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The new mechanism for compensating municipalities for high-impact strategic electricity projects

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Decree-Law no. 18/2024 was published today in Diário da República, creating a mechanism to compensate municipalities for high-impact strategic electricity projects that generate significant negative local externalities, in addition to the rights to assignments and compensation that municipalities already have under the terms of article 49 of Decree-Law no. 15/2022, of January 14, and article 4-B of Decree-Law no. 30-A/2022, of April 18.

The beneficiaries of this mechanism will be municipalities whose territories are crossed by, or in which are installed, infrastructures of the public service electricity grid (RESP) under the responsibility of the electricity grid operators that make up the National Electricity System (SEN), qualified as essential to the realization of high-impact strategic electricity projects, which generate significant negative local externalities.

For the purposes of awarding this compensation, cross-border connections and projects qualified as such in the network's development and investment plan will be considered high-impact strategic electricity projects.

Notwithstanding the above, the body of Decree-Law 18/2024 already identifies some of the projects considered to be "high-impact strategic electricity projects". These are: the Feira - Ribeira de Pena line; the Ferreira do Alentejo - Panoias and Panoias - Tavira lines; the Fanhões - Rio Maior line; the Alqueva - Divor line; the Ferreira do Alentejo - Pegões and Pegões - Rio Maior lines; the Fundão - Vilarouco line;

the Lages - Arouca line; and the Portuguese-Spanish interconnection, the Ponte de Lima - Fontefrías line.

In turn, the definition of the negative local externalities that can be compensated to municipalities is left to an ordinance to be issued by the member of the Government responsible for the environment, climate action and territorial cohesion, to be approved after hearing the Energy Services Regulatory Authority (ERSE) and the National Association of Portuguese Municipalities (ANMP).

The procedure for awarding this compensation will begin with the municipality submitting a request, addressed to the RESP operator, which must include all the significant negative local externalities that have not been minimized, mitigated or compensated for by an instrument provided for in the legal framework for environmental impact assessment, and the respective demonstration, documented and supported by external assessments, of their existence, as well as proposals for compensation measures considered appropriate, duly justified.

The amount of compensation, which will be borne by the RESP operator, will depend on the RESP operator verifying the existence of significant negative local externalities caused by the project in the territory of the municipality in question, and recognizing their quantification, taking into account the demonstrated significant damage, less the positive effects generated by the implementation of the project.

However, this amount will always be limited to 1% of the value of the direct external costs of the investments that justify it, in the case of substations, switching stations and other investments, or 5% of the value of the direct external costs of the investments that justify it, in the case of overhead lines.

If there are several contiguous municipalities affected by this type of project, compensation will be allocated in proportion to the extent of the project in each municipality and its negative impact on that territory.

The verification and quantification of significant negative local externalities caused by a project in the territory of a municipality, made for the purposes of determining the amount of compensation, are submitted by the RESP operator itself for validation by ERSE. Once validated by ERSE, the amount of compensation is considered eligible for tariff purposes as a cost of general economic interest, in accordance with the provisions of Article 208(2)(c) and (e) of Decree-Law 15/2022 of January 14.

Finally, it is provided that the Environmental Fund may support the compensation of the SEN for the amounts borne in electricity tariffs, in accordance with the annually defined budget allocation.

Decree-Law 18/2024 comes into force on February 3, 2024.