries of the site.

[Articles 36, 37, 41 and 58 of DL 309/2009.](#)

After its designation, a heritage site benefit from a special buffer zone (ZEP), which has an extension and restrictions appropriate to its valuation and protection.

Heritage properties designated or under designation as properties of “municipal interest” may have a temporary ZEP or a definitive ZEP, when the spatial planning does not provide the necessary framework for the valuation and protection of the property.

[Articles 38 to 40 of DL 309/2009.](#)

In ZEPs under designation or in properties designated as being of national or public interest, no licenses or authorisations may be granted without the prior approval of the Directorate General of Cultural Heritage (DGPC) or of the competent Regional Directorate for Culture (DRC).

[Article 55 of DL 309/2009.](#)

6.5.3 What are the heritage properties to be considered?

There are thousands of designated cultural heritage properties, some of which are on the coast and their respective protection zones can cover the maritime space. A database of designated properties (14) and an Atlas of Designated Heritage sites (completed only for some municipalities and parishes) (15) can be found in the DGPC website.

6.5.4 What are archeological parks?

The archaeological heritage consists of all remains, objects and other evidences of the evolution of the planet, life and human beings, whose preservation and study make it possible to trace the history of mankind and its relation to the environment, particularly those obtained under archaeological activity as a scientific discipline.

[Article 74 of Act 107/2001 \(Act on Cultural Heritage\).](#)

The creation of archaeological parks is foreseen in the legislation, but to date, no parks have been designated on the coastal area or in the maritime space of the Portuguese mainland.

[Articles 71, 74 and 75 of Act 107/2001 \(Act on Cultural Heritage\) and DL 131/2002.](#)

6.5.5 Are archeological works required?

The national law states that "any promoter of construction works is obliged to bear the costs of preventive archaeology and rescue operations if required during the execution of their projects".

[Article 79 – 3 of the Act 107/2001 \(Act on Cultural Heritage\).](#)

The Act on Cultural Heritage defines archaeological work as "all excavations, prospects and other investigations whose purpose is the discovery, knowledge, protection and enhancement of the archaeological heritage".

[Article 77 – d Act 107/2001 \(Act on Cultural Heritage\).](#)

Regulation on Archaeological Work (RTA) sets out the rules to be observed in carrying out the works, regulating and standardizing the archaeological activity and the rights and obligations of all parties involved.

[The RTA is approved by DL 164/2014.](#)

The archaeological works are designated into four categories, being those carried out under the approval of projects, classified in Category C: "Preventive actions and mitigation of impacts integrated in studies, plans, projects and works with impact on rural, urban and underwater areas (...)".

[Article 3 of DL 164/2014 \(RTA\).](#)

The archaeological works can only be carried out by archaeologists previously authorised, under the terms of the RTA, by the DGPC. Its performance is mandatory during the EIA or Environmental Appraisal procedures (see Chapters 7 and 8). Archaeological works should be appropriate to the project development phase (design project phase or detailed project design phase) and the archaeological sensitivity of the land or underwater environment in which the project is located.

[Article 6 of RTA](#)

6.6 Other administrative easements

Annex 9 lists the major administrative easements, following the publication from General Directorate for Spatial Planning and Urban Development "Administrative easements and public utility restrictions". The administrative easements that have already been mentioned above (protected areas and sites of the Natura 2000 network, RAN, REN, designated cultural heritage properties), are naturally excluded from this section.

[The publication "Easements and Public Utility Restrictions" is available on the DGT website.](#)

Annex 3 of this document, identifies the responsible authorities whose opinion is usually required during project licensing whenever their location requires it. DGT developed the Collaborative Platform of Administrative Easements and Restrictions of Public Utility (16) (SRUP). This platform allows to check in a simple and direct way, the Administrative Easements and the Public Utility Restrictions in force for the Portuguese mainland, indicating the region, municipality and type of easement or restriction. It is also possible to consult the applicable legislation for that specific easement or restriction.

[The contacts of all these authorities are listed in Annex 3.](#)



7

**ENVIRONMENTAL
IMPACT
ASSESSMENT**

ENVIRONMENTAL IMPACT ASSESSMENT

7.1 What is the legal system of EIA?

The Environmental Impact Assessment process (EIA) is a preventive instrument of the environmental and sustainability policy. It is a decision support tool on projects or actions, and seeks to contribute to more participatory and transparent decision-making processes. The EIA process is established as a legal procedure in most countries of the world and was the subject of a European Directive in 1985.

In Portugal, the current EIA (*Avaliação de Impactos Ambientais*, AIA) legal system (*Regime Jurídico de Avaliação de Impactos Ambientais*, RJAIA) is established in DL 151-B/2013. This legal instrument transposes into the national law, the European Directive 2011/92/EU from December 13, 2011, on the assessment of the effects of certain public and private projects on the environment, usually called the EIA Directive. This Directive was recently amended by the Directive 2014/52/EU from April 16, and should be transposed to the Member States legal systems until May 2017. Therefore a review of the current EIA legal system at national level is anticipated until there. The regulation associated to the RJAIA was published by Ordinance 368/2015 laying down the fees to be charged under the EIA procedure.

The current version of the EIA legal system (RJAIA) in Portugal is established in DL 151-B/2013.

The delivery of documents to the EIA (AIA) authority shall follow the guidelines established in Ordinance 396/2015. The templates for the information that must accompany the delivery of some documents (*Notas de Envio*) to the licensing authority or the EIA (AIA) authority are available from the APA website (14).

7.2 What are the projects subject to EIA?

The RJAIA determines the following projects should be submitted to an EIA procedure:

- Projects listed in Annex I to RJAIA;
- Projects listed in Annex II to RJAIA and covered by the established thresholds;
- Projects listed in Annex II to RJAIA not covered by fixed and located thresholds but which are partially or totally, to be located in the sensitive area, and according to the decision of the EIA (AIA) authority are likely to cause significant environmental effects depending on their location, size or nature according to the criteria set out in Annex III;
- Projects listed in Annex II to RJAIA not covered by the thresholds neither located in a sensitive area, but considered by decision of the licensing authority after compulsory consultation with the EIA (AIA) authority, as likely to cause significant environmental effects depending on their location, size or nature, according to the criteria set out in Annex III;
- Projects considered, by joint decision of the member of the Government responsible for the project sector and the member of the Government responsible for the environment, as likely to cause a significant impact on the environment, depending on their location, size or nature taking into account the criteria set out in Annex III.

There are no project types under RJAIA Annex I where renewable energy projects may be included. However, depending on their features, renewable energy projects are covered by some of the project types listed under RJAIA Annex II (Table 7.1).

Among the FER projects, only wind farms and small hydropower plants, within certain thresholds, are identified. This situation results directly from the EIA Directive and from the fact that the remaining FER were projects with a very limited degree of development at the time the annexes were discussed and approved (decade of 1980s).

In addition, some of the ancillary facilities of the power plants may be also covered by the RJAIA in particular the overhead power transmission lines, which are listed in Annex I (for 220 kV or higher voltages and longer than 15 km) and in Annex II (voltages equal to or higher than 110 kV and longer than 10 km), and substations with associated lines when voltage is equal to or higher than 110 kV and area greater than 1 ha.

As in the EIA Directive, the RJAIA also provides an EIA exemption mechanism. The grounds for such exemption are listed in Annex II, paragraph 2 of Decree 395/2015 and its cumulative compliance is needed:

- a) Indispensability and urgency of the project;
- b) Impossibility of developing the project later on;
- c) Failure to meet all the requirements of the EIA Directive.

In some cases, extensions or other changes in existing or already approved projects, may also be subject to an EIA. Figure 7.1 shows the flowchart of the EIA screening process.

Article 4 of DL 151-B/2013 (RJAIA). For the application of this mechanism the consultation of the EC publication on the subject is recommended (EC, 2006).

Project extensions or other changes: Article 1-4 of DL 151-B/2013 (RJAIA).

| PROJECT TYPE | ANNEX II – GENERAL CASE | ANNEX II – SENSITIVE AREAS |
|--------------------------------------|--|---|
| Renewable energy projects in general | 3.a) Industrial installations for the production of electricity, steam and hot water (not included in Annex I) with installed capacity \geq 50 MW | 3.a) Industrial installations for the production of electricity, steam and hot water (not included in Annex I) with installed capacity \geq 20 MW |
| Wind power | 3. i) Wind farms with 20 or more wind turbines or located at a distance less than 2 km from similar parks | 3. i) Wind farms with 20 or more wind turbines or located at a distance less than 2 km from similar parks |
| | 3. i) Extension of wind farms, not previously been subject to an EIA, to 20 or more turbines or a distance of less than 2 km from similar parks after its extension. | |

Table 7.1 Types of FER projects (including offshore projects), with respective thresholds, listed in Annex II of DL 151-B/2013 (RJAIA).

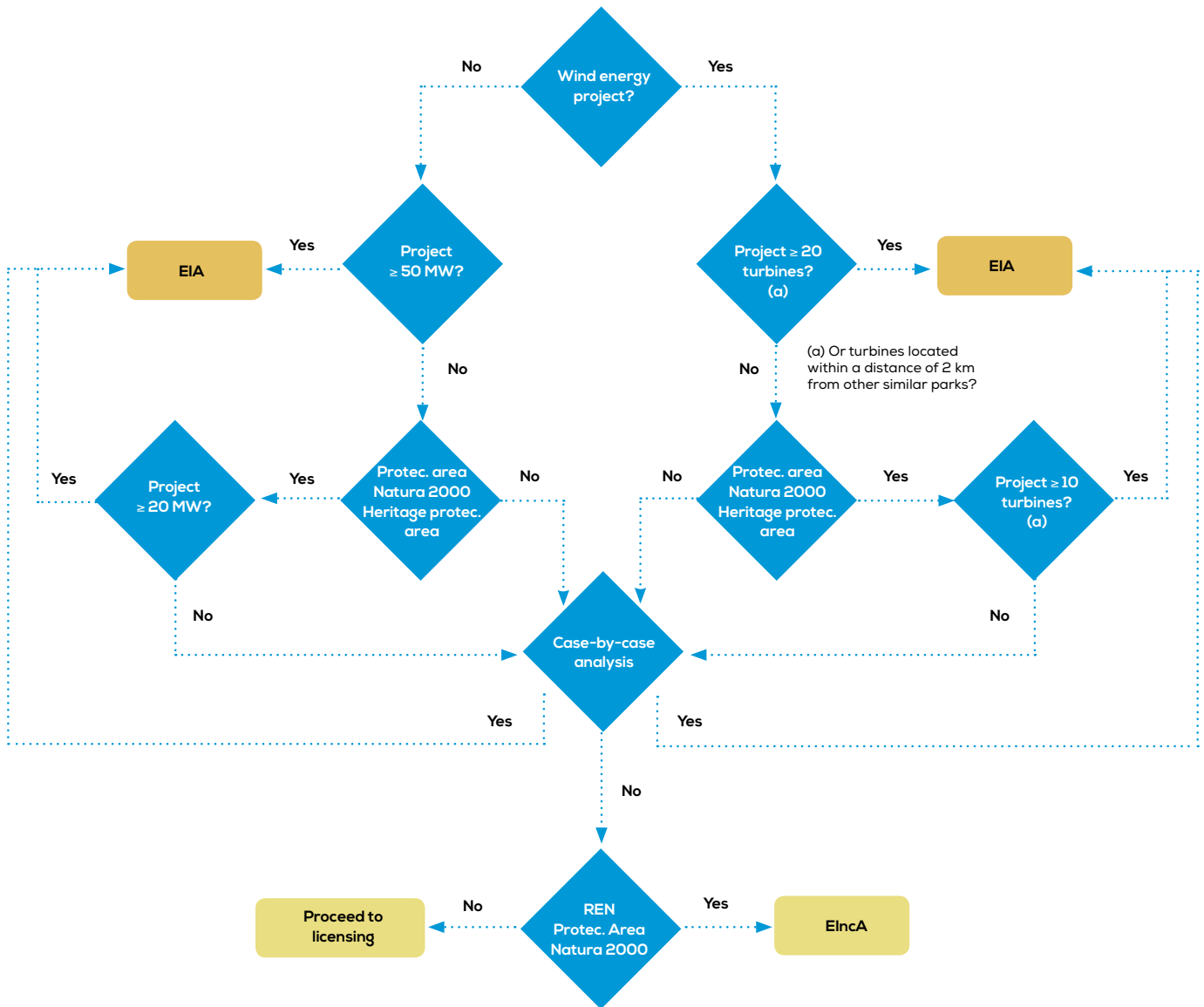


Figure 7.1
EIA (AIA) screening process.

7.3 What are the EIA steps and the advantages of conducting it during the project design phase?

In Portugal the EIA phases are as follows (see Figure 7.2):

- Screening: to decide whether the project is to be subject to an EIA (see section 7.4);
- Scoping: an optional phase (see section 7.5);
- Impact analysis: which includes verification of compliance and the technical assessment of the EIA and the issuance of a final technical advice;
- Decision, designated as Environmental Impact Statement (EIS; *Declaração de Impacto Ambiental*, DIA): which can occur during the project design phase (see section 7.6) or during the detailed project design phase (see section 7.8);
- Environmental compliance checking of the detailed project design and respective decision (*Decisão de Conformidade Ambiental do Projecto de Execução*, DCAPE) (see section 7.7);
- Post-assessment (see section 7.9).

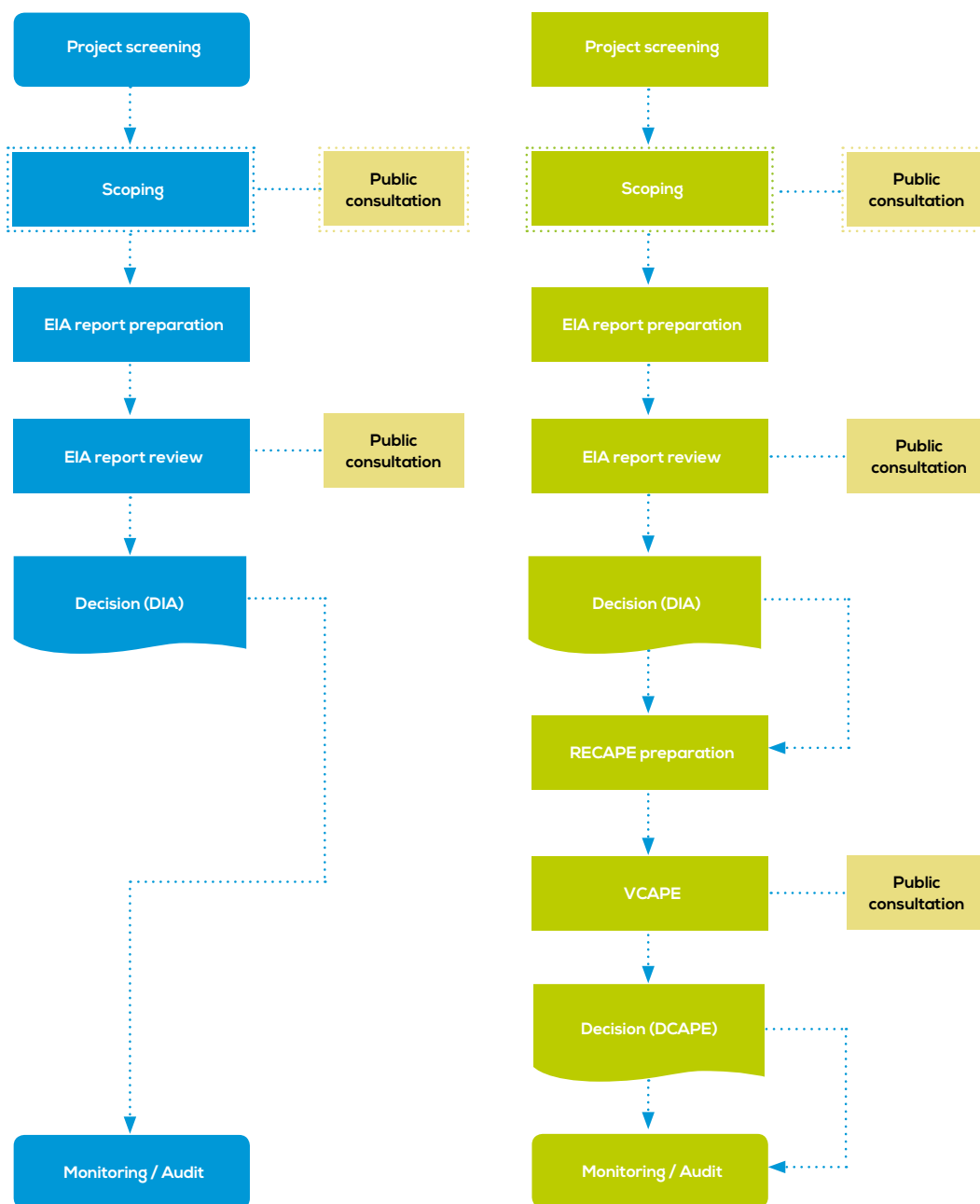


Figure 7.2
EIA (AIA) phases. The dashed lines are the optional process steps.

