

# INFORMATIVE NOTE



## INTELLECTUAL PROPERTY

# CENTRE FOR INFORMATION, MEDIATION AND ARBITRATION OF ELECTRONIC COMMERCE

In the framework of the partnership involving the Portuguese Ministry of Justice (through the Office for Alternative Dispute Resolution (GRAL)), the Portuguese Association for Consumer Protection (DECO), the Association of Electronic Commerce and Interactive Advertising (ACEPI) and Portuguese Association of Distribution Companies (APED), was promoted the creation of an arbitration space for the resolution of disputes arising from electronic commerce relationships between suppliers and consumers, which was named as CIMACE – Centre for Information, Mediation and Arbitration of Electronic Commerce.

This initiative, part of the project SIMPLEX 2010, and based on an innovative technology that optimizes the relationship between the administration and individuals (platform based in SSL - Secure Socket Layers and 'webconference' DIM DIM technology), appears framed within the prerogative, constitutionally enshrined, of the creation of arbitral courts to exercise the jurisdictional function, and is based on the idea of creating accessible, effective and swift means, alternative to judicial means, for the exercise of the jurisdictional function.

To that extent, and based on the experience that mediation and arbitration consubstantiate an agile and swift alternative, a Protocol was formalized for the purpose of the creation of that entity, which was signed

on 21 July, whose main objective is aimed at resolving disputes arising from electronic commerce relationships between suppliers and consumers, in particular, disputes relating to matters of validity, interpretation and execution of electronic contracts and well as disputes arising from the infringement of rules for protecting consumer rights.

The Protocol also establishes the principles of operation of CIMAC, namely, safeguarding the principle of contradiction, to ensure equality between the parties, promotion of rapid processes (establishing an average term of three months from the date of entry of the process to the final decision), the preferential use of computerized

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*"Portuguese Law Firm of the Year"*  
*Chambers Europe Excellence 2009, IFLR Awards 2006 & Who's Who legal Awards 2006, 2008, 2009, 2010*

*"Corporate Law Firm of the Year - Southern Europe"*  
*ACQ Finance Magazine, 2009*

*"Best Portuguese Law Firm for Client Service"*  
*Clients Choice Award - International Law Office, 2008, 2010*

*"Best Portuguese Tax Firm of the Year"*  
*International Tax Review - Tax Awards 2006, 2008*

*Mind Leaders Awards™*  
*Human Resources Suppliers 2007*

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In addition, note that, in a first stage, projected by the end of this year, mediators and arbitrators shall come from the Law School of Lisbon's Universidade Nova, under a partnership between it and the institutions above mentioned.

means of communication, the obligation of precedence for mediation or conciliation (a procedure that, in the CIMAC, will involve no costs, like the procedure of information) before the use of the arbitration phase (which will involve the mandatory designation of lawyer by the parties in cases with a process value exceeding € 5,000 and which also may involve payment of additional fees to the parties), and finally, the possibility of using one of the following as languages of the proceedings: Portuguese, English and Castilian.

Moreover, the aforesaid Protocol also refers to the commitments assumed by the various participants, in a way to promote the dissemination of the Centre, the provision of appropriate technical assistance, as well as the referral to the Centre on matters falling within its competence, in order to divulge its existence, competence and activity.

It should be noted that the CIMACE – Centre for Information, Mediation and Arbitration of Electronic Commerce is a fully online and virtual Arbitration Centre, which may be resorted needing only a computer with Internet connection and a webcam. Indeed, the acts involved, including the submission of the action, the acceptance of the

arbitrators, the presentation of evidence and submission of documents, the monitoring of the proceedings and even the digital signature of the decisions (which will occur by use of the Portuguese Citizen's Card), occur in an Internet environment.

Thus, for a question to be submitted to CIMAC is necessary, first, that the parties accept the mediation of that entity. On the other hand, can only be submitted issues related to conflicts with electronic commerce. Finally, communication between the various parties, as noted above, takes place exclusively by computer, either by email, chat, audio and/or conference call.

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The beginning of the functions of CIMAC is scheduled for next October, which is expected to make the resolution of disputes arising between suppliers and consumers in the relations of electronic commerce much faster and more accessible, within a non-judicial conflict resolution jurisdictional space.

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