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## Law 10/2023 of March 3

**This legislation concludes the transposition of Directive (EU) 2019/2161 (“Omnibus Directive”), on consumer protection**

Portugal - Legal Update

March 6, 2023



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### Key aspects

- Decree-Law 109-G/2021 of December 10 partially transposed the Omnibus Directive, particularly relating to improving the enforcement and modernization of EU legislation on consumer protection by boosting their online rights and greater information transparency.
- Law 10/2023 of March 3 has now transposed the remaining provisions of the Omnibus Directive concerning the penalties, reinforcing the fines imposed for non-compliance or violations of the rules in this area.
- This law amends several key parts of consumer legislation in Portugal; therefore, it is of paramount importance to consider these new specifications.



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## Main highlights of Law 10/2023 of March 3

- > This legislation amends the following legal regimes:
  - > Legal regime on general contractual clauses (Decree-Law 446/85 of October 25)
  - > Legal regime on the presentation of retail prices to consumers (Decree-Law 138/90 of April 26)
  - > Legal regime on commercial price reduction practices in retail sales (Decree-Law 70/2007 of March 26)
  - > Legal regime on unfair commercial practices (Decree-Law 57/2008 of March 26)
  - > Legal regime on contracts for distance selling or off-premises sales (Decree-Law 24/2014 of February 14)
- > The main change common to all this legislation relates to the amount of the fines imposed for administrative offenses for infringing the rules established in these legal regimes.
- > When administrative offenses involve widespread infringements, or if they are committed at European Union level, the upper limit of fines imposed for coordinated acts will be 4% of the offending company's annual turnover. If no information is available on the turnover, the upper limit for the fine will be €2,000,000.00.
- > Also, when determining the fine to be imposed for these administrative offenses, in addition to the provisions of the Legal Regime on Economic Offenses (*Regime Jurídico das Contraordenações Económicas*), other factors will now be considered, such as:
  - > the nature, gravity, extent and duration of the offense committed;
  - > any measures the offender has taken to mitigate or repair the harm caused to consumers;
  - > any previous offenses the offender has committed;
  - > the financial benefits obtained or losses avoided by the offender because of the offense committed, if this information is available; and
  - > in crossborder situations, the penalties imposed on the offender for the same infringement in other Member States, if this information is available.

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## Amendment to the legal regime on sales contracts entered into using means of distance communication or outside of the commercial establishment

- Specifically, in the case of sales contracts entered into using means of distance communication or outside of the commercial establishment, the required pre-contractual information about the identity of the goods supplier or service provider must now also include the establishment's telephone number and email address (in addition to its name and physical address), so the consumer can contact it and communicate quickly and effectively. Therefore, providing the telephone number and email address is no longer optional.

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## Final provisions

- Under article 10 of Law 10/2023, the legislation **will come into effect on April 3, 2023**.

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