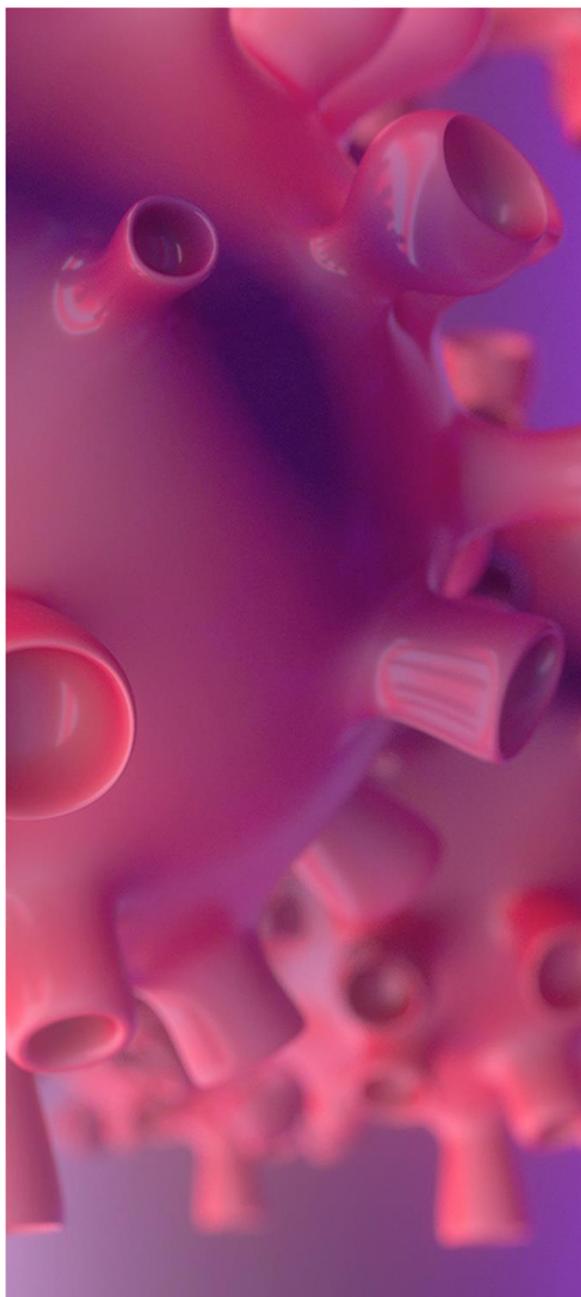

COVID-19 (No. 20)

Legal Flash | Portugal

June 1, 2020



- **Second extension of the declaration of the situation of calamity and the measures for phase three of de-confinement - Resolution of the Council of Ministers 40-A/2020 of May 29 and Decree Law 24-A/2020 of May 29**



Second extension of the declaration of the situation of calamity and the measures for phase three of deconfinement

Although the first two phases of deconfinement have ended, and despite the positive evolution of the epidemiological situation, the Portuguese government believes that the situation of calamity persists, so it has approved this extension through Resolution of the Council of Ministers 40-A/2020 of May 29. This order opens phase three of deconfinement, limiting the number of restrictions as part of the gradual easing of the measures that had been in effect during the state of emergency.

Resolution of the Council of Ministers 33-C/2020, published on April 30, defined a gradual strategy to ease the confinement measures, establishing a calendar of **three phases**, each one 15 days long: (i) **phase one, which started on April 30**, whose measures we reported in detail in the Legal Flash that can be read [here](#); (ii) **phase two, which started on May 18, 2020**, whose the measures are explained in the Legal Flash that can be read [here](#); and (iii) **phase three** that started on June 1, 2020.

The second extension of the declaration of the situation of calamity will be in effect between 00:00 a. m. of June 1 and 23:59 p. m. of June 14, 2020, regardless of any extension or modification, depending on how the epidemiological situation evolves.

In this third phase, given the recent localized outbreaks, special limitations have been established for the Lisbon Metropolitan Area , both on concentration of people and on reopening commercial and service establishments.

Other exceptional and temporary measures applicable to phase three of deconfinement are established and specified in Decree Law 24-A/2020, also published on May 29.

MEASURES APPLYING TO PEOPLE

In this third phase, measures have been implemented to gradually ease the restrictions on freedom of movement that were approved during the state of emergency.

Although the confinement obligation for those infected with COVID-19 and those under active surveillance continues, other people **cease to be bound by the civil duty to stay at home, with no restriction on their freedom of movement.**

Celebrations and other events

In most of Portugal, celebrations and events that do not involve more than 20 people are allowed. This number limitation does not apply to:



- religious ceremonies, including community celebrations;
- family events, including weddings and christenings, both civil and religious ceremonies and other commemorative events; and
- corporate events held in adequate spaces (congress halls, tourist establishments, adequate facilities for trade fairs and outdoor spaces).

In the absence of specific DGS guidelines, the organizers of these events must follow, with the necessary adaptations, the rules on occupation, stay, physical distancing and hygiene applicable to premises open to the public and catering facilities, as well as ensure the availability of hand disinfectant solutions in adequate locations depending on each space layout. Participants must wear a mask or visor when the events are held in closed spaces.

