



# **COVID-19**

## **Legal Insights no. 42**

Summary of recent legal amendments to some of the exceptional and temporary legal measures approved under Covid 19 pandemic

*Resolution of the Council of Ministers no. 53-A/2020, of July 14<sup>th</sup>, which declares the situation of calamity, contingency and alert in the context of the COVID-19 disease pandemic.*

*Decree-Law no. 37-A/2020, of July 15<sup>th</sup>, that amends the sanctioning regime applicable to failure to comply with the duties established by declaration of the alert, contingency or calamity situation.*

*Order no. 7212-A/2020, of July 15<sup>th</sup>, which maintains the prohibition of landing and shore leave for passengers and crew of cruise ships in national ports.*

*Order no. 7212-B/2020, of July 15<sup>th</sup>, which establishes the extension of measures restricting air traffic to and from Portugal, with certain exceptions.*

*Decree-Law no. 39-A/2020, of July 16<sup>th</sup>, which amends the exceptional and temporary measures related to the COVID-19 disease pandemic.*

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On July 14<sup>th</sup>, 2020, **Resolution of the Council of Ministers no. 53-A/2020** was published in the Portuguese Official Gazette, rectified on the following day by the Declaration of Rectification no. 25-A72020 of July 15<sup>th</sup>, which declares, following the epidemiological situation of COVID-19, until July 31<sup>st</sup>, 2020:

- a) The situation of calamity in certain parishes of the municipalities of Amadora, Odivelas, Loures, Lisbon and Sintra;
- b) The contingency situation in the Lisbon Metropolitan Area, with the exception of the municipalities and parishes for which the calamity situation was declared; and
- c) The alert situation throughout the rest of the mainland national territory.

For the situations described above, the Decree establishes applicable rules that, in general, maintain, reinforce and/or restrict the previously applicable measures pursuant to and in accordance with the respective situation declared.

The Resolution establishes that passengers on flights from countries considered to be at epidemiological risk must present, at the time of departure, proof that a laboratory test to detect infection by SARS-CoV-2 with a negative result has been made within 72 hours before boarding, failing which they will be refused to enter the national territory.

In addition, ANA - Aeroportos de Portugal, S. A. must carry out infrared body temperature screening to all passengers arriving in national territory. Those with a relevant body temperature shall be directed to a place suitable for the repetition of the body temperature measurement and, if the evaluation of the situation justifies it, shall be subjected to laboratory testing for SARS-CoV-2 infection. Following the test, they may leave the airport provided that their contact details are available and they remain in mandatory confinement at their destination until the result of the laboratory test is received.

On July 15<sup>th</sup>, 2020, **Decree-Law no. 37-A/2020** was published in the Portuguese Official Gazette, amending Decree-Law no. 28-B/2020, of June 26<sup>th</sup>, regarding the penalty regime applicable to the failure to comply with the duties established by declaration of the alert, contingency or calamity situation.

In this context, the Decree provides for the non-compliance by the airlines or by the entities responsible for the management of the respective airports of the rules applicable to air traffic and airports, the constitution of an administrative offence, punishable with:

- a) Fine of € 500,00 to € 2.000,00, for each passenger boarding without presentation of proof of laboratory test for screening for COVID-19 disease with negative result, performed within 72 hours before the time of boarding, except in cases of exemption; and
- b) Fine of € 2.000,00 to € 3.000,00, in case of non-compliance with the obligation to provide a laboratory test for screening for the disease COVID-19, the obligation to infrared body temperature screening to all passengers arriving in national territory or the obligation to repeat the measurement of body temperature when a relevant body temperature is detected following that screening.

The Decree-Law also establishes the mandatory use of masks and visors in educational establishments, in addition to the cases previously provided for in Decree-Law no. 28-B/2020, of 26<sup>th</sup> June.

Two Orders were also published on 15 July: **Order no. 7212-A/2020**, which maintains, until July 31<sup>st</sup> 2020, the prohibition of landing and shore leave for passengers and crew of cruise ships in national ports, and **Order no. 7212-B/2020**, which extends, until July 31<sup>st</sup> 2020, the measures restricting air traffic to and from Portugal, with certain exceptions, namely:

- a) Authorization for flights to and from Portugal from and to countries belonging to the European Union, countries associated with the Schengen Area and the United Kingdom;
- b) Authorization of flights from and to countries with a positive epidemiological assessment for direct air links with Portugal, subject to confirmation of reciprocity;
- c) Prohibition of flights to and from Portugal, from and to countries outside the European Union or countries not associated with the Schengen Area, except for essential journeys, having to present, at the time of departure, proof of laboratory testing for infection by SARS-CoV-2, with a negative result, carried out within 72 hours prior to the time of boarding, otherwise entry in the national territory may be refused:
  - i. Flights from and to Portuguese-speaking countries. However, from Brazil only flights to and from São Paulo and Rio de Janeiro are allowed;
  - ii. Flights from and to the United States of America.

On July 16<sup>th</sup>, 2020, **Decree-Law no. 39-A/2020** was published in in the Portuguese Official Gazette, amending the exceptional and temporary measures related to the COVID-19 disease pandemic.

It starts by amending the current version of Decree-Law no. 10-A/2020, in the scope of the suspension of teaching and non-teaching and training activities, maintaining only the suspension of social support activities developed in the Day Care Centre and the maintenance, by groupings of schools and schools not grouped in the public education network, of the necessary measures for the provision of food support to students who are beneficiaries of grades A and B of school social action, until July 31<sup>st</sup>, 2020.

The Decree also establishes the mandatory use of a mask or visor for access to or permanence in educational establishments, teaching and nurseries, which, in the case of students, only applies from the 2nd cycle of basic education, regardless of their age.

The Decree extends the duration of Decree-Law no. 14-C/2020, of April 7<sup>th</sup>, which establishes the definition of procedures for the allocation of funding and compensation to essential transport operators, in the context of the COVID-19 pandemic, until December 31<sup>st</sup>, 2020.

Within the exceptional measures of organization and operation of educational and training activities, established by Decree-Law no. 20-H/2020, of May 14<sup>th</sup>, the Decree adds two articles, according to which the periods of time that elapsed, in higher education institutions, during the suspension of face-to-face activities that could not be replaced by digital means or determined by a public authority, applicable to entities hosting scholarship holders, are not counted, up to the limit of two months, for the purpose of the maximum duration of the research scholarships. On the other hand, changes to the duration, study plans or number of contact hours of the study cycles approved by competent bodies of the higher education institutions, applicable, on an exceptional and transitory basis, to the academic year 2019-2020, do not require an accreditation procedure and/or registration with the General Directorate of Higher Education nor do they affect the validity of the degrees or diplomas granted.

The Decree also revokes the suspension of the obligation to renew medical-sports examinations, as provided for in Decree-Law no. 18-A/2020, of April 23<sup>rd</sup>.

To access the full text of the legal instruments analyzed herein, please click on the following links:

- [Resolution of the Council of Ministers no. 53-A/2020, of July 14;](#)
- [Decree-Law no. 37-A/2020, of July 15;](#)
- [Order no. 7212-A/2020, of July 15;](#)
- [Order no. 7212-B/2020, of July 15;](#)
- [Decree-Law no.39-A/2020, of July 16;](#)

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