



## PERSISTENT ORGANIC POLLUTANTS

Decree-Law n.º 75/2022, of 31 of October

The European Union is seriously concerned by the continuous release of persistent organic pollutants (hereafter termed POPs) into the environment.

Those chemical substances are transported across international boundaries, far from their sources, and they persist in the environment, bioaccumulate through the food web, and pose a risk to human health and the environment. Therefore, further measures need to be taken in order to

protect human health and the environment against those pollutants.

This concern was initially addressed by the Convention on Long-Range Transboundary Air Pollution on Persistent Organic Pollutants (also known as Convention on the Air), which was the first regional environmental convention, and which has contributed to a significant reduction on the emissions of the main air pollutants in Europe and North America.

Nevertheless, the need to address this problem, namely through concrete measures of control and enforcement, has become increasingly urgent, as the environmental situation is reaching unsustainable levels.

Having said this, the decree-law under analysis ensures the execution of the Regulation n.º 2019/1021 in the national legal system which, in turn, enshrines the need for identification, management and reduction of releases of POPs, with the ultimate aim of eliminating them.

At a European Level, it has been defined as a priority the consolidation of inspective and supervisory structures, as well as the consequent sanctioning regime.

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Therefore, **the present decree-law establishes the national competent authorities responsible for the administrative and supervisory functions regarding the impositions made by the regulation and also the system of sanctions linked to their non-compliance.**

It establishes the Agência Portuguesa do Ambiente (Portuguese Environment Agency) as the competent national

authority for the administrative and control functions, with the functions of inspection and monitoring being conferred to three institutions: General-Inspection of Agriculture, Sea, Environment and Territorial Planning (Inspeção-Geral da Agricultura, do Mar, do Ambiente e do Ordenamento do Território), the Tax and Customs Authority (Autoridade Tributária e Aduaneira) and the Health and Economic Authority (Autoridade de Segurança Alimentar e Económica).

Regarding the **system of sanctions**, a duality has been established between environmental and economic offences.

**The environmental offences**, which are based on the “Lei-Quadro das Contraordenações Ambientais”, sanction the holders of materials that contain any of the prohibited substances listed in the annex to the regulation, as well as the failure to comply with the obligation of disposal of waste containing any of those substances, establishing an obligation to manage the accumulated material in a safe and efficient manner.

On the other hand, **the economic offences** are based on the “Regime Jurídico das Contraordenações” sanctioning all situations of

manufacture, use or placing in the market of any of the banned substances listed in the annex, even if in a negligent way.

## FINAL NOTES

This legislation will strengthen the authorities' response to situations of non-compliance, recalling the importance of the environmental issues and the impossibility of

resolving them at a purely national level, which deserves our strongest endorsement.

However, although is a clearly a progress, we must recognize that the solution to the environmental problem requires profound restructuring, not only at a society level, but mostly at an individual level.

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