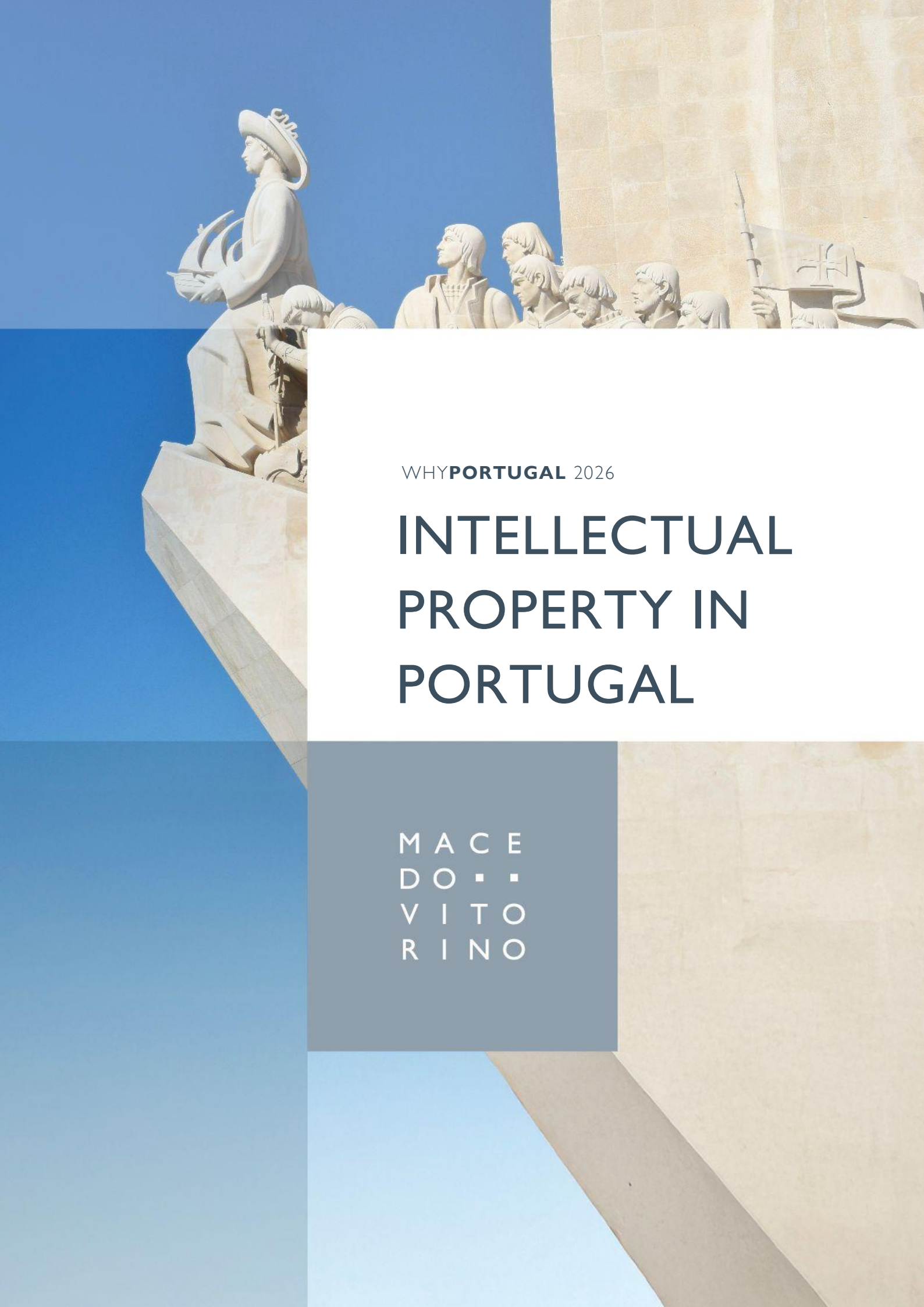




WHY**PORTUGAL** 2026

INTELLECTUAL PROPERTY IN PORTUGAL

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FOREWORD

The protection of intellectual property rights (IP), including copyright of literary, artistic and musical works, and patents, trademarks, and software, is an important factor to consider when starting a business.

Portugal offers a strong IP protection system, following Europe's long legal tradition that dates back to the 19th century, with the first Portuguese Author Rights Code approved in 1851, and is aligned with European Union directives and regulations on IP.

This briefing highlights the main legal and practical aspects of IP, including the recognition of authors' economic and moral rights, the copyright protection for literary, artistic, musical works, software and databases, and the protection of patents, designs, and trademarks. It also covers the mechanisms for enforcing these rights if they are infringed.

Other key information concerning the most relevant aspects about doing business or working in Portugal is available at www.macedovitorino.com/en/Why-Portugal. The «Why Portugal» webpage contains a description of the main aspects that concern businesses and individuals investing in Portugal, including:

- [How to set up a business.](#)
- [Forms of investment incentives and government grants available and how to apply.](#)
- [Getting a Portuguese residence permit or a golden visa.](#)
- [Hiring employees, employers' obligations and rules concerning the dismissal of employees.](#)
- [Portugal's main taxes, including among others personal and corporate income taxes, VAT and property taxes.](#)
- [Intellectual property protection, software, patents, trademarks and technology.](#)
- [Real estate, acquisition and lease of property and financing and tax related issues.](#)
- [Dispute resolution, the judicial system and of the main steps and costs of lawsuits.](#)

I. REGULATORY FRAMEWORK

I.1. AUTHOR RIGHTS CODE AND INDUSTRIAL PROPERTY CODE

The two main pieces of legislation governing intellectual property in Portugal are the Portuguese Author Rights Code (*Código do Direito de Autor e dos Direitos Conexos*, "CDADC"), which regulates the attribution and protection of authors' copyright and personal rights and other non-copyrightable works, and the Industrial Property Code (*Código da Propriedade Industrial*, "CPI"), which governs industrial property rights, encompassing trademarks, patents and designs.

