

**Decree-Law 446/85
of 25 October, with subsequent amendments**

1. Freedom of contract constitutes one of the basic principles of private law. In its full sense, it postulates full preliminary negotiations, at the end of which the parties, having considered the respective interests and the various means of achieving them, accept, with insight and freely, certain stipulations. In the light of this, a large portion of contract law is supplemental in nature: the legal rules are only applied when the intervening parties, in the legitimate exercise of their private autonomy, have not set them aside. Significantly, it will be recalled that Article 405(1) of the Civil Code recognizes the right of the parties to freely determine the content of contracts, enter into contracts which are different to those provided for in the law, or include within them such clauses as they please.

2. Within the classic view of contractual autonomy, the great obstacles to effectively achieving this lie in the actual absence of insight or of freedom, with regard to entering into the contract, or, further, in the presence of divergence between the real will and the declared will.

(...) Safeguarded in this way, freedom of contract assumed particular importance, with legal, economic, social and cultural dimensions. This importance has been preserved up to the present day.

3. The technical and industrialized societies of modern times have, however, introduced major changes to the traditional parameters of freedom of contract. Private negotiation, based on the assumption of formal equality of the parties, often, or even as a rule, does not correspond to the reality of life. Besides operating at the individual level, the making of contracts takes on collective proportions that the law should take into account. Legal business has become mass-produced: people constantly enter into contracts which are not preceded by any negotiation stage. Legal-economic practice has become rationalized and specialized: large companies standardize their contracts, in order to speed up the operations necessary for the placement of products, and in order to plan, regarding the different aspects, the advantages and the additions that follow on from legal transactions.

In short, the phenomenon of general contractual terms made its appearance, extending to the most diverse of areas. Business models are drawn up, with differing degrees of detail, to which endless persons simply adhere, without the possibility of discussion or the introduction of modifications. It is thus that freedom of contract is limited, in fact, by the dilemma of accepting or rejecting these schemes which are unilaterally prearranged by entities without public authority, but which play a significant role in the life of private individuals.

4. General contractual terms arise as an institution in the shadow of freedom of contract. From a legal perspective, nobody is obliged to adhere to business schemes

which have been previously fixed for an undetermined series of actual relationships. And, in so doing, they exercise an autonomy that the law recognizes and protects. The reality may, nevertheless, be quite different. Reasons of speed and precision, the existence of monopolies, oligopolies, and other forms of arrangement between companies, combined with the sheer impossibility, on the part of recipients of the contracts, of having clear knowledge of all of the implications of the texts to which they adhere, or the alternative possibilities that such adhesion carries, makes abusive and improper situations viable. The issue of correcting general contractual terms has acquired, therefore, great proportions. It is important, however, to return it to its real dimensions.

5. General contractual terms are presented as something that is necessary, that results from the characteristics and the scale of modern societies. After all, standardization in business favours the dynamism of legal transactions, leading to a rationalization or normalization and an efficiency which are beneficial to the consumers themselves. However, it must not be forgotten that that which is predefined may draw from the system certain advantages which signify restrictions, expenses or charges which are less reasonable or are unfair to private individuals.

Indeed, in this context, the classic guarantees of freedom of contract are shown to be at work only in extreme cases: the assumption of formal equality of the contracting parties often hinders, or even impedes, true legal consideration of the content of the contract, in order to re-establish, where this is the case, its justice and suitability. Practice reveals that formal equality only translates to material equality when the judge is supplied with exact references, which he may solidify.

6. The Civil Code in force consecrates the principle of good faith in a number of its provisions. A decisive step has been taken in the sense of stimulating or enabling the courts to make interventions regarding the content of contracts, with a view to safeguarding the interests of the contracting party which is weaker in negotiating terms. By means of good faith, the judge has legitimacy to put into practice the fundamental coordinates of the law. The appeal to the concept of public order is another anchor.

It is a known fact, however, that the problem of general contractual terms presents some peculiar aspects. This is to such an extent that without express rules it is difficult to guarantee effective legal supervision. Hence, the creation of legislative instruments appropriate for the issue leads back to observance of the constitutional imperatives of combating abuse of economic power and defending the consumer. Added to this is the recommendation which the Council of the European Union made to its Member States in this respect almost nine years ago.