Table 7.2 presents the benefits and drawbacks of carrying out the EIA during the project design phase. The option of performing an EIA during the project design phase is clearly preferable in the following cases:

- The applicant is not able to have a detailed project design in a short term, but has already a preliminary design of the project;
- The location of the project is not yet definitely decided and it may be wise to present several alternatives; e.g. the location of a project with significant negative impacts on a Natura 2000 site is only legally admissible if it is demonstrated that there is no viable alternative outside it;
- If required in a later stage, changes to the project could be burdensome in terms of time and/or costs.

| ADVANTAGES | DISADVANTAGES |
|--|---|
| <ul style="list-style-type: none"> • It is flexible, allowing the analysis of alternatives (e.g. regarding location), which is a good practice in EIA; • The EIA carried out during the project design phase does not require the same detail - in particular with regard to monitoring and mitigation; • An EIA at the project design phase allows to confirm the environmental feasibility of the project at an earlier stage; • The EIS (DIA) requirements are oriented to the detailed project design postponing the detail of mitigation and monitoring to the next phase of the EIA procedure; • Any required design change costs are minimised; • Allows moving to the EIA procedure even without having a detailed project design. | <ul style="list-style-type: none"> • Implies carrying out an EIA and subsequently an environmental compliance report of the detailed project design (RECAPE); • The global schedule is longer; • The total value of the EIA procedure taxes is higher. |

Table 7.2 Advantages and disadvantages of carrying out an EIA during the project design phase.

7.4 What is the case-by-case analysis provided for in the RJAIA?

MRE projects with a capacity below 50 MW (or 20 MW when located in sensitive areas) or wind farm projects with less than 20 wind turbines or located at a distance more than 2 km from other wind farms (or less than 10 wind turbines when located in sensitive areas or located at a distance more than 2 km from other wind farms) need to be submitted to a case-by-case examination, referred to as "prior appraisal and decision on EIA submission".

The procedure begins with the delivery of an application to the licensing authority, who in the case of MRE projects is DGEG (see Chapter 4), that shall send it to the EIA (AIA) authority. This application must be accompanied by a report, with the structure and contents defined in Annex I of Ordinance 395/2015. The EIA (AIA) authority may promote a consultation with other public authorities with relevant competences to the assessment of the project in question.

The EIA (AIA) authority advice (or decision in the case of projects located in sensitive areas) is based on the criteria listed in Annex III to RJAIA. These criteria are organised into three groups: project characteristics, project location and type and characteristics of the potential impact (see Table 7.3).

For projects (or projects' alteration or projects' extension) not located in sensitive areas the absence of reply from the EIA (AIA) authority within 20 working days determines that the project does not need to undergo an EIA procedure.

For projects (or projects' alteration or projects' extension) located in sensitive areas the absence of a reply from the EIA (AIA) authority within 20 working days, determines the project needs to be subject to an EIA.

Case-by-case analysis: Article 3 of DL 151-B/2013 (RJAIA).

In case of change or extension of Annex I or II projects in DL 151-B/2013 (RJAIA), this procedure also applies.

| CATEGORY | MAIN ASPECTS CONSIDERED |
|--|---|
| Project features | <ul style="list-style-type: none"> - Dimension and conception of the entire project - Accumulation with other existing or authorized projects - Use of natural resources - Pollution, noise and nuisances - Serious risk of accidents - Human health hazards |
| Project location | <ul style="list-style-type: none"> - Spatial planning - Natural resources in the area - Capacity of absorption regarding environmentally sensitive zones, including landscapes and heritage sites |
| Type and characteristics of the potential impact | <ul style="list-style-type: none"> - Impact magnitude and extension - Transboundary impact - Impact intensity and complexity - Impact likelihood - Impact occurrence, duration, frequency and reversibility - Cumulative impacts with other existing or authorized projects - Feasibility of effective impact mitigation |

Table 7.3 Criteria used in an EIA (AIA) case-by-case decision.

7.5 What is the scoping procedure and what are its advantages?

Scoping is defined in the RJAIA as a preliminary and optional phase of the EIA procedure, when the EIA (AIA) authority identifies, analyses and selects the significant environmental aspects that may be affected by a project and on which the EIA should focus.

This phase includes a statutory consultation to the authorities with relevant technical skills and competences to the assessment of the project in question. The Scoping exercise is based on a document submitted by the applicant and designated as a Scoping Proposal (*Proposta de Definição de âmbito*, PDA) of the EIA. The structure and content of the PDA are set out in Annex III of Ordinance 395/2015 of November 4.

The decision on the Scoping proposal (PDA) falls within the competence of the EIA (AIA) authority and binds for a two years' period the applicant, the EIA (AIA) authority and the external entities consulted on the content of the EIA, unless substantial changes contradicts the decision. The Scoping proposal (PDA) may be subject, at the initiative of the applicant or by decision of the EIA (AIA) authority, to a public consultation.

Since it is optional, the Scoping process (PDA) has been poorly applied in Portugal. In many countries, the Scoping exercise is considered one of the most important stages of the EIA. Table 7.4 presents the advantages and disadvantages of the EIA Scoping phase.

| ADVANTAGES | DISADVANTAGES |
|---|---|
| <ul style="list-style-type: none"> • Holds the Public Administration co-responsible on the scope of the EIA • Allows a first formal moment of public participation and reaction of stakeholders; • Allows to consider the concerns of those who will participate in the EIA procedure, as well as other stakeholders; • Allows to create a first contact channel with the Administration (EIA (AIA) authority and authorities that are part of the EIA assessment committee; <i>Comissão de Avaliação, CA</i>); • Enables the definition of the EIA scope, including methodologies and study areas; • Enables the definition of alternatives to the project location and features that must be considered in the EIA; • Reduces the risk of delays during the EIA procedure, which are usually due to requests for additional information; • Reduces the risk of issuing a rejected EIS (DIA) since advices from the authorities and the public are available at an early stage of the project development allowing the project reformulation accordingly, if needed. | <ul style="list-style-type: none"> • If the Scoping exercise is developed at a stage where there are still many uncertainties regarding the project design, it does not allow a true definition of scope but only a generic decision from the authorities, and thus led to possible excessive or indefinite requests; • It has additional costs; • It is a new activity to the project schedule and may extend the deadline for obtaining the EIS (DIA); • It requires the public disclosure of the project, which may be considered by the applicant as premature. |

Table 7.4 Advantages and disadvantages of carrying out a Scoping exercise as one of the steps of the EIA (AIA) process.

Some of the disadvantages listed in Table 7.4 can be avoided or overcome by proper planning of the project and a dialogue with the Administration.

7.6 How is the EIA procedure during the project design phase?

The structure and content of the EIA are set out in Annex V of the RJAIA. Ordinances 398/2015 and 399/2015, although not specific for MRE projects, contain some provisions on EIA in Annex II (X.i) that should be taken into account. According to APA, a guidance document on the EIA contents has been prepared by the Group of EIA authorities' focal points. This document will be soon released in the websites of the EIA authorities. The preparation of the EIA is an activity that must be simultaneous with the project design development, with frequent interaction between the applicant, the project team and the team responsible for carrying out the EIA. According to Directive 2014/52 / EU (Annex IV), the impacts to be analysed are those that resulted from:

- The construction and operation of the project, including demolition works;
- The use of natural resources, particularly land, soil, water and biodiversity, taking into account as far as possible, the sustainable availability of such resources;
- The release of pollutants, noise, vibrations, light, heat and radiation, the creation of any discomfort and the waste disposal and recycling;
- The risks to human health, cultural heritage or the environment (e.g. due to accidents or disasters);
- The cumulative effects with other existing or already approved projects, taking into account the environmental problems related to the areas of special environmental importance likely to be affected or the use of natural resources;

The possible demolition works needed to complete the project during the construction phase should not be confused with any demolition works planned for the decommissioning phase.

- The project's impact on the climate (for example, the nature and volume of the emissions of greenhouse effect) and project vulnerability to climate change;
- The technologies and materials used.

In some cases, the RJAIA requires the assessment of the impacts of project decommissioning. The EIA should also focus on the impact of the necessary ancillary projects, including access paths, shipyards, power transmission lines and substations.

Table 7.5 provides an indication of the factors to be analysed under the EIA Directive (Directive 2011/92/EU as amended by Directive 2014/52/EU; this last version is still to be transposed into the national law) and the RJAIA currently in force. The Directive 2014 extends the scope of the EIA and details the aspects to be assessed.

The new EIA Directive establishes the obligation to include "the expected effects resulting from the project's vulnerability to the risk of serious accidents and/or disasters that are relevant to the project in question" (paragraph 2, Article 3).

It also includes the establishment of mitigation measures, which include appropriate measures to prevent, reduce and offset the potential negative impacts, as well as monitoring programmes deemed necessary to measure the environmental parameters potentially affected by all project phases. It is not expected, however, that during the project design phase, the mitigation measures and the monitoring plans are to be presented in a detailed manner. In the case of monitoring plans it is sufficient that just the guidelines for the monitoring activities be presented.

The indication of the technical deficiencies or lack of know-how identified during the EIA procedure is mandatory and should be part of the EIA final report. A Non-Technical Summary of the EIA report (*Resumo Não Técnico*, RNT) should be produced as a separate document, which is intended to promote public participation in the EIA process. In any case, the EIA – and not only the EIA RNT – is a public document and, therefore, its structure and language should take into account its potential non-technical readers who may want to consult it. It is therefore advisable to pay special attention to this issue, preventing the EIA report to be a simple collection of texts written by the various experts. The EIA report should also include a list of abbreviations and acronyms, and a glossary of the technical terms used.

The delivery of the EIA report must be accompanied by a printed copy and a digital copy of the project design description.

In the initial phase of the EIA procedure, and while the compliance of the EIA application is being assessed by the EIA (AIA) authority, the applicant will be invited by the EIA (AIA) authority to make a presentation on the project to the EIA CA. During this stage of assessing the compliance of the EIA application, the CA may also ask, just once, for clarifications, delivery of additional information and/or amendments to the application, including the RNT reformulation. A deadline is also established by the EIA (AIA) authority for the applicant to deliver such clarifications and/or additional information. This period shall suspend the EIA time frame until the delivery of additional elements.

The EIA compliance is then communicated to the applicant and a visit of the CA to the project site location is organised with the participation of the applicant.

The public consultation of the EIA report, for a period of 20 working days, is due after the EIA's communication of compliance by the EIA (AIA) authority to the applicant. The public consultation is organised by the EIA (AIA) authority and may include public sessions, where the applicant is invited to participate.

The EIA procedure ends with the issuance of the EIS (DIA). In case of a favourable or conditional decision, it is the EIA (AIA) authority that issues the EIS (DIA). If the EIA decision is to refuse the project than it is the member of the Government responsible for the environment that issues the EIS (DIA).

According to the CPA, the applicant has the opportunity to comment on the EIS (DIA) before its official release. Also before EIS (DIA) issuance, the RJAIA allows the EIA (AIA) authority to consider, together with the applicant, the need for design modification to avoid or reduce significant environmental effects.

This requirement has not yet been adopted by the national legislation.

The projects should also provide opportunities for environmental and social valuation, and it is considered an EIA good practice to analyse these opportunities.

The APAI, in collaboration with the APA, published in 2008 the document "Criteria for the preparation of RNT". This document is available from (15).

The CPA was approved by DL 4/2015.

In this case, the EIA procedure is suspended for a period not exceeding six months, to give time for the applicant to change the design elements that were agreed to be altered. The EIS (DIA) document should follow the template indicated in Annex IV of Ordinance 395/2015.

| DIRECTIVE 2011/92/UE [(a)/(b)] | DIRECTIVE 2014/52/UE [(a)/(b)] | RJAIA (c) |
|---|--|--|
| Human beings / Population | Population and human health | Population |
| Fauna and Flora | Biodiversity, with particular emphasis on species and habitats protected under Directive 92/43/EEC and Directive 2009/147/EC | Fauna and Flora |
| Soil | Land (e.g. land take) | Soil |
| Water | Soil (e.g. organic matter, erosion, compaction, sealing) | Water |
| Air | Water (e.g. hydromorphological adaptations, quantity, quality) | Atmosphere |
| Climate / Climatic factors | Air | Climate factors |
| Landscape | Climate (e.g. greenhouse gas emissions, impacts relevant to adaptation) | Landscape |
| Material assests | Material assets | Cultural heritage, including the architectural and archaeological heritage |
| Cultural heritage/properties, including architectural and archaeological heritage | Cultural heritage/ including architectural and archaeological aspects | |
| | Landscape | |

Table 7.5 Environmental factors to consider in the EIA (AIA) procedure: a) Article 3; b) paragraph 3/4 of Annex IV; c) paragraph 4 of Annex V.

7.7 How is the procedure for the environmental compliance checking of the detailed project design phase?

The environmental compliance checking of the detailed project phase takes place only if an EIA is carried out during the project design phase. In this case, the applicant must submit to the licensing authority a document designated as Environmental Compliance Report of the detailed project design (*Relatório de Conformidade Ambiental do Projecto de Execução*, RECAPE). Although, Ordinances 398/2015 and 399/2015 do not apply to MRE projects, they contain, in Annex II (X.ii), RECAPE provisions that should be taken into account.

According to APA, a guidance document on the EIA contents has been prepared by the Group of EIA authorities' focal points. This document will be soon released in the websites of the EIA authorities.

RECAPE focuses mainly on the demonstration of compliance with the conditions laid down in the EIS (DIA), in the delivery of any information required in the EIS (DIA), in a new impacts assessment required under the detailed project design and in the necessary detail of mitigation measures and monitoring plans.

The RECAPE should include, as a separate document, a RNT. The RECAPE delivery must be accompanied by a printed copy and a digital copy of the detailed project design.

At this stage, a new period of public consultation is opened during 15 working days. The environmental compliance checking of the detailed project design ends with the issuance of the decision on the environmental compliance of the detailed project design (*Decisão de Conformidade Ambiental do Projeto de Execução*, DCAPE). According to the CPA, the applicant has the opportunity to comment on the DCAPE proposal before its official release.