Portuguese intellectual property legislation follows European directives and regulations. Portuguese IP laws offer the same level of protection as other EU countries.

I.2. RECENT LEGISLATIVE REFORMS

Recent legislative reforms include amendments to the Author Rights Code by Decree-Law No 47/2023, which transposed Directive (EU) 2019/790, known as the Digital Single Market ("DSM") Directive, and the entry into force on 17 February 2024 of the EU Digital Services Act ("DSA").

Following the amendments introduced by Decree-Law 47/2023, the Author Rights Code now grants press publishers exclusive online rights in Portugal, enforceable against digital intermediaries and makes digital platforms directly responsible for copyrighted content posted by users, requiring them to secure licences with copyright holders before hosting or sharing the content. The new legislation also grants authors the right to claim an increase in the agreed remuneration when it proves to be disproportionately low compared to the revenues that were subsequently generated by the exploitation of their works.

In turn, the DSA will impact streaming platforms and social media businesses that offer their services to recipients located in the EU, including Portugal. Businesses operating outside of the EU may be impacted. As an EU regulation, the DSA is directly applicable in Portugal without needing national implementation.

The DSA defines "online platform" as "*a hosting service that, at the request of a recipient of the service, stores and disseminates information to the public*", excluding the cases where the activities or functionalities of the service are minor and purely ancillary and inseparable from the primary service.¹

Social media services like Instagram, YouTube, Facebook and LinkedIn, as well as streaming services like Spotify or Netflix, fall under the DSA definition of online platform, although its application to streaming services is very limited because they do not distribute content that they do not know before publishing it. Online publishers and media companies also fall under the definition, although some may benefit from the exception, and, like with streaming services, its practical impact will be very limited.

Under the DSA, digital services platforms will be required to, among other things:

- adopt transparent moderation policies;
- establish reporting and reaction mechanisms for user complaints, including appeal processes; and
- publish annual reports detailing their content moderation activities, including automated moderation processes using non-human mechanisms such as AI.

While the DSA imposes a general duty to react when it receives a complaint, it expressly prohibits general monitoring or surveillance of content and users.

¹ The DSA also applies to the following services: I) "mere conduit service, consisting of the transmission in a communication network of information provided by a recipient of the service, or the provision of access to a communication network"; and II) "caching" service, consisting of the transmission in a communication network of information provided by a recipient of the service, involving the automatic, intermediate and temporary storage of that information, performed for the sole purpose of making more efficient the information's onward transmission to other recipients upon their request".

The type and level of compliance measures, including risk mitigation and algorithmic moderation, depend on the platforms' scale and risk profile, as well as their technical capabilities.

Platforms that fail to act in a timely manner or adequately on reported illegal content may face civil, criminal, or administrative liability, including significant financial penalties. When taking down content or imposing restrictions on accounts, platforms must provide clear reasons for such decisions. Very large platforms (e.g. YouTube, Instagram, TikTok) and very large online search engines (e.g. Google Search, Bing) have more stringent obligations regarding the management and mitigation of systemic risks as well as reporting and data sharing requirements.

The Portuguese Government, through Decree-Law 20-B/2024 of 16 February 2024, designated the National Communications Regulator (*Autoridade Nacional de Comunicações*, "ANACOM"), the national communications regulator, as the national Digital Services Coordinator. The Media Regulatory Authority, (*Entidade Reguladora para a Comunicação Social*, "ERC"), and the General Inspection of Cultural Activities (*Inspeção-Geral das Atividades Culturais*, "IGAC") were designated as the national competent authorities for matters related to social media and other media content and matters concerning copyright and related rights respectively.

1.3. INTERNATIONAL CONVENTIONS

IP rights are also protected by international treaties to which Portugal is a party. Portugal is a member of the World Intellectual Property Organisation ("WIPO") since 1975 and a signatory to several key international agreements that provide broader, cross-border protection of intellectual property rights and industrial property rights, including, among others:

- Berne Convention for the Protection of Literary and Artistic Works (1886);
- Universal Copyright Convention ("UCC, 1952");
- WIPO Copyright Treaty ("WCT, 1996");
- WIPO Performances and Phonograms Treaty ("WPPT, 1996");
- Agreement on Trade-Related Aspects of Intellectual Property Rights ("TRIPS, 1994");

- Madrid Agreement Concerning the International Registration of Marks (1891); Madrid Protocol (1989) ("Madrid System");
 - International Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organisations ("Rome Convention, 1961");
 - Convention for the Protection of Producers of Phonograms Against Unauthorised Duplication of Their Phonograms ("Geneva, 1971");
 - European Patent Convention ("EPC, 1973");
 - Patent Cooperation Treaty ("PCT, 1970");
 - Paris Convention for the Protection of Industrial Property (1883);
 - Budapest Treaty (1977) on the recognition of the deposit of microorganisms for patent purposes;
 - Nice Agreement Concerning the International Classification of Goods and Services for the Purposes of the Registration of Marks (1957);
 - Locarno Agreement Establishing an International Classification for Industrial Designs (1968);
 - Strasbourg Agreement Concerning the International Patent Classification (1971);
 - Lisbon Agreement for the Protection of Appellations of Origin and their International Registration (1958); and
- (1) International Convention for the Protection of New Varieties of Plants ("UPOV Convention"), 1961, as revised.

