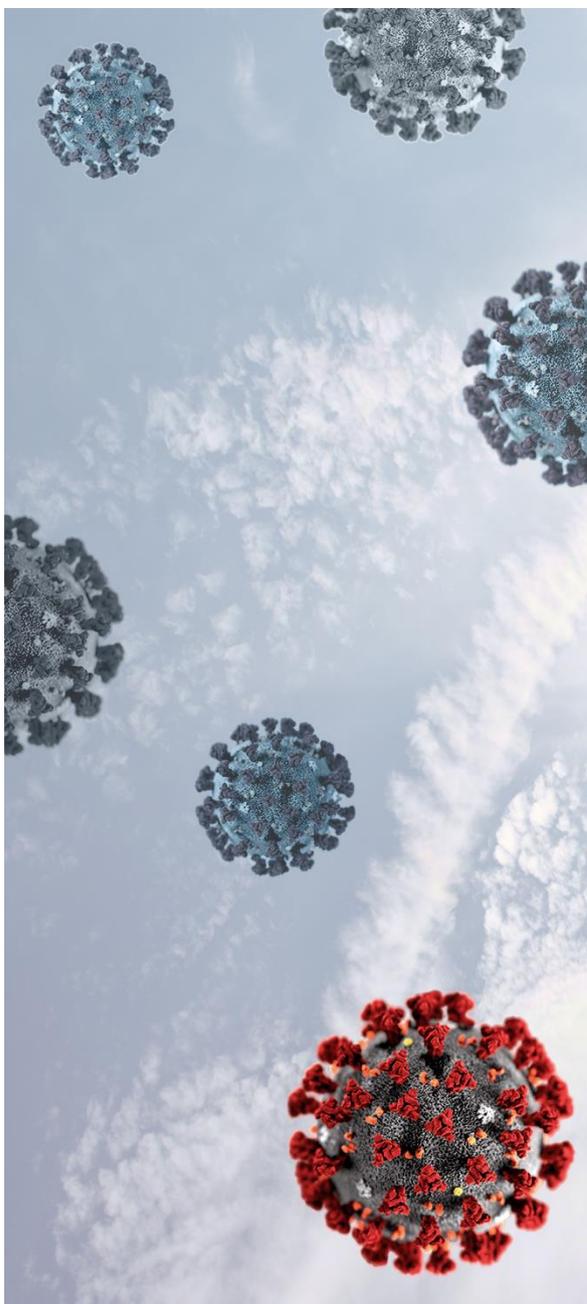

COVID-19: New developments in culture and entertainment

Newsletter | Portugal

June 3, 2020



- > **New developments in the exceptional and temporary measures applicable to culture and the arts - Law 19/2020 of May 29**



I. New developments in the exceptional and temporary measures applicable to culture and the arts

Decree Law 10-I/2020 of March 26, as amended by Law 7/2020 of April 10, established an exceptional framework to protect cultural agents involved in performances canceled or delayed due to the restrictive measures in effect during the state of alert and the state of emergency in Portugal. We reported on them in our Newsletter COVID-19 Culture and entertainments, which you can find [here](#).

This exceptional framework applied to performances scheduled between February 28 and the 90th business days from the end of the state of emergency.

When the state of emergency ended on May 2, 2020, and with the subsequent gradual easing of the confinement measures, which for culture and the arts resulted in venues reopening and lifting the prohibition of most live cultural and artistic events from June 1, 2020, it became necessary to update these measures.

> New developments for rescheduling and canceling shows

Law 19/2020 of May 29 amending Decree Law 10-I/2020 was published, establishing the scope of the temporary and exceptional system set out in the Decree Law for events that were scheduled and that could not or will not be held between February 28 and September 30, 2020, both dates included.

It also clarifies that performances affected will be those that could not be held because of the legal prohibition, but also those that will not be held if the restrictions imposed for public health reasons distort their nature or make them financially unfeasible.

The new changes mean that scheduled performances that could not be held on the original date must, whenever possible, be rescheduled by September 30, 2020, and they must be held within the maximum of one year after the initial date.

Rescheduling will not entitle ticket buyers to a refund but may entitle them to a replacement ticket.

Any performances that are not rescheduled by September 30 will be regarded as canceled, and the parties involved will be obligated to refund the price of the ticket. The lawmaker has included regulatory criteria to identify situations in which rescheduling is not “objectively possible.”

The new law also clarifies that the prohibitions and limitation on performances and venues must be regarded as force majeure for all legal and contractual purposes.



> **Gradual restart of live performances**

The new law establishes that the Portuguese government must announce the calendar to lift, or not to lift, restrictions on live performances, with a frequency of no more than 30 days, adjusting the conditions to the fight against the pandemic.