The CPA was approved by DL 4/2015.

7.8 How is the EIA procedure during the detailed project design phase?

It is similar to the one carried out during the project design phase, described in section 7.6. The main differences refer to the consideration of alternatives and the detail of the EIA report, with regard to mitigation and monitoring. While in the EIA of the design project phase the decision on project alternatives is only taken when the EIS (DIA) is issued, the EIA carried out for the detailed project design considers the reasonable alternatives together with their description and the reasons for the selection of the final one. When the EIA is carried out during the detailed project design phase, there is no need to carry out an environmental compliance checking of the detailed project design.

7.9 What is the post-assessment stage?

The EIA does not end with the issuance of the EIS (DIA) or DCAPE, but continues throughout the project life cycle, covering the construction phase (or installation), operation and decommissioning. The RJAIA includes the following activities regarding the post-assessment phase:

- Monitoring to be conducted by the applicant; periodic reports should be sent by the applicant to the EIA (AIA) authority;
- Visits of the EIA (AIA) authority to the project site; the applicant should facilitate the authorities access to the site;
- Audits, to be conducted by the applicant.

Applicants must perform an audit during the construction phase and an audit three years after the start of the operation date. These audits should be carried out by qualified auditors, registered by APA, according to the Ordinance 326/2015. These auditors could hire experts, if needed, and can not have had labour relations or provided services to the applicant under the EIA procedure.

Monitoring and audit reports must follow the templates established, respectively, in paragraphs 1 and 2 of Annex V of Ordinance 395/2015. The applicant is responsible to communicate the following activities to the EIA (AIA) authority:

- Start date of the construction phase, together with the schedule of the project main activities;
- End date of the construction phase, accompanied by the map as the project is deployed.

The EIA (AIA) authority may, in exceptional and duly justified cases, in collaboration with the licensing authority and after hearing the applicant, establish the adoption of additional measures to minimise or compensate unforeseen significant adverse impacts, that occurred during construction, operation or decommissioning of the project.



7.10 Competent authorities

There are a number of authorities involved in the EIA procedure, who are listed and their competences briefly described under Annex 7.

In Portugal there is not yet an environmental consultancy qualification system for registration of EIA practitioners. However, although not officially recognised, it should be noted that the Portuguese Association for Impact Assessment (APAI), affiliated to the *International Association for Impact Assessment* (IAIA), has a record of "professional members" available on its website. Professional members may voluntarily subscribe to the Code of Professional Conduct of APAI and submit themselves, voluntarily, to its disciplinary regulations. It is important that the applicants who want to submit an EIA or an EInCA (see chapter 8) hire professionals who can support them on such procedures.

The new EIA Directive (2014/52 / EU), which must be transposed into national law until May 2017, contains a provision to ensure that the EIA is prepared by competent experts (Article 5a 3) and have "enough experience in the design field in question" (item 33 of the preamble).

7.11 What is the temporal validity of the decisions and deadlines of the several EIA steps?

The decisions provided under the EIA procedure expire in the following periods:

- Decision on the scoping proposal: the EIA, accompanied by the respective project design or by the respective detailed project design has, to be submitted within two years;
- EIS (DIA) issued during the detailed project design phase: the construction/installation of the project has to start within four years;
- EIS (DIA) issued during the project design phase: the RECAPE, accompanied by the respective detailed project design description, has to be submitted within four years;
- DCAPE: the construction/installation of the project has to start within four years.

Table 7.6 presents the key terms of the procedures laid down in the RJAIA as well as the terms of tacit approval application.

| PROCEDURE (RJAIA ARTICLE) | WORKING DAYS | REMARKS |
|--|--------------|---|
| Prior appraisal and decision on EIA submission - projects not located in sensitive areas (Article 3) | 25 | Period counted from the receipt of the application by the licensing authority; the absence of advice by the EIA (AIA) authority after 20 working days means that the project should not be subject to EIA, but the final decision remains with the licensing authority |
| Prior appraisal and decision on EIA submission - projects located in sensitive areas (Article 3) | 20 | Period counted from the receipt of the application by the EIA (AIA) authority via the licensing authority; the absence of advice by the EIA (AIA) authority after 20 working days means that the project should be subject to EIA |
| Scoping without public consultation (Article 12) | 30 | Tacit approval: 35 working days |
| Scoping with public consultation (Article 12) | 40 | Tacit approval: 45 working days |
| EIA (Articles 14, 16, 17 and 19) | 100 | Period counted from the receipt of the EIA report and the project description via licensing authority; it may be suspended only once, if the EIA (AIA) authority requests additional elements or the reformulation of the RTN (Article 14-8). It may also be suspended in the following circumstances: <ul style="list-style-type: none"> - EIA (AIA) authority requires design modifications or additional mitigation measures (Article 16 – 2-4); in this case, the (EIS) DIA should be issued within 50 working days after the end of the procedure suspension (6 months maximum); - Applicant hearing on the EIS (DIA) proposal (20 days maximum), according to the CPA (Article 17-2); - To carry out further steps provided for in the CPA (Article 17-2). |
| Environmental compliance checking of the detailed project design (Articles 20 and 21) | 50 | Period, counted from the receipt of the EIA report and the project description via licensing authority; it may be suspended (maximum of 20 days) for applicant hearing on the DCAPE proposal, according to the CPA. |
| DIA extension (article 24) | 60 | It may be suspended only once, if the EIA (AIA) authority requests additional information necessary to consider the request. |
| DCAPE extension (article 24) | 50 | It may be suspended only once, if the EIA (AIA) authority requests for additional information. |
| Change to the DIA (article 25) | 45 | It may be suspended only once, if the EIA (AIA) authority requests for additional information. |
| Change to the DCAPE (article 25) | 40 | It may be suspended only once, if the EIA (AIA) authority requests for additional information. |

Table 7.6 Maximum deadlines of the RJAIA main procedures (excluding projects with transboundary consultations). CPA is approved by DL 4/2015.



8

ENVIRONMENTAL
APPRAISAL OF
FER PROJECTS

8

ENVIRONMENTAL APPRAISAL OF FER PROJECTS

As mentioned in Chapter 4, DL 172/2006, with the new wording of DL 215-B/2012, establishes in Article 33-R, that the FER projects not covered by the EIA legal system (RJAIA) and to be located in:

- National Ecological Reserve (REN; see section 6.4);
- Protected Areas (see section 6.2.2); or
- Sites of the Natura 2000 network (see section 6.2.3),

are subject to an Environmental Appraisal procedure (*Avaliação de Incidências Ambientais*, AlncA).

The Environmental Appraisal procedure (AlncA) covers the project ancillary facilities such as power lines for interconnection with the grid and infrastructure necessary to the operation of the unit, such as substations or access paths.

Article 33R – 5 of DL 172/2006, with the wording of DL 215-B/2012.

Although this law does not formally provide for the possibility of a phased assessment as happens in the EIA (during the project design phase and during the detailed project design phase), the practice has allowed such phasing in the Environmental Appraisal procedure (AlncA) as well.

There is a great similarity between the EIA (AIA) and the Environmental Appraisal (AlncA) procedures as well as in the content of the study to be submitted by the applicant. Table 8.1 indicates the main differences between EIA (AIA) and Environmental Appraisal (AlncA) procedures. Figure 8.1 shows the flowchart of the Environmental Appraisal (AlncA) procedure.

| ASPECT | EIA (AIA) | AlncA |
|--|---|--|
| Scoping | Possible | Not foreseen |
| EIA/AlncA authority | APA | CCDR |
| Designation of the study to be delivered by the applicant | Report on the Environmental Impact Assessment (<i>Estudo de Impacto Ambiental</i> , EIA) | Report on the Environmental Appraisal (<i>Estudo de Incidências Ambientais</i> , ElncA) |
| Authority that proceeds with the environmental compliance checking and a technical advice justifying the EIS (DIA) or Environmental Appraisal Statement (DlncA) proposal | Assessment Committee | CCDR, with the participation of other authorities |
| Elements to be delivered by the applicant | Project documents + EIA report (<i>Estudo de Impacto Ambiental</i> , EIA) | Project documents + Environmental Appraisal report (<i>Estudo de Incidências Ambientais</i> , ElncA) + Environmental Follow up Plan (<i>Plano de Acompanhamento Ambiental</i> , PAA) |
| Designation of the “EIA Decision” | Environmental Impact Statement EIS (DIA) | Environmental Appraisal Statement (DlncA) |
| Deadline for compliance, after entry into force of EIA or ElncA at the EIA/AlncA Authority (working days) | 10 + 3 + 3 + 30 = 46 | 12 |
| Deadline to communicate the decision (working days) | 100 | 60 |
| Fee (€) | 10.000 | 5.000 |

Table 8.1 Main differences between EIA (AIA) and Environmental Appraisal (AlncA).

CPA is approved by DL 4/2015.

The public consultation period of the Environmental Appraisal procedure (AlncA) has the same duration of the public consultation to be carried out during the EIA (AIA) procedure: 20 working days.

The deadline for issuing the Environmental Appraisal Statement (DlncA) is 60 days counted from the date the application with the Environmental Appraisal Report (ElncA) and the Environmental Follow up Plan (*Plano de Acompanhamento Ambiental*, PAA) is received at the CCDR in the area where the project is to be located. This period is suspended in the following cases:

- There's a request from CCDR for the applicant to deliver additional information; the period shall be suspended until the delivery of the requested additional elements;
- For the purpose of the applicant hearing (Article 121 and following articles of the CPA) in case the Environmental Appraisal Statement (DlncA) is to be unfavourable or conditionally favourable.

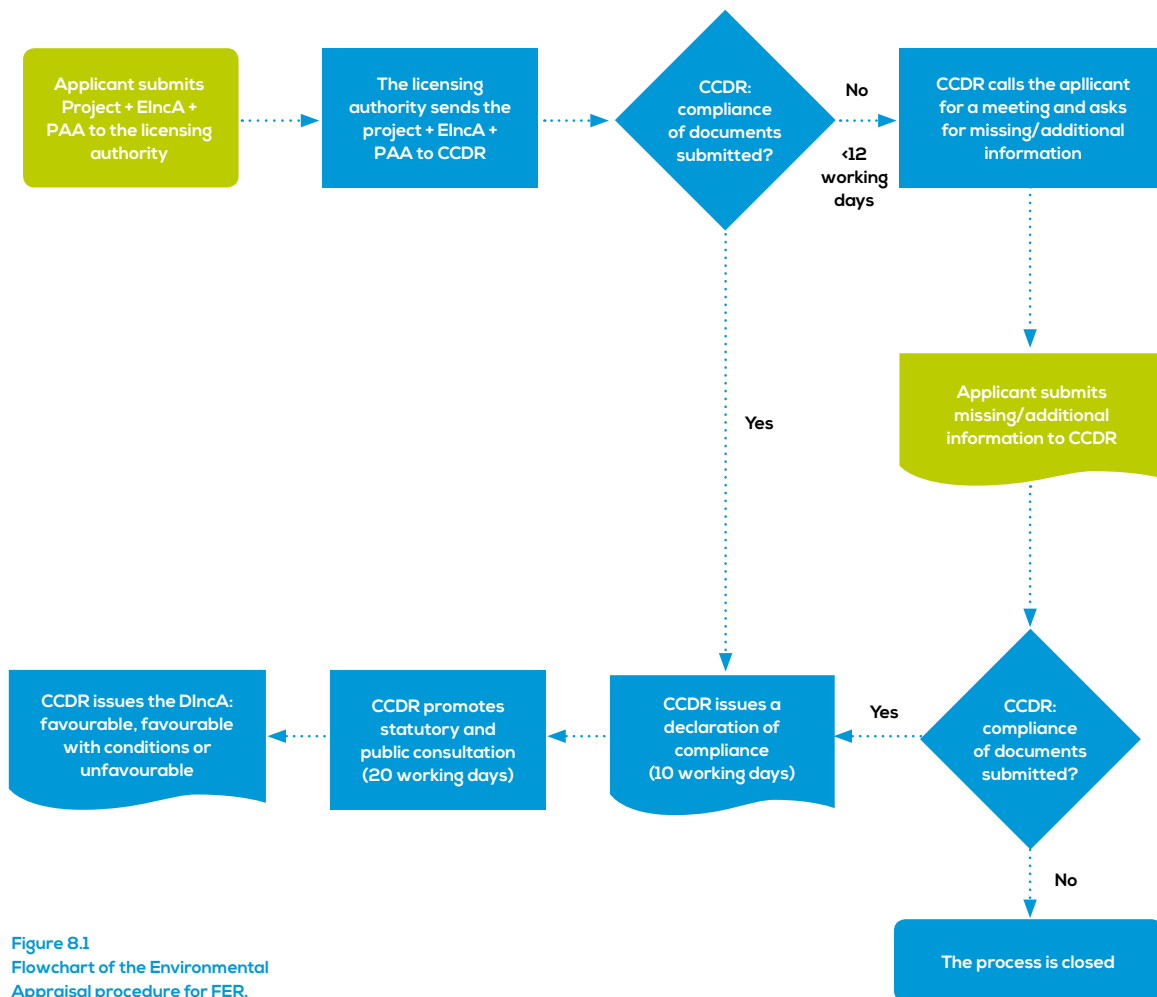


Figure 8.1
Flowchart of the Environmental Appraisal procedure for FER.

- Applicant actions or tasks
- Responsible authority actions or tasks

The Environmental Appraisal Statement of FER projects (*Declaração de Incidências Ambientais* - DIncA) follows the same terms as those defined to the EIS (DIA):

- The favourable or conditionally favourable Environmental Appraisal Statement (DIncA) is issued by CCDR;
- The unfavourable Environmental Appraisal Statement (DIncA) is issued by the environmental area of the Government member.

As for the EIA (AIA) legal system (RJAIA), the favourable or conditionally favourable Environmental Appraisal Statement (DIncA) exempts the applicant of submitting a prior notice application to the licensing authority required under the REN's legal system (RJREN; see section 6.4.2).

Providing ICNF has given advice on the procedure, the favourable or conditionally favourable Environmental Appraisal Statement (DIncA) determines:

- The non-application of paragraph 2 of Article 9 of DL 140/99 with the current wording, on the need to have a favourable advice from ICNF if territorial plans have not been adapted;
- The exemption of advice or approval from the competent authorities on protected areas.

The image features a dark blue background with a subtle, wavy texture. Overlaid on this are several geometric elements: a large, semi-transparent light blue circle in the center; a smaller, solid dark blue circle at the top with a yellow dot at its bottom center; another solid dark blue circle at the bottom with a teal dot at its top center; and a small, solid dark blue circle on the right side. A white, stylized lowercase letter 'g' is centered within the large light blue circle. This 'g' is surrounded by a circular border composed of many small, white, vertical dashes. The overall composition is clean and modern, with a focus on geometric shapes and a limited color palette.

g

SYNTHESIS

SYNTHESIS

The licensing process of MRE projects can be divided into the following components articulated between each other: 1) concession, license or authorisation for the private use of maritime space; 2) licensing of the energy production activity; 3) licensing projects and ancillary facilities on land; and 4) Environmental Impact Assessment. DGEG is the licensing entity for projects with a power capacity of up to 10 MW. Above 10 MW the member of the Government responsible for the energy sector is the licensing authority. The licensing authority coordinates the entire licensing process, articulating the link with the various authorities involved in the process. It is therefore by the licensing authority that all procedures are developed from the delivery of the application elements to the communication of decisions and delivery of licenses to the developer.

