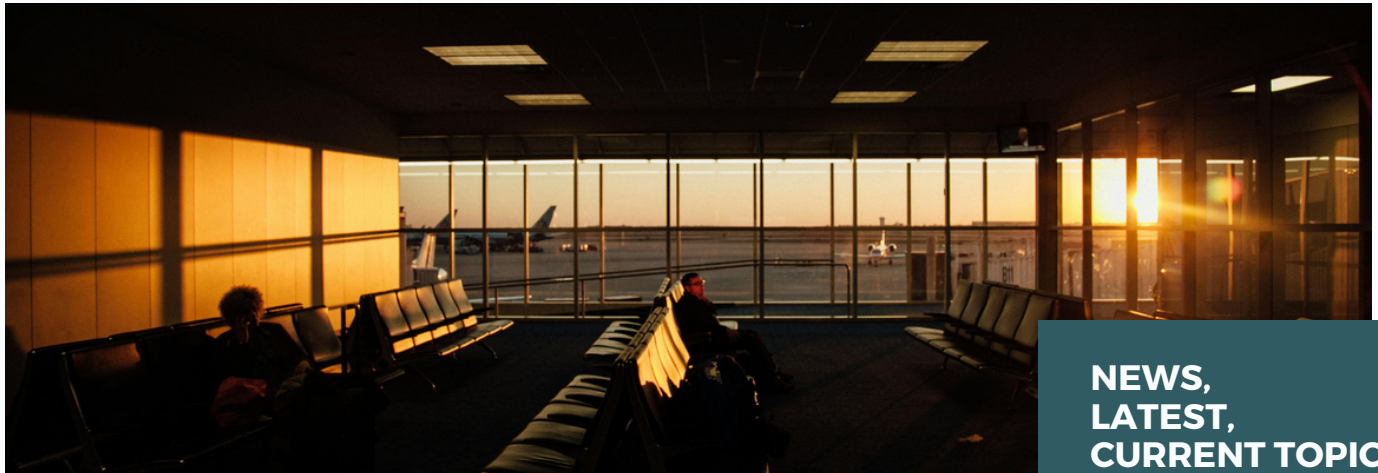


AIRPORT STRIKES: MINIMUM SERVICES



NEWS,
LATEST,
CURRENT TOPICS

“(…) THAT, IN THE EVENT OF A STRIKE, TRADE UNIONS AND WORKERS MUST ENSURE THE PROVISION OF MINIMUM SERVICES ESSENTIAL TO MEET THE URGENT SOCIAL NEEDS OF THE SECTOR IN QUESTION (…)”

WRITTEN BY



JEANNETTE PLANCHE
Associate



CATARINA FERNANDES
Associate

The Metalworkers' Union (SIMA) and the Transport Union (ST) have been calling several strikes involving workers at SPDH – Serviços Portugueses de Handling/MENZIES, which provides handling services, i.e. ground services to support aircraft, passengers, baggage, cargo and mail, which directly affects the flights that can operate.

The Constitution of the Portuguese Republic and the Labour Code stipulate that, in the event of a strike, trade unions and workers must ensure the provision of minimum services essential to meet the urgent social needs of the sector in question, i.e. needs whose non-fulfilment would lead to the violation of fundamental rights, insecurity and social instability. This includes the transport sector, in particular airports.

In fact, the definition of minimum services must respect the principles of necessity, adequacy and reasonableness, requiring a case-by-case assessment of the social impact caused by the strikes, in order to reconcile the exercise of the constitutional right to strike with other constitutional rights.

However, in the strike that took place between 25 July and 4 September 2025, the Arbitration Court of the Economic and Social Council, in case number ARB 21/2025, defined the applicable minimum services. In doing so, the Court considered the need to provide minimum services on flights whose purpose was to safeguard rights not listed as essential social needs, given that this was a critical period for passenger air transport due to the high volume of travel in July and August.

In this regard, the Arbitration Court understood that *"there is no justification for decreeing minimum services related to assistance on flights whose purpose is to provide the right to holidays, or the strict right to travel, or the 'right to travel', or the pursuit of commercial interests or pure pleasure and goods*. It further emphasised that *"the realisation of these*

rights and interests, although relevant, does not constitute, for the constitution and the law, the safeguarding of imperative social needs". Accordingly, according to the Arbitration Court, although the strike is taking place during a period when emigrants are entering and leaving Portugal, and despite the social unrest, this does not irremediably harm essential social needs.



As for the strike called by ST and SIMA for 3 September 2025 and 2 January 2026, covering the Christmas and New Year periods, the Arbitration Court, in its decision handed down in case number ARB/23/2025, considered that *"Finally, attention must be paid to the prolonged nature of the strike, lasting four months, occupying the days around the weekends, which raises additional difficulties due to the nature of air transport at that time of the week and also includes three periods of strike lasting more than six consecutive days, notably the 15 (fifteen) consecutive days of strike during the Christmas and New Year period."*

In fact, a strike that forces the cancellation of flights over a very long period, covering the Christmas and New Year festive season, when there is a significant increase in the movement of domestic and foreign passengers, motivated by family reunions and religious and traditional celebrations, has an impact on social peace that cannot be ignored.

These factors were decisive in defining a list of minimum services that the unions considered to be an unacceptable restriction on the right to strike, as they were, in their view, too extensive, and they therefore ended up cancelling the strike.

Although SIMA and ST called off the strike that was to take place during the aforementioned periods, a new strike was called, this time only by SIMA, to take place during the weekends of October. In relation to this strike, the Arbitration Court again ruled, in case number ARB 25/2025, that minimum services must be provided, based on the need to ensure

"(...) THE DEFINITION OF MINIMUM SERVICES MUST RESPECT THE PRINCIPLES OF NECESSITY, ADEQUACY AND REASONABLENESS (...)"

"national, interregional and regional cohesion, as well as connections to the CPLP, the diaspora and Europe", in addition to taking into account "that the company also provides assistance to passengers who require greater protection, e.g. unaccompanied minors, passengers with reduced mobility (insofar as it handles the transport of wheelchairs and their luggage), the elderly, pregnant women and sick people who need to travel by air".

Notwithstanding the discussion that may arise regarding the reasons that may justify restrictions on the right to strike in services associated with air transport, in all strikes called, the Arbitration Court has decreed minimum services aimed at ensuring social interests that strictly integrate the concept of imperative social needs, including:

- Flights imposed by critical situations relating to the safety of persons and property (air ambulance flights, or technical or meteorological emergencies);
- Military flights;
- State flights, national or foreign;
- Return flights to Lisbon by TAP Air Portugal aircraft that are making a *night stop* at a foreign airport at the start of the strike period;
- Flights that are already in progress at the start of the strike and are bound for national airports assisted by SPdH;
- All stopover assistance services, ensuring services on flights to and from mainland Portugal and the Autonomous Regions and to other destinations.