



Portuguese PPP: new discretionary powers for the Government

The Portuguese Council of Ministers has now almost discretionary powers in deciding the approval, incorporation and modification of public-private partnerships.

Until recently, the launching of a public-private partnership (PPP) in Portugal was dependent on the verification of 16 legal requirements, including a cost-benefit analysis for the public sector, a study of the budgetary impact and an adequacy analysis of the partnership duration. Last week, the Portuguese Council of Ministers has enacted **new regulation** that alters the rules of approval, creation and modification of PPPs, granting the Council of Ministers discretionary powers (i) to define requirements that each partnership should fulfil; (ii) to approve the PPP project team; and to decide on whether to award or not to award the project, once the contracting process has ended.

This regulation also changed several aspects of the legal framework of PPP, maintaining only two of the existing contractual models from the previous legislation, adding to these a model for the partnerships that do not entail any costs for the awarding public entity.

Although the new regulation will enter into force on the 1st February 2020, it will not impact on the existing PPP, nor in all decisions already taken on any PPP pending awarding procedures (as to these last ones, it is not clear whether the Finance Minister will maintain any awarding powers or those will be transferred to the Council of Ministers).

Finally, it is also worth noting that after these changes the PPP framework will no longer apply to municipalities, autonomous regions and related entities, thus allowing them to create their own PPPs without governmental supervision.

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