The private use of the EMN is ensured through the "private use title" (TUPEM) which is issued by DGRM. The procedure to obtain TUPEM depends on the designation of the use in the area where the project is to be installed, which is established in the Situation Plan. If the area to be used by the project is not designated for MRE production activity, the developer may propose the amendment of its designation by submitting an Allocation Plan. This plan needs to be appropriately justified and if approved automatically changes the Situation Plan through Council Minister's Resolution. The approval of the Allocation Plan is the needed condition to issue TUPEM which is essential for the beginning of any use or activity in the maritime space. If the area to be used by the project is already designated for renewable energy production, the application for obtaining TUPEM is analysed directly by DGRM and the emission of the title depends on the compliance of the elements delivered with the legal requirements.

The electricity production by FER is called the "Special Production" regime (*Regime de Produção Especial*) and follows specific licensing procedures that varies according to the tariff scheme, which has, in turn, two main types: the regular tariff scheme and the Feed-In Tariff (FIT) scheme. Under the regular tariff scheme, the licensing process of a MRE project begins with a request to the RND (*EDP Distribuição*) for information on the public grid (RESP) capacity for assigning a receiving point for the produced electricity. If the public grid is positive about the power reception capacity nearby the project location, the delivery of an application to obtain a production license may be submitted in the first 15 days of each quarter of year: 1 to 15 of January, May or September. If approved, the process follows to the delivery of an application to request the respective operation license. To grant the operation license, an inspection to the facilities is carried out by the licensing authority to confirm that all required conditions have been met for operation and, if needed, set further conditions for the power plant to operate. If the operation conditions are approved, the respective license incorporates the production license particularly as regards the operation starting date as well as any other conditions established during the inspection.

The Feed-In Tariff scheme runs under a competitive procedure of public initiative or any other competitive procedure that ensures equality and transparency criteria to the selection of the candidates. This competition or procedure is coordinated by the member of the Government in charge of the Energy sector. The licensing process under the FIT scheme is established in a specific diploma, which after the signature of the contract between the developer and the member of the Government responsible for the energy sector, follows a similar procedure as the one established for the regular tariff scheme, i.e. request for capacity allocation to a receiving point in the RESP, request for a production license and, if approved, grant of the consequent certificate of operation.

To obtain the production license it is necessary to have a favourable or conditionally favourable EIS (DIA) and, when required under the RJAIA, a favourable or conditionally favourable DCAPE or, if applicable instead (depending on the project location and dimension), a favourable or conditionally favourable Environmental Appraisal Statement (DInCA).

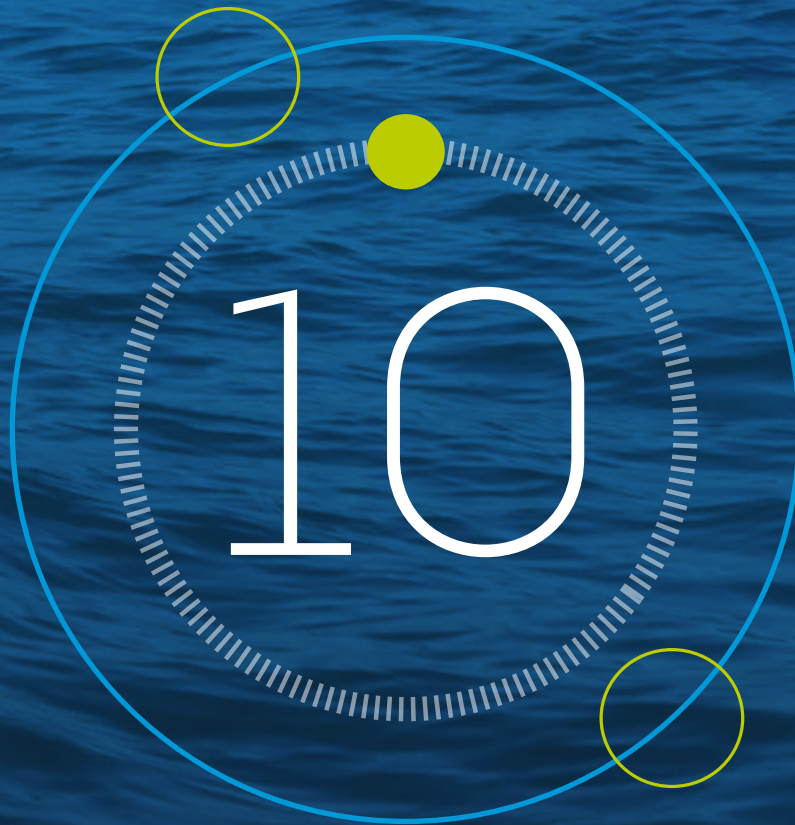
In the case of MRE projects with a capacity below 50 MW (or below 20 MW when located in sensitive areas) or wind farm projects with less than 20 wind turbines (or less than 10 wind turbines when located in sensitive areas) a case-by-case screening procedure (*Apreciação prévia e decisão de sujeição a avaliação de impacto ambiental*) is carried out to decide whether an EIA (AIA) procedure is required. This procedure starts with the delivery of an application to the licensing authority, with the structure and contents defined in Annex I of Ordinance 395/2015.

MRE projects that are not covered by the RJAIA (EIA legal system) and are located in areas belonging to the National Ecological Reserve (REN), protected areas and Natura 2000 network sites are subject to an Environmental Appraisal procedure (AInCA). There is a great similarity between the EIA (AIA) and the Environmental Appraisal (AInCA) procedures, which includes the contents of the report to be submitted by the applicant.

If the project is not subject to the legal systems of EIA (AIA) or Environmental Appraisal (AInCA), a favourable advice on the project installation at the proposed location, focusing on its potential environmental impacts, is still needed from the regional authority (CCDR) to license the project.

To license facilities on land (e.g. substations, switch gear stations, power transmission lines, buildings, access paths) a municipal license is required, which is coordinated by the city hall where the facilities are to be installed and should follow the legal system of urban development and building, as well as take in to account the applicable municipal regulations.

The combination of the TUPEM, the production license and the fulfilment of all obligations regarding the environmental impact assessment legal procedures results in the necessary conditions for the exercise of the power production from MRE technologies.



REFERENCES

10

REFERENCES

10.1 Bibliography

Government of Portugal, 2013. *Estratégia Nacional para o Mar 2013-2020*. 72 p.

Le Lièvre, C., O'Hagan, A. M., 2015. Legal and institutional review of national consenting processes. Deliverable 2.2, RiCORE project, 53 pp.

CE (European Commission), 2006. Clarification of the application of Article 2(3) of the EIA Directive (2006).

10.2 List of websites mentioned in the text

1. *Lista de projetos WavEC*. [Online] <http://www.wavec.org/projectos/arquivo#.V1aYBPkrLIU>.
2. *Projeto RiCORE*. [Online] <http://ricore-project.eu/>.
3. *Projeto RiCORE, relatórios*. [Online] <http://ricore-project.eu/downloads/>.
4. DGRM. *Ordenamento do Espaço Marítimo*. [Online] <http://www.psoem.pt/>.
5. *Guia para a elaboração de projetos de assinalamento marítimo, site da Autoridade Marítima Nacional*. [Online] <http://www.amn.pt/DF/Paginas/ElaboracaoProjecto.aspx>.
6. *Regulamento de Acesso às Redes e às Interligações*. [Online] <http://www.erse.pt/pt/electricidade/regulamentos/acessoasredesaasinterligacoes/Paginas/default.aspx>.
7. *Regulamento de Relações Comerciais*. [Online] <http://www.erse.pt/pt/electricidade/regulamentos/relacoescomerciais/Paginas/default.aspx>.
8. *Regulamento de Operação de Redes*. [Online] <http://www.erse.pt/pt/electricidade/regulamentos/operacaodasredes/Paginas/default.aspx>.
9. *Regulamento da Rede de Distribuição*. [Online] <http://www.erse.pt/pt/electricidade/regulamentos/redededistribuicao/Paginas/default.aspx?master=ErsePrint.master>.
10. *Guia de Medição e Disponibilização de dados*. [Online] <http://www.edpdistribuicao.pt/pt/profissionais/Pages/guideMedicaoLeituraeDispDeDados.aspx>.
11. *Base de dados dos bens imóveis classificados, site da DGPC*. [Online] <http://www.patrimoniocultural.pt/pt/patrimonio/patrimonio-imovel/pesquisa-do-patrimonio/classificado-ou-em-vias-de-classificacao/geral/>.
12. *Atlas do património classificado, site da DGPC*. [Online] http://geo.patrimoniocultural.pt/flexviewers/Atlas_Patrimoniodefault.htm.
13. *Servidões e restrições de Utilidade Pública, site da DGT*. [Online] http://www.dgterritorio.pt/sistemas_de_informacao/snit/srup/.
14. *Notas de Envio, APA*. [Online] <https://www.apambiente.pt/index.php?ref=17&subref=146&sub2ref=672>.
15. *Guidance on RNT preparation*. [Online] <https://www.apambiente.pt/index.php?ref=17&subref=146&sub2ref=672>.
16. *Site do ICNF*. [Online] <http://www.icnf.pt/portal/naturaclas/cart>.
17. *Programas especiais, site do ICNF*. [Online] <http://www.icnf.pt/portal/naturaclas/ordgest/poap>.
18. *Cartas da REN, site da DGT*. [Online] http://cnren.dgterritorio.pt/ren/Paginas/ren_deposito.aspx.
19. *Sítios Ramsar, site do ICNF*. [Online] <http://www.icnf.pt/portal/naturaclas/cart>.



ANNEX

ANNEX



Annex 1 – List of applicable legislation per type of instrument

This list is organised per type of legal instrument (Decree, Presidential Decree, Decree-Law, Order, Act, Ordinance, Resolution of the Council of Ministers) and within each type, per numerical order. The Portuguese term used for the different legal instruments is also shown within brackets. Amendments and rectifications are associated to the amended or rectified legal instruments. At the end of this list, a section is presented with the organisation of legal instruments by relevant topics. The original text of each legal instrument (in Portuguese) can be found at <https://dre.pt/>.

Decree (*Decreto*)

Decree 49/79 of June 6th: approves the adherence to the World Heritage Convention 1972.

Decree 101/80 of October 9th: approves, for ratification, the Ramsar Convention, especially as Waterfowl Habitat.

Decree 59/97 of October 31st: approves, for ratification, the Convention for the Protection of the Marine Environment of the North-East Atlantic, adopted in Paris in the framework of the ministerial meeting of the Committees of Oslo and Paris on September 22nd, 1992.

Decree 7/2006, of January 9th: approves the amendments to the Convention for the Protection of the Marine Environment of the North-East Atlantic (OSPAR Convention), adopted in Sintra, on July 23rd, 1998.

Presidential Decree (*Decreto do Presidente da República*)

Presidential Decree 67-A/97, of April 14th: ratifies the United Nations Convention on the Law Of the Sea (UNCLOS) on December 10th, 1982, signed by Portugal on the same date, and the Agreement on the Convention Part XI, adopted by the United Nations General Assembly on July 28th, 1994 and signed by Portugal on July 29th, 1994, approved for ratification by Resolution 60-B/97 of the Assembly of the Republic Resolution, on April 3rd.

Decree-Law (*Decreto-Lei*)

Decree-Law 140/99 of April 24th: reviews the transposition to the internal legal system of Directive 79/409/CEE, of the Council, on April 2nd (related to the conservation of wild birds) and Directive 92/43/CEE, of the Council of May 21st, (related to the conservation of natural habitats and wildlife). It supersedes Decree-Law 75/91 of February 14th, Decree-Law 224/93 of June 18th, and Decree-Law 226/97 of August 27th.

Decree-Law 49/2005 of April 24th: First amendment to Decree-Law 140/99, of April 24th, which set forth the transposition to the internal legal system of Directive 79/409/CEE, of the Council, on April 2nd related to the conservation of wild birds (Birds Directive) and Directive 92/43/CEE, of the Council of May 21st, related to the conservation of natural habitats and wildlife (Habitats Directive). [Reissues Decree-Law 140/99]

Decree-Law 156-A/2013 of November 8th: Second amendment to Decree-Law 140/99, of April 24th, which set forth the transposition of Directive 79/409/CEE, of the Council, on April 2nd related to the Conservation of Wild Birds (Birds Directive) and Directive 92/43/CEE, of the Council of May 21st, related to the Conservation of Natural Habitats and Wildlife (Habitats Directive), transposing Directive 2013/17/UE, of the Council, of May 13th.

Decree-Law 555/99 of December 16th: establishes the legal system regarding urban planning and building. This Decree-Law is amended and reissued by Decree-Law 136/2014, of September 9th.

Decree-Law 136/2014 of September 9th: thirteenth amendment to Decree-Law 555/99, of December 16th, which establishes the legal system regarding urban planning and building (RJUE). [Reissues Decree-Law 555/99]

Decree-Law 131/2002 of May 11th: sets forth the way of creating and managing archeological parks, as well as the objectives, material content and the document content of the archeological park planning.

Decree-Law 172/2006 of August 23rd: develops the general principles related to the organisation and operation of the national electrical system (SEN), approved by Decree-Law 29/2006, of February 15th, regulating the legal system applicable to the activities of production, transportation, distribution and trading of electricity and the organisation of electricity markets.

Decree-Law 215-A/2012 of October 8th: sets forth the guidelines for the organisation and operation of the national electricity system, as well as the guidelines applicable to the activities of production, transportation, distribution and trading of electricity and organisation of electricity markets amending and reissuing Decree-Law 29/2006 of February 15th.

Decree-Law 215-B/2012 of October 8th: sets forth the legal system applicable to activities of production, transportation, distribution and trading of electricity, as well as the logistics of changing trading agents, the organisation of the respective markets and the applicable procedures regarding the access to those activities, amending and reissuing Decree-Law 172/2006, of August 23rd. [Reissues Decree-Law 172/2006]

Decree 9/2007 of January 17th: approves the General Noise Regulation and supersedes the noise pollution legal system, approved by Decree-Law 292/2000, of November 14th.

Decree-Law 278/2007 of August 1st: It amends Decree-Law 9/2007, of January 17th, which approves the General Noise Regulation.

Decree 232/2007 of June 15th: establishes the system by which the assessment of the effects of certain environmental plans and programmes is subject to, transposing to the internal legal system Directive 2001/42/CE (EUR-Lex) of the European Parliament and the Council, of June 27th, and Directive 2003/35/CE (EUR-Lex), of the European Parliament and the Council, of May 26th.

Decree-Law 58/2011 of May 4th: It amends Decree-Law 232/2007, of June 15th, which establishes the system which the assessment of the effects of certain environmental plans and programmes is subject to, transposing to the internal legal system, Directive 2001/42/CE (EUR-Lex) of the European Parliament and the Council, of June 27th, 2001, and Directive 2003/35/CE (EUR-Lex), of the European Parliament and the Council, of May 26th.

Decree-Law 5/2008 of January 8th: establishes the legal system for the use of maritime assets under public domain, including the use of territorial waters, for the production of electricity from the energy of waves at the Pilot Zone delimited in annex I to this decree-law, which is a part of, as well as the management system, access and exercise of the activity.

Decree-Law 15/2012 of January 23rd: amends Decree-Law 5/2008, of January 8th, 2008, and amends Decree-Law 238/2008, of December 15th.

Decree-Law 142/2008 of July 24th: sets forth the legal system regarding the conservation of nature and biodiversity and supersedes Decree-Law 264/79 of August 1st and Decree-Law 19/93, of January 23rd. Rectified by Rectification Declaration 53-A/2008, of September 22nd.

