



# INFORMATIVE NOTE



## EMPLOYMENT & LABOUR LAW, SOLIDARITY AND SOCIAL SECURITY

# PRIORITY SERVICE - MANDATORY FOR ALL ENTITIES THAT PROVIDE IN-PERSON SERVICE TO THE PUBLIC

*The aim of the new Decree-Law, which extends the requirement for priority service to all sectors, is to avoid arbitrary treatment and a total lack of protection for citizens who need priority service, which are clear violations of the right to equal opportunities.*

Decree-Law no. 58/2016 was published on 29 August 2016, in Diário da República, the Portuguese official gazette. This new Decree-Law makes the provision of priority service mandatory in the case of people with a disability or incapacity, old people, pregnant women and people accompanied by infants. The rule applies to all public and private entities that provide in-person service to the public. The Decree-Law also establishes a framework for the administrative penalties that apply in the event of failure to comply with this obligation.

The new Decree-Law repeals article 9(1) of Decree-Law no. 135/99 of 22 April (republished by Decree-Law no. 73/2014 of 13 May). The repealed provision only made priority service mandatory for central, regional and local authorities, and public bodies providing personalised state services or services relating to public funds.

The aim of the new Decree-Law, which extends the requirement for priority service to all sectors, is to avoid arbitrary treatment and a total lack of protection for citizens who need priority service, which are clear violations of the right to equal opportunities.

The first major change made by the new law is, therefore, the extension of the existing rule to cover **all public or private legal entities and individuals** that provide in-person service to the public. However, the following are not subject to this requirement:

- i) Healthcare providers when, in light of the services to be provided – because the right to protection of health and access to the provision of healthcare is at play – the order in which people are served must be established in accordance with the clinical assessment that is carried out;
- ii) Registry offices and other registration bodies, when any change in the order in which people are served could prejudice the granting of a subjective right or of an advantageous position arising from the priority of the registration;
- iii) Situations in which in-person service to the public is provided through a system of prior appointments.

Besides imposing a duty on all entities to provide this priority service, the new Decree-Law also defines which people may enjoy this priority (there was no definition in the previous law). The law provides definitions for “person with a disability or incapacity”, “old person” (aged 65 or over with clear signs of an alteration or limitation physical or mental functions), and “person accompanied by an infant” (a person accompanied by a child up to the age of two years).

A further important provision of this Decree-Law is the introduction of rule that makes it possible for any person who has been refused priority service to call the police to ensure that it is, in fact, provided. The police must also register the incident and send the complaint to the appropriate authority.

Finally, in terms of penalties, the new law provides that anyone that does not provide priority service when under an obligation to do so, will be guilty of an administrative offence punishable with a fine of between EUR 50.00 and EUR 500.00 in the case of an individual, or EUR 100.00 and EUR 1000.00, in the case of a legal entity.

This Decree-Law only comes into force on 27 December 2016.

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