> **Festivals and similar shows**

Law 19/2020 prohibits live outdoor and indoor festivals and similar shows until September 30, 2020.

As an exception, these shows may be held in indoor or outdoor venues, with reserved seating, if duly notified and if compliant with the Directorate-General for Health guidelines can be proven.

Consumers will be entitled to a voucher for the value of the price paid, valid until December 31, 2021, which they may use to purchase a ticket to the same show on a new date or for other events held by the same promoter. If the voucher is not used by December 31, 2021, its bearer will be entitled to a refund, if requested within 14 business days.

> **Performances promoted by public institutions**

Law 19/2020 amends section 11 of Decree-Law 10-I/2020, previously amended by Law 7/2020, on the exceptional and temporary system applicable to public tenders for promotion of live performances.

Rather than making any changes, the new section 11 clarifies the applicable system by answering questions that had arisen regarding the previous wording.

It establishes that any public institution promoting a show must, in case of cancellation and rescheduling, make the payments in the terms contractually agreed, ensuring that at least 50% of the contractual price is paid by the date initially scheduled for the show, and in case of rescheduling, the rest of the payments must be made as agreed under the contract.

If the price of the services already provided exceeds 50%, the promoters must pay the difference within the period stipulated in section 299 of the Portuguese Public Contracts Code (*Código dos Contratos Públicos*).

Law 19/2020 allows implementing simplified, faster public tender mechanisms in case of rescheduling; where the contract formation procedure is already under way; where the schedule has already been announced; and where the promoters had already confirmed to the cultural agent that the show would be held, accepting the price and date.

Free performances promoted by public institutions may continue to be rescheduled for 18 months after the end of the legislative measures prohibiting or limiting shows.



If a show was initially scheduled to start by September 30, 2020, the promoter must inform the cultural agent at least 30 days in advance if the initial date will be maintained.

This exceptional and temporary system applies, with the adjustments required, to events that are held every year for which the contract formation procedure could not be started regardless of the reason.

Section 11-A introduced by Law 7-2020 remains unchanged, meaning that provided that the agents, producers, companies or any other intermediaries are paid, they must, within 10 business days from payment, pay their proportional and equitable share to any other workers involved in the event, e.g., authors, artists, technicians, and other professionals and companies engaged for the show, and the proportional payment of any commissions due. In case of rescheduling, these payments are in advance for the service to be provided on the new date.

Breaching this obligation and the price payment obligations by public institutions promoting canceled or rescheduled shows is now regarded as an administrative offense, punishable by fines of up to €15,000 in the case of corporate entities.



Contact

Cuatrecasas, Gonçalves Pereira & Associados,
Sociedade de Advogados, SP, RL
Sociedade profissional de responsabilidade limitada

Lisbon

Praça Marquês de Pombal, 2 (e 1-8º) | 1250-160 Lisboa | Portugal
Tel. (351) 21 355 3800 | Fax (351) 21 353 2362
cuatrecasasportugal@cuatrecasas.com | www.cuatrecasas.com

Oporto

Avenida da Boavista, 3265 - 5.1 | 4100-137 Oporto | Portugal
Tel. (351) 22 616 6920 | Fax (351) 22 616 6949
cuatrecasasporto@cuatrecasas.com | www.cuatrecasas.com

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](#).

© Cuatrecasas, Gonçalves Pereira & Associados, Sociedade de Advogados, SP, RL 2020.

The total or partial reproduction is forbidden. All rights reserved. This communication is a selection of the news and legislation considered to be relevant on reference topics and it is not intended to be an exhaustive compilation of all the news of the reporting period. The information contained on this page does not constitute legal advice in any field of our professional activity.

Information about the processing of your personal data

Data Controller: Cuatrecasas, Gonçalves Pereira & Associados, Sociedade de Advogados, SP, RL ("Cuatrecasas Portugal").

Purposes: management of the use of the website, of the applications and/or of your relationship with Cuatrecasas Portugal, including the sending of information on legislative news and events promoted by Cuatrecasas Portugal.

Legitimacy: the legitimate interest of Cuatrecasas Portugal and/or, where applicable, the consent of the data subject.

Recipients: third parties to whom Cuatrecasas Portugal is contractually or legally obliged to communicate data, as well as to companies in its group.

Rights: access, rectify, erase, oppose, request the portability of your data and/or restrict its processing, as described in the additional information.

For more detailed information on how we process your data, please go to our [data protection policy](#).

If you have any questions about how we process your data, or if you do not wish to continue receiving communications from Cuatrecasas Portugal, please send a message to the following email address data.protection.officer@cuatrecasas.com.