Rectification Declaration 53-A/2008 of September 22nd: rectifies Decree-Law 142/2008, of July 24th, which sets forth the legal system regarding the conservation of nature and biodiversity.

Decree-Law 242/2015 of October 15th: amends Decree-Law 142/2008, of July 24th, which sets forth the legal system regarding the conservation of nature and biodiversity and supersedes Decree-Law 264/79 of August 1st, 1979 and Decree-Law 19/93, of January 23rd.

Decree-Law 166/2008 of August 22nd: approves the Legal System of the National Ecological Reserve and supersedes Decree-Law 93/90, of March 19th.

Decree-Law 239/2012 of November 2nd: first amendment to Decree-Law 166/2008, of August 22nd, which establishes the Legal System of the National Ecological Reserve. [Reissues Decree-Law 166/2008]

Decree 96/2013 of July 19th: establishes the legal system which, within the continental territory, the forestation and reforestation actions are subject to. [Amends Decree-Law 166/2008]

Decree-Law 238/2008 of December 15th: approves the basis for the concession of operation, as a public utility service, of the Pilot Zone identified in Decree-Law 5/2008, of January 8th, and private use of water resources under public domain, including the use of territorial waters, for 45 years.

Decree-Law 15/2012 of January 23rd: amends Decree-Law 5/2008, of January 8th, and amends Decree-Law 238/2008, of December 15th.

Decree-Law 73/2009 of March 31st: approves the legal system of the National Agricultural Reserve and supersedes Decree-Law 196/89, of June 14th.

Decree-Law 199/2015 of September 16th: first amendment to Decree-Law 73/2009, of March 31st, which establishes the legal system of the National Agricultural Reserve.

Decree-Law 309/2009 of October 23rd: establishes the procedure for the classification of heritage sites, as well as the system of protection zones and the safeguard plan.

Decree-Law 265/2012 of November 28th: third amendment to Decree-Law 309/2009, of October 23rd, which establishes the procedure for the classification of heritage sites, as well as the system of protection zones and the safeguard plan.

Decree-Law 108/2010 of October 13th: establishes the legal system of measures required to ensure the good environmental conditions of marine life until 2020, transposing Directive 2008/56/CE (EUR-Lex), of the European Parliament and the Council, of June 17th.

Decree-Law 136/2013 of October 7th: second amendment to Decree-Law 108/2010, of October 13th, which sets forth the legal system of measures required to ensure the good environmental conditions of marine life until 2020, transposing Directive 2008/56/CE (EUR-Lex), of the European Parliament and the Council, of June 17th.

Decree-Law 151-B/2013 of October 31st: establishes the legal system of the environmental impact assessment (EIA) of public and private projects liable to produce significant effects in the environment, transposing Directive 2011/92/UE, of the European Parliament and the Council, of December 13th, related to the assessment of the effects of certain public and private projects in the environment.

Decree-Law 47/2014 of March 24th: first amendment to Decree-Law 151-B/2013, of October 31st, 2013, which establishes the legal system of the environmental impact assessment (EIA) of public and private projects liable to produce significant effects in the environment, transposing Directive 2011/92/UE, of the European Parliament and the Council, of December 13th, related to the assessment of the effects of certain public and private projects in the environment.

Decree-Law 179/2015 of August 17th: Second amendment to Decree-Law 151-B/2013, of October 31st, which establishes the legal system of the environmental impact assessment of public and private projects liable to produce significant effects in the environment, transposing Directive 2011/92/UE, of the European Parliament and the Council, of December 13th, related to the assessment of the effects of certain public and private projects in the environment.

Decree-Law 164/2014 of November 4th: approves the Regulation of Archeological Works.

Decree-Law 4/2015 of January 7th: In the use of the legislative authorisation granted by Act 42/2014, of July 11th, approves the new Code of Administrative Procedure.

Decree-Law 38/2015 of March 12th: develops Act 17/2014, of April 10th, defining: The system of preparation, approval, amendment, review and suspension of the instruments of the national maritime spatial planning; the legal system applicable to instruments of private use of the national maritime space; the economic and financial system associated with the private use of the national maritime space; the systems of permanent monitoring and technical assessment of the national maritime spatial planning and the system of private use of water resources in transitional waters for aquaculture purposes.

Decree 139/2015 of July 30th: first amendment to Decree-Law 38/2015, of March 12th, which develops Act 17/2014, of April 10th, which sets forth the framework for maritime spatial planning.

Decree-Law 80/2015 of May 14th: approves the review the Legal System of the Territorial Management Instruments, approved by Decree-Law 380/99, of September 22nd.

Order (*Despacho*)

Order 11494/2015 of October 14th of the Ministry of Agriculture and Sea: establishes the Directorate-General of Natural Resources, Safety and Maritime Services (DGRM) as responsible for preparing the Situation Plan in the area of the national maritime space with the exception of parts of the national maritime space adjacent to the archipelagos of Madeira and the Azores and Regional Directorate of Territory and Environment Planning, Regional Secretariat of Environment and Natural Resources of the Regional Government of Madeira, the preparation of the Situation Plan in the area of the national maritime space adjacent to the archipelago of Madeira between the baselines and the continental shelf up to 200 nautical miles.

Act (*Lei*)

Act 107/2001 of September 8th: establishes the political guidelines and the system for the protection and valuation of cultural heritage.

Act 58/2005 of December 29th: approves the Water Act, transposing to the national legal system, Directive 2000/60/CE (EUR-

Lex) of the European Parliament and the Council, of October 23rd, and establishing the guidelines and the institutional framework for the sustainable water management.

Decree-Law 130/2012 of June 22nd: 5th amendment of Act 58/2005, of December 29th, which approves the Water Act, transposing to the national legal system, Directive 2000/60/CE of the European Parliament and the Council, of October 23rd, and establishing the guidelines and the institutional framework for the sustainable water management.

Act 44/2012 of August 29th: 7th amendment to Decree-Law 226-A/2007, of May 31st, which sets forth the system regarding the use of water resources.

Act 17/2014 of April 10th: establishes the Political Guidelines for the National Maritime Spatial Planning and Management, which defines and integrates the actions carried out by the Portuguese State, aiming to ensure a suitable organisation and use of the national maritime space, as per its valuation and safeguard, with the purpose of contributing to the sustainable development of the country.

Ordinance (*Portaria*)

Ordinance 162/2011 of April 18th: It defines the limits and conditions for the implementation of non-farming uses of areas integrated to the National Agricultural Reserve.

Rectification Declaration 15/2011 of May 23rd: It rectifies Ordinance 162/2011, of April 18th, which defines the limits and conditions for the implementation of non-farming uses of areas integrated to the National Agricultural Reserve.

Ordinance 419/2012 of December 20th: defines the situations of uses and actions considered compatible with the objectives of hydrological and environmental protection and the prevention and reduction of natural risks of areas integrated to the National Ecological Reserve.

Ordinance 243/2013 of August 2nd: establishes the terms, conditions and criteria for the allocation of the RESP injection capacity reserve, as well as the licensing of the energy production activity, under the Feed-In Tariff scheme, respective deadlines, maintenance and change conditions as per Decree-Law 215-B/2012, of October 8th.

Ordinance 133/2015 of May 15th: first amendment to Ordinance 243/2013, of August 2nd, whose description is also included in this list.

Ordinance 202/2015 of July 13th: establishes the tariff system applicable to the production of renewable source energy or ocean location per power plants with resources to experimental or pre-commercial technologies.

Ordinance 326/2015 of October 2nd: approves the requirements and conditions to conduct the activity of verify the post-assessment of projects subject to environmental impact assessment.

Ordinance 368/2015 of October 19th: sets forth the fees charged by the EIA (AIA) authority regarding the environmental impact assessment procedure.

Ordinance 395/2015 of November 4th: establishes the formal technical requirements which the procedures set forth in the legal system of the environmental impact assessment shall comply with, and supersedes Ordinance 330/2001, of April 2nd.

Ordinance 398/2015 of November 5th: establishes the elements for the instruction of the environmental procedures set forth in the Single Environmental Licensing, for cattle farming.

Ordinance 399/2015 of November 5th: establishes the elements guiding environmental procedures provided in the Single Environmental Licensing for industrial activities or similar to industrial activities, in particular waste management operations and thermoelectric plants, except solar power plants.

Resolution of the Council of Ministers (*Resolução de Conselho de Ministros*)

Resolution of the Portuguese Parliament 60-B/97 of April 3rd: ratifies the United Nations Convention on the Law of the Sea of December 10th, 1982, signed by Portugal on the same date, and the Agreement on the Convention Part XI, adopted by the United Nations General Assembly on July 28th, 1994 and signed by Portugal on July 29th, 1994.

Resolution of the Council of Ministers 115-A/2008 of July 21st: approves the Natura 2000 Sector Plan (PSRN2000) related to the continental territory (...).

Resolution of the Council of Ministers 49/2010 of July 1st: approves the draft agreement for the exploration, as a public utility service, of the pilot zone identified in Decree-Law 5/2008, from January 8th, and the private use of water resources under public domain, for the production of electricity from sea waves.

Resolution of the Council of Ministers 81/2012 of October 3rd: approves the strategic guidelines for national and regional levels, which set the guidelines and criteria for the delimitation of areas integrated in the National Ecological Reserve at municipal level.

Rectification Declaration 71/2012 of November 30th: rectifies the Resolution of the Council of Ministers 81/2012, of October 3rd, of the Presidency of the Council of Ministers, which approves the guidelines and criteria for the delimitation of areas integrated in the National Ecological Reserve (REN) at municipal level

Annex 2 – List of applicable laws per topic

Water Resources

Decree-Law 108/2010 of October 13th: establishes the legal system of measures required to ensure the good environmental conditions of marine life until 2020, transposing Directive 2008/56/CE (EUR-Lex), of the European Parliament and the Council, of June 17th.

Decree-Law 136/2013 of October 7th: second amendment to Decree-Law 108/2010, of October 13th, which sets forth the legal system of measures required to ensure the good environmental conditions of marine life until 2020, transposing Directive 2008/56/CE (EUR-Lex), of the European Parliament and the Council, of June 17th.

Act 58/2005 of December 29th: approves the Water Act, transposing to the national legal system, Directive 2000/60/CE (EUR-Lex) of the European Parliament and the Council, of October 23rd, and establishing the guidelines and the institutional framework for the sustainable water management.

Decree-Law 130/2012 of June 22nd: 5th amendment of Act 58/2005, of December 29th, which approves the Water Act, transposing to the national legal system, Directive 2000/60/CE of the European Parliament and the Council, of October 23rd, and establishing the guidelines and the institutional framework for the sustainable water management.

Act 44/2012 of August 29th: 7th amendment to Decree-Law 226-A/2007, of May 31st, which sets forth the system regarding the use of water resources.

Environmental assessment of plans and programmes

Decree-Law 232/2007 of June 15th: establishes the system which the assessment of the effects of certain environmental plans and programmes is subject to, transposing to the internal legal system, Directive 2001/42/CE (EUR-Lex) of the European Parliament and the Council, of June 27th, and Directive 2003/35/CE (EUR-Lex), of the European Parliament and the Council, of May 26th.

Decree-Law 58/2011 of May 4th: amends Decree-Law 232/2007, of June 15th, which establishes the system which the assessment of the effects of certain environmental plans and programmes is subject to, transposing to the internal legal system, Directive 2001/42/CE (EUR-Lex) of the European Parliament and the Council, of June 27th, and Directive 2003/35/CE (EUR-Lex), of the European Parliament and the Council, of May 26th.

Environmental Impact Assessment

Decree-Law 151-B/2013 of October 8th: establishes the legal system of the environmental impact assessment (EIA) of public and private projects liable to produce significant effects in the environment, transposing Directive 2011/92/UE, of the European Parliament and the Council, of December 13th, related to the assessment of the effects of certain public and private projects in the environment.

Decree-Law 47/2014 of March 24th: first amendment to Decree-Law 151-B/2013 of October 31st, which establishes the legal system of the environmental impact assessment (EIA) of public and private projects liable to produce significant effects in the environment, transposing Directive 2011/92/UE, of the European Parliament and the Council, of December 13th, related to the assessment of the effects of certain public and private projects in the environment.

Decree-Law 179/2015, of August 17th: second amendment to Decree-Law 151-B/2013, of October 31st, which establishes the legal system of the environmental impact assessment of public and private projects liable to produce significant effects in the environment, transposing Directive 2011/92/UE, of the European Parliament and the Council, of December 13th, related to the assessment of the effects of certain public and private projects in the environment.

Ordinance 326/2015 of October 2nd: approves the requirements and conditions to conduct the activity of verify the post-assessment of projects subject to environmental impact assessment.

Ordinance 368/2015 of October 19th: sets forth the fees charged by the EIA (AIA) authority regarding the environmental impact assessment procedure.

Ordinance 395/2015 of November 4th: establishes the formal technical requirements which the procedures set forth in the legal system of the environmental impact assessment shall comply with, and supersedes Ordinance 330/2001, of April 2nd.

Ordinance 398/2015 of November: establishes the elements for the instruction of the environmental procedures set forth in the Single Environmental Licensing, for cattle farming.

Ordinance 399/2015 of November 5th: establishes the elements guiding environmental procedures provided in the Single Environmental Licensing for industrial activities or similar to industrial activities, in particular waste management operations and thermoelectric plants, except solar power plants.

Code of the Administrative Procedure

Decree-Law 4/2015 of January 7th: in the use of the legislative authorisation granted by Act 42/2014, of July 11th, approves the new Code of Administrative Procedure.

Nature and Habitats Conservation and Biodiversity

Decree-Law 140/99 of April 24th: reviews the transposition to the internal legal system of Directive 79/409/CEE, of the Council, on April 2nd (related to the conservation of wild birds) and Directive 92/43/CEE, of the Council of May 21st, (related to the conservation of natural habitats and wildlife). It supersedes Decree-Law 75/91 of February 14th, 1991, Decree-Law 224/93 of June 18th, and Decree-Law 226/97 of August 27th.

Decree-Law 49/2005 of April 24th: first amendment to Decree-Law 149/99, of April 24th, which set forth the transposition to the internal legal system of Directive 79/409/CEE, of the Council, on April 2nd related to the conservation of wild birds (Birds Directive) and Directive 92/43/CEE, of the Council of May 21st, related to the conservation of natural habitats and wildlife (Habitats Directive). [Reissues Decree-Law 140/99]

Decree-Law 156-A/2013 of November 8th: second amendment to Decree-Law 149/99, of April 24th, which set forth the transposition of Directive 79/409/CEE, of the Council, on April 2nd related to the Conservation of Wild Birds (Birds Directive) and Directive 92/43/CEE, of the Council of May 21st, related to the Conservation of Natural Habitats and Wildlife (Habitats Directive), transposing Directive 2013/17/UE, of the Council, of May 13th.

Decree 142/2008 of July 24th, 2008: sets forth the legal system regarding the conservation of nature and biodiversity and supersedes Decree-Law 264/79 of August 1st and Decree-Law 19/93, of January 23rd. Rectified by Rectification Declaration 53-A/2008, of September 22nd.

Rectification Declaration 53-A/2008 of September 22nd: rectifies Decree-Law 142/2008, of July 24th, which sets forth the legal system regarding the conservation of nature and biodiversity.

Decree-Law 242/2015 of October 15th: amends Decree-Law 142/2008, of July 24th, which sets forth the legal system regarding the conservation of nature and biodiversity and supersedes Decree-Law 264/79 of August 1st, 1979 and Decree-Law 19/93, of January 23rd.

