



TELECOMMUNICATIONS, MEDIA AND TECHNOLOGY (TMT)

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RULES ON DISTANCE AND OFF-PREMISES CONTRACTS

The transposition of this Directive entails the amendment of the legal regime applicable to distance contracts and contracts concluded off-premises.

The month of October was marked by the transposition into Portuguese law of the Directive (EU) 2015/2302 of the European Parliament and of the Council of 25 November 2015 on package travel and interconnected travel services. The transposition of this Directive entails the amendment of the legal regime applicable to distance contracts and contracts concluded off-premises.

Decree-Law no. 78/2018, which comes into force on 1 January 2019, introduces the following changes:

■ It is required that, in the contractual offer made, as well as in the contract to be concluded, the physical address of the commercial establishment of the professional is provided, in the case where it is different from the physical address where it is established and, if applicable, the physical address of the professional on behalf of whoever acts, must also be provided, so that the consumer can, if appropriate, submit a complaint directly.

If this information is not provided, the professional will be punished with a fine between €400 and € 2000 for individuals, or a fine between € 2500 and € 25,000 for legal persons.

■ The Decree-Law makes it clear that the consumer does not pay any costs for the provision of services during the period when the contract can be freely terminated (the "cooling-off" period) if the service provider has not complied with the following pre-contractual information duties:

- i) The provision of information on the period and on the procedure to exercise the right of free termination of the contract, as well as the delivery of the free termination form;
- ii) The obligation of the consumer to pay to the service provider a certain amount, proportional to the service already provided, whenever the consumer exercises the right of free termination after having presented the request to do so.

The information indicated above must be included in the negotiation proposal made, as well as in the contract that will be concluded. When the contract is concluded via the Internet, such information must be made available in an easily accessible place. It must also be clear and understandable to the consumer, who must have access to it before making the order.

■ The new wording establishes a less formal legal regime for the provision or supply of services such as water, gas or electricity or district heating. Where the consumer intends that the provision or supply of such services should commence during the withdrawal period, the trader shall require the consumer to submit an express request. This means that it is no longer necessary for such a request to be presented by means of a durable medium (e.g., paper, USB key, CD-ROM, DVD, memory cards or computer hard drive). It can be simply made by a phone call, for example, provided that it constitutes an express request.

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