

Law no. 144/2015 of 8 September transposed Directive 2013/EU of the European Parliament and of the Council of 21 May 2013 on the Alternative Resolution of Consumer Disputes. The law establishes the legal framework for Alternative Dispute Resolution mechanisms, and in Portugal there is a Consumer Arbitration Network.

Consumers can, at their express option, submit their dispute resolution to a consumer dispute arbitration centre.

What are consumer disputes?

These are disputes initiated by a consumer against a supplier of goods or service provider, which concern contractual obligations resulting from contracts for the sale or provision of services, concluded between an established supplier of goods or service provider and consumers resident in Portugal and the European Union (Article 2(1) of Law 144/2015).

What is ADR?

ADR are mechanisms available to consumers and businesses to try to resolve consumer disputes outside of the courts in a faster way.

ADR includes mediation, conciliation and arbitration. The ADR process begins with an attempt to reach an agreement through mediation or conciliation. However, if this agreement is not reached, the parties involved can still go to the Court of Arbitration.

What are ADR organisations?

They are independent entities with specialised staff who impartially help the consumer and the company reach an amicable solution. They are authorised to mediate, conciliate and arbitrate consumer disputes. These organisations must be registered on the list provided for in Article 17 of Law 144/2015.

Who is responsible for managing the list of ADR organisations?

The Directorate-General for Consumer Affairs is the national authority responsible for organising the registration and publication of the list of ADR bodies.

How many ADR centres are there in Portugal?

There are ten Consumer Conflict Arbitration Centres in Portugal. Seven of them have general jurisdiction and are regional in scope, located in Lisbon, Porto, Coimbra, Guimarães, Braga/Viana do Castelo, the Algarve and Madeira.

There is also a national centre (supplementary), the CNIACC - Centro Nacional de Informação e Arbitragem de Conflitos de Consumo.

How do I identify the competent ADR body to settle the dispute?

The place of conclusion of the contract for the sale of goods or the provision of services, which as a rule coincides with the place of establishment, determines the competent arbitration centre.

Who is obliged to inform consumers about ADR organisations?

All suppliers of goods and services, including those who only sell products or provide services over the Internet, are obliged to inform consumers about the ADR organisations available or to which they have voluntarily subscribed or to which they are bound by law.

The obligations arising from Law 144/2015 apply, with the necessary adaptations, to all economic sectors not excluded by that law, including those in which there is already specific legislation providing for the same obligation.

Is there any requirement to join an RAL organisation?

This law does not impose membership of any ADR organisation, but only establishes a duty to provide information on existing organisations. There is, however, the case of arbitration required for essential public services, such as electricity, gas, water and waste, electronic communications and postal services.

How should companies provide this information?

This information must be provided in a way that is clear, comprehensible and appropriate to the type of goods and services being sold or provided (Article 18(2) of Law 144/2015). Thus:

On the website of the suppliers of goods or service providers, if any.

In sales or service contracts between the supplier of goods or services and the consumer, when these are in writing or constitute contracts of adhesion.

If there is no written form, the information must be provided on another durable medium, namely on a sign posted on the wall or affixed to the sales counter or on the invoice given to the consumer.

Who is responsible for monitoring compliance with the obligation to provide information to consumers?

The Food and Economic Safety Authority (ASAE) and the sectoral regulators in the respective fields are responsible for monitoring compliance with these duties, investigating the respective administrative offence proceedings and deciding on these proceedings, including the imposition of fines and ancillary sanctions if necessary.

What are the consequences of not complying with the duty to inform consumers?

Failure by suppliers of goods or service providers to fulfil their duty to provide information constitutes an administrative offence, punishable by:

A fine of between €500 and €5,000, when committed by a natural person.

A fine of between €5,000 and €25,000 when committed by a legal person.

When does this regime apply?

Law no. 144/2015 of 8 September came into force on 23 September 2015, and suppliers of goods or services had 6 months from that date to adapt to this new regime. As a result, companies must have this information available to their consumers since 23 March 2016.