Resolution of the Council of Ministers 115-A/2008 of July 21st: approves the Natura 2000 Sector Plan (PSRN2000) related to the continental territory (...).

International Conventions

Decree 49/79 of June 6th: approves adherence to the World Heritage Convention.

Decree 101/80 of October 9th: approves for ratification, the Ramsar Convention, especially as Waterfowl Habitat.

Decree 59/97 of October 31st: approves, for ratification, the Convention for the Protection of the Marine Environment of the North-East Atlantic, adopted in Paris in the framework of the ministerial meeting of the Committees of Oslo and Paris on September 22nd, 1992.

Decree 7/2006 of January 9th: approves the amendments to the Convention for the Protection of the Marine Environment of the North-East Atlantic (OSPAR Convention), adapted in Sintra, on July 23rd, 1998.

Resolution of the Portuguese Parliament 60-B/97 of April 3rd: ratifies the United Nations Convention on the Law of the Sea of December 10th, 1982, signed by Portugal on the same date, and the Agreement on the Convention Part XI, adopted by the United Nations General Assembly on July 28th, 1994 and signed by Portugal on July 29th, 1994.

Presidential Decree 67-A/97 of April 14th: ratifies the United Nations Convention on the Law of the Sea of December 10th, 1982, signed by Portugal on the same date, and the Agreement on the Convention Part XI, adopted by the United Nations General Assembly on July 28th, 1994 and signed by Portugal on July 29th, 1994, approved for ratification by Resolution 60-B/97 of the Assembly of the Republic Resolution, on April 3rd.

Instruments of Territorial Management and Maritime Spatial Planning

Decree-Law 80/2015 of May 14th: approves the review the Legal System of the Territorial Management Instruments, approved by Decree-Law 380/99, of September 22nd.

Decree-Law 38/2015 of March 12th: develops Act 17/2014, of April 10th, defining: The system of preparation, approval, amendment, review and suspension of the instruments of the national maritime spatial planning; the legal system applicable to instruments of private use of the national maritime space; the economic and financial system associated with the private use of the national maritime space; the systems of permanent monitoring and technical assessment of the national maritime spatial planning and the system of private use of water resources in transitional waters for aquaculture purposes.

Decree 139/2015 of July 30th: first amendment to Decree-Law 38/2015, of March 12th, which develops Act 17/2014, of April 10th, which sets forth the Guidelines for the Policy of Maritime Spatial Planning and Management, and transposes Directive 2014/89/UE, of the European Parliament and the Council, of July 23rd, which establishes a framework for the maritime spatial planning.

Order 11494/2015, of October 14th, of the Ministry of Agriculture and Sea: establishes the Directorate-General of Natural Resources, Safety and Maritime Services (DGRM) as responsible for preparing the Situation Plan in the area of the national maritime space with the exception of parts of the national maritime space adjacent to the archipelagos of Madeira and the Azores and Regional Directorate of Territory and Environment Planning, Regional Secretariat of Environment and Natural Resources of the Regional Government of Madeira, the preparation of the Situation Plan in the area of the national maritime space adjacent to the archipelago of Madeira between the baselines and the continental shelf up to 200 nautical miles.

Act 17/2014 of April 10th: establishes the Political Guidelines for the National Maritime Spatial Planning and Management, which defines and integrates the actions carried out by the Portuguese State, aiming to ensure a suitable organisation and use of the national maritime space, as per its valuation and safeguard, with the purpose of contributing to the sustainable development of the country.

Electrical licensing

Decree-Law 172/2006 of August 23rd: develops the general principles related to the organisation and operation of the national electricity system (SEN), approved by Decree- 29/2006, of February 15th, regulating the legal system applicable to the activities of production, transportation, distribution and trading of electricity and the organisation of electricity markets.

Decree-Law 215-A/2012 of October: sets forth the guidelines for the organisation and operation of the national electricity system, as well as the guidelines applicable to the activities of production, transportation, distribution and trading of electricity and organisation of electricity markets amending and reissuing Decree-Law 29/2006 of February 15th.

Decree-Law 215-B/2012 of October 8th: sets forth the legal system applicable to activities of production, transportation, distribution and trading of electricity, as well as the logistics of changing trading agents, the organisation of the respective markets and the applicable procedures regarding the access to those activities, amending and reissuing Decree-Law 172/2006, of August 23rd.

Ordinance 243/2013 of August 2nd: establishes the terms, conditions and criteria for the allocation of the RESP injection capacity reserve, as well as the licensing of the energy production activity, under the Feed-In Tariff, respective deadlines, maintenance and change conditions as per Decree-Law 215-B/2012, of October 8th.

Ordinance 133/2015 of May 15th: first amendment to Ordinance 243/2013, of August 2nd, whose description is also included in this list.

Ordinance 202/2015 of July 13th: establishes the tariff scheme applicable to the production of renewable source energy or ocean location per power plants with resources to experimental or pre-commercial technologies.

Cultural heritage

Decree-Law 131/2002 of May 11th: sets forth the way of creating and managing archeological parks, as well as the objectives, material content and the document content of the archeological park planning.

Decree- 309/2009 of October 23rd: establishes the procedure for the classification of heritage sites, as well as the system of protection zones and the safeguard plan.

Decree-Law 265/2012 of November 28th: third amendment to Decree-Law 309/2009, of October 23rd, which establishes the procedure for the classification of heritage sites, as well as the system of protection zones and the safeguard plan.

Decree-Law 164/2014, of November 4th: approves the Regulation of Archeological Works.

Act 107/2001 of September 8th: establishes the political guidelines and the system for the protection and valuation of cultural heritage.

National Agricultural Reserve

Decree-Law 73/2009 of March 31st: approves the legal system of the National Agricultural Reserve and supersedes Decree-Law 196/89, of June 14th.

Decree-Law 199/2015 of September 16th: first amendment to Decree-Law 73/2009, of March 31st, which establishes the legal system of the National Agricultural Reserve.

Ordinance 162/2011 of April 18th: defines the limits and conditions for the implementation of non-farming uses of areas integrated to the National Agricultural Reserve.

Rectification Declaration 15/2011 of May 23rd: rectifies Ordinance 162/2011, of April 18th, which defines the limits and conditions for the implementation of non-farming uses of areas integrated to the National Agricultural Reserve.

National Ecological Reserve

Decree-Law 166/2008 of August 22nd: approves the Legal System of the National Ecological Reserve and supersedes Decree-Law 93/90, of March 19th.

Decree-Law 239/2012 of November 2nd: first amendment to Decree-Law 166/2008, of August 22nd, which establishes the Legal System of the National Ecological Reserve. [Reissues Decree-Law 166/2008]

Decree 96/2013 of July 19th: establishes the legal system, which within the continental territory, the forestation and reforestation actions are subject to. [Amends Decree-Law 166/2008]

Ordinance 419/2012 of December 20th: defines the situations of uses and actions considered compatible with the objectives of hydrological and environmental protection and the prevention and reduction of natural risks of areas integrated to the National Ecological Reserve.

Resolution of the Council of Ministers 81/2012 of October 3rd: approves the strategic guidelines for national and regional levels, which set the guidelines and criteria for the delimitation of areas integrated in the National Ecological Reserve at municipal level.

Rectification Declaration 71/2012 of November 30th: rectifies the Resolution of the Council of Ministers 81/2012, of October 3rd, of the Presidency of the Council of Ministers, which approves the guidelines and criteria for the delimitation of areas integrated in the National Ecological Reserve (REN) at municipal level.

Noise

Decree-Law 9/2007 of January 7th: approves the General Noise Regulation and supersedes the noise pollution legal system, approved by Decree-Law 292/2000, of November 14th.

Decree-Law 278/2007 of August 1st: amends Decree-Law 9/2007, of January 17th, which approves the General Noise Regulation.

Urban Planning and Building

Decree-Law 555/99 of December 16th: establishes the legal system regarding urban planning and building. Amended and reissued by Decree-Law 136/2014, of September 9th.

Decree-Law 136/2014 of September: thirteenth amendment to Decree-Law 555/99, of December 16th, which establishes the legal system regarding urban planning and building (RJUE). [Reissues Decree-Law 555/99].

Portuguese Pilot Zone – Ocean Plug

Decree-Law 5/2008 of January 8th: establishes the legal system for the use of maritime assets under public domain, including the use of territorial waters, for the production of electricity from the energy of waves at the Pilot Zone delimited in Annex I to this Decree-Law, which is a part of, as well as the management system, access and exercise of the activity.

Decree-Law 238/2008 of December 15th: approves the basis for the concession of operation, as a public utility service, of the Pilot Zone identified in Decree-Law 5/2008, of January 8th, and private use of water resources under public domain, including the use of territorial waters, for 45 years.

Decree-Law 15/2012 of January 23rd: amends Decree-Law 5/2008, of January 8th, and amends Decree-Law 238/2008, of December 15th.

Resolution of the Council of Ministers 49/2010 of July 1st: approves the draft agreement for the exploration, as a public utility service, of the pilot zone identified in Decree-Law 5/2008, from January 8th, and the private use of water resources under public domain, for the production of electricity from sea waves.

Decree-Law 38/2015 of March 12th: Article 105 – establishes that this Decree-Law is not applicable to activities developed in the Pilot Zone of electricity production from sea waves, which are governed by Decree-Law 5/2008, of January 8th, amended by Decree-Law 15/2012, of January 23rd.

Annex 3 – Contact of the authorities

Aveiro Port Administration (APA, SA)

Address: Edifício 9, Forte da Barra,
3830-565 Gafanha da Nazaré
Phone: (+351) 234 393 300 | Fax: (+351) 234 393 399
E-mail: geral@portodeaveiro.pt
Website: <http://ww2.portodeaveiro.pt>

Figueira da Foz Port Administration (APFF, SA)

Address: Avenida de Espanha, Apartado 2007,
3081-901 Figueira da Foz
Phone: (+351) 233 402 910 | Fax: (+351) 233 402 920/9
E-mail: geral.apff@portofigueiradafoz.pt
Website: <http://www.portofigueiradafoz.pt>

Lisbon Port Administration (APL, SA)

Address: Gare Marítima de Alcântara,
1350-355 Lisbon
Phone: (+351) 210 013 271
E-mail: geral@portodelisboa.pt
Website: <http://www.portodelisboa.pt>

Setúbal and Sesimbra Port Administration (APSS, SA)

Address: Praça da República, 2904-508 Setúbal
Phone: (+351) 265 542 000 | Fax: (+351) 265 230 992
E-mail: geral@portodesetubal.pt
Website: <http://www.portodesetubal.pt>

Sines and Algarve Port Administration (APS, SA)

Address: Apartado 16, EC Sines | 7521-953 Sines
Phone: (+351) 269 860 600 | Fax: (+351) 269 860 690
E-mail: geral@apsinesalgarve.pt
Website: <http://www.portodesines.pt>

Douro, Leixões and Viana do Castelo Port Administration (APDL, SA)

Address: Avenida da Liberdade, 4450-718 Leça da Palmeira
Phone: (+351) 229 990 700 | Fax: (+351) 229 990 701
E-mail: correio@apdl.pt
Website: <http://www.apdl.pt>

Agência Portuguesa do Ambiente, IP (APA, IP) [Portuguese Environmental Agency]

Address: Rua da Murgueira, 9/9A - Zambujal Ap. 7585,
2610-124 Amadora
Phone: (+351) 214 728 200 | Fax: (+351) 214 719 074
E-mail: geral@apambiente.pt
Website: <http://www.apambiente.pt>

Comissão de Coordenação e Desenvolvimento Regional de Lisboa e Vale do Tejo (CCDR-LVT) [Commission of Coordination and Regional Development of Lisbon and Vale do Tejo]

Address: Rua Alexandre Herculano, 37, 1250-009 Lisbon
Phone: (+351) 213 837 100 | Fax: (+351) 213 837 192
E-mail: geral@ccdr-lvt.pt
Website: <http://www.ccdr-lvt.pt/>

Comissão de Coordenação e Desenvolvimento Regional do Alentejo (CCDR-Alentejo) [Commission of Coordination and Regional Development of Alentejo]

Address: Avenida Engenheiro Arantes e Oliveira, 193,
7004-514 Évora
Phone: (+351) 266 706 562 | Fax: (+351) 266 740 300
E-mail: expediente@ccdr-a.gov.pt
Website: <http://webb.ccdr-a.gov.pt>

Comissão de Coordenação e Desenvolvimento Regional do Algarve (CCDR- Algarve) [Commission of Coordination and Regional Development of Algarve]

Address: Praça da Liberdade, 2, 8000-164 Faro
Phone: (+351) 289 895 200 | Fax: (+351) 289 895 299
E-mail: geral@ccdr-alg.pt
Website: <http://www.ccdr-alg.pt>

Comissão de Coordenação e Desenvolvimento Regional do Centro (CCDR-C) [Commission of Coordination and Regional Development of Central Portugal]

Address: Rua Bernardim Ribeiro, 80, 3000-069 Coimbra
Phone: (+351) 239 400 100 | Fax: (+351) 239 400 115
E-mail: geral@ccdr-c.pt
Website: www.ccdr-c.pt

Comissão de Coordenação e Desenvolvimento Regional do Norte (CCDR-N) [Commission of Coordination and Regional Development of Northern Portugal]

Address: Rua Rainha D. Estefânia, 251, 4150-304 Porto
Phone: (+351) 226 086 300 | Fax: (+351) 226 061 480
E-mail: geral@ccdr-n.pt
Website: <http://www.ccdr-n.pt>

Direção Regional de Agricultura e Pescas de Lisboa e Vale do Tejo (DRAP-LVT) [Regional Directorate of Agriculture and Fisheries of Lisbon and Vale do Tejo]

Address: Quinta das Oliveiras, E. N. 3, 2000-471 Santarém
Phone: (+351) 243 377 500 / 961 000 243 | Fax: (+351) 263 279 610
E-mail: info@draplvt.mamaot.pt
Website: <http://www.draplvt.mamaot.pt>

Direção Regional de Agricultura e Pescas do Alentejo (DRAP-Alentejo) [Regional Directorate of Agriculture and Fisheries of Alentejo]

Address: Av. Eng. Eduardo Arantes Oliveira, Apartado 83, 7006-553 Évora
Phone: (+351) 266 757 800 | Fax: (+351) 266 757 800
E-mail: geral@drapal.min-agricultura.pt
Website: <http://www.drapal.min-agricultura.pt>

Direção Regional de Agricultura e Pescas do Algarve (DRAP-Algarve) [Regional Directorate of Agriculture and Fisheries of Algarve]

Address: Quinta dos Braciais, Patação, Apartado 282, 8001-904 Faro
Phone: (+351) 289 870 700 | Fax: (+351) 289 816 003
E-mail: gabdirector@drapalg.min-agricultura.pt
Website: <http://www.drapalg.min-agricultura.pt>

Direção Regional de Agricultura e Pescas do Centro (DRAP-C) [Regional Directorate of Agriculture and Fisheries of Central Portugal]

Address: Rua Amato Lusitano, lote 3, 6000-150 Castelo Branco
Phone: (+351) 272 348 600 | Fax: (+351) 272 348 625
E-mail: drapc@drapc.min-agricultura.pt
Website: <http://www.drapc.min-agricultura.pt>

Direção Regional de Agricultura e Pescas do Norte (DRAP-N) [Regional Directorate of Agriculture and Fisheries of Northern Portugal]

Address: Rua Dr. Francisco Duarte, 365, 1.º. 4715-017 Braga
Phone: (+351) 253 206 400 | Fax: (+351) 253 206 401
E-mail: geral@drapn.mamaot.pt
Website: <http://www.drapn.mamaot.pt>

