

LEGAL ALERT

ELECTRONIC PLATFORMS FOR PASSENGER TRANSPORT SERVICES: LAW NO. 45/2018 SETS THE RULES FOR PORTUGAL

Law No. 45/2018 was published on the 10th of August approving the legal regime for both the activities of individual and remunerated passenger transport in unmarked vehicles through electronic platforms (“TVDE” for short, according to the statutory wording) and the activities of electronic platforms that organize and make available this mode of transport by providing intermediation services between users and TVDE operators.¹

With the entry into force of this legal regime, which will take place on November 1, 2018, TVDE operators and the respective electronic platforms must take into account, *inter alia*, the following obligations and constraints:

- The activities of TVDE operators and electronic platform operators will be subject to prior licensing by the Institute of Mobility and Transportation (*Instituto da Mobilidade e dos Transportes*, I.P./IMI), to be requested electronically through the Entrepreneur Desk (*Balcão do Empreendedor*). TVDE vehicles may only be driven by drivers registered with an electronic platform and possessing, among other elements, a TVDE driver certificate issued by IMT;
- TVDE operators may only use vehicles that are registered with an electronic platform which, in turn, shall attest compliance with the legal and regulatory requirements applicable to the vehicles;
- Fares are set freely by agreement between the parties; however, the intermediation fees that electronic platform operators are allowed to charge cannot exceed 25% of the fare for each trip;

¹ The text that was originally published contained inaccuracies vis-à-vis the final approved version of the law and was therefore republished in its entirety by Rectification Declaration No. 25-A/2018, also published in the Portuguese official gazette on August 10th

- The electronic platform must provide users, before the start of each trip and during its completion, with a price calculation formula (discriminating the total price, the intermediation fee and applicable fares) and an estimate of the price of the trip. A predetermined fixed price offer must also be made available as an alternative for any itinerary and, in case of acceptance by the user, will necessarily correspond to the final price to be charged;
- Electronic platform operators not headquartered in Portugal must possess, and communicate to IMT, a representative for the Portuguese territory;
- The activities of electronic platform operators, TVDE operators and TVDE vehicles and drivers will be subject to supervision and regulation by the Mobility and Transport Authority (*Autoridade da Mobilidade e dos Transportes/AMT*) and by the IMT, within the scope of their powers;
- The statute classifies as a misdemeanor several infringements which are punishable with fines ranging from EUR 2,000 to EUR 5,000 in the case of natural persons and from EUR 5,000 to EUR 15,000 in the case of legal or corporate persons. The imposition of fines rests with the IMT's board of directors;
- Electronic platform operators must pay a monthly contribution corresponding to 5% of the value of the intermediation fees charged in all their operations over the previous month and, for that purpose, must report to the AMT, on a monthly basis, information regarding their activities (notably the number of trips made, individually billed amounts and intermediation fees actually charged).

Electronic platform operators and TVDE operators and drivers must ensure their activities comply with the legal regime now published within a maximum period of 60 and 120 days, respectively, from the date it enters in force (November 1, 2018).

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