

LEGAL ALERT

COVID-19: EXTRAORDINARY MEASURES IN THE ENERGY SECTOR

I. CONTINUITY OF SUPPLY

Amidst the outbreak of the new coronavirus, a state of emergency has been declared in Portugal, by [Presidential Decree no. 14-A/2020, of 18 March](#), as authorized by the [Parliament's Resolution no. 15-A/2020, of 18 March](#).

In addition to a number of measures that have been implemented to prevent further spread of the Covid-19, the Portuguese Government approved [Decree no. 2-A/2020, of 20 March](#), which regulates the state of emergency.

Pursuant to article 26 of said Decree no. 2-A/2020, which establishes that the member of the Government responsible for environmental affairs shall establish adequate measures to guarantee the urban water cycle, electricity and gas, as well as oil derivatives and natural gas, and solid waste treatment and collection, the Minister for the Environment and Climate Action has approved [Order no. 3547-A/2020, of 22 March](#), aiming at implementing the state of emergency with respect to the following essential public services:

- a) Water supply for human consumption;
- b) Urban waste water treatment;
- c) Urban waste management;
- d) Energy supply, including electricity and natural gas;
- e) Liquid fuels and liquified petroleum gas (LPG); and
- f) Public passenger transport.

To guarantee the continuity of energy supply, including electricity and natural gas, as well as the supply of liquid fuels, such as gasoline and diesel, and of LPG, such as propane and butane, the following measures must be complied with, notwithstanding the directives, recommendations and regulations of the national regulatory authorities and the Directorate General for Energy and Geology (DGEG):

- i. In order to maintain the operation of the Strategic Network of Gas Stations and the management of the Portuguese State's emergency stockpiles, a number of facilities and companies must continue to operate, in particular the Sines and Matosinhos refineries, storage facilities, gas stations (including the ones that supply vessels and that fill and distribute LPG bottles), companies that distribute and transport liquid and gaseous fuels and the international airports of Lisbon, Oporto and Faro;
- ii. The continuity of natural gas distribution shall be guaranteed by the relevant entities, who must maintain the operation of the national distribution system and the logistics of liquified natural gas supply, and must also deal with the system's malfunctions, technical assistance to clients, urgent connections and reconnections and service orders that have been scheduled with clients;
- iii. The continuity of electricity and natural gas transmission and natural gas storage must be guaranteed by the relevant entities, who must, in particular, maintain the operation of the electricity and natural gas transmission dispatch and operation center in Sacavém and Vermoim and of the natural gas storage infrastructure in Bucelas, respond to incidents and malfunctions situations in the electricity and the natural gas transmission systems' infrastructure;
- iv. In order to guarantee the continuity of electricity distribution, the distribution system operators (including low voltage distribution systems) must implement all necessary measures to manage, operate and maintain the grids, lines, transformation substations and ancillary infrastructures, as well as maintain operation of electricity dispatch, repair malfunctions in street lightning and maintain clients' technical assistance and urgent connections and reconnections and service orders that have been scheduled with clients.

II. EXTRAORDINARY MEASURES APPROVED BY DGEG

Additionally, DGEG approved [Order no. 27/2020, of 20 March](#), determining the following:

- a) The suspension of the procedural deadlines established by the legislation applicable to the electric sector as of 16 March 2020;
- b) This suspension shall cease with the reopening of DGEG's facilities or with the declaration, by decree-law, that this exceptional situation shall terminate, whichever occurs first;
- c) The deadlines ending during the suspension period shall be extended for an additional period corresponding to the number of business days between the beginning of the suspension and the deadline established for such action or formality, starting on the first business day following the DGEG's reopening;
- d) The submission of the following requests (submitted after 21 March) is suspended until the end of April:
 - i. capacity reservation titles;
 - ii. agreements to obtain grid capacity;
 - iii. registration of small-scale and self-consumption power plants;
 - iv. generation licenses;
 - v. establishment licenses for grid infrastructures such as lines and substations, with the exception of public or private service infrastructures that may be deemed urgent by the DGEG.

DGEG's services will focus on pending procedures, in particular the ones related to essential public services.

III. EXTRAORDINARY MEASURES APPROVED BY ERSE

Finally, the national regulatory authority for energy services (*Entidade Reguladora dos Serviços Energéticos* – ERSE), has approved a [regulation](#), effective as of 13 March 2020, that establishes extraordinary measures due to the COVID-19 outbreak, including the following:

- a) The supply of electricity to normal low voltage clients and of natural gas to low pressure clients with an annual consumption equal or lower than 10,000 m³ (n) can only be interrupted, for reasons attributable to the clients, after an additional period of 30 days after the period established by the Commercial Relations Regulation;
- b) System operators must prioritize all actions destined to guarantee energy supply to priority facilities, such as hospitals and other health facilities, as well as public security and civil protection facilities;
- c) Except for urgent situations with priority clients, distribution system operators, suppliers of last resort and suppliers must avoid all direct contact with the clients at their homes;
- d) Except for urgent situations with priority clients, the regulatory deadlines applicable to distribution system operators, suppliers of last resort and suppliers in connection with client care are extended for an additional period corresponding to half of the applicable deadline; however this shall not apply to other legal and regulatory deadlines, in particular the ones related to information and report obligations.

[Ricardo Andrade Amaro \[+ info\]](#)

[Catarina Brito Ferreira \[+ info\]](#)

[Joana Alves de Abreu \[+ info\]](#)

This publication is purely informational and is not meant to be a source of legal advice, nor does it contain a comprehensive review of all aspects of the law and practice referred to. The information contained herein refers to the date of first publication, readers being warned to take legal advice before applying it to specific issues or transactions. The contents of this publication may not be copied, disclosed or distributed in whole or in part without prior consent. For more information please contact us at com.pr@mlgts.pt.