

INFORMATIVE NOTE



REAL ESTATE

PUBLICATION OF ORDER IN COUNCIL N.º 47/2012 OF 20 FEBRUARY

CHANGES TO THE LEGISLATION ON RECOGNITION OF NATURE TOURISM PROJECTS

The current legal concept for “nature tourism projects” (NTP) was introduced by Decree-Law no. 38/2009 of 7 March – amended and republished by Decree-Law no. 228/2009 of 14 September – which approved the rules on setting up, development and operation of tourism projects and which included within the meaning of NTPs any establishments that *provide accommodation services to tourists in classified areas or in other areas with natural values, which have for their operation an adequate collection of facilities, structures, equipment and complimentary services related to environmental animation, visiting natural areas, nature sports and environmental interpretation.*

Under the mentioned law NTPs are recognised as such by the Institute of Conservation of Nature and of Biodiversity I.P. (which will soon be integrated into the Institute of Conservation of Nature and of Forests, I.P), in accordance with cumulative criteria defined by Order in Council no. 261/2009 of 12 March including:

- a) Making information available to the customers on local fauna, flora and geology;
- b) Making information available on the training of staff on subjects related to nature conservation and biodiversity;

- c) Making information available on the adoption of good environmental practices;
- d) Making information available to customers on the origin and means of production of the food products used;
- e) Predominant use of local flora in the outside spaces of the resort, except in the areas of agricultural use and historical gardens;
- f) Making information available on complimentary services that make sure it is possible for the customers to enjoy the natural heritage of the region, including by means of tourism animation, visiting natural areas, nature sports or environmental interpretation;

In some cases¹, the recognition of an NTP also requires (i) the adoption of a set of good environmental practices in terms that are specifically defined by the Order in Council which make it possible for the resources to be used efficiently and minimise the impact on ecosystems and (ii) participation in at least one nature conservation and biodiversity project approved by the Institute of Conservation of Nature and of Biodiversity, I.P [soon, by the Institute of Conservation of Nature and of Forests, I.P. (ICNF, I.P.)].

¹ Including hotels, holiday villages, holiday apartments and resorts or camping and caravan sites of an area greater than 3 hectares.

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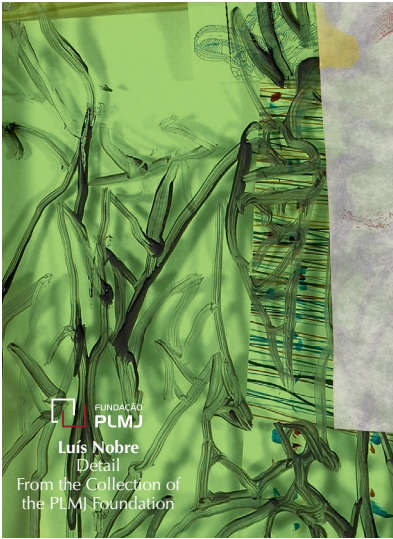
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The same Order in Council also established the procedure for the recognition of an NTP, in particular as regards the application to be presented for this purpose and also the time limits and the way in which the decision is reached, the fees due for the recognition and the applicable rules on administrative offences.

Later, Decree-Law no. 92/2010 was published on 26 July 2010. This Decree-Law transposes into Portuguese law Directive no. 2006/123/CE of the European Parliament and the Council of 12 December, relating to services in the internal market and which established the principles and the rules necessary for the simplification of free access and the exercise of service activities, including making the procedures easier and less bureaucratic and reducing administrative costs.

In this context, and with a view to adapting the rules for recognition of NTPs to Decree-Law no. 92/2010 of 26 July, Order in Council no. 47/2012 was published on 20 February 2012. This Order in Council altered Order in Council no. 261/2009 of 12 March by making the procedures it lays down more simple and less bureaucratic.

