

4TH OF JUNE OF 2020

COVID-19 EXCEPTIONAL AND TEMPORARY MEASURES IN THE CULTURAL AND ARTISTIC DOMAIN

Last 29th May, Portuguese Government published Law no. 19/2020, which entered into force on 30 May and will remain in force until 31 January 2022, establishing exceptional and temporary measures in response to the COVID-19 pandemic in the cultural and artistic domain, thus making the second¹ amendment to Decree-Law no. 10-I/2020 of 26 March.

The above-mentioned Decree-Law, as well as the amending Laws, aims to adopt an exceptional and temporary regime targeting festivals and performances of similar nature that cannot be held at the scheduled place, date or time, due to the Covid-19 pandemic.

The main changes introduced by Law 19/2020 of 29 May are the following:

Prohibition of live performances

- Prohibition of holding live festivals and other performances of similar nature, in indoors or outdoors venues, until the date of 30 September 2020 (inclusive), with the Government being able to anticipate or extend this deadline, based on a recommendation from the DGS²;
- Live performances may exceptionally be held, in indoors or outdoors venues, provided they respect the maximum number of people defined by the DGS and the rules of social distance;
- Ticket holders for such performances are entitled to the issuance of a voucher of equal value to the price paid. The voucher remains valid until 31 December 2021. Not being used until that date, the bearer of the voucher is entitled to reimbursement of the value, provided he requests it within 14 working days.

Rescheduling of live performances

- The performances under this prohibition shall be rescheduled until 30 September 2020 (inclusive), otherwise they will be considered cancelled;
- Rescheduling does not imply any increase in the price paid by those already carrying a ticket at the time of the rescheduling, nor does it entail any reimbursement of the ticket price.

¹ The first amendment to Decree-Law no. 10-I/2020, of 26 March, occurred through the publication of Law no. 7/2020, of 10 April;

² Directorate-General for Health.

Cancellation of live performances

- The performances under this prohibition must be cancelled whenever (i) it is objectively impossible to reschedule or (ii) its impossibility to occur cannot be ascribed to the producer;
- Rescheduling shall be considered objectively impossible whenever the performance cannot take place within one year of its originally scheduled date;
- The impossibility of rescheduling is not imputable to the producer when there is no venue with (i) the capacity initially booked, (ii) in the city, metropolitan area or within a 50 km radius of the original location and (iii) available within one year of its originally scheduled date.

Replacement of tickets

- As an alternative to replacing a ticket, in case of rescheduling or reimbursement of the price paid for the cancelled performance, it is possible to replace it for a ticket to another performance, at the consumer's request, adjusting the price due, provided that the consumer has not been reimbursed for the price of the ticket.

Performances promoted by public entities

- When promoted by the contracting authorities provided for in Article 2 of the Public Contracts Code or financed by a majority of public funds, the promoter shall, both in cases of rescheduling or cancellation, make the payments in accordance with the contractual terms and shall ensure that a minimum amount equivalent to 50% of the contracted price is paid until the originally scheduled date of the performance;
- In case the price of the services already provided exceeds the price to be paid under the previous paragraph, the entities mentioned therein must pay the difference;
- Public entities may reschedule free entry performances up to 18 months;
- This regime also applies to the execution of contracts in which, although not yet finalized by the date of entry into force of the referred Decree-Law, (i) the procedure had already been initiated, or (ii) the programme had been announced, or (iii) the promoting entities had communicated in writing to the cultural agent the confirmation of the performance in question, accepting the price and respective date.

In such cases, public entities should initiate or complete the proceedings for approving expenditure and formation of public contracts necessary for the effective conclusion of the contract and for making the payments due;

- This regime also applies to events which are repeated annually and for which the contract formation procedure has not been initiated.

Misdemeanours

- Failure to comply with the rules laid down for performances promoted by public entities or financed by a majority of public funds constitutes a misdemeanour punishable by a fine between €250,00 and €2.500,00, in case of natural persons, and between €500.00 and €15.000,00, in case of legal persons, without prejudice to other criminal and civil liabilities.
- In case of negligence alone, the misdemeanour shall be punishable, with the minimum and maximum amounts of the fine reduced by half.

Lifting of restrictions

- The Government shall announce, no later than every 30 days, the timetable for the lifting (or not) of restrictions on the live performances.

Force majeure

- For all legal and contractual purposes in relation to contracts and legal transactions concluded, as well as to other obligations and commitments assumed due to the performance, the cancellation of the show due to prohibitions and limitations of activities or venues, shall be considered to be due to force majeure

This information will be updated whenever new legislation on the matter is published.

PARES | Advogados is available to provide more detailed information on these matters that will suit the specific needs of each client, being able to offer all necessary support.

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