2. INTELLECTUAL PROPERTY

2.1. AUTHORS' ECONOMIC AND PERSONAL RIGHTS

2.1.1. ECONOMIC RIGHTS

Portuguese law grants the author an exclusive economic right to commercially exploit the intellectual works she or he has created or to which the author is entitled by law. Commercial exploitation includes the right to make copies and disseminate the work, as well as the right to license or sell such rights to another person.

As a rule, copyright over intellectual works belongs to their authors, although its economic component may be assigned to the employer or the person that commissioned the work. In the case of collective works, ownership belongs to the company, individual, or legal person responsible for organising and directing the creation of the work and on whose name the work was disclosed.

The copyright owner may give a third party the right to disclose, publish, or otherwise use the work in the ways specifically authorised, covering one or more of the economic rights.

When granting a licence to use a work, the specific rights being granted must be specified. In the absence of an express reference of specific rights, only those necessary to fulfil the purpose of the authorisation are considered licensed.

Economic rights under copyright may be transferred or encumbered. If no duration is specified, such transfers or encumbrances are presumed to last a maximum of twenty-five years (ten years for photographic works). Works may be encumbered through usufruct, temporary grants of economic rights, or by pledging the copyright.

2.1.2. PERSONAL RIGHTS

Like other civil law countries, Portuguese law grants the author the so-called "moral" or "personal" rights in respect of the works they create, which include the recognition of "authorship" and the protection of the work's authenticity and integrity.

The author's personal rights include:

- the right to be identified and recognised as the creator and to preserve the work as originally expressed. The author may accept or reject proposed changes and make any modifications they considered appropriate, exercising the rights of attribution, recognition of authorship, protection of integrity, modification, and access to a copy;
- the right to decide if, when, and how the work is disclosed to the public; and
- the right to withdraw the work from circulation for compelling personal reasons, in which case the author must indemnify the affected parties.

Personal rights are untransferable and unassignable, even with the author's consent, and cannot be waived or extinguished by the passage of time.

2.2. DURATION OF COPYRIGHT

Copyright lasts 70 years after the author's death, even if the original work was published or came out after the author's death. When the copyright's term expires, the work enters the public domain and can be used freely. Falling in the public domain does not affect the moral rights, which are protected indefinitely.

2.3. PROTECTED WORKS

2.3.1. LITERARY, ARTISTIC AND SCIENTIFIC WORKS

The Author Rights Code protect the intellectual creations in the literary, scientific, and artistic domains, irrespective of their genre, form of expression, merit, mode of communication, or purpose, naming among others:

- books, pamphlets, journals, newspapers, and other writings;
- lectures, lessons, addresses, and sermons;

- plays and musical plays works, including their performance;
- choreographic works and pantomimes, expressed in writing or by any other means;
- musical compositions, with or without words;
- cinematographic, television, phonographic, videographic, and radio works;
- works of drawing, tapestry, painting, sculpture, ceramics, tile, engraving, lithography, and architecture;
- photographic works or works produced by any process analogous to photography;
- works of applied arts, industrial designs or models, and design works that constitute artistic creation, regardless of protection under industrial property law;
- illustrations and maps;
- projects, sketches, and plastic works relating to architecture, urban planning, geography, or other sciences; and
- slogans or mottos, even if of an advertising nature, provided they are original.

Copyright protects the expression of ideas, but not the ideas themselves. Therefore, while the specific expression of an idea is protected, the underlying idea, method, or system is not.

2.3.2. SOFTWARE

The Portuguese Software Law enacted by Decree-Law 252/94 of 20 October 1994, which transposed Directive 91/250/EEC, establishes the rules applicable to the legal protection of software (computer programs).

Computer programs benefit from copyright protection when they integrate and combine the programming language, the program's potential functionalities and its unique code in a way that demonstrates creative expression.

To be protected, computer programs must be original and not copied from another program. Software is protected as literary works; software owners have the right to use, reproduce and distribute it by any means and in any form, to dispose of it (including licensing or granting rights of use), and modify it in any manner.

Copyright protection extends only to the expression of the software, including the source and object code, but excludes protection for the underlying ideas, principles, algorithms, or programming methods. Original algorithms part of a computer-implemented invention that has a technical character can be patented if they meet the patentability requirements set out in the Industrial Property Code, *i.e.* novelty, inventive nature and industrial applicability.

The owner of the software may put into circulation originals or copies of the computer program and has the right to lease the copies. The copyright owner can also register the program at the literary property register.

Software developed by a company is presumed to be a collective work owned by the employer when created by an employee in the performance of her/his duties or under the employer's instructions, unless the parties expressly agree otherwise.

Persons authorised to use a copy of the software may utilise the program for any purpose of their choosing, including to create a backup copy or studying and testing the program's functioning, but may not use it to infringe the software owner's rights, such as reverse engineer it or make and distribute copies.

The licensee or another person with the right to use the program or acting on behalf of a person authorised to do so can decompile parts of a program to ensure the interoperability of that software with other programs.

The unauthorised economic exploitation of software by an individual or legal person might be considered a violation of the Software Law and is considered a criminal offence under the Cybercrime Law approved by Law 109/2009, of 15 September 2009, which follows closely the European Convention on Cybercrime of 2001.