Direção Regional de Cultura do Alentejo (DRC-Alentejo) [Regional Directorate of Culture of Alentejo]

Address: Rua de Burgos, 5, 7000- 863 Évora
Phone: (+351) 266 769 450 | Fax: (+351) 266 769 451
E-mail: info@cultura-alentejo.pt
Website: <http://www.cultura-alentejo.pt>

Direção Regional de Cultura do Algarve (DRC-Algarve) [Regional Directorate of Culture of Algarve]

Address: Rua Professor António Pinheiro e Rosa, 1, 8005-546 Faro
Phone: (+351) 289 896 070 | Fax: (+351) 289 896 071
E-mail: geral@culturalg.pt
Website: <http://www.culturalg.pt>

Direção Regional de Cultura do Centro (DRC-C) [Regional Directorate of Culture of Central Portugal]

Address: Rua Olímpio Nicolau Rui Fernandes, 3000-303 Coimbra
Phone: (+351) 239 701 391 | Fax: (+351) 239 701 378
E-mail: culturacentro@drcc.pt
Website: <http://www.culturacentro.pt>

Direção Regional de Cultura do Norte (DRC-N) [Regional Directorate of Culture of Northern Portugal]

Address: Praceta da Carreira, 5000-560 Vila Real
Phone: (+351) 259 330 770 | Fax: (+351) 259 330 779
E-mail: geral@culturanorte.pt
Website: <http://www.culturanorte.pt>

Direção-Geral da Autoridade Marítima (DGAM) [Directorate-General of the Maritime Authority]

Address: Praça do Comércio, 1100-148 Lisbon
Phone: (+351) 210 984 081
E-mail: dgam@amn.pt
Website: <http://www.amn.pt>

Direção-Geral de Recursos Naturais, Segurança e Serviços Marítimos (DGRM) [Directorate-General of Natural Resources, Safety and Maritime Services]

Address: Av. Brasília, 1449-030 Lisbon
Phone: (+351) 213 035 703 | Fax: (+351) 213 035 702
E-mail: dgrm@dgrm.mam.gov.pt
Website: <http://www.dgrm.mam.gov.pt>

Direção-Geral de Energia e Geologia (DGEG) [Directorate-General of Energy and Geology]

Address: Av. 5 de Outubro, 208, 1069-203 Lisbon
Phone: (+351) 217 922 700/217 922 800
Fax: (+351) 217 939 540
E-mail: energia@dgeg.pt
Website: <http://www.dgeg.pt>

Direção-Geral do Património Cultural (DGPC) [Directorate-General of Cultural Heritage]

Address: Palácio Nacional da Ajuda, 1349-021 Lisbon
Phone: (+351) 213 614 200 / 964 465 598
Fax: (+351) 21 363 70 47
E-mail: dgpc@dgpc.pt
Website: <http://www.patrimoniocultural.pt>

Direção-Geral do Território (DGT) [Directorate-General of the Territory]

Address: Rua Artilharia Um, 107, 1099-052 Lisbon
Phone: (+351) 213 819 600 | Fax: (+351) 213 819 699
E-mail: dgterritorio@dgterritorio.pt
Website: <http://www.dgterritorio.pt>

DOCAPESCA – Portos e Lotas, S.A.

Address: Av. Brasília – Pedrouços, 1400-038 LISBON
Phone: (+351) 213 936 100 | Fax: (+351) 213 936 101
E-mail: docapesca@docapesca.pt
Website: <http://www.docapesca.pt>

Enondas, Energia das Ondas, S.A.

Address: Mata do Urso, Guarda Norte, 3105-057 Carriço
Phone: (+351) 210 013 500 | Fax: (+351) 210 013 310
E-mail: oceanplug@ren.pt
Website: <http://www.oceanplug.pt>

Instituto da Conservação da Natureza e das Florestas, IP (ICNF, IP) [Institute for the Conservation of Nature and Forests]

Address: Avenida da República, 16, 1050-191 LISBON
 Phone: (+351) 213 507 900 | Fax: (+351) 213 124 800
 E-mail: secretariado.cd@icnf.pt
 Website: <http://www.icnf.pt>

Instituto Português do Mar e da Atmosfera, IP (IPMA, IP) [Portuguese Institute of the Sea and Atmosphere]

Address: Rua C do Aeroporto, 1749-077 Lisbon
 Phone: (+351) 218 447 000 | Fax: (+351) 218 402 468
 E-mail: info@ipma.pt
 Website: <http://www.ipma.pt>

Annex 4 – List of protected areas

Updated list of protected areas located on the coast or in the maritime space of the Continent. The limits of protected areas can be checked on ICNF website. *Administração dos Portos de Setúbal e Sesimbra, S.A. [Setúbal and Sesimbra Port Administration].

| TYPE OF AREA | DESIGNATION | LEGAL CLASSIFICATION | COVERED MUNICIPALITIES | COASTAL AREA | MARITIME AREA |
|------------------------------|--|-----------------------------------|--|--------------|--|
| Natural Park | Northern Coast | DR 6/2005 | Esposende | Yes | Stretch of 5 km wide |
| | Sintra-Cascais | DR 8/94 | Cascais Sintra | Yes | No |
| | Arrábida (the maritime part is referred to as Parque Marinho Professor Luís Saldanha) | DR 23/98, amended by DR 11/2003 | Sesimbra Setúbal | Yes | Polygon (excluding marine areas under jurisdiction of APSS*) |
| | Sudoeste Alentejano e Costa Vicentina | DR 26/95 | Aljezur, Odemira, Sines, Vila do Bispo | Yes | Stretch of 2 km wide |
| | Ria Formosa | DR 373/87 | Faro, Loulé, Olhão, Tavira, Vila Real de Santo António | Yes | Yes |
| Natural Reserve | Dunas de São Jacinto | DR 46/97 | Aveiro | Yes | “line of 6 m medium depth at low tide” |
| | Berlengas | DR 30/98 amended by DR 32/99 | Peniche | Yes | Yes |
| | Estuário do Sado | DL 430/80 | Grândola | Yes | No |
| | Lagoas de Santo André e da Sancha | DR 10/2000 amended by DR 4/2004 | Santiago do Cacém, Sines | Yes | Stretch of 1.5 km wide |
| Protected Landscape | Arriba Fóssil da Costa da Caparica | DL 168/84 | Almada Sesimbra | Yes | No |
| Natural Monument | Cabo Mondego | DR 82/2007 | Figueira da Foz | Yes | Stretch of 150 m wide |
| Regional Protected Landscape | Coast of Vila do Conde and Ornithological Reserve of Mindelo | Notice 17821/2009 (DR 2nd series) | Vila do Conde | Yes | - |

Annex 5 – List of SIC and sites of the National List

Updated list of SIC and sites of the National List of Sites not yet recognised as SIC, located on the coast or in the maritime space of the Continent.

| CODE | DESIGNATION | CLASSIFICATION AS SIC | COVERED MUNICIPALITIES | COASTAL AREA | MARITIME AREA |
|-----------|-------------------------------------|--|--|--------------|---------------|
| PTCON0006 | Arquipélago da Berlenga | Decision 2006/613/CE | Peniche | Yes | No |
| PTCON0008 | Sintra/Cascais | Decision 2006/613/CE | Cascais, Mafra, Sintra, Torres Vedras | Yes | Yes |
| PTCON0010 | Arrábida/Espichel | Decision 2006/613/CE | Sesimbra, Setúbal | Yes | Yes |
| PTCON0011 | Estuário do Sado | Decision 2006/613/CE | Grândola | Yes | No |
| PTCON0012 | Costa Sudoeste | Decision 2006/613/CE | Aljezur, Lagos, Odemira, Santiago do Cacém, Sines, Vila do Bispo | Yes | Yes |
| PTCON0013 | Ria Formosa/Castro Marim | Decision 2006/613/CE | Castro Marim, Faro, Loulé, Olhão, Tavira, Vila Real de Santo António | Yes | Yes |
| PTCON0017 | Litoral Norte | Decision 2004/813/CE | Caminha, Esposende, Viana do Castelo | Yes | Yes |
| PTCON0018 | Barrinha de Esmoriz | Decision 2006/613/CE | Espinho, Ovar | Yes | No |
| PTCON0034 | Comporta/Galé | Decision 2006/613/CE | Grândola, Santiago do Cacém, Sines | Yes | No |
| PTCON0054 | Fernão Ferro/Lagoa de Albufeira | Decision 2006/613/CE | Sesimbra | Yes | No |
| PTCON0055 | Dunas de Mira, Gândara and Gafanhas | Decision 2006/613/CE | Cantanhede, Figueira da Foz, Mira, Vagos | Yes | No |
| PTCON0056 | Peniche/St ^a Cruz | Decision 2006/613/CE | Lourinhã, Óbidos, Peniche, Torres Vedras | Yes | Yes |
| PTCON0058 | Ria de Alvor | Decision 2006/613/CE | Lagos, Portimão | Yes | No |
| PTCON0061 | Ria de Aveiro | Site of the National List of Sites: RCM 45/2014, of July 8, 2014; classification as SIC in progress | Aveiro, Ílhavo, Mira, Murtosa, Ovar, Vagos | Yes | Yes |
| PTCON0062 | Banco Gorringe | Site of the National List of Sites: RCM 59/2015, of July 31, 2015; classification as SIC in progress | | No | Yes |

Annex 6 – List of Special Protection Areas

Updated list of SPAs located on the coast or in the maritime space of the Continent.

| CODE | DESIGNATION | CLASSIFICATION AS SPA | COVERED MUNICIPALITIES | COASTAL AREA | MARITIME AREA |
|-----------|-------------------------------------|--|--|--------------|---------------|
| PTZPE0001 | Estuaries of Minho and Coura Rivers | DL 384-B/99, of 31-07 | Caminha | Yes | Yes |
| PTZPE0004 | Ria de Aveiro | DL 384-B/99, of 31-07 | Aveiro, Ílhavo, Mira, Murto, Ovar, Vagos | Yes | Yes |
| PTZPE0009 | Berlengas Islands | DL 384-B/99, of 31-07 | Peniche | Yes | Yes |
| PTZPE0011 | Estuário do Sado | DL 384-B/99, of 31-07 | Grândola | Yes | Yes |
| PTZPE0013 | Lagoa de Santo André | DL 384-B/99, of 31-07 | Santiago do Cacém | Yes | Yes |
| PTZPE0014 | Lagoa da Sancha | DL 384-B/99, of 31-07 | Sines | Yes | Yes |
| PTZPE0015 | Costa Sudoeste | DL 384-B/99, of 31-07 DL 204/2015, of 17-09 | Aljezur, Odemira, Sines, Vila do Bispo | Yes | Yes |
| PTZPE0016 | Leixão da Gaivota | DL 384-B/99, of 31-07 | Lagoa | No | Yes |
| PTZPE0017 | Ria Formosa | DL 384-B/99, of 31-07 | Faro, Loulé, Olhão, Tavira, Vila Real de Santo António | Yes | Yes |
| PTZPE0050 | Cabo Espichel | DL 384-B/99, of 31-07 DL 204/2015, of 17-09 | Sesimbra | Yes | Yes |
| PTZPE0060 | Cabo Raso | DR n.º 17/2015, of 22-09 | Sintra, Cascais | No | Yes |
| PTZPE0061 | Aveiro/Nazaré | DR n.º 17/2015, of 22-09 | Aveiro, Nazaré | No | Yes |

Annex 7 – Entities participating in the EIA procedure of MRE projects

EIA procedure: entities and most relevant responsibilities.

| STAKEHOLDERS | APPLICATION IN THE CASE OF MRE PROJECTS | MOST RELEVANT RESPONSIBILITIES |
|---|---|--|
| Licensing Authority | For MRE projects, the licensing entity is DGEG | Decision on the submission of EIA of project included in annex II of RJAIA, not located in sensitive area |
| EIA (AIA) authority | For projects located in the maritime space, EIA (AIA) authority is APA | Decision on the submission of EIA of project included in annex II of RJAIA, located in sensitive area |
| CA (Assessment Commission) | <p>The CA is appointed and chaired by the EIA (AIA) authority (APA) and integrates representatives from:</p> <ul style="list-style-type: none"> - EIA (AIA) authority (APA) - Entity responsible for the water resources management (APA, through ARH) - Entity responsible for the nature conservation (ICNF) - Entity responsible for the cultural heritage (DGPC) - Entity responsible for the geological values (LNEG) - Entity responsible for the maritime resources (DGRM) <ul style="list-style-type: none"> - CCDR territorially responsible - Licensing Authority (DGEG) - Other expert and technical authorities <p>Exceptionally, the chairman of the CA can be ensured by a person with renowned expertise in the area of the project to be assessed</p> | <p>Issue of technical report on the proposal for the EIA scoping</p> <p>Compliance and technical appraisal of EIA</p> <p>Issue of final technical report of EIA procedure</p> <p>Issue of technical report on environmental compliance of the execution project with respective DIA</p> |
| National EIA (AIA) authority | APA | <p>Approval of technical standards</p> <p>Approval of the operational regulation of CA</p> <p>Dialogue with the European Commission</p> <p>Dialogue with other Member States regarding transnational consultation</p> <p>Management of the information system on AAI</p> |
| EIA Advisory Committee (CCAIA) | | <p>Monitoring of RJAIA application</p> <p>Preparation of recommendations regarding the improved effectiveness of the EIA process</p> <p>Announcement, by request of the EIA national authority or member of the Government responsible for the environment, on matters submitted for their appreciation.</p> |
| Focal point group of EIA authorities | | <p>Monitoring of the EIA system</p> <p>Preparation of guiding standards and documents</p> |
| Member of the government responsible for the environmental sector | | Issue of unfavourable DIA |
| Municipal Councils | | Provision to the population of the elements for public consultation |

Annex 8 – Uses and actions compatible with MRE projects

Relevant uses and actions compatible with MRE projects per types of areas integrating the REN.

| TYPES OF AREAS | COMPATIBLE USES AND ACTIONS (NUMBERING OF ANNEX II OF RJREN) | | | | |
|---|--|--|---|--|--|
| | I - d) Small construction supporting energy (...), whose implementation area is equal or smaller than 40m ² . | I - e) Enlargement of existing buildings aimed at industrial and energy uses (...) | II - f) Production and distribution of electricity from renewable energy sources. | II - i) electrical networks, of high and medium voltage, excluding substations | II - m) Underground electrical and telecommunications networks |
| Maritime stretch of coastal protection | INT | INT | CP | INT | INT |
| Beaches | INT | INT | CP (4) | INT | INT |
| Barriers of debris | INT | INT | INT | INT | INT |
| Tômbolos | INT | INT | INT | INT | INT |
| Saltmarsh | INT | INT | INT | INT | INT |
| Islets and rocks emerged at sea | INT | INT | INT | INT | INT |
| Coastal dunes and fossil dunes | INT | INT | INT | INT | INT |
| Arribas and their protective strips | INT | INT | INT | INT | INT |
| Land strip of coastal protection | | INT | CP (4) | CP (5) | CP (3) |
| transitional waters and riverbeds margins and protection strips | INT (1) | INT | INT | CP (5) | CP (3) |
| Adjacent zones | CP | CP | CP | CP | CP (3) |
| Areas threatened by the sea | CP | INT | CP | CP | CP (3) |

LEGEND:



Forbidden uses and actions



Uses and actions subject to prior communication



Uses and actions not subject to prior communication

Notes (numbering according to annex II of RJREN):

- (1) Allowed, upon prior communication, in protection strips of transitional waters.
- (3) Only networks are allowed.
- (4) Networks allowed only in the margins.
- (5) Allowed only in areas outside the margin.

