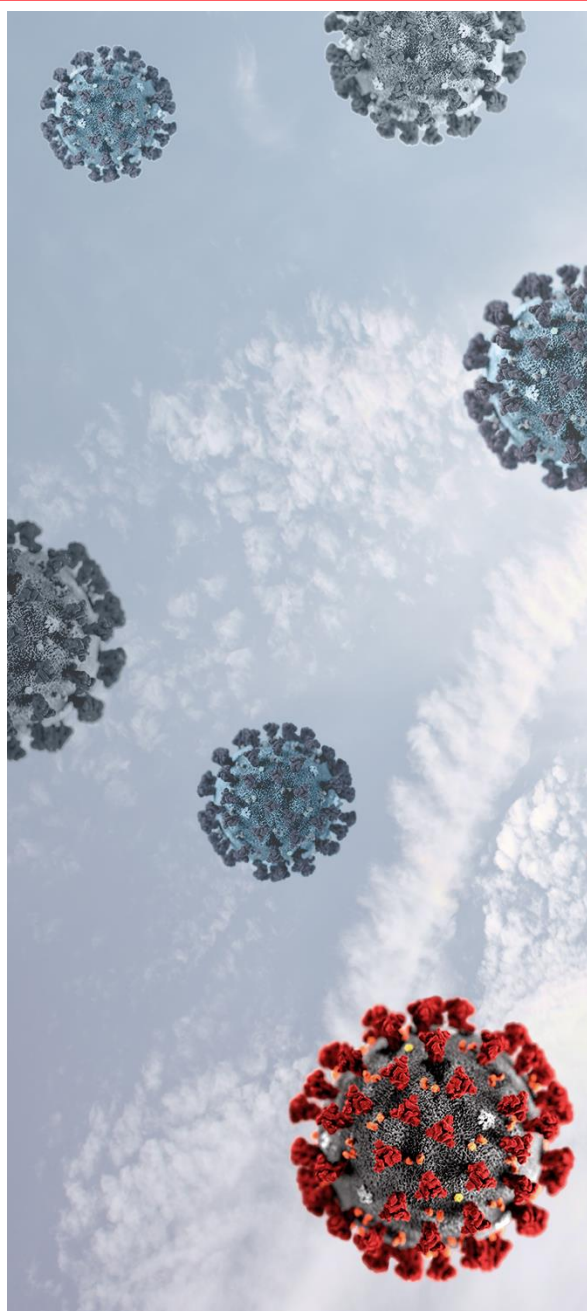

COVID-19: News from the cultural sector

Newsletter | Portugal

Updated on April 14, 2021



- > **Rescheduling of cultural and entertainment performances** (*updated under Decree Law 26-A/2021 of April 5*)
- > **Regulation of Cultural Support Measures** (*updated under Ministerial Order 80-A/2021 of April 7*)
- > **Garantir Cultura Program** (Guarantee Culture Program) – corporate world: **Ministerial Order 75-B/2021 of March 31** (*new*)



I. Exceptional measures for cultural and entertainment performances – rescheduling rules

The new general lockdown, imposed from January 15, 2021, has led to the temporary closure of establishments and venues where cultural and artistic activities are organized, and the cancellation or postponement of live artistic performances, similar to what happened during the first wave of the pandemic, in March and April 2020.

At the time, Decree Law 10-I/2020, of March 26, established an exceptional framework to protect cultural operators involved in organizing performances that could not or would not be able to be held due to the pandemic, and that were scheduled between February 28 and September 8, 2020.

Under this legislation, affected performances should be rescheduled within a given period, without affecting the validity of tickets already sold or the possibility of exchanging the ticket for another performance, at the spectator's request. If rescheduling is not possible, the show must be canceled and the cost of tickets already sold reimbursed, together with the amounts paid in advance to the owners or operators of the place where the performance was to be organized, within the periods established in that law.

The scope of these measures had to be extended due to the restrictions imposed during the new general lockdown. Under Decree Law 6-E/2021 of January 15, i) the scheme provided for in Decree Law 10-I/2020, which we have summarized above, became applicable to the rescheduling or cancellation of performances that could not take place prior to March 31, 2021; and ii) rescheduled performances would have to take place by September 30, 2021.