2.3.3. DATABASES

Databases are protected as copyright when they are considered intellectual creations as defined in Decree-Law 122/2000 of 4 July 2000, which implemented Directive 96/9/EC on the legal protection of databases. This includes cases where the selection or arrangement of the contents reflects the author's own intellectual creation, that is, where there is originality in the way the data are chosen or organised.

When a database is not protected by copyrights, its owner benefits from special protection when there has been a substantial investment in obtaining, verifying or

presenting the database contents. The exclusivity lasts for 15 years, starting from the end of the calendar year in which the database was created.

2.4. COLLECTIVE MANAGEMENT ORGANISATIONS

Copyright owners may delegate the management of their works to a share-based collective management organisation, such as the Portuguese Authors' Association (*Sociedade Portuguesa de Autores*) or the Portuguese Software Producers' Association (*Associação Portuguesa de Software*, "ASSOFT").

The authority of these organisations to represent rights holders derives automatically from an individual's status as a member, adherent, or beneficiary of the services provided by the organisation, whose corporate purpose is the management of the economic rights entrusted to them.

2.5. REGISTRATION WITH IGAC

Copyright protection is acquired automatically immediately after the work completion, without requiring registration, deposit, or any other formalities.

However, it is possible to register at IGAC to prove the authorship of the work. Registration provides an additional layer of protection by granting a presumption of ownership over the work.

Registration may be carried out by authors of literary, scientific, or artistic works, such as books, paintings, sculptures, or musical compositions. It can also be performed by holders of related rights, including record labels or the heirs of authors.

To register literary, scientific and artistic works, IGAC requires specific documentation. While the exact requirements may vary depending on the type of work, all applications must include the following documents:

- completed registration form: including details such as the author's name, the title of the work, and its type;
- copy of the work: a physical or digital copy of the work to be registered; and
- proof of payment: a receipt or evidence of the registration fee payment.

Additional documentation is required depending on the type of work. For example, for computer programs, the following information must be provided:

- brief description of the program;
- programming language used;
- operation system compatibility;
- complete source code presented as a sample of the work;
- executable file of the program; and
- list of files and flowchart.

IGAC communicates its decision regarding the registration within 10 business days from the date the application is received.

The registration of literary and artistic works with IGAC requires a fee, which varies depending on the method of submission, €60 for online registration and €80 for in-person or postal registration.

Registration	Fee (Online)	Fee (In-Person/Postal)
Amendment of works (content)	€60	€80
Recording acts and rights on the registration (including title)	€30	€30
Registration of transfer of rights	€30	€30
Registration of a literary or artistic pseudonym	€30	€40

3. INDUSTRIAL PROPERTY

3.1. PATENTS AND UTILITY MODELS

3.1.1. SCOPE

Patents ensure exclusive use and the right to prevent others from manufacturing, offering or storing an invention that has industrial use without the owner's consent, even if the invention is applied to a product consisting of or containing biological material or to a process that creates, treats or uses biological material. Inventions may include products, processes and new processes for obtaining already known products and substances.

The invention must be a novelty, destined for industrial use and cannot be obvious to a person with average knowledge in the technical field in question.

Discoveries, scientific theories and mathematical methods, materials or substances existing in nature, nuclear materials, aesthetic creations, schemes, rules and methods for intellectual pursuits, games or businesses, and information presentations are not patentable.

Inventions contrary to law, public policy, public health and best practices cannot be patented.

The duration of patents is 20 years following the application date subject to the payment of annual renewal fees. The patent validity can be shortened if the annual fees are not paid. For pharmaceutical and plant protection products, it is possible to apply for a supplementary protection certificate, which extends the patent protection for up to five years.

The patentholder must exploit the patented invention. The exploitation has to begin within four years, counting from the application date or three years, counting from the date of the patent grant, whichever is longer. Patents may be licensed or sold.

Portuguese patents must be registered at the National Institute of Industrial Property (*Instituto Nacional da Propriedade Industrial*, "INPI").

European patents, which are valid in the European Patent Convention contracting States, must be registered at the European Patent Office or at INPI. Patents last for 20 years. European patents are valid in the 26 European Union countries (except for Spain and Croatia) without the need for national verification and the payment of any fees in the contracting countries. The European Patent Office is responsible for granting European patents. The application must be in one of its official languages: English, French or German.

The World Intellectual Property Organisation is responsible for granting and protecting international patents in more than 150 countries. The applicant must be a national or resident of a Patent Cooperation Treaty contracting State. National laws govern the registration process in each country.

Utility models are product or procedure inventions with industrial applicability and cannot cover biological materials. Utility models have a simplified approval procedure and are subject to examination by INPI, the entity responsible for granting and registering industrial property rights in Portugal.

Utility models are subject to the same object constraints as patents. Utility model rights last six years from the application date. The protection period can be extended for a maximum of 10 years from the day of application.

3.1.2. REGISTRATION

Patents and utility models must be registered with INPI, which is responsible for granting and managing these rights.

The application must include the following documents:

- claims defining what is considered new and inventive and characterising the invention;
- a detailed description of the invention;
- any drawings necessary for a complete understanding of the description (when applicable);
- an abstract of the invention;

- an illustration of the invention for publication in the industrial property bulletin if necessary for understanding the abstract; and
- a title for the invention.

