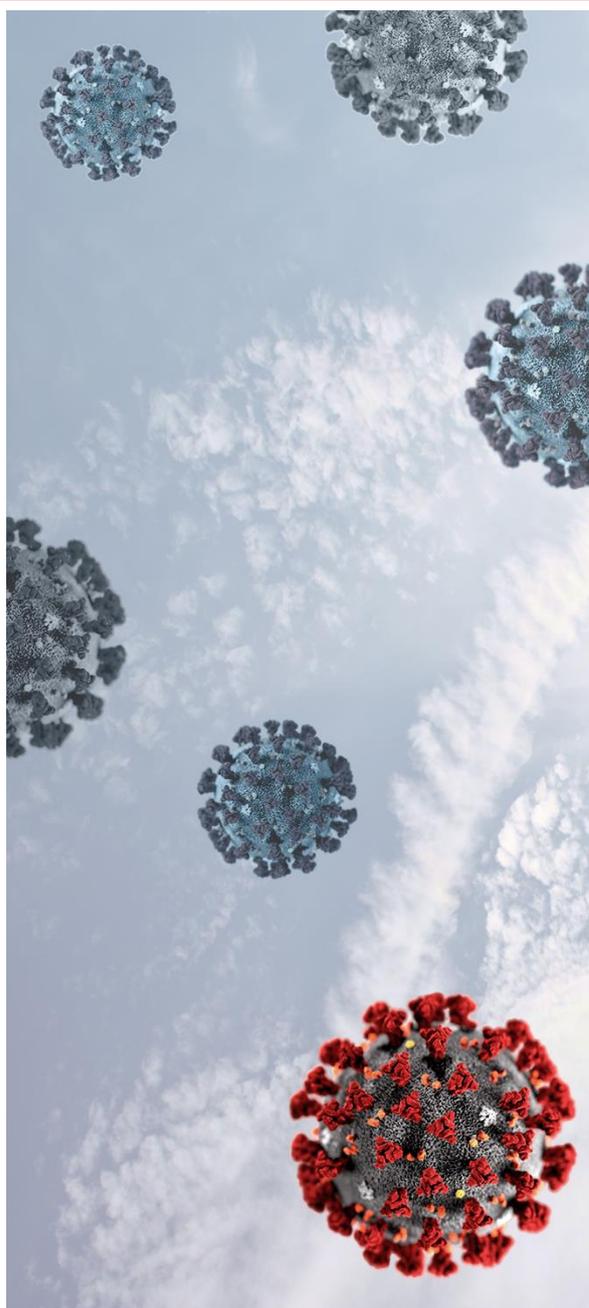

COVID-19: Culture and entertainment

Newsletter | Portugal

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I. Exceptional measures for cultural and entertainment shows

Considering the epidemiological situation of COVID-19, both nationally and internationally, the Directorate General of Health (“DGS”) recommended that no mass gatherings be held on or after February 28, 2020 to prevent the spread of the disease.

Following the state of alert declared on March 13 and the state of emergency subsequently declared on March 18, live artistic performances were canceled or postponed, and the establishments and venues where cultural and artistic activities are held were closed.

Decree Law 10-I/2020, of March 26, amended by Portuguese Law 7/2020, of April 10 and rectified by Rectifying Statement 18/2020, of April 30, establishes an exceptional framework for the protection of cultural agents involved in shows that, because of the pandemic, could not or cannot be held. It is effective from February 28, 2020, until 90 business days following the end of the state of emergency.

The Decree applies to all cultural agents, owners and operators of facilities, venues and agencies, sales offices and platforms for electronic ticket sales.

To comply with the new Decree Law, whenever possible, live performances must be rescheduled without affecting the validity of the tickets previously sold, within a maximum of one year from the initially scheduled date. Rescheduling does not allow owners or operators of the venue of the show to charge cultural agents or ticket holders any additional fees.

The ticket holder may also request to exchange the ticket for another show, provided that there is a price adjustment (when applicable).

If the event cannot be rescheduled, the show must be canceled. If this happens, the ticket price must be refunded to ticket holders, as well as the amounts paid in advance to the owners and operators of the venue. The refunds must be made within the deadlines established by the Decree Law.

Failure to comply with these obligations constitutes an administrative offense, under article 36(1) of Decree Law 23/2014, of February 14, as currently worded.

➤ **Public contracts for promoting live performances**

The Decree also envisages relaxing public procurement mechanisms so public promoter entities can reschedule live performances with greater flexibility and at no additional cost.



Public entities can reschedule free-admission performances up to 18 months after the measures prohibiting or restricting them are lifted.

If the entities have to cancel the scheduled shows, they will be authorized to pay the price of previously contracted commitments, if the good or service has actually been provided, or the corresponding percentage.

