



INFORMATIVE NOTE



JANUARY 2016

LITIGATION / CORPORATE

OUT-OF-COURT SETTLEMENT OF CONSUMER DISPUTES

Law no. 144/2015 was published on 8 September 2015. This new law implements Directive 2013/11/EU of the European Parliament and of the Council of 21 May 2013 into Portuguese law and establishes the legal framework for the out-of-court settlement of consumer disputes. It also repeals Decree-Law no. 146/99 of 4 May and Decree-Law no. 60/2011 of 6 May.

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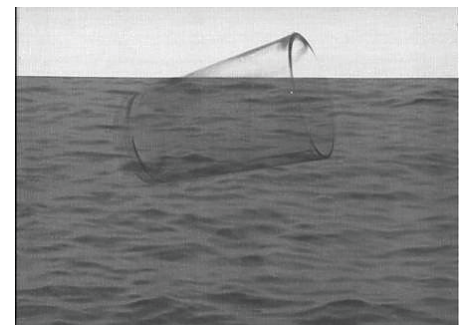
Law no. 144/2015 sets forth the principles and rules that govern the operation of alternative resolution entities ("ADR entities") for consumer disputes. It also establishes the legal framework for ADR entities in Portugal, which operate as a network.

The new law applies to domestic and cross-border alternative dispute resolution proceedings before an ADR entity, when those proceedings are brought by a consumer against a trader (goods or services) and relate to contractual obligations stemming from sales or service contracts executed between the trader and consumers resident in Portugal or in the European Union.

Under Law no. 144/2015, a consumer is defined as any natural person who is acting for purposes which are outside his trade, business, craft or profession. A trader (goods or services) is defined as any natural person, or any legal person irrespective of whether privately or publicly owned, who is acting, including through any person acting in his name or on his behalf, for purposes relating to his trade, business, craft or profession.

The new law also provides that traders of goods or services established in Portugal must inform consumers about the ADR entities that are available or that they are required to use because they have subscribed to them or due to a legal requirement arising from necessary arbitration. Traders must also provide consumers with the website addresses of those ADR entities.

Law no. 144/2015 also requires the above information to be provided in a way that is clear, understandable and easily accessible on the trader's website, if they have one. These requirements also apply to sale and purchase contracts or service provision contracts between the trader and the consumer when these are in writing or constitute standard form contracts, or when the contracts are in some other durable medium.



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Any infringement of the obligations set out above amounts to an administrative offence. As such it is punishable with a fine of between EUR 500 and EUR 5000 when it is committed by a natural person and between EUR 5000 and EUR 25,000 when it is committed by a legal entity.

Any agreements made between consumers and traders in goods or services that provide for recourse to an ADR entity that are made in writing and before any dispute arises do not limit the right consumers have to submit the dispute to a judicial court.

Pursuant to Directive 2013/11/EU, the Member States should not make it mandatory for traders to participate in ADR procedures for consumer disputes, nor for those procedures to bind the traders when a consumer has made a complaint against them, except when the traders have given their express agreement. No such imposition arises, in general, from Portuguese law.

Law no. 144/2015 came into force on 22 September 2015 and gives traders of goods or services a period of six months to adapt to the new legal requirements. This six-month period ends on 22 March 2016.

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The Lawyer European Awards, 2015-2012

 Portuguese Law Firm of the Year
Who's Who Legal, 2015, 2011-2006
Chambers European Excellence Awards, 2014, 2012, 2009

 Top 5 - Game Changers of the last 10 years
Top 50 - Most Innovative Law Firm in Continental Europe
Financial Times - Innovative Lawyers Awards, 2014-2011