However, given how the epidemiological situation in Portugal has progressed, it became necessary to broaden the scope of those measures and, under Decree Law 26-A/2021 of 5 April, it was decided that the measures would apply to the rescheduling or cancellation of all performances that do not take place due to a regulatory, governmental or national health authority decision.

Decree Law 26-A/2021 also stated that:

- Performances must be rescheduled up to 14 working days before the event is scheduled to take place and must never be held after December 31, 2022. If this does not happen, the performance may be deemed to have been canceled rather than postponed;
- In 2021, live performances held in indoor or outdoor venues at festivals or events of a similar nature must comply with the guidelines issued by the Directorate-General for Health (“DGS”) in view of how the pandemic progresses. Pilot test events can be organized in conjunction with the DGS to establish technical guidelines on areas such as seat occupancy, capacity and physical distancing;



- Spectators, artists and technical personnel, as well as all other workers and service providers involved in the organization, holding and production of festivals and events of a similar nature may have to take SARS-CoV-2 diagnostic tests;
- The rescheduling of a performance, festival or event of a similar nature that was initially scheduled for 2020, now taking place in 2022, entitles ticket holders to a refund of the full ticket price (or of the voucher value in the case of festivals and events of similar nature), provided it is requested within 14 working days from the scheduled date of the event in 2021 (or the expiry date indicated on the voucher). If they do not request a refund, they will be deemed to have accepted the rescheduling of the performance, festival or event of a similar nature without the right to receive a refund of the ticket price or of the voucher value.
- The scheme provided for festivals and events of a similar nature in 2020 will apply to the rescheduling and cancellation of festivals and events of a similar nature scheduled for 2021 and 2022. This scheme will be adapted as necessary, as follows: (i) vouchers are valid until December 31, 2022; (ii) rescheduled performances must take place by December 31, 2022.

II. Regulation of cultural support measures

The shock caused by the pandemic changed the economic and social dynamics of the cultural sector, leading to an unprecedented decline in activity. The situation has been exacerbated by the new restrictive measures that were adopted on January 15 this year, which introduced new suspension periods for artistic and cultural activities and the closure of all cultural facilities.

As culture and the cultural business sector provide substantial support for the economy and employment, and as culture is one of the foundations of social wellbeing, the government decided to increase support for the cultural sector so it can meet its short-term commitments and also contribute to maintaining and reviving cultural activities during and after the pandemic.

Therefore, a set of strategic measures was planned for 2021 aimed at alleviating the negative effects of the pandemic on the cultural and artistic sectors, adapting and extending pre-existing financial support measures while also creating new ones.

The regulation of these financial mechanisms (Regulation of Cultural Support Measures, also referred to as the “Regulation”) was approved by Ministerial Order 37-A/2021 of 15 February and recently amended by Ministerial Order 80-A/2021 of April 7, as the government decided to increase support for this sector under the State Budget for 2021. The government also took the opportunity to improve some of the criteria for awarding support.

The Regulation establishes the following cultural support measures, which cut across the entire sector:

- Garantir Cultura (Guarantee Culture) Program



- Extraordinary support for artists, authors, technicians, and other cultural professionals
- Support under the Directorate-General of Arts (DGARTES)
- Support under the Directorate-General of Cultural Heritage (DGPC)
- Support under the Directorate-General of Books, Archives and Libraries (DGLAB)
- Support under the Regional Directorates of Culture
- Support under the Cinema and Audiovisual Institute (*Instituto do Cinema e do Audiovisual, I. P.*)
- State program for purchasing contemporary Portuguese art

Garantir Cultura Program

The **Garantir Cultura Program** aims to develop artistic projects, production, and programming in all areas of the cultural sector, including performance arts, visual arts, exchange across disciplines, books, cinema, and museum studies. This translates into the creation of assistance, in the form of grants, that covers the entire cultural sector, including individuals and organizations from all artistic sectors, as well as micro, small and medium-sized companies.

This program is divided into two sub-programs:

- **Garantir cultura – corporate world:** this involves assistance, in the form of grants, to artistic and cultural activities, particularly cultural production and programming, whether in physical or digital format, aimed at micro, small and medium-sized companies operating in the cultural sector.
- **Garantir Cultura – non-profit individual and collective artistic organizations:** this involves assistance, in the form of grants, aimed at individuals and organizations from the artistic sector, for cultural production and programming in both physical and digital formats.