When payments are made to agents, producers and entertainment companies or to any other intermediary, they must make the proportional, fair payment to the workers participating in the respective events, namely, authors, artists, technicians and other professionals and companies contracted for the live performance, within 10 business days of receiving it. The proportional collection of the corresponding fees will not be affected. If live performances are rescheduled, these payments are made as a down payment for the service that will be performed on the new show date.

If they are canceled and rescheduled, promoters must ensure that the payments are made within the contractually agreed periods or, at latest, on the original show date, for at least 50% of the contractual price, unless the parties amend the agreement with a view to rescheduling the show and the subsequent payments.

In case of pending procedures, with a show officially scheduled, i.e., when the decision to contract and a call for proposals have already been issued, public promoters must guarantee that the procedure will be completed.

II. Exceptional measures taken by cultural and entertainment entities

In response to the COVID-19 pandemic, some entities in the culture and entertainment sector have adopted exceptional emergency and solidarity measures to try to mitigate the financial impact of the economic slowdown and its effects on cultural activities.

The **Film and Audiovisual Institute, I. P. (the “ICA”)** has adopted exceptional substantive and procedural measures; specifically, it has:

- suspended film exhibitors' investment obligations, including those for March (set at 7.5% of the sale price of movie tickets);
- allowed the initial broadcast of movies on television or through on-demand audiovisual communication services (previously, they had to be shown at movie theaters first);
- allowed contracts to be submitted online with a digital signature, with the same legality, allowing the hard copy to be delivered at a later date;



- allowed supporting documents that replace those requested for grants to be awarded, provided they serve the same purpose; however, the documents required by regulations must be delivered at a later date;
- allowed interested parties to review remotely the applications and documents of each case in case of a preliminary hearing; and
- allowed final copies and other materials to be submitted online so they can be viewed by people who are teleworking (the same applies for work registration purposes).

Regarding financial support for the 2020 tenders, the ICA will maintain the planned closing dates and, whenever possible, it will speed up the procedures for awarding film and audiovisual support.

In addition to the above measures, a series of measures will soon be published with a view to amending the General Regulation on Financial Support Programs (*Regulamento Geral Relativo aos Programas de Apoios Financeiros*), under which payment facilities will be granted and apply both to support in the 2020 tenders and tenders from previous years that are still pending.

On March 25, 2020, **PassMúsica** announced that it would approve a mechanism to suspend licensing contracts. This mechanism will be in force from March 15, 2020, until 10 days after the end of the suspension of the activity under the state of emergency decree. We highlight the following aspects of this mechanism:

- A credit in the amount of the licensing fee will be issued, proportional to the suspension period, to be used immediately following the renewal of the license.
- For entities that, because of the seasonal nature of their activity, have a renewal document that expires after March 15, the document will be suspended and replaced by a new one whose period will begin 10 days after the date the suspension of the activity is decreed.

In addition to this suspension mechanism, PassMúsica will provide free licenses to users of recorded and edited music who decide to continue their activity remotely (e.g., DJs through social media, video calls or live streaming services).

The **Portuguese Society of Authors (the “SPA”)** has published the measures it has adopted in response to the impact of the COVID-19 pandemic on the cultural and artistic sector:

- The cap on advance payments to intellectual creators (authors) under the General Regulations for the Distribution of Rights (*Regulamento Geral de Repartição de Direitos*) was increased from 25% to 50% of the average rights collected in the last three years.
- The cap for advance payments to music publishers under the current Regulation was increased from 10% to 20% of the total rights collected in the previous year.



- › The emergency allowance amount allocated for situations of need caused by illness, sudden relocation or manifest loss of job opportunities in a market crisis was increased by €100,000.

The **Association for the Collective Management of Copyrights and of Film and Audiovisual Producers (the “GEDIPE”)** has also adopted a “solidarity mechanism” for the domestic tourism sector :

- › All invoices issued until June 30 that are yet to be settled for the licensing of related rights of public communication of the first semester and 2020 will exceptionally benefit from a 180-day settlement period.

This moratorium applies to restaurants, gyms and similar centers, airports, exhibition and leisure venues, and hotels.

- › Payable amounts for the related public communication rights in the next licensing period will be updated based on the foreseeable decrease of hotel occupancy rates.
- › The GEDIPE will not charge any licensing fees for the months the establishments are involuntarily closed.

The **Cooperative for the Management of the Rights of Artists (the “GDA”)**, as an exceptional support measure, has brought forward the distribution of rights to Portuguese artists before the usual deadline. The distribution of audiovisual and phonogram rights for 2018 scheduled for July 2020 will be distributed two months earlier.



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Cuatrecasas has set up a Coronavirus Task Force, a multidisciplinary team that constantly analyses the situation emerging from the COVID-19 pandemic. For additional information, please contact our taskforce by email TFcoronavirusPT@cuatrecasas.com or through your usual contact at Cuatrecasas. You can read our publications or attend our webinars on our [website](#).

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