

## EU Consumer Law Acquis Compendium

### Legislation

Portugal (PT) Nr. 10 EN



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#### Full name and/or number of the statute (in original language):

Lei n.º 25/2004, de 8 de Julho

#### Translation of the name:

Law No 25/2004 of 8 July

#### Reference in Official Journal (if appropriate):

Diário da República, I Série-A, n.º 159, 2004-07-08

#### Date of coming into force:

06.10.2004

#### Subsequent amendments:

none

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#### Text:

### ASSEMBLY OF THE REPUBLIC

#### Law No 25/2004 of 8 July

Transposing into national law Directive 98/27/EC of the European Parliament and of the Council of 19 May 1998 on injunctions for the protection of consumers' interests.

Pursuant to indent c) of Article 160 of the Constitution, the Assembly of the Republic hereby lays down the following as a general law of the Republic:

#### Article 1.

##### Objective

This law transposes into national law Directive 98/27/EC of the European Parliament and of the Council of 19 May 1998 on injunctions for the protection of consumers' interests.

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### Article 2.

#### Scope

The rules laid down in this Law apply to injunctions as provided for in Article 10 of Law 24/96 of 31 July 1996, and to group actions covered by Article 12(2) of Law 83/95 of 31 August 1995, intended to prevent, correct or put an end to practices that are damaging to consumers' rights.

For the purposes of the provisions of this Law, and for the purposes of the definition of the scope of the right of injunction as provided for in Article 10 of Law 24/96 of 31 July 1996, damaging practices shall be considered to include any practice contrary to consumers' rights, specifically those contravening the legislation of the Member States that transpose the Community Directives listed in the Annex to this law, of which the said annex forms an integral part.

### Article 3.

#### Damaging intra-Community practices

When the damaging practice to be brought to an end has its origins in Portugal, but affects interests located in another Member State of the European Union, the corresponding request for an injunction may be submitted directly by a body from the latter State provided it is included on the most recent list of bodies competent in matters relating to injunctions in the area of consumer protection that is drawn up by the European Commission and published in the Official Journal of the European Union.

The bodies referred to above must submit, in addition to the initial petition, a copy of the Official Journal of the European Union containing the most recently published list in which they are included.

Notwithstanding the above, the court may take steps to ascertain whether, in the specific case in question, there are sufficient grounds for the request being made.

### Article 4.

#### National bodies

The transnational exercise of the right to seek an injunction referred to in Article 2 by Portuguese bodies which, pursuant to the law, have the power to initiate and participate in court proceedings, is subject to inclusion of the said bodies on the list that may be consulted at the Instituto do Consumidor (Consumer Institute).

The Instituto do Consumidor is responsible for drawing up and updating the list of the Portuguese bodies competent to exercise the said right to seek an injunction in the European Union.

The Instituto do Consumidor must inform the European Commission of the cited list and of any updates thereto.



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### Article 5.

#### **Addition to the list**

For the purposes of the previous article and notwithstanding the provisions made at (5), all interested bodies must request their inclusion in the list and do so by means of an application addressed to the President of the Instituto do Consumidor, accompanied by a document certifying their name and their objective as set out in their articles of association...

When assessing the request, the president of the Instituto do Consumidor must verify that the applicant is pursuing objectives that are consistent with the protection of consumers' interests.

A decision on the application for inclusion in the list must be taken within a maximum of 30 days.

In accordance with the law, appeals – which will refer the matter to the next highest authority – may be lodged against any decision to refuse an application for inclusion in to the list.

The Ministério Público (Public Prosecutor's Office) and the Instituto do Consumidor will be included on the list referred to in the previous article in their own right and will not be required to apply for inclusion.

### Article 6.

#### **Entry into force**

This law shall enter into force 90 days following its publication.

Approved on 13 May 2004,

The President of the Assembly of the Republic, João Bosco Mota Amaral

Promulgated on 22 June 2004.

Published by the President of the Republic, Jorge Sampaio.

Endorsed on 23 June 2004.

The Prime Minister, José Manuel Durão Barroso.

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### ANNEX

#### List of Community Directives

Council Directive 84/450/EEC of 10 September 1984 on misleading advertising (Official Journal L 250, 19/09/1984, p. 17) amended by Directive 97/55/EC of the European Parliament and of the Council of 6 October 1997 (Official Journal L 290, 23 October 1997, p. 18).

Council Directive 85/577/EEC of 20 December 1985 to protect the consumer in respect of contracts negotiated away from business premises (Official Journal L 372, 31/12/1985, p. 31)

Council Directive 87/102/EEC of 22 December 1986 for the approximation of the laws, regulations and administrative provisions of the Member States concerning consumer credit (Official Journal L 042, 12/02/1987 p. 48) amended by Directive 98/7/EC of the European Parliament and of the Council of 16 February 1998 (Official Journal L 101, 01/04/1998 p. 17)

Council Directive 89/552/EEC of 3 October 1989 on the coordination of certain provisions laid down by Law, Regulation or Administrative Action in Member States concerning the pursuit of television broadcasting activities: articles 10 – 21 (Official Journal L 298, 17/10/1989 p. 23) amended by Directive 97/36/EC of the European Parliament and of the Council of 30 June 1997 (Official Journal L 202, 30/07/1997 p. 60)

Council Directive 90/314/EEC of 13 June 1990 on package travel, package holidays and package tours (Official Journal L 158, 23/06/1990 p. 59)

Council Directive 92/28/EEC of 31 March 1992 on the advertising of medicinal products for human use (Official Journal L 113, 30/04/1992 p. 13)

Council Directive 93/13/EEC of 5 April 1993 on unfair terms in consumer contracts (Official Journal L 095, 21/04/1993 p. 29)

Directive 94/47/EC of the European Parliament and the Council of 26 October 1994 on the protection of purchasers in respect of certain aspects of contracts relating to the purchase of the right to use immovable properties on a timeshare basis (Official Journal L 280, 29/10/1994 p. 83)

Directive 97/7/EC of the European Parliament and of the Council of 20 May 1997 on the protection of consumers in respect of distance contracts (Official Journal L 144, 04/06/1997 p. 19)

Directive 1999/44/EC of the European Parliament and of the Council of 25 May 1999 on certain aspects of the sale of consumer goods and associated guarantees (Official Journal L 171, 07/07/1999 p. 12)

Directive 2000/31/EC of the European Parliament and of the Council of 8 June 2000 on certain legal aspects of information society services, in particular electronic commerce, in the Internal Market (Official Journal L 178, 17/07/2000 p. 1)

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Directive 2002/65/EC of the European Parliament and of the Council of 23 September 2002 concerning the distance marketing of consumer financial services (Official Journal L 271, 09/10/2002 p. 16)