This program has a maximum limit, by the end of 2021, of EUR 42 million, of which EUR 30 million is meant for the first sub-program, i.e., the corporate world, and the remaining for artistic individuals and non-profit organizations. The regulation of the first subprogram was recently approved by Ministerial Order 75-B/2021 of March 31, as detailed below.

These grants cannot be combined with each other, but the program can be combined with the other support measures under the Regulation.

Extraordinary support for artists, authors, technicians, and other cultural professionals

The **Extraordinary support for artists, authors, technicians, and other cultural professionals** aims at extending the effects of the additional social support line to artists, authors, technicians, and other cultural professionals, created under the Economic and Social Stabilization Program, approved by Council of Ministers Resolution 41/2020, of June 6 (PEES), and regulated by Ministerial Order 180/2020, of August 3. The support mechanisms are intended for individuals who are registered with the financial authorities **solely** as self-employed workers at the date the application for support is



submitted and who perform one of the main activities or who have one of the main CIRS (personal income tax) codes provided for in the Regulation.

Each applicant may benefit from a maximum amount corresponding to a Social Support Reference Rate (EUR 438.81). Support is granted in the order in which applications are submitted. Applications for support must be submitted on the dates provided in the Regulation in March, April and May 2021, by completing and submitting the respective online form.

This support measure can also be combined with the other support measures under the Regulation, as well as the additional social support established in Ministerial Order 180/2020, which we described in our COVID-19 Newsletter of August 6, “Financial support line for the culture sector,” which you can read [here](#).

Support under the Directorate-General of Arts

The main goals of this support measure are to promote the artistic sector, contributing to its stabilization while upholding the requirements of artistic quality and cultural relevance, and encouraging, through other structural measures, the consolidation and renewal of Portugal’s professional arts.

The Regulation establishes the terms of these emergency financial support measures, for 2021 and 2022, to be granted by DGARTES. The potential beneficiaries of this measure are:

- > organizations that have benefited from financial support, wholly or partially, as sustained support, whose contracts end on December 31, 2021;
- > eligible organizations that have not received any support in the Sustained Support Program 2020-2021 competition;
- > eligible organizations that have not received any support in the Project Support Program 2020 competition; and
- > regional orchestras, under Order 11156/2018, of November 28.

These grants can also be combined with the other measures under the Regulation.

Support under the Directorate-General of Cultural Heritage (DGPC) and under the Regional Directorates of Culture

Following the reactivation of the ProMuseum (Museum Support Program of the Portuguese Network of Museums) by Regulatory Order 9/2019, of April 1, a new ProMuseum competition is planned for this year, to be opened by a notice published in the *Official Gazette of the Portuguese State (Diário da República)*, in the first quarter of 2021. The total amount of this financial support (to be allocated by the DGPC [Directorate-General for Cultural Heritage]) was initially EUR 600,000 and has now been increased to EUR 1,000,000 under Ministerial Order 80-A/2021.



The Regional Directorates of Culture are also committed to launching processes leading to the issuing of grants to non-professional artistic organizations, in the first quarter of 2021, for a total value that has now also been increased to EUR 1,107,000 (instead of the initial EUR 407,000), to be distributed among the different Regional Directorates of Culture listed in the Regulation.

Support under the Directorate-General of Books, Archives and Libraries

There are also support measures aimed at the publishing sector, across all categories, to alleviate the negative effects of the pandemic, while also stimulating and encouraging all the activities tied to the publishing chain. The intention is to promote literary production by Portuguese authors and to contribute to the circulation of books, update collections of public municipal libraries, and safeguard the book publishing and retail market in Portugal. The total amount of these support mechanisms was also increased by Ministerial Order 80-A/2021.