However, considering the number of recent contagions in the **Lisbon Metropolitan Area**, the Portuguese government has established special restrictions for this area, including limitations to:

- Access, movement and stay of people in areas open to the public, as well as concentration of people on public spaces is limited to 10 individuals, unless they are part of the same household.
- Vehicles with seats for more than five people may only circulate at two thirds of their capacity, and passengers must wear a mask or visor, unless all passengers are part of the same household.

Use of masks and visors

Decree Law 24-A/2020 modified the rules on the **use of masks and visors**.

Wearing masks and visors continues to be mandatory to access or stay i) in commercial and service areas or establishments; ii) in public buildings or buildings for public use where services are provided or acts involving the public are conducted; iii) in collective passenger vehicles; and iv) in teaching establishments and kindergartens, by teaching and non-teaching staff and by students.

In this third phase of deconfinement, with the reopening of live performance venues, theaters, movie theaters and the like, masks and visors inside these spaces is also mandatory.

This requirement now applies also to children older than 10 (but not to students older than 6, as previously required).

Wearing a mask or visor is not mandatory if the individual can provide:

- a) a medical certificate of multiple disability, or a medical statement in the case of individuals with a cognitive, developmental, or psychological disability; or
- b) a medical statement certifying that the individual's clinical condition does not allow the use of masks or visors.



MEASURES APPLYING TO COMMERCIAL ACTIVITIES

In line with the general reopening of business activities, **commercial establishments with a surface area for sales or the provision of services larger than 400 m² and those in malls** will be allowed to open.

This means that all commercial and service establishments may reopen, except for certain facilities and establishments that will remain closed during this third phase of deconfinement and for certain retail and service establishments in the Lisbon Metropolitan Area that will be specified below.

The following businesses and establishments are allowed to operate, conditional on compliance with the DGS guidelines:

- a) Gambling and gaming establishments, casinos, bingo halls, and the like;
- b) Hairdressing salons, barber shops and beauty clinics by appointment;
- c) Tattoo and body piercing parlors by appointment; and
- d) Massages in beauty salons, gymnasiums, and similar establishments.

Those specified in a) must also have a specific cleaning and hygiene protocol for gambling areas, prioritizing TPA transactions, and not allowing people who do not intend to consume or gamble inside the establishments.

I. Special limitations applicable to the Lisbon Metropolitan Area

Although this phase seeks the reopening of business activities to enable relaunching the economy, the Portuguese government has established special limitations for the Lisbon Metropolitan Area because of the number of recent contagions in this area.

- Activities in retail and service establishments with a sale or service area larger than 400 m² and those in malls, including food courts continue to be suspended. This does not apply to those with an equal or smaller area and a separate or independent entrance from the outside;
- The Lisbon Metropolitan Area municipalities will assess the authorized opening of establishments with a surface area larger than 400 m², as well as the continued operation of trade fair facilities that started operating again during the first extension of the situation of calamity.
- The following activities and establishments in the Lisbon Metropolitan Area are allowed:
 - Those already authorized during the state of emergency and in the first two phases of the declaration of the state of calamity, regardless of their size;



- Those that intend to continue operating exclusively for home delivery or the delivery of goods to the door of the establishment, in which case access to the inside by the public is prohibited;
- Those with a surface area larger than 400 m², when their operation has been authorized by the competent municipality, provided they follow all health and safety rules; and
- Those that, despite having a surface area over 400 m², restrict the sale or service area to no more than 400 m².

II. Economic activities and commercial establishments that remain closed during phase three of deconfinement

The following establishments and facilities will remain closed during this phase:

- **Recreational, leisure, and entertainment activities:** dance and social halls, amusement parks and children parks and the like, aquatic parks, except for access by workers to take care of animals, as well as other similar premises and facilities;
- **Cultural activities:** state, regional, and municipal caves, public or private (except for access by workers for conservation purposes) and bullfighting rings and facilities.
- **Sports activities** (except training for federated athletes): indoor facilities, except for those intended for contactless individual sports, indoor futsal, basketball, handball, volleyball, roller hockey pitches and the like, indoor skating rinks, ice hockey rinks, and the like, boxing and martial arts rings and the like, indoor athletics tracks;
- **Outdoor activities and those in public roads:** parades and festivals and folk events of any kind;
- **Gambling and betting facilities:** gambling halls and saloons;
- **Drinking establishments:** bars, discos and the like, except for those in tourist establishments and local accommodations, exclusively serving guests.
- Spas and similar establishments such as solariums; and
- Language schools and tutoring centers, except to take tests, strictly applying the physical distancing recommended by the health authorities.

