



WORLD ANTI-COUNTERFEITING DAY

World Anti-Counterfeiting Day was marked on June 5, as a way of drawing attention to the negative effects of counterfeiting and piracy, and the damage caused by these illegal practices.

Counterfeiting is, according to the definition in the Priberam dictionary, the act of *“fraudulently reproducing or imitating something, to the detriment of the author or inventor”*.

Usually, in situations of counterfeiting, in addition to the reproduction of the product itself, there is also a reproduction of the trademark/logo that accompanies it.

LEGAL FRAMEWORK

Articles 196 and 197 of the **Code of Copyright and Related Rights** state that *“it is a crime to counterfeit a work, performance of an artist, phonogram, videogram or broadcast that is merely a total or complete reproduction of the work or performance of an artist.”* Articles 196 and 197 state that *“a crime of counterfeiting is committed by anyone who uses, as their own creation or performance, a work, performance by an artist, phonogram, videogram or broadcast that is merely a total or partial reproduction of another person’s work or*

performance, disclosed or not disclosed, or so similar that it has no individuality of its own”, It is punishable by “imprisonment of up to three years and a fine of 150 to 250 days, according to the seriousness of the offense, both of which are doubled in the event of a repeat offense, if the constitutive fact of the offense does not typify a crime punishable by a more serious penalty”, and “negligence is punishable by a fine of 50 to 150 days”.

On the other hand, with regard to industrial property rights, namely trademarks, Article 320 of the **Industrial Property Code** stipulates that anyone who, without the consent of the owner of the right, is punished with imprisonment of up to three years or a fine of up to 360 days:

- a) Manufacturing, importing, acquiring or keeping, for themselves or for others, for any of the purposes referred to in the following paragraphs, any media that reproduce or imitate a registered trademark, in whole or in some of its characteristic parts;
- b) Use counterfeit or imitated trademarks on their products or their packaging;
- c) Offering or providing services under counterfeit or imitated trademarks;
- d) Importing, exporting, distributing, placing on the market or storing products with counterfeit or imitated trademarks for these purposes;

- e) Using a reproduction or imitation of a trademark registered as a business name or company name;
- f) Use counterfeit or imitated trade marks in commercial documents or advertising when carrying out the activities referred to in points b) to e);
- g) Using, counterfeiting or imitating well-known trademarks whose registration has already been applied for in Portugal;
- h) Use, even if on products or services that have no identity or affinity, trademarks that are a translation of or are the same as or similar to earlier trademarks whose registration has been applied for and which enjoy prestige in Portugal, or in the European Union if they are European Union trademarks, whenever the use of the later trademark seeks, without just cause, to take undue advantage of the distinctive character or prestige of the earlier ones or may harm them;
- i) Use packaging, labels or any other support with legitimately registered trademarks on their products, services, establishment or company.

ANTI-COUNTERFEITING GROUP

During 2024, the Anti-Counterfeiting Group (GAC) in Portugal, made up of ASAE, AT, GNR and PSP, seized 3,264,653 units of counterfeit or pirated products, with an

estimated total value of €6,173,443.27.

According to the 2024 GAC Report, presented at the end of April, among the products seized in 2024 in various enforcement actions by the different public authorities, the following categories stand out: around 2.5 million items of **clothing and footwear** (75% of the total number of items seized); and around half a million **tobacco or tobacco products** (13% of the total number of items seized).

With regard to **e-commerce**, ASAE inspected around 11,000 sites, and registered 12 criminal cases relating to violations of Industrial Property Rights.

With regard to **copyright and related rights**, the General Inspectorate for Cultural Activities (IGAC) investigated 800 complaints, 82.5% of which were

confirmed, and 660 domains were removed/restricted from access.

As for **content made illicitly available online**, 122 soccer matches were viewed, identifying 1,499 situations, of which 1,459 were blocked.

FINAL NOTES

Counterfeiting not only poses a huge risk to safety and health, but also has a tremendous impact on the economy and the reputation of companies and brands, as counterfeit products can contain dangerous substances, be of inferior quality or violate intellectual property rights.

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