The Regulation provides for the following:

- The awarding of 24 scholarships, amounting to EUR 270,000, under the Literary Production Scholarship Program 2020, and the opening of the Literary Production Scholarship Program for 2021, under the regulation approved by Ministerial Order 123/2017, of March 27.
- The creation of a support system for bookshops, with a total amount of financial support that has now risen to EUR 600,000 for small and medium-sized retail bookshops. In exchange, the bookshops will have to provide copies of books selected by the libraries belonging to the National Public Library Network. The regulation of this support measure will be published in the first quarter of 2021.
- The creation of a support measure for publishing, with a total amount of financial support that has now risen to EUR 600,000 to small and medium-sized publishing houses for publishing unpublished works of poetry, narrative fiction, drama, comics, children's literature and young adult fiction, or essays in the areas of arts and cultural heritage, written in Portuguese by Portuguese authors. The regulation of this support measure will be published in the first quarter of 2021.

Support under the Cinema and Audiovisual Institute (*Instituto do Cinema e do Audiovisual, I. P.*)

The Cinema and Audiovisual Institute (*Instituto do Cinema e do Audiovisual, I. P.*) reinforces the group of exceptional support measures for resuming and maintaining activities of the sector and its regular functioning, reinforcing exceptional support measures with an additional amount of EUR 1,440,000, which complements some of the financial support programs for 2020.

State program for purchasing contemporary Portuguese art

To give continuity to the State's progressive investment in acquiring contemporary art, initiated in 2019, the amount available to the State's program for acquiring contemporary Portuguese art is reinforced this year by EUR 150,000.



III. Regulating the *Garantir Cultura* Program (corporate world):

As mentioned *above*, Ministerial Order 75-B/2021 of March 31 approved the Regulation of the *Garantir Cultura* Program (corporate world), the purpose of which is to create a system of incentives for the cultural business sector, financed by the European Structural and Investment Funds.

As has also already been discussed, the *Garantir Cultura* Program (corporate world) aims to encourage cultural and artistic activities, particularly cultural production and programming, to mitigate the negative impacts of COVID-19.

This Program applies throughout mainland Portugal and has a budget of EUR 30,000,000. The incentive system provides support based on the value of the eligible expenses needed to carry out a cultural creation or programming project submitted by the beneficiary.

Financial support is provided as a grant and is available to micro, small and medium-sized companies of any nature and legal status, including sole traders who submit non-simplified accounts.

On the date the application is submitted, applicants must comply with the following (in addition to other required criteria and conditions):

- > have positive equity as of December 31, 2019;
- > submit non-simplified accounts;
- > have no tax or social security contributions outstanding with the tax and social security authorities.

Projects are also subject to eligibility criteria. Specifically, projects must:

- > fit into certain thematic areas (e.g. performing arts, visual arts, cinema);
- > aim to carry out cultural creation or programming activities for the general public, which may include presentations and content on physical or digital formats, including activities associated with projects that were suspended after restrictive measures were implemented due to the COVID-19 epidemic and that can now be resumed;
- > be carried out within a maximum period of nine months from the favorable decision notice date.

As mentioned above, only certain types of expenditure, incurred as of January 1, 2021, are eligible. The incentive rate on eligible expenses is 75% for small and medium-sized companies and 90% for micro-sized companies. The maximum grant limit, which is calculated using eligible expenses, is as follows:

- > €50,000 for micro-sized companies;
- > €75,000 for small companies;



- €100,000 for medium-sized companies.

Applications must be submitted in accordance with Article 10 of the Regulation. Thereafter, the Management Authority for the Competition and Internationalization Operational Program (*Autoridade de Gestão do Programa Operacional Temático Competitividade e Internacionalização*) will issue its reasoned decision on the funding to be allocated within 20 working days from the date the application is submitted and the beneficiary will receive notice of the decision within a period of three working days from the date it is issued.

During the period in which support is received, which is from the application submission date and for 60 working days following the submission of the final payment request, beneficiaries may not:

- End employment contracts within the scope of rules on collective dismissal or dismissal due to end of work role, or dismissal for inadequacy, set out in sections 359, 367 and 373 of the Labor Code (*Código do Trabalho*), respectively, or start the respective procedures;
- Cease activities;
- Distribute dividends, of any kind, namely as payments on account.

This support can be combined with other public incentives and support, specifically, those provided under the *Programa Apoiar* (Support Program), except regarding other support mechanisms that are provided under the *Garantir Cultura* Program for other areas that are not particularly geared to the corporate world.



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