In particular, Order in Council no. 47/2012, of 20 February provided that the application for recognition of an NTP to the ICNF, I.P. is now made by completing the electronic form that is available on its Internet site, at the one-stop counter provided for under Decree-Law no. 92/2010 of 26 July at the site for companies (<http://www.portaldapresa.pt/cve/pt>) and the site for citizens (<https://www.portaldocidadao.pt/PORTAL/pt>).

As to the documentation needed to support the said application, the need to file the certificate of commercial registration was removed for cases where the applicant is a legal entity. In this case, all that is necessary is a simple form of statement of any registrations in force or the access code for the respective permanent certificate. It is also no longer necessary to send a paper copy of the documentation to the ICNF, I.P. as this can now be done digitally.

In summary, the application must now be sent as described above and be accompanied by:

- a) Identification of the applicant by means of a simple form of statement of the content of the registrations in force at the commercial registry or the access code for the respective permanent certificate if the applicant is a legal entity, or the civil identification document and tax identification number when the applicant is an individual entrepreneur;
- b) Identification of the directors or managers of the company;
- c) Location of the resort;
- d) Detailed programme of the tourism animation activities to be carried on;
- e) Detailed information on whether or not there are any staff that have training on subjects related to nature conservation and biodiversity, in accordance with the provisions of article 6 of Order in Council no. 261/2009 of 12 March;
- f) Indication the good environmental practices adopted or proof or the validity of the environmental certifications associated with the tourism project in accordance with

- g) the provisions of article 7 of Order in Council no. 261/2009 of 12 March, when applicable;
- g) Proposal for the nature conservation and biodiversity project, when applicable; and
- h) A solemn declaration as to how the project meets the criteria on which the recognition of an NTP depends as provided for in the Order in Council.

Furthermore, Order in Council no. 47/2012 of 20 February removed the provisional character of the recognition of an NTP, revoking the rule under which the recognition was valid for a period of four years, renewable for equal periods. This means, and under the provision that already appeared in the previous Order in Council, that the recognition of an NTP may now only come to an end by means of a revocation made by order of the president of the ICNF, I.P. in the event that any of the requirements for recognition are no longer met or if the annual report on the evaluation of the results of the nature conservation and biodiversity project is not filed in accordance with the provisions of the Order in Council (only applicable to some types of NTP²).

Finally, the recently published Order in Council determined that all references to the "Institute of Conservation of Nature and of Biodiversity, I.P. and to the "ICNB, I.P." – the entity that originally had responsibility for recognising NTPs – are now deemed to be made to the "Institute of Conservation of Nature and of Forests, I.P." and to the "ICNF, I.P." respectively, to the extent to which this entity will soon incorporate the old National Forestry Authority and the Institute for Nature Conservation and Biodiversity.

This means that, in essence, Order in Council no. 47/2012 of 20 February confined itself to making provision for the electronic submission of the application for recognition of an NTP and to removing the need for renewal of the said recognition every four years.

² In accordance with the article 8 of Order in Council no. 47/2012, of 20 February hotels, holiday villages, holiday apartments and resorts or camping and caravan sites of an area greater than 3 hectares must adopt and execute, directly or in partnership with public or private entities, a nature conservation and biodiversity project to be approved by the ICNB, I.P. (soon the ICNF, I.P.) in accordance with the criteria referred to in Annex II to the order in council and deliver an annual report containing an analysis of the results of the project to the same entity.

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It maintained the criteria for recognition of an NTP referred to above, as well as the rest of the previously applicable procedures.

In any case, it is important to point out that Order in Council no. 47/2012 of 20 February will only take effect with the entry into force of the organic legislation for the Institute of Conservation of Nature and of Forests, I.P. which has still

not yet been approved. Similarly, it is still not possible to submit a request for recognition of an NTP through the one-stop counter referred to above.

In this context, and until approval of the said legislation and the availability of the said electronic service, NTP recognition requests should continue to be submitted and regulated under Order in Council no. 261/2009 of 12 March.

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