7. In drawing up this statute attention was paid to foreign precedents, which are multiplying, and also to the teachings gathered regarding the application and critique of such experiences. The guidelines emanating from the Council of the European Union were also considered. However, there was a concern to avoid abstract reformism, that is, that did not recognize the facets of the Portuguese situation.

It is clear that the issue, here, has no notable traditions. All that can be discovered are some rare principles, which are rather vague and dispersed, mainly in the form of a previous control of administrative character. Decisions of the courts, as far as it has been ascertained, are scarce and not particularly expressive. Contracts' practice does not reveal anything specific.

Meanwhile, our most recent legal theory gives undisputed prominence to the acuteness of this issue. In it stimulus can be found for a lively debate, even covering situations which go beyond the mere consumers or final users of goods and services. The issue of general contractual terms has been considered with an open mind. It is the job of legal practice and legal dogma to extract all the potentialities of the legal provisions now being sanctioned. The former shall not remain, besides, as is imposed, closed within a rigid system which hinders consideration of new situations and evaluation of interests, resulting from the natural evolution of life.

Given the results obtained based on the actual application of this statute, the possibility of creating a service for the registration of general contractual terms will be considered. This service will be aimed at ensuring that those which are drawn up, altered or prohibited by a *res judicata* decision are publicised. The importance, the novelty and the complexity of this statute are obvious. As a result a period of *vacatio legis* longer than that which is normally provided is agreed.

PART I

General Provisions

Article 1

General contractual terms

1 - General contractual terms drawn up without previous individual negotiation, which unspecified proponents or recipients merely subscribe to or accept, respectively, are governed by this statute.

2 – This statute also applies to terms included in individualized contracts containing previously drawn up content which the recipient may not influence.

3 – The burden of proof that a contractual term is the result of previous negotiation between the parties falls to the party which intends to rely on its content.

PART II

Inclusion of general contractual terms in individual contracts

Article 4

Inclusion in individual contracts

General contractual terms included within proposals for individual contracts are included in these, for all purposes, by acceptance, in observance with the provisions of this Part.

Article 5

Communication

1 – Adhering parties who merely subscribe to or accept general contractual terms must have these communicated to them in their entirety.

2 – Communication must be in an adequate manner and at such an early stage that, taking into consideration the importance of the contract and the length and complexity of the terms, it is possible for a person using ordinary care to acquire complete and effective knowledge of them.

3 – The burden of proof of adequate and effective communication is the responsibility of the contracting party that submits the general contractual terms to the other.

Article 6

Duty to inform

1 – The contracting party using general contractual terms must inform the other party, according to the circumstances, of those aspects included in them which warrant clarification.

2 – All clarification that is reasonably requested must also be provided.

Article 7

Prevailing terms

Terms which are specifically agreed prevail over any general contractual terms, even when set out in forms signed by the parties.

Article 8

Terms excluded from individual contracts

The following shall be considered to be excluded from individual contracts:

- a) Terms which have not been the subject of communication under the terms of Article 5;
- b) Terms which have been communicated but where the duty to inform has been violated, such that effective knowledge of them is not to be expected;
- c) Terms which, by the context in which they arise, by the heading which precedes them or by the form in which they are presented graphically, go unnoticed by a normal contracting party, when in the position of the actual contracting party;
- d) Terms included in forms, after the signature of one of the contracting parties.

Article 9

Continued force of individual contracts

1 – In the cases provided for in the previous article the individual contracts remain in force, with the applicable supplemental norms ruling the affected parts, with recourse, where necessary, to the rules of integration of legal transactions.

2 – The aforementioned contracts are, however, null when, notwithstanding the use of the elements referred to in the previous paragraph, there is insurmountable indeterminateness with regard to essential aspects or an imbalance in the duties to perform which represents a serious affront to good faith.

