

THE END OF "SMALL PRINT" IN GENERAL CONTRACTUAL CLAUSES

Existing and future standard contract terms must comply with the new requirements for font size and line spacing.

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The [General Contractual Clauses Legal Regime](#) (or 'LCCG') has been amended and now forbids fine print and tight line spacing in contractual terms drafted without prior individual negotiation with their addressees – usually consumers.

General contractual terms are one of the most frequently used contractual instruments in consumer contracts, for example, when opening a bank account, in insurance contracts or contracts for electricity, water or electronic communications supply.

Since there is no negotiation (between the parties) involved, since its recipients merely subscribe to or accept its content, LCCG provides mechanisms to prevent abuse, such as special duties of information and communication towards recipients and a list of prohibited clauses. There are two groups of prohibited clauses under LCCG: (i) absolutely prohibited clauses, which are void, such as clauses excluding or limiting liability for life damage, moral or physical integrity or health, or for non-contractual property damage and (ii) relatively prohibited clauses, which, depending on the situation, may or may not be forbidden, meaning that, in case of a dispute before a court, the clauses will be subject to review. These are, for example, clauses setting excessive deadlines for the acceptance or rejection of bids or penalty clauses disproportionate to the damage.

To enhance transparency, recently published [Law 32/2021 of 27 May 2021](#) (which amends the LCCG), establishes drafting rules: font size may not be smaller than 11 or 2.5 millimetres, and line spacing cannot be less than 1.15. In case of non-compliance, the clause will be null and void, as this prohibition becomes part of the list of absolutely forbidden clauses.

This does not mean, however, that "small print" was allowed before. This issue has been addressed by case law on the violation of the duties of information (in this regard, for example, the ruling of the [Supreme Court of Justice of 15 May 2008](#), the ruling of the [Lisbon Court of Appeal of 13 October 2016](#) and, recently, the ruling of the [Court of Appeal of 28 January 2021](#)), all of them considering that it is not enough to formally comply with the duties of information, and that this obligation must be fulfilled in accordance with a "reasonableness criterion" to make all pieces of information of the contract known by the consumer.

Law 32/2021 also provides for a control and prevention system of unfair terms to be set up in the upcoming months to ensure that clauses forbidden by a court decision are not applied by other entities. Entities using general contractual clauses will have to be more careful with disputed cases involving general contractual clauses that have already been prohibited by a court decision. This mechanism intends to decrease imbalance between the parties.

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