Portuguese law allows the filing of a provisional patent application with a simple description of the invention (*pedido provisório de patente*), without the full documentation required for a standard application. The provisional application can be in English or Portuguese and does not require claims. It secures an early filing date and establishes priority. The provisional patent application must be converted into a definitive patent application, adding formal documentation (submitted in Portuguese) and paying the full application fee within 12 months from the submission of the provisional application. No new subject matter may be added in the definitive application; if a new matter is introduced, the conversion of the provisional application will not be accepted. When a new matter is added, the filing date will commence on the date of the change to the original application. Such new patent application cannot claim priority from the previous provisional patent application.

INPI will issue a search report within 10 months from receiving the provisional application. Based on this report, the applicant will be able to better assess the likelihood of success of the application, adjust the wording of claims or decide to make a new application that does not conflict with an existing patent or prior application. It is possible to apply online for patents or provisional patents, as well as to register utility models at <https://inpi.justica.gov.pt/>.

Application ²	Online Fee	Paper Fee	Annual Renewal
Patent Application	€125.66	€251.32	-
Provisional Patent Application	€12.57	€25.14	-
Conversion of Provisional to Definitive Application	€87.98	€175.96	-
Patent Examination	€62.83	€125.66	-

² <https://diariodarepublica.pt/dr/detalhe/deliberacao/429-2025-912256374>

Patent Annual Renewal Fees	-	-	€61.97 (5th year) to €867.41 (20th year)
Utility Model Application	€219.91	€439.82	-
Utility Model Examination	€94.26	€188.52	-
Utility Model Annual Renewal Fees	-	-	€31.65 (5th year) to €43.95 (10th year)

At the European level, patents are granted by the European Patent Office (EPO) under the European Patent Convention (EPC). A European patent has a maximum term of 20 years, subject to the payment of annual renewal fees. Applications may be filed in any language; however, if not filed in one of the EPO's official languages (English, French, or German) a translation into one of these languages must be submitted within two months of filing. After the grant, the patent must be validated in each designated Contracting State in accordance with that State's national requirements, which may include filing translations and paying national fees.

Internationally, patent applications may be filed under the Patent Cooperation Treaty (PCT, 1970), administered by the WIPO. This system allows applicants to seek protection in more than 150 countries through a single international application, but the final granting of the patent is always carried out by the national or regional offices of the countries concerned.

International and European patent fees vary depending on the method of submission, as follows:

Application	Online Fee	Paper Fee
Provisional Protection	€62.83	€125.66
National Validation	€62.83	€125.66

3.2. DESIGNS

3.2.1. SCOPE

Owners of designs of the product's shape, lines, contour, colours, textures or materials have the exclusive right to use it and to prevent its use by unauthorised third parties.

To be protected, designs do not need to be entirely a novelty but must include at least a new feature or layout of already used elements but presented differently. Rights over registered designs last five years following the application date and can be renewed for consecutive equal periods of time up to a maximum of 25 years. When registered, the design is protected by copyrights since its creation date.

Unregistered Community designs are automatically protected for three years from the date of their first disclosure in the EU. This protection allows the owner to prevent unauthorised commercial use by third parties.

3.2.2. REGISTRATION

Design applications must be filed with INPI. The application must include, among others:

- indication of the products in which the design is to be applied or incorporated, using the international classification of industrial designs;
- priority details, if priority is claimed (country, date, and number of the first application);
- graphic or photographic representations of the design; and
- optionally, a short description (maximum 50 words per product) referring only to the elements shown in the representations or sample.

However, once registered, a design cannot be modified, even by its owner. Only non-essential modifications (such as scaling, enlarging or reducing the design) are permitted within a registration. Modifications to the essential characteristics of a design (such as changed lines, shapes, or ornamentation) that are new and unique, require registration as a new design.

Designs may also be registered at the European Union Intellectual Property Office ("EUIPO"), where a single application provides protection across all EU Member States.

At the international level, registration through WIPO provides acknowledgement of intellectual property rights in several countries, depending on the specific system used. The Patent Cooperation Treaty ("PCT") has 158 Contracting States, while the Hague System for industrial designs covers about 96 countries. Applicants must be nationals, residents, or have a real and effective industrial or commercial establishment in a country that is a Contracting Party to the system in question. Recognition and enforcement of rights always depend on the laws of each country where protection is sought.

The following table sets out the fees payable for each application and the name of the entity to which it must be submitted.

Type of Application/Renewal	Entity	Fee (Online)	Fee (Paper)
Design Application	INPI	€53.98	€107.96
Multiple Application (per additional design, same class)	INPI	€26.99	€53.98
Renewal (per five-year period)	INPI	From €53.98	From €107.96
Design Application (1st design)	EUIPO ³	€350 per design	Not specified
Multiple Application (2nd design) ⁴	EUIPO	€125 per design	Not specified

³ <https://www.euipo.europa.eu/en/designs/before-applying/fees-payments>

⁴ <https://www.euipo.europa.eu/en/designs/before-applying/fees-payments>

3.3. TRADEMARKS

3.3.1. SCOPE

Trademarks are distinctive signs used in trade to identify products and services. They grant their holders an exclusive right of use for 10 years, renewable indefinitely for equal periods.

A trademark may consist of words, personal names, drawings, letters, numbers, sounds, the shape of a product or its packaging, or even advertising slogans. To be valid, trademarks must have a distinctive character and be represented clearly and precisely so that third parties can determine the scope of protection. Marks representing the usual name of a product or service or the ones that have descriptive elements are not accepted as trademarks.