PART IV

Nullity of general contractual terms

Article 12

Prohibited terms

The general contractual terms prohibited by the provisions of this statute are null under the terms provided in it.

PART VI

Procedural Provisions

Article 24

Declaration of nullity

The situations of nullity provided for in this statute may be invoked under the general terms.

Article 25

Injunction

Any general contractual terms which are drawn up for future use and which are contrary to the provisions of Articles 15, 16, 18, 19, 21 and 22 may be prohibited by a legal decision, regardless of their actual inclusion in individual contracts.

Article 26

Active Standing

1 – An action aimed at obtaining a decision requiring abstention from the use or the recommendation of general contractual terms may only be brought by:

- a) Consumer protection associations with the capacity of representation, within the scope set out in the respective legislation;
- b) Legally established trade union or professional associations or economic interest associations, when acting within the scope of their powers;
- c) The Public Prosecutor, officiously, following an indication from the Ombudsman or if it deems the claim of any interested party to be justified.

2 – The entities referred to in the previous paragraph act in the proceedings in their own name, despite asserting the right of another which belongs, collectively, to the consumers who may be affected by the terms for which prohibition is sought.

Article 27

Standing to be sued

1 – The action referred to in the previous article may be brought against:

- a) Those who, having prepared general contractual terms, propose contracts in which they are included or accept proposals made in those terms;
- b) Those who, regardless of their actual preparation and use, recommend them to third parties;

2 – The action may be brought jointly against several entities which prepare and use or recommend the same contractual terms, or terms which are identical in substance, even where this joint action goes against the provisions of the following article.

Article 28

Court with jurisdiction

The court with jurisdiction for the injunction is the court of the judicial district where the centre of the defendant's main activity is located or, where this is not in national territory, that of the judicial district of his residence or headquarters; if these are abroad, the court with jurisdiction shall be that of the location where the general contractual terms were proposed or recommended.

Article 29

Form of the proceedings and exemptions

1 – The action which intends to prohibit the use or recommendation of general contractual terms considered to be abusive follows the terms of the summary procedure and is exempt from costs.

2 - The value of the actions referred to in the previous paragraph exceeds that set for the Appeal Court jurisdiction by 1\$.

Article 30

Decision in the ruling

1 – The decision which prohibits the general contractual terms shall specify the scope of the prohibition, namely by means of concrete mention of its content and indication of the type of contracts to which the prohibition refers;

2 - At the request of the claimant, the defeated party may also be required to publicize the prohibition in a manner and for a period determined by the court.

Article 31

Temporary prohibition

1 - Where there are sufficient grounds for fearing that general terms which are incompatible with the provisions of this statute will be included in individual contracts,

the entities referred to in Article 26 may request their temporary prohibition.

2 – The temporary prohibition follows the terms fixed in procedural law for unspecified provisional remedies, with the due adaptations.

Article 32

Consequences of permanent prohibition

1 - General contractual terms which are the object of definitive prohibition following a *res judicata* decision, or other terms which are equivalent to them in substance, may not be included in contracts that the defendant later enters into, nor may they continue to be recommended.

2 – Those who are a party, together with the defendant against whom the injunction succeeds, to contracts in which the prohibited general terms are included, under the terms of the previous paragraph, may invoke, at any time and for their own benefit, the incidental declaration of nullity contained in the injunction decision.

3 – Failure to observe the provisions of paragraph 1 shall result in the application of Article 9.

Article 33

Compulsory pecuniary sanction

1 – If the defendant against whom an injunction succeeds infringes the obligation to refrain from using or recommending general contractual terms which were the object of a definitive prohibition following a *res judicata* decision, he shall be subject to a compulsory pecuniary sanction which may not exceed twice the value of the Appeal Court jurisdiction for each infraction.

2 – The sanction set out in the previous paragraph is applied by the court which ruled on the case in the First Instance, at the request of any who may avail himself of the pronounced decision, with an opportunity being provided to the transgressor to be previously heard.

3 - The amount of the compulsory pecuniary sanction shall be divided equally between the claimant and the State.

