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# Update

Real Estate, Tourism and Urban  
Planning

## The activity of sports facilities/health clubs’ framework given the Simplex Urbanístico

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The commitment made in the Programme of the XXIII Constitutional Government to *prioritize administrative simplification through the continuous elimination of unnecessary licenses, authorisations and administrative acts, in a logic of "zero licensing"*, had its maximum expression in the SIMPLEX URBANÍSTICO (henceforth referred to "SIMPLEX"), which came into force on 4 March 2024.

Among the various measures that pursue this goal, we are interested in highlighting the **express repeal of articles 62 and 77 of Decree-Law no. 555/99, 16 December (henceforth referred to as "RJUE") and the consequent elimination from the legal system of the use authorisation and the works and use license**, whereby, in terms of use, a mere deposit of the elements necessary to assess the conformity of the use will be sufficient in cases where the urban development operation has been preceded by prior control (article 62-A); or a prior communication with a deadline in cases where the urban development operation has not been preceded by prior control (articles 62-B and 62-C). Thus, with the entry into force of the Simplex Urbanístico, a new impetus was given to the figure of prior communication, which is titled by proof of its presentation, as established in article 74, no. 2 of the RJUE.

From a practical point of view, in both scenarios, **the payment of the urban taxes due for this purpose became sufficient, and the actual start of the activity is now possible after complying with articles 62-A, 62-B and 62-C of the RJUE, as the case may be.**

It seems to us, then, that the **express repeal of articles 62 and 77 of the RJUE meant the tacit repeal of all the articles that referred to that regulation**, and whose rules only existed on the assumption that those provisions of the RJUE were in force (which no longer applies).

In our view that **this was the case**, in particular, **with articles 16 and 17 of the Legal Framework for Public Use Sports Facilities, approved by Decree-Law 141/2009 of 16 June (henceforth referred to as "RJIDUP")**. The reference of these articles, related to the installation and operation of sports facilities, to those rules of the RJUE (now repealed) only reflects the legislator's clear intention to expressly submit this activity to the law that, par excellence, regulates urban planning and construction matters, which makes perfect sense for reasons of the unity of the legal system.

However, until March, 4th the proper interpretation of articles 16 and 17 of the RJIDUP meant that there was a need for a use authorisation procedure and the subsequent issue of a permit with essential elements, under the old article 77 of the RJUE.

Although some may not admit the complete repeal of **articles 16 and 17 of the RJIDUP**, as of March, 4th, and for the reasons already mentioned, **those rules were, at the very least, tacitly repealed insofar as they referred to the aforementioned RJUE rules.**

**Therefore, from its correct, actualistic and systematic interpretation, it follows that the procedure applicable to the installation and operation of these sports facilities is now sufficient with the communication and/or delivery of the elements, under the terms of articles 62-A to 62-C of the RJUE.** Furthermore, and even if this was not the case, the urban planning regulations required by SIMPLEX in its Article 26(g) neither yet been approved nor have those been made available in the Diário da República, systematically and by municipality, by 8 April 2024.

Therefore, the lack of municipal regulations combined with the authority and force of law of SIMPLEX, approved under the legislative authorisation granted by Law no. 50/2023, of 28 August, and under the terms of paragraphs a) and b) of no. 1 of article 198 of the Constitution, force the only possible and legal interpretation of articles 16 and 17 of the RJIDUP, which we have developed and advocated here.

Notwithstanding the above, it is undeniable that this new procedure allows for greater speed in change of use or change of ownership procedures, however, there are some doubts as to how it fits in with the RJIDUP, for example, with regard to its article 17, which provided for additional information/specifications with regard to the use authorisation permit - now extinct.

Although this information can be provided through prior communication with a deadline - under the terms and in conjunction with what was already provided for in article 18 of the RJIDUP - the need for

legal certainty in this matter calls for clarification on the procedure to be followed, at least until these special regimes are (expressly) amended.