An unregistered trademark has a limited priority right. Under article 213 CPI, a mark used for less than six months may be registered with priority over third parties, and its user may oppose identical or similar applications. After this period, prior use no longer gives automatic priority, but it may still be invoked to refuse or cancel a later registration if it constitutes unfair competition (Article 232(I)(h) CPI).

The scope of protection allows the owner of a registered trademark to prevent third parties from using identical or similar signs for identical or similar goods or services, where such use is likely to cause confusion or association.

For a trademark to be considered misused or imitated (Article 238 CPI), the following requirements must be met:

- **Priority.** The registered trademark must have priority over the infringing trademark. Priority is determined by the date on which the trademark was filed; hence, the trademark whose registration was filed first takes precedence.
- **Affinity between products and/or services.** Imitation or usurpation requires that both trademarks mark goods and/or services that are identical or similar. Affinity relates to the principle of speciality, expressing protection for the distinctive function of the trademark but only for the goods or services for which the trademark was actually registered. To verify the existence of affinity, it is important to consider whether we are dealing with relations of (i) competition, (ii) substitution, (iii) complementarity, (iv) accessoriness, and (v) derivation.

- **Error or confusion.** Trademarks must be similar in a way that misleads or confuses the consumer, who can distinguish them only after careful analysis or comparison or understand a risk of association.
- **Risk of confusion or association.** Confusion may occur directly when the consumer confuses two brands, thinking they are the same, or indirectly when the consumer considers one brand a modification of another. There is also confusion in a broad sense if the consumer believes that the companies owning the brands have some economic or organisational relationship. Confusion may also arise from the likelihood of association, where the consumer considers the sign and the trademark similar, recognising the trademark but not confusing them.
- **Graphic, phonetic, visual, and conceptual similarity.** Graphic similarity exists when the words are written identically or similarly. Phonetic similarity occurs when the sound resulting from reading the signs is identical or similar. Visual similarity exists when the appearance of the signs is identical or similar. Conceptual similarity arises when the signs express concepts or ideas that are identical or similar.
- **Easily mislead or confuse the consumer.** Portuguese law requires that the risk of confusion be significant, easily misleading or confusing the consumer. To assess this, one must consider the average consumer, i.e., the consumer without a high level of attention, and determine whether, in the specific case, that consumer would be in error or would become confused.

3.3.2. REGISTRATION

The trademark should be registered at INPI, and its protection is limited to the national territory. It is possible to register trademarks online at inpi.justica.gov.pt. The application must include, among others:

- a representation of the trademark, including words, figures, drawings, and colours (if colours are claimed);
- the list of goods and/or services, classified under the Nice Classification;
- if priority is claimed: the country, date, and number of the first application;
- if the mark includes another person's name or portrait, their authorisation; and

- if the mark contains symbols, coats of arms, emblems or distinctions of the State, municipalities, or other entities, their authorisation.

INPI can, on its own motion, refuse trademark registrations based on certain grounds for refusal outlined in the Industrial Property Code. These grounds include the reproduction of a trademark previously registered by someone else for identical goods or services (Articles 230, 231 e 232 CPI). However, there are grounds for refusal dependent on a prior complaint and cannot be identified ex officio by INPI.

A trademark application will also be refused if it is identical or similar to another previously well-known trademark in Portugal or the European Union, especially when it takes unfair advantage of the distinctive character or prestige of the other trademark, or if it could jeopardise that trademark, even if associated with different products or services.

The owner of a trademark right can also request the cancellation of a trademark registration within ten years from the date the registration was granted, through a reasoned request filed with INPI. There are no grounds for cancellation if the earlier trademark does not meet the condition of genuine use (Articles 4/5, 266 e 263 CPI).

It is important to consider the system of forbearance preclusion, which stipulates that if the owner of a registered trademark, aware of the fact, has tolerated the use of a later registered trademark for five consecutive years, they lose the right to request cancellation of the later trademark or to oppose its use (Article 261 CPI).

Beyond national registration, trademark protection may also be obtained at the European and international level. An EU trademark, registered with the EUIPO, covers all Member States of the European Union and may be applied for by any person or company worldwide.

To secure protection internationally, registration through the Madrid System (under WIPO) allows applicants to seek protection in more than 100 countries, although recognition and enforcement of rights remain subject to the national laws of each country.

Once the trademark products are made available in the European Economic Area by the owner or with its consent, the owner's rights are considered expired. The trademark holder cannot disallow its use on the products. Furthermore, the trademark has to be used for five consecutive years; if not, the registration expires.

The fees vary depending on the method of submission.

Type of Application	Authority	Online Fee	Paper/Post/Courier Fee
Trademark Application	INPI	€148.71	€297.42
Renewal	INPI	€148.71	€297.42
Trademark Application	EUIPO	€850.00	€1,000.00

3.4. TRADE SECRETS

Any confidential business information that provides a competitive advantage can be considered a trade secret.

Trade secrets can include know-how, technical knowledge (potentially patentable or not) or business and commercial data such as lists of customers, business plans and manufacturing processes.

Disclosure, acquisition or use of the competitor's trade secrets without its consent is considered illegal if the information: (i) is secret, meaning that it is not generally known or easily accessible, (ii) has commercial value because of its secrecy and (iii) has been subject to considerable diligence by the person responsible for the information control in order to keep it secret.

It is also unlawful to disclose or use a trade secret when the recipient of information knew or should have known when first hearing about it that such secret had been obtained directly or indirectly from another person who was using or disclosing it illegally.

