

# The new normal? COVID-19 legislation: safety measures

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## Introduction Safety measures

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Since the World Health Organisation declared the COVID-19 outbreak a pandemic on 11 March 2020, governments worldwide have made significant efforts to cope with this unforeseen situation and control the spread of the virus. Numerous legal provisions, both temporary and permanent, have been introduced in an attempt to strike a delicate balance between public health and safety, individual freedoms and economic stability. As a result, a complex maze of laws, regulations, directives, recommendations and instructions has made it difficult to identify the obligations of air passengers.

This article is the second in a series which provides a snapshot of new Spanish legislation that affects the air travel industry.<sup>(1)</sup> At the time of writing, the pandemic is far from under control, although substantial progress has been made with the approval of rapid detection tests and the imminent deployment of vaccines. Nonetheless, many of the measures passed by governments in recent months appear to be here to stay, so this series may also provide a glimpse of the new normal insofar as aviation legislation is concerned.

### Safety measures

Although the European Commission has no authority to impose safety measures on member states, in May 2020 it presented a package of guidelines and recommendations to help them to gradually lift travel restrictions and allow tourism to reopen (its package on how to safely resume travel). This first package included the following documents:

- European Commission Communication, "Tourism and transport in 2020 and beyond" (COM (2020) 550 final);
- European Commission Communication, "Towards a phased and coordinated approach for restoring freedom of movement and lifting internal border controls" (2020/C 169/03);
- European Commission Communication, "Guidelines on the progressive restoration of transport services and connectivity" (2020/C 169/02);
- EU Recommendation 2020/648 on vouchers offered to passengers and travellers as an alternative to reimbursement for cancelled package travel and transport services in the context of the COVID-19 pandemic; and
- European Commission Communication, "EU Guidance for the progressive resumption of tourism services and for health protocols in hospitality establishments" (2020/C 169/01).

In June 2020, when the Spanish tourism season was expected to finally begin, Royal Decree-Law 21/2020 dictated a series of general measures relating to health and safety in the workplace and public places. From an air travel perspective, it required all persons over the age of six to wear a facemask when using any means of transport (including aircraft), with some exceptions for people with special circumstances. It also required airport operator AENA to provide the required personnel and means of support to the Spanish health authorities to ensure that adequate controls are made on the arrival of international flights.

On 7 July 2020 Royal Decree-Law 26/2020 introduced some more detailed provisions in connection with air travel:

- Operational directives for the management of air passengers and aviation personnel were introduced.
- European Union Aviation Safety Agency (EASA) and European Centre for Disease Prevention and Control (ECDC) directives were made mandatory for airport operators, companies operating at airports, airlines

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and all users of airports. These directives will be implemented in Spain, with the necessary adaptations, through the Spanish Air Transport Facilitation Committee.

- Airport operators and airlines must implement operational procedures in accordance with the adapted EASA and ECDC directives. Before issuing boarding cards, airlines must specifically inform passengers about the sanitary grounds on which they should refrain from going to the airport and about the consequences of being suspected as having COVID-19.
- Airport terminals can be accessed only by:
  - passengers with a valid boarding card;
  - airport employees or personnel providing airport services;
  - crew and pilots;
  - security forces;
  - personnel engaged in customs, health, mail or safety services; and
  - Spanish State Aviation Agency (AESA) inspectors.

Two days later, the AESA resolution of 9 July 2020 elaborated in some detail on Royal Decree-Law 26/2020 and dictated the operational directives for the management of air passengers and aviation personnel. The detailed operational directives, which are mandatory as of 18 July 2020, were published as Annex I. All airport operators and airlines, among others, were requested to send a declaration of compliance with such directives by 28 July 2020. Since then, these initial operational directives have been updated by AESA resolutions of 20 November 2020 and 17 December 2020. The Spanish Air Transport Facilitation Committee can issue modifications to the directives in view of the developing pandemic.

Notably, the Spanish aviation authorities have no exclusivity as regards the approval of health and safety provisions. Pursuant to Royal Decree-Law 23/2020, and without prejudice to any other measures adopted in accordance with EASA and ECDC directives, the Health Ministry is empowered to dictate sanitary control measures applicable to passengers arriving in Spain by air, including temperature controls, document reviews and visual controls. Under this piece of legislation, all passengers must submit a public health form and all enterprises involved in the transport industry (eg, travel agencies, airlines and tourism operators) must inform passengers accordingly. If, while the sanitary controls are in place, a passenger is thought to be suffering from COVID-19 or another disease which may affect public health, a medical evaluation must take place. Should the passenger test positive, the protocols for transporting them to a medical centre will be activated.

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## **Endnotes**

(1) For the first article in the series please see "[The new normal? COVID-19 legislation: subsidies, consumer protection and air transport](#)".

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