III. Catering and similar activities

Catering and similar establishments reopened by Resolution of the Council of Ministers 38/2020 of May 17, in phase two of deconfinement, provided they met certain rules that we described in the Legal Flash that can be viewed [here](#). In this third phase, essentially the same rules continue to apply, with these new developments:



- Occupation of catering and similar establishments is now limited to 50% of capacity. Alternatively, airtight physical barriers must be installed between customers facing each other, with a distance between tables of one and a half meters.
- In food courts in malls, space must be arranged as to prevent the concentration of people, and the DGS guidelines for the catering sector must be followed, adapted as required.
- Restaurants and similar establishments may, as before, continue to operate on a take-away or home delivery basis, and are exempt from obtaining a license for this activity. They can decide their workers participation in these activities, even if they are not part of their work contracts.

IV. Rules applicable to economic activities and commercial establishments open to the public

- **The rules for occupation, stay, physical distancing, hygiene, availability of disinfectants, priority service, and customer information for economic activities and commercial establishments open to the public** are maintained in substantially identical terms to those in force during the first and second phase of deconfinement.
- **As for opening hours**, the rule by which establishments returning to their activity **may not open before 10 a.m.** is maintained. However, establishments whose usual opening hours are changed due to this limitation may add an equivalent period to their closing time. The following establishments are exempt from these rules:
 - hairdressing salons, barber shops and beauty clinics;
 - restaurants and the like, cafeterias, tea houses and the like, regardless of area or location; and
 - Driving schools and centers for technical inspection of vehicles.

WORKPLACE MEASURES

Phase three of deconfinement **puts an end to mandatory remote work**, but employers must provide workers with adequate health and safety conditions to prevent the risk of contagion. They can adopt the remote work system under the general terms of the Portuguese Labor Code (*Código de Trabalho*).

However, **remote work is mandatory if requested by the worker**, regardless of the type of employment and **provided that duties allow it**, in the following cases:

- The worker falls under the exceptional system to protect immunocompromised people and chronic patients, as certified by a doctor;
- A worker with a degree of disability equal to or higher than 60%;
- A worker with children or other dependents under the age of 12 or, regardless of age, with a disability or chronic condition, resulting from the suspension of face-to-face teaching and non-teaching activities in a school or social facility to care for children or people with disabilities



outside the vacation period. This possibility applies only to one of the parents, regardless of the number of children or dependents.

Remote work is also mandatory, independently of the type of employment and provided that the worker's duties allow it, when the physical spaces and work organization do not make it possible to comply with the DGS and ACT guidelines.

If the remote work option is not selected, measures to prevent and mitigate the risk of contagion must be implemented within the maximum limit of normal working hours and respecting the right to daily and weekly rest established in the applicable law or collective agreement. In particular, daily or weekly schedules to rotate workers between remote work and work in the usual workplace, different entry and exit times, and different break and lunch times may be implemented.

In these cases, the employer may change the work schedule using its management powers, although it must follow the procedure established by law.

MEASURES APPLYING TO PUBLIC SERVICES

- Public services maintain face-to-face service by previous appointment, as well as the provision of services by digital means and through contact centers for individuals and businesses;
- The hygiene rules and customer service hours applicable to facilities open to the public apply, duly adapted, to these services.
- For the reasons described above, a specific rule has been created for Citizen's Bureaus (*Lojas do Cidadão*) in the Lisbon Metropolitan Area, which establishes that they will remain closed, but they can set appointments for face-to-face service after June 1, 2020. Face-to-face customer service at Citizen's Bureaus is only maintained in locations where there are no decentralized desks, and where these services cannot be provided by digital means or through contact centers for individuals and businesses.

MEASURES APPLYING TO CULTURAL EVENTS

With the start of phase three of the gradual easing of the measures approved for the state of emergency, the government decided to allow the operation of show venues, theaters, movie theaters, and similar, as well as outdoor cultural events, provided that the following rules are followed:

- Rules for occupation, stay, physical distancing, and hygiene applicable to facilities open to the public and other facilities specified by DGS, with the required adjustments;
- Live performance venues and movie theaters must meet the following conditions, whenever possible:



- A distance of one seat between audience members who do not live together and alternating with the next row;
 - The distance between the bottom of the stage and the first row of seats must be at least two meters;
- > In outdoor venues, seats must be previously identified, complying with the physical distancing of 1.5 m and, if there is a stage, the same distance as in performance venues must be ensured.
 - > Ticket boxes must be preferably protected by barriers;
 - > Electronic purchase of advance tickets and contactless payment must be prioritized;
 - > Whenever applicable, the maintenance of ventilation systems, with no air recirculation, must be ensured;
 - > Physical contact between performers must be minimized, adapting scenes so as to keep the recommended physical distance.

In areas intended for food and drink consumption in these cultural venues, the rules established by DGS for the catering sector must be followed.

MEASURES APPLYING TO PHYSICAL AND SPORTS ACTIVITIES

- > The First Professional Soccer League, as well as competitions in individual, contactless sports, may only be held outdoors, with no audience and complying with the DGS guidelines.
- > Physical and sports activities conducted outdoors, in gyms and academies, in non-competitive contexts, for individual sports or group sports by federated athletes may only be performed if they comply with the DGS guidelines. Gyms and academies must follow the hygiene rules applicable to facilities open to the public.



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