It is lawful to access a trade secret when that results from an independent discovery, from an employee's rightful access to the information in accordance with accepted practices or the law. It is also legal to study, disassemble or test a product or object that has been made available to the public or when such access complies with honest commercial practices.

Whenever there is a breach or well-founded fear that others may cause serious damage to the trade secret, the court may, at the request of the interested party, order the appropriate precautionary measures.

In the event of a trade secret breach, the court decision can order the infringer to refrain from using or disclosing the trade secret and prohibit the infringer from producing, offering, placing on the market, importing, exporting or storing the product of such secret.

When unfair competition, abuse of rights and other legal rules protecting business secrets do not apply or do not offer sufficient protection, it is advisable to enter into a non-disclosure agreement before exchanging confidential and sensitive information to business partners, shareholders, employees, suppliers and customers.

Unlike for patents or trademarks, protection is not time limited. Furthermore, this protection does not involve any formalities with competent authorities, and there is no registration fee, which means that its effect is immediate.

4. ENFORCEMENT OF IP RIGHTS

4.1. OVERVIEW

The protection of IP rights in Portugal combines administrative, criminal, and civil enforcement mechanisms, which provide a wide range of complementary remedies to protect IP rights holders.

IP civil remedies aim to prevent or provide relief to the injured party against damages, through indemnification actions as well as injunctions, preservation of evidence measures, or the seizure and destruction of the infringing goods. Civil proceedings are generally brought before the Intellectual Property Court (*Tribunal da Propriedade Intelectual*), which holds specialised jurisdiction over IP related disputes.

Criminal liability rules aim to prevent and sanction the most serious violations of intellectual property rights and may only be applied by the criminal courts. Their role is mainly punitive, applying penalties such as imprisonment or fines, but also serve to prevent violation and reinforce rights holders' position by giving them a sanctioning framework that protects their interests.

The administrative protection measures offered to IP holders are primarily intended to prevent and sanction economic infringements and will apply in addition to or independently of civil and criminal remedies. In the field of industrial property, INPI is the authority responsible for enforcing administrative remedies, while IGAC is responsible in the field of author's and related rights.

In some cases, certain remedies overlap giving the injured party the option to choose one or seek protection from criminal, civil and administrative authorities and courts.

In addition, the Competition, Regulation and Supervision Court (*Tribunal da Concorrência, Regulação e Supervisão*) has jurisdiction over cases involving anti-competitive practices that result from the misuse of IP rights.

4.2. CIVIL REMEDIES

4.2.1. COPYRIGHT AND RELATED RIGHTS

Rights holders may initiate civil proceedings under the Author Rights Code (Articles 201-210J CDADC) seeking the following remedies:

- the cessation of unlawful use of an author's literary or artistic name or other identifying signs;
- damages as compensation for losses caused by any infringing conduct;
- an order to compel the infringer or third parties to produce evidence in their possession, including banking, financial, accounting, or commercial documents, provided the applicant presents prima facie evidence of copyright or related rights infringement;
- measures to preserve evidence in cases of infringement or imminent risk of serious harm, such as detailed descriptions, sample collection, or seizure of suspected infringing goods, materials, instruments, and related documents;
- an order to compel the alleged infringer or other parties in the commercial chain to provide detailed information on the origin and distribution networks of infringing goods or services, including details of producers, suppliers, quantities, and prices;
- seizure of the infringer's assets, including bank accounts, suspected infringing goods, and instruments used in the violation;
- destruction, withdrawal, or permanent removal from commercial channels of infringing goods and the instruments used in their production;
- an injunction to stop ongoing or imminent infringement, including orders directed at intermediaries.

The court's final ruling on the merits of the case may include precautionary measures to prevent the infringing party from engaging in actions that could violate the rights holder's interests (Article 210J CDADC). These measures may also apply to intermediaries and can include:

- a temporary ban on carrying out specific activities or professions;

- the denial of the right to sell or promote products in fairs or markets; and
- the temporary or permanent closure of the establishment.

4.2.2. INDUSTRIAL PROPERTY

Holders of industrial property rights have similar remedies as those granted to authors and copyright owners with the differences that arise from the different nature of the object of the protected rights set out in the Industrial Property Code (Articles 339 et seq. CPI), which include seeking:

- the declaration of nullity or annulment of industrial property rights, including patents, supplementary protection certificates, utility models, topographies of semiconductor products, designs, trademarks, logos, rewards, designations of origin, and geographical indications;
- a court order compelling the opposing party or third parties to produce evidence in their possession or control, such as banking, financial, accounting, or commercial documents, provided the applicant demonstrates sufficient indications of an industrial property infringement;
- urgent court measures to preserve evidence in cases of infringement or imminent risk of serious harm, including detailed descriptions, sampling, or seizure of suspected infringing goods, materials, instruments, and related documents;
- urgent interim measures from the court to prevent imminent infringement or to prohibit the continuation of an ongoing infringement, including against intermediaries whose services are used to infringe;
- urgent court measures to prevent imminent infringement or prohibit ongoing unlawful acts related to industrial property rights;
- the seizure of the infringer's assets, including bank accounts, suspected infringing goods, and instruments primarily used for the violation;
- damages as compensation for infringement, covering actual losses and lost profits, with the calculation also considering any unfair benefits gained by the infringer.

Following a judgement on the merits, the court may impose accessory sanctions and precautionary measures (Article 348 and 349 CPI), including the publication of the decision, the destruction of infringing goods, the temporary prohibition of certain

professional activities or the exercise of certain activities or professions, the denial of the right to participate in fairs or markets, and the temporary or permanent closure of the business establishment.

The Industrial Property Code imposes the same requirements as the Author Rights Code. The applicant must provide sufficient evidence of ownership or authorisation and of an infringement or a serious and imminent risk. The measures may also be directed against intermediaries.

4.3. CRIMINAL PROTECTION

4.3.1. GENERAL ASPECTS

The violation of IP rights, covering both copyright and industrial property, may constitute a criminal offence.

In criminal proceedings, courts are authorised to seize of alleged offender's movable and immovable assets, including bank account balances. Courts may also order the access to banking or commercial data and information related to the offender.

The jurisdiction to impose sanctions for criminal violations of IP rights, regardless of their nature, lies exclusively with the criminal courts and not with the TPI.

4.3.2. COPYRIGHT AND RELATED RIGHTS

The Portuguese Author Rights Code defines the following acts as criminal offences:

- the use of a work without the author's or rights holder's authorisation;
- counterfeiting, reproducing or imitating a work without authorisation, as if it were original;
- infringing the right of paternity (authorship) or the right to the integrity of the work; and
- using of counterfeited or unlawfully used work, commercialising, distributing, or making available to the public a counterfeit or unlawfully used work.

Except for violations of moral rights, other offences are deemed public offences, meaning that criminal proceedings may be started *ex officio* and do not require a complaint from the rights holder.

4.3.3. INDUSTRIAL PROPERTY RIGHTS

Under the Industrial Property Code, the following conducts are deemed criminal offences punishable by imprisonment of up to three years or by a fine:

- infringement of patents, utility models, and semiconductor topographies, which include manufacturing products, using processes, or distributing goods that violate an exclusive patent, utility model, or topography right;
- reproducing, imitating, exploiting, importing, or distributing protected designs or models without authorisation;
- counterfeiting, imitation, and misuse use of a trademark by reproducing, imitating, or using a protected trademark without authorisation;
- unauthorised reproduction, imitation, or use of a protected trade name or business sign;
- unlawful use, reproduction, or imitation of a protected logo;
- copying, imitating, or misusing a protected designation of origin or geographical indication;
- obtaining or keeping an industrial property registration through abuse of rights; and
- registering a non-existent act or one carried out to conceal the truth.
- The sale or concealment of infringing products, which includes selling, placing on the market, or hiding products that violate industrial property rights, is punishable by imprisonment of up to 18 months or a fine. Additionally, bad-faith registration, which includes obtaining a patent, utility model, or design registration in bad faith, carries a penalty of up to 1 year's imprisonment or a fine.

All offences described above are "semi-public crimes", which means that they depend on the rights holder's filing a complaint.

4.4. ADMINISTRATIVE REMEDIES

4.4.1. COPYRIGHT AND RELATED RIGHTS

The following practices are deemed as economic offences under the Author Rights Code which entail a fine established in the Economic Administrative Offences Law (*Regime Jurídico das Contraordenações Económicas*, "RJCE"):

- non-compliance by importers, manufacturers, and sellers of physical media for phonographic and videographic works in reporting the quantities imported, manufactured, and sold.
- failure by manufacturers and duplicators of phonograms and videograms to report quantities they press or duplicate;
- non-compliance by manufacturers and duplicators of phonograms and videograms in reporting the quantities they press or duplicate;
- unauthorised public communication of previously commercially released phonograms and incorporated performances, without the consent of the respective author, producer, or their representatives, whether through public performance or audiovisual broadcasting.
- unauthorised public communication of videograms through television broadcasts or retransmissions, as well as works and performances incorporated therein, without the required authorisations; and
- failure to duly identify the author of a work by her/his/its name, pseudonym, or other adopted identifying marks, or to acknowledge the works on which an adaptation is based.

Under the Economic Administrative Offences Law, other accessory sanctions may be applied to the infringer by the court ruling on the infringement at the request of the affected party which may include:

- forfeiture of seized assets in favour of the State;
- temporary prohibition on engaging in a specific activity; and
- temporary suspension of the infringer's right to sell products in fairs or markets.

IGAC is the entity responsible for processing administrative offences, and the respective inspector-general is charged with determining the sanctions to be imposed on the offender (Article 206 CDADC).

In addition, under article 209 CDADC, the rights holder may request the police or administrative authorities of the place where the infringement took place to suspend unauthorised performances, recitations, executions, or other public uses of protected works, and to seize all proceeds obtained from the infringement.

4.4.2. INDUSTRIAL PROPERTY RIGHTS

As for administrative offences regarding industrial property, very serious economic offences include unfair competition and violation of a protected trade secret. The range of serious economic offences is more extensive and includes:

- unfair competition, that is, engaging in acts contrary to honest commercial practices that cause harm to competitors, such as creating confusion with another's products, services, or business;
- violation of protected trade secrets;
- improperly claiming or using prizes, distinctions, or rewards granted in connection with industrial property rights;
- producing, importing, exporting, acquiring, or keeping signs (names, insignia, logos, designations of origin, or geographical indications) with the intent of using them unlawfully or enabling their unlawful use;
- use of illicit trademarks by placing into circulation or using trademarks that are not legally valid or that infringe registered rights;
- using another person's protected name, insignia, or logo without authorisation; and
- falsely claiming exclusive rights or improperly relying on industrial property rights that do not exist or are not enforceable.

The sanctions