Article 34

Communication of legal decisions for the purposes of registration

The courts shall send, within a period of 30 days, and to the service provided for in the following article, a copy of the *res judicata* decisions which, following application of the principles and rules set out in this statute, have prohibited the use or recommendation of general contractual terms or declare the nullity of terms included in individual contracts.

Law 83/95, of 31 August

PART I

General Provisions

Article 1

Scope of the Law

1 – This law sets out the cases in which, and the terms under which, the right of popular participation in administrative procedures and the right of popular action for the prevention, cessation or legal pursuit of the infractions provided for in Article 52(3) of the Portuguese Constitution are afforded and may be exercised.

2 - Notwithstanding the provisions of the previous paragraph, the interests protected by this law are, namely, public health, the environment, quality of life, protection in the consumption of goods and services, cultural heritage and the public domain.

Article 2

Entitlement to the rights of participation in procedures and the right of popular action

1 – Any citizen in the enjoyment of his civil and political rights and any association or foundation which defends the interests provided for in the previous article, regardless of whether it has a direct interest in the claim, is the holder of the right of popular participation in procedures and the right of popular action.

2 – Local authorities are also holders of the rights set out in the previous paragraph in relation to the interests held by those resident in the area of the respective district.

Article 3

Active standing of associations and foundations

Requirements for active standing to be granted to associations and foundations are that:

- a) they have legal personality;
- b) the defence of the interests in question in the type of action being brought is expressly included in their powers or in the objectives set out in their statutes;
- c) they do not exercise any type of professional activity in competition with companies or independent professionals.

PART III

The exercise of popular action

Article 12

Action in administrative procedure and civil popular action

1 – Action in administrative procedure includes action for the defence of the interests set out in Article 1 and legal appeal based on the grounds of illegality against any administrative acts which harm those interests.

2 – Civil popular action may take any of the forms provided for in the Code of Civil Procedure.

Article 13

Special regime for the dismissal of the original application

The application shall be dismissed whenever the judge considers that it is clearly improbable that the application will proceed, having heard the Public Prosecutor and made the preliminary inquiries that he considers justified or that are requested by the claimant or the Public Prosecutor.

Article 14

Special regime of procedural representation

In popular action claims, the claimant represents on his own initiative, and without the need for a mandate or express authorization, all the other holders of the rights or interests in question who have not exercised the right to exclude themselves provided for in the following article, with the consequences set out in this law.

Article 15

Right of exclusion for holders of the interests in question

1 – Following receipt of the writ for popular action, holders of the interests at stake in the action in question, but who are not intervening parties in such action, shall be summoned for the purpose of, within a time period set by the judge, becoming an intervening party in the action in their own name, should they so wish, accepting it at the stage at which it currently stands, and to state in the proceedings whether they agree to be represented by the claimant or whether, on the contrary, they wish to exclude themselves from such representation, namely so that any decisions pronounced shall not be applicable to them, with no such declaration being understood as acceptance, notwithstanding the provisions of paragraph 4.

2 – The summons shall be by means of an advertisement or advertisements made public by any form of the media or by public notice, depending on whether general or geographically specific interests are at issue, without the need for personal identification of those for whom it is destined, who may be referred to as holders of the aforementioned interests, and it shall refer to the action in question, the identity of at least the first claimant, where there are several, and the identity of the defendant or defendants, as well as making sufficient reference to the claim and the reason for it.

3 - Where it is not possible to specify the respective holders individually, the summons provided for in the previous paragraph shall be made by reference to the respective group, as determined by the circumstance or characteristic that is common to them, the geographical area in which they reside or the group or community constituted by them, in any case without being bound by the identification set out in the initial writ, and otherwise following the provisions of the previous paragraph.

4 – The representation referred to in paragraph 1 may be rejected by the represented party up until the end of the presentation of evidence or an equivalent phase, by express declaration in the proceedings.

Article 16

Public Prosecutor

1 - The Public Prosecutor reviews legality and represents the State when the latter is a party in the case, absent parties, minors and other incapacitated individuals, in the case of the latter whether they are claimants or defendants.

2 - The Public Prosecutor may also represent other public legal persons when so authorized by law.