Annex 9 – Administrative easements and use restrictions

Main administrative easements (*servidões*) and restrictions on the use of public resources (*restrições de utilidade pública*).

| RIGHT OF WAY OR PUBLIC EASEMENT OBJECT | APPLICABLE LAW | RESPONSIBLE ENTITY |
|---|---|---|
| Water public domain | Act 54/2005, of 15-11 Act 58/2005, of 29-12, amended by DL 245/2009, of 22-09, DL 60/2012, of 14-03, and DL 130/2012, of 12-06 DL 226-A/2007, de 31-05, amended by DL 391-A/2007, of 21-12, DL 93/2008, of 04-06, DL 107/2009, of 15-05, DL 82/2010, de 02-07 and Act 4/2012, of 29-08 Ordinance 1450/2007, of 12-11 | APA (Administration of Hydrographic Regions) DGRM |
| Cork oaks and holm oaks | DL 169/2001, of 25-05, amended by DL 155/2004, of 30-06 | ICNF |
| Forest stands affected by fire | DL 327/90, d of e 22-10, amended by DL 55/2007, of 12-03 (Rectification Declaration 37/2007, 09-05) | Members of the Government responsible for the environment and territory order, for forests and such matters |
| Trees and woods of public interest | Act 53/2012, of 05-09 Ordinance 124/2014, of 24-06 | ICNF |
| Prisons and correctional institutions for minors | DL 265/71, of 18-06 | Directorate-General of Prison Services |
| Military easements | Act 2078, of 11-07-1955 DL 45.986, of 22-10-1964 | Directorate-General of National Defence Resources |
| National road network | Act 34/2015, of 27-04 | Infraestruturas de Portugal, S.A. |
| Municipal roads | Act 2110, of 10-08-1961 | Municipal Councils |
| Railways | DL 276/2003 | Infraestruturas de Portugal, S.A. |
| Airports and aerodromes (aeronautical easements) | DL 45.987, of 22-10-1964 Military Facilities: Act 2078, of 11-07-1955 | National Authority of Civil Aeronautics Air Force of Portugal |
| Telecommunications (easements radio broadcasting) | DL 597/73, of 07-11 DL 215/87, of 29-05 | National Communications Authority |
| Lighthouses and other maritime signals | DL 594/73, of 07-11 | Directorate-General of the Maritime Authority (Lighthouse Department) |
| Triangulation pillars | DL 143/82, of 26-04 | DGT |

Annex 10 - Glossary

Appropriate Assessment (AlncA): Assessment procedure provided for in Article 10 of Decree 140/99, "The actions, plans or projects not directly related to the management of a site from the national list of sites, a SIC, a ZEC or a SPA and not required to its management, but likely to affect this area significantly, individually or in combination with other actions, plans or projects, (...) in relation to the said area conservation objectives."

Assessment Commission (EIA procedure): Committee appointed by the EIA (AIA) authority, which need to have the needed "interdisciplinarity, according to the nature of the project, for its proper evaluation regarding the potential environmental impacts"; this committee is particularly responsible for assessing compliance of the EIA and the preparation of technical reports that support the issuance of the DIA or DCAPE (Article 9 DL 151-B/2013).

Baseline: low tide line along the coast of a coastal State, as marked on large-scale charts officially recognised by that coastal State.

Consumer of Last Resort (CUR): it is the entity subject to the obligation of providing a power supply service to customers with active contracts, as long as they apply the regulated or temporary tariffs legally provided by ERSE; economically vulnerable customers; customers whose supplier market system has been prevented from exercising the activity; customer sites where there is no supply of electricity on the market system.

Continental shelf: "the continental shelf of a coastal State comprises the seabed and subsoil of the submarine areas that extend beyond its territorial sea throughout the extent of the natural prolongation of its land territory to the outer edge of the continental margin, or to a distance of 200 nautical miles from the baselines from which measures the breadth of the territorial sea, where the outer edge of the continental margin does not extend to that distance." (CNUDM, art. 76, par. 1).

Cumulative impacts: "impacts on the environment resulting from the incremental impacts of the project when added to other projects, past, present or foreseeable within a reasonable future, regardless of who promotes them" (CEQ, 1987).

Decision on the Environmental Compliance of the Detailed Project Design (DCAPE): "the decision, express or implied, about the environmental compliance of the implementation project with an environmental impact statement issued in draft phase or preliminary study "(f), Article 2, DL 151-B/2013).

Designated areas: "delimited areas of the national territory and maritime space under national jurisdiction, depending on their relevance to the conservation of nature and biodiversity that are covered by specific rules "(paragraph a), Article 3, DL 142/2008). It includes protected areas, sites from the national list of Natura 2000 sites, SICs, SACs, SPAs and other designated areas under international commitments of the Portuguese State.

EIA (AIA) authority: entity that coordinates the EIA procedure. It may be the APA or CCDR (Article 9, DL 151-B/2013).

EIA (AIA) Compliance: EIA quality, assessed by meeting criteria set out in legislation, the proposed definition of the scope of the EIA and good practice.

Environmental Appraisal (AlncA) under FER: Environmental assessment procedure for FER projects located in REN, protected areas or Natura 2000 areas, which ends up with the issuance of a DIncA.

Environmental Appraisal Report (EIncA): document prepared by the applicant under the Environmental Appraisal (AlncA) procedure.

Environmental Appraisal Statement (DIncA): Decision, express or implied, about the environmental viability of a project subject to AlncA. The DIncA may be favourable, favourable upon the fulfillment of certain conditions or unfavourable.

Environmental Compliance Checking of the Detailed Project Design: procedure within the EIA (AIA) or Environmental Appraisal (AlncA) procedures when the EIS (DIA) or the Environmental Appraisal Statement (DIncA) is issued in a project design phase.

Environmental Compliance Report of the Detailed Project Design (RECAPE): “document prepared by the bidder for the verification of the compliance of the project execution with the DIA, which contains the description of the implementation project, the analysis of compliance with the criteria established by the DIA issued in draft stage or prior study, a detailed characterization of the impacts environmental considered relevant in the implementation of the project, identification and detailed characterization of the measures to avoid, minimise or compensate the negative impacts expected to adopt the construction phase, operation and decommissioning, including the description of their incorporation, and the submission of the monitoring programmes to be implemented ”(paragraph t), Article 2, DL 151-B/2013).

Environmental Impact: “Set of favourable and unfavourable changes produced in the environment on certain factors in a given period of time and in a given area, resulting from the realization of a project, compared to the situation that would occur in that time and in that area, if this project does not or were not to take place ”(paragraph k, Article 2, DL 151-B/2013).

Environmental Impact Assessment (EIA) (or in Portuguese “Avaliação de Impactos Ambientais”, AIA): “preventive instrument of environmental policy, supported by studies and consultations with effective public participation and analysis of possible alternatives, which is engaged in gathering information, identification and evaluation of the environmental effects of certain projects, as well as the identification and proposed measures to avoid, minimise or compensate for these effects, with a view to a decision on the feasibility of implementing such projects and respective post-assessment ”(paragraph d), Article 2, DL 151-B/2013).

Environmental Impact Assessment Report: “document prepared by the bidder within the EIA (AIA) procedure, which contains a brief description of the project, the identification and assessment of the likely positive and negative impacts that the realization of the project may have on the environment, the likely evolution of that situation without the realization of the project, the environmental management measures to avoid, minimise or compensate the expected negative impacts and a non-technical summary of this information ”(paragraph j, Article 2, DL 151-B/2013).

Environmental Impact Statement (DIA): “Decision, express or implied, about the environmental viability of a project, in a previous study phase or draft or project execution ”(paragraph g), Article 2, DL 151-B/2013).

Exclusive Economic Zone: according to UNCLOS, coastal states have the right to declare an EEZ maritime area beyond its territorial waters, which have prerogatives on use of resources, both living and non-living, and responsibility for its environmental management. The EEZ is defined in principle by a line situated 200 nautical miles from the coast, but may have a greater extent, according to the continental shelf. The EEZ separates national waters from international waters.

Mitigation in EIA (AIA) or Environmental Appraisal (AInCA): Directive 2011/92/EU implicitly defines mitigation as the set of “measures envisaged to prevent, reduce and where possible offset any significant adverse impacts on the environment.” The IAIA extends this concept, defining mitigation as measures to enhance positive impacts and to avoid, reduce, remedy or compensate the negative impacts.

Monitoring: “process of observation and systematic collection of data on the state of environment or about the environmental effects of certain project and periodic description of these effects through reports in order to allow assessment of the effectiveness of the measures in EIS (DIA) and DCAPE to avoid, minimise or compensate for significant environmental impacts of the respective project execution ”(paragraph g), Article 2, DL 151-B/2013).

National Agricultural Reserve (RAN): “public utility restriction, applicable to a special territorial system, establishing a set of constraints to non-agricultural land use”; “RAN is the set of the areas in agro-climatic, geomorphological and pedological terms have greater aptitude for agriculture” (Article 2 of DL 73/2009).

National Ecological Reserve (REN): “REN is a public utility restriction, applicable to a special territorial system establishing a set of constraints to the occupation, use and transformation of soil, identifying the uses and actions consistent with the objectives of the scheme in the different types of areas ”; “REN is a biophysical structure that integrates all the

areas that the value and ecological sensitivity or exposure and susceptibility to natural hazards, are special object of protection" (Article 2, DL 166/2008).

National List of Natura 2000 Sites: geographical area designated by the Government with the aim of being designated as SIC and later as SACs. The sites of the national list of Natura 2000 sites applies the scheme for the ZEC.

Natura 2000 network: "ecological network at European level comprising the areas designated as SACs and the areas designated as SPAs" (artigo 4º, DL 140/99).

Non-Technical Summary (RNT) of the EIA (AIA) or RECAPE: "document that integrates the EIA and the Environmental Compliance Report of the Implementation Project and aims to provide support for public participation, describing in a coherent and synthetic form, in a language and with a presentation accessible to the general public, the information thereof "(paragraph s), Article 2, DL 151-B/2013). The EInCA should also integrate the RNT.

Post-assessment checker: Persons qualified by APA for conducting the audits provided for in Articles 26 and 27 of DL 151-B/2013, one in the construction phase and another three years after the start of the entry into operation.

Post-assessment of the EIA (AIA) procedure: "procedure developed after the DIA or the decision on the environmental compliance of the implementation project, which aims to assess the effectiveness of measures adopted to avoid, minimise or compensate the negative impacts and maximize the positive effects, if necessary, in stages of construction, operation and offsetting, if necessary, through the adoption of new measures "(paragraph j), Article 2, DL 151-B/2013).

Preliminary hearing of stakeholders: Right of stakeholders "to be heard before the final decision is made, should be informed in particular about the likely meaning of this." "In the exercise of the right to be heard, stakeholders can have a say in all matters related with the decision as well as require additional inquiries and provide the attachment of documents" (Article 121 of the CPA).

Protected areas: "terrestrial and aquatic areas as well as marine areas where biodiversity or other natural resources are present, for their rarity, scientific, ecological, social, scenic, special importance that require specific measures for their conservation and management in order to promote sustainable management of natural resources and the enhancement of natural and cultural heritage, regulating artificial interventions likely to degrade them" (paragraph 2, Article 10, DL 142/2008).

Scoping: "preliminary and optional phase of the EIA procedure, in which the EIA (AIA) authority identifies, analyses and selects the significant environmental aspects which may be affected by a project and on which the EIA (AIA) should focus "(paragraph h), Article 2 DL 151-B/2013).

Scoping proposal (PDA) of the EIA (AIA): document prepared by the applicant as part of the scoping procedure, in particular containing a description of the project and alternatives to be analyzed in the EIS, identifying significant issues and methodological approaches for the characterization of the current state of the environment and its likely development in the project for the identification and evaluation of impacts and for comparative analysis of alternatives where applicable (Annex III of Decree 395/2015).

Sensitive areas (within the EIA or AIA procedure): protected areas, sites from the national list of Natura 2000 sites, SCIs, SACs, SPAs, buffer zones of designated cultural heritage properties or to be classified (paragraph a, Article 2, DL 151-B/2013).

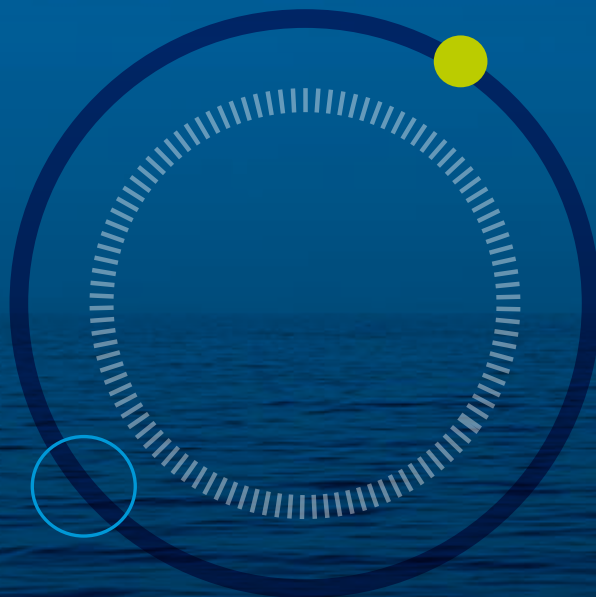
Sites of Community Importance (SCI): "a place that, in the biogeographical Atlantic, Mediterranean and Macronesian regions, contributes significantly to maintaining or restoring a type of natural habitat in Annex B-I or a species in Annex B-II in a favourable conservation status, and may also contribute significantly to the coherence of Natura 2000 network or, significantly, maintain biological diversity on or in these biogeographical regions "(paragraph m), Article 3, DL 140/99). SIC shall apply the scheme for the ZEC. SCIs are sorted by Decision of the European Commission from the national list of sites, and should be designated by the Government as SACs.

Special Area of Conservation (SACs): are strictly protected sites designated under the EC Habitats Directive (transposed to the national law in DL 140/99). Article 3 of the Habitats Directive (paragraph a, Article 3, DL 140/99 of the national legislation) requires the establishment of a European network of important high-quality conservation sites that will make a significant contribution to conserving the 189 habitat types and 788 species identified in Annexes I and II of the Directive (as amended). The listed habitat types and species are those considered to be most in need of conservation at a European level (excluding birds).

Special Protection Area (SPA): “an area of Community importance on the national territory in which the necessary measures are applied to maintain or restore the conservation status of wild bird populations listed in Annex A-I and their habitats, as well as migratory bird species not listed in the same Annex and whose occurrence on the national territory is regular ”(paragraph a), Article 3, DL 140/99). SPAs are part of the Natura 2000 network.

Statement of EIA (AIA) compliance: Statement issued by the EIA (AIA) authority in the initial phase of the EIA procedure, based on the assessment of the EIA by the Assessment Committee (CA), considering the EIA as, *i.e.*, fulfilling the necessary and sufficient conditions for the continuation of the EIA procedure and to issue the DIA. In case of disagreement, the EIA procedure is closed.

Territorial sea: stretch of coastal waters of a State which extends up to 12 nautical miles (22 km) from the baseline, *i.e.*, the low tide line along the coast as marked on large-scale charts officially recognised by the coastal State.



WavEC - Offshore Renewables

Rua Dom Jerónimo Osório, n.º 11, 1º andar
1400 – 119 Lisboa, Portugal

Tel.: +351 218 482 655 | Fax: +351 218 481 630

www.wavec.org

