



## **COVID-19**

### **Legal Insights No. 29**

Decree No. 106/2020, of May 2<sup>nd</sup>

Decree No. 106/2020, of May 2<sup>nd</sup>, establishes a maximum passenger limit for air transport, as well as exceptions to this limit and respective requirements.

In the context of the Covid-19 disease pandemic, and in view of the declaration of the calamity situation, decreed by the Resolution of the Council of Ministers No. 33-A/2020, of April 30<sup>th</sup>, an additional set of measures were defined, in order to reduce the risk of infection and spread of the Covid-19 disease.

Within this set of additional measures, sub paragraph b), paragraph 1, of article 13-A of Decree Law No. 10-A /2020, of March 13<sup>th</sup>, amended by Decree Law No. 20/2020, of May 1<sup>st</sup>, foresees the adequacy of the maximum number of passengers transported in air transport, imposing a limit in accordance with the recommendations on maximum capacity, which must be implemented through the publication of a decree issued by the member of the Government responsible for transport.

As foreseen, on May 2<sup>nd</sup>, 2020, Decree No. 106/2020 was published in the Portuguese Official Gazette, which establishes a maximum passenger limit for air transportation, as well as exceptions to this limit and respective requirements, in order to guarantee the convenient distance between passengers and to ensure their safety, both on scheduled flights and on flights that are exempt from the general rule on capacity.

The aforementioned legal diploma establishes that the capacity of passengers per airplane is **reduced to two thirds of the normal capacity**, with the exception of flights specifically intended for: *(i)* repatriation of citizens, under the European civil protection mechanism or non-scheduled flights contracted by the States; *(ii)* airlines commercial flights, national or foreign, insofar as they are used to repatriate citizens or that justifiably serve this purpose; *(iii)* airplane flights with a maximum available capacity of 19 (nineteen) seats, in non-scheduled commercial air transport operations and in compliance with the applicable legislation; and *(iv)* non-scheduled commercial flights contracted by companies, to transport workers at their service, with a work or service agreement to be provided in a foreign country, with whom Portugal keeps the flights open.

For this latter case, the Decree determines that the exemption only operates if: *(i)* none of the passengers presents symptoms; *(ii)* the destination country does not condition incoming flights; *(iii)* workers are holders of residence permits as immigrant workers in the destination country; *(iv)* the return to Portugal of any of the workers is only expected at least after two months; and *(v)* the workers

accept at the outset the health rules that are imposed upon arrival in the destination country, namely quarantines.

The company that contracted the flight must provide the workers with documentation or a statement proving the last three requirements, being that the remainder requirements are verified by the competent airport authorities.

Regarding all the passengers of the exempt flights, the Decree also stipulates that: *(i)* when it is not necessary to optimize the plane's capacity, they should be distributed in places that maximize the possibilities of distance between them, depending on the capacity of the plane and the passengers number; *(ii)* may be subject to visual and temperature screening through infrared thermal cameras or any other means that are being applied at national airports, as well as eventual secondary screening in case of detection of feverish state upon arrival and *(iii)* the crew must immediately proceed in accordance with the contingency plan and notify the airport of arrival, for segregated routing, in case any passenger transported by the exempt flights presents any symptoms during the flight.

This Decree entered into force on May 3<sup>rd</sup>, 2020.

To access the full text of Decree No. 106/2020 of May 2<sup>nd</sup>, please click [here](#).

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