3 – Within the scope of reviewing legality, the Public Prosecutor may, should it so wish, substitute the claimant in the case of withdrawal from the suit, and also in cases of transaction or behaviour which is harmful to the interests in question.

Article 17

Gathering of evidence by the judge

Regarding popular action and within the scope of the fundamental issues defined by the parties, the judge is responsible on his own initiative for collecting evidence, and is not bound by the initiative of the parties.

Article 18

Special regime of effectiveness of appeals

Where a particular appeal does not have suspensory effects, in general terms, the judge may, in popular action, confer this effect on it, in order to avoid irreparable damage or damage which it would be difficult to repair.

Article 19

Effects of *res judicata*

1 – *Res judicata* decisions pronounced in administrative actions or appeals or in civil actions, except where it is ruled that these may not proceed due to insufficient evidence, or when the judge should decide alternatively, based on the actual motivations of the particular case, have general effect, not including, however, holders of the rights or interests who have exercised their right to exclude themselves from the representation.

2 - *Res judicata* decisions shall be published at the expense of the defeated party who will otherwise be in contempt of court, making reference to the *res judicata*, in two newspapers which it is presumed are read by the group of persons interested in learning of such decisions, to be selected by the judge in the case, who may determine that such publication be by means of extracting the essential aspects, when publication of the *res judicata* in full is not advisable due to its length.

Article 20

Special regime of prepayments and costs

- 1 - Prepayments are not required for the exercise of the right of popular action.
- 2 – The claimant shall be exempt from payment of costs in cases where the claim partially proceeds.
- 3 – In the case of total collapse of the claim, the intervening claimant shall be required to pay a sum to be fixed by the judge between one tenth and one half of the costs that would ordinarily be due, taking into account his economic situation and the substantive or formal reason for the failure of the case to proceed.
- 4 – Litigation in bad faith shall be governed by the general law.
- 5 – Intervening claimants shall be joint and severally liable for costs, under the general terms.

Article 21

Compensation for the successful parties' attorney fees

The judge in the case shall rule on the awarding of a compensation for the successful parties' attorney fees, in accordance with the complexity and amount in question.

PART IV

Civil and Criminal Liability

Article 22

Subjective civil liability

- 1 – Liability for intentional or negligent violation of the interests set out in Article 1 shall impose upon the party causing such violation the duty to indemnify the injured party or parties for the harm caused.
- 2 – Indemnity for the violation of interests of holders not individually identified shall be fixed globally.
- 3 – Holders of the identified interests are entitled to the corresponding indemnity under the general terms of civil liability.
- 4 – The right to indemnity lapses three years from the date on which the decision recognizing such indemnity became *res judicata*.
- 5 – Amounts corresponding to rights which have lapsed shall be given over to the Ministry of Justice, which shall register them to a special account and shall apply them in the payment of the compensation for the successful parties' attorney fees, under the terms of Article 21, and in support for access to the law and to the courts of holders of the right of popular action who justifiably so request.

Article 23

Objective civil liability

There shall be an obligation to indemnify for damage regardless of fault whenever an offence to the rights or interests protected under the terms of this law results from the actions or omissions of the agent within the scope of or as a result of objectively dangerous activity.

Article 24

Civil liability insurance

Whenever the exercise of an activity involves abnormal risk to the interests protected by this law, the respective agent shall be required to obtain insurance for the corresponding civil liability as a condition for the initiation or continuation of such exercise, under terms to be regulated.

Article 25

Special regime for the intervention of citizens and associations in the exercise of criminal actions

Holders of the right of popular action are granted the right to make a denunciation, complaint or notification to the Public Prosecutor regarding violation of any interests provided for in Article 1 which are of a criminal nature, and also to join proceedings in the respective action, under the terms provided for in Articles 68, 69 and 70 of the Code of Criminal Procedure.

PART V

Final and transitory provisions

Article 26

Duty of cooperation of public bodies

1 – It is the duty of the agents of the local, regional or central administration, and of institutes, companies and other public bodies, to cooperate with the court and the intervening parties in popular action proceedings.

2 – The intervening parties in popular action proceedings may, in particular, request from the competent bodies such certificates and information as they deem necessary for the success or the failure of the claim, to be supplied in reasonable time.

3 – The refusal, delay or omission of indispensable data and information, except where justified on the grounds of State secrecy or *in camera* proceedings, shall cause the responsible agent to be subject to both civil and disciplinary liability.

Article 27

Proviso for special cases

Any cases of popular action not covered by the provisions of this law shall be governed by the rules applicable to them.

Law 24/96, of 31 July

PART I General Principles

Article 1 General Duty of Protection

1 – It is the duty of the State, the Autonomous Regions and the local authorities to protect the consumer, namely by supporting the setting up and functioning of consumers' associations and consumers' cooperatives, in addition to supporting the execution of the provisions of this law.

2 – The general duty of the State to protect consumers presupposes appropriate legislative and regulatory intervention in all the areas involved.

Article 2 Definition and Scope

1 – Consumers are deemed to be all those to whom goods are supplied, services provided, or any rights transferred, for the purpose of non-professional use, by a person who professionally exercises an economic activity the purpose of which is to obtain benefits.

2 – Included within the scope of this law are the goods, services and rights supplied, provided and transferred by organs of the Public Administration, by public legal persons, by public capital companies or those in which the State is the majority shareholder, by the Autonomous Regions, or by local authorities and public service concession companies.

PART II Consumer Rights

Article 3 Consumer Rights

The consumer is entitled to:

- a) Quality of goods and services;
- b) Protection of health and physical safety;
- c) Training and education regarding consumption;
- d) Information regarding consumption;
- e) Protection of economic interests;
- f) Prevention and repair of patrimonial and non-patrimonial damage which is the result of an attack on homogeneous individual, collective or diffuse rights;
- g) Legal protection and accessible and timely justice;
- h) Participation, via representation, in the legal or administrative definition of his rights and interests.

Article 10

Right to prevention and injunction

1 – A right is guaranteed to an injunction seeking to prevent, correct or determine the cessation of practices which are harmful to the consumer rights contemplated in this law, and which, in particular:

- a) Threaten the health and physical safety of consumers;
- b) Take the form of the use of prohibited general contractual terms;
- c) Consist of commercial practices expressly prohibited by law.

2 – The decision pronounced in the injunction proceedings may be accompanied by a compulsory pecuniary sanction, as set down in Article 829-A of the Civil Code, notwithstanding any indemnity which is due.

Article 11

Form of injunction proceedings

1 – The injunction has a value equal to that of the Appeal Court jurisdiction plus 1\$, falls within the terms of the summary procedure and is exempt from costs.

2 – The decision shall specify the extent of the abstention or correction, namely by means of specific reference to its content and indication of the type of situations to which it applies.

3 – The *res judicata* decision shall be published at the expense of the transgressor, under the terms set by the judge, and shall be registered with a service to be designated under the terms of the legislation governing this law.

4 – In the case of general contractual terms, the provisions of Articles 31 and 32 of Decree-Law 446/85, of 25 October, with the wording afforded to it by Decree-Law 220/95, of 31 August, shall also apply.

Article 12

Right to repair of damage

1 – Any consumer who has been supplied with a defective product, unless he has been previously informed and had such fact explained to him before entering into the contract, may demand its repair or replacement, a reduction in the price or dissolution of the contract, regardless of any fault of the supplier of said good.

2 – The consumer must report the defect within a period of 30 days in the case of movable property, or one year in the case of immovable property, from the time he becomes aware of it and within the guarantee periods set down in Article 4(2) and (3) of this law.

3 – The rights granted to the consumer under the terms of paragraph 1 lapse at the end of any of the time periods referred to in the previous paragraph where the

consumer has reported no defect, or six months after a defect has been reported, not counting for such purpose the time used for repair operations.

4 – Notwithstanding the provisions of the previous paragraph, the consumer is entitled to an indemnity for any patrimonial or non-patrimonial damage resulting from the supply of defective goods or services.

5 – The producer is responsible for any damage caused by defects in products placed on the market by him, regardless of any fault, under the terms of the law.

Article 13

Active Standing

The following have standing to initiate the proceedings set out in the previous articles:

- a) Consumers who have been directly harmed;
- b) Consumers and consumers' associations, although not directly harmed, under the terms of Law 83/95, of 31 August;
- c) The Public Prosecutor and the Institute for the Consumer when homogenous individual, collective or diffuse interests are at issue.

Article 14

Right to legal protection and right to accessible and timely justice

1 – It is the duty of the organs and departments of the Public Administration to promote the creation of and support for centres of arbitration, with the aim of settling consumer disputes.

2 – The consumer is guaranteed the right to exemption from prepayments in proceedings in which he seeks protection of his rights or interests, a ruling against the supplier of goods or services for non-compliance, or repair of loss or damage resulting from illicit facts or the objective liability defined under the terms of the law, provided that the value of the proceedings does not exceed the jurisdiction of the judicial court of first instance.

3 – Claimants in the proceedings set out in the previous paragraph are exempt from the payment of costs where the respective action only partially proceeds.

4 – In the case of total collapse of the claim, the intervening claimant or claimants shall be required to pay a sum, to be fixed by the judge, between one tenth and the full amount of the costs that would ordinarily be due, taking into account his economic situation and the substantive or formal reason for the failure of the case to proceed.

PART IV

Institutions for the promotion and protection of consumer rights

Article 17

Consumers' Associations

1 – Consumers' associations are associations endowed with legal personality which are non-profit making and the main aim of which is to protect the rights and interests of consumers in general or of their members as consumers.

2 – Consumers' associations may be of national, regional or local scope, according to the area within which their action falls and provided they have at least 3000, 500 or 100 members, respectively.

3 – Consumers' associations may also be of either general or specific interest:

- a) General interest consumers' associations are those the aim of which, as set out in their statutes, is the protection of the rights of consumers in general, and whose organs are freely elected by universal and secret ballot of all their members;
- b) Specific interest associations are any other associations of consumers of particular goods and services, and whose organs are freely elected by universal and secret ballot of all their members.

4 – Consumers' cooperatives are equivalent to consumers' associations, for the purposes of the provisions set out in this statute.

Article 18

Rights of consumers' associations

1 – Consumers' associations enjoy the following rights:

- d) The right to request, from the competent administrative or legal authorities, the apprehension and removal of goods from the market or the banning of services which are harmful to the rights and interests of consumers;
- l) The right of popular action;
- m) The right to make a complaint or denunciation, in addition to the right to join proceedings in a criminal case and accompany the proceedings of administrative offences, when they so wish, presenting briefs, technical opinions, suggestions for examinations or other evidence procedures until the proceedings are ready for a final decision;
- n) The right to exemption from the payment of costs, prepayments and stamp duty, under the terms of Law 83/95, of 31 August;
- o) The right to receive support from the State, via the central, regional or local administration, for the pursuit of their aims, in particular in the exercise of their activity within the area of training, information and representation of consumers;
- p) The right to tax benefits identical to those granted now or in the future to private institutions of social solidarity.

Article 20

Public Prosecutor

It is also the duty of the Public Prosecutor to defend consumers within the scope of this law and within the framework of its respective powers, by intervening in administrative and civil actions aimed at the protection of homogeneous individual interests, and also collective or diffuse interests of consumers.

Article 21

Institute for the Consumer

1 – The Institute for the Consumer is the public institute designed to promote the policy of safeguarding consumers' rights, in addition to coordinating and performing measures aimed at protecting, informing and educating consumers and measures in support of consumers' organizations.

2 – For the purposes of pursuing its functions, the Institute for the Consumer is considered to be a public authority and has the following powers:

- c) To represent the collective and diffuse rights and interests of consumers in court;
- d) To order protective measures for the cessation, suspension or prohibition of the supply of goods or services which, regardless of proof of real loss or harm, by their object, form or purpose, result in or may result in risks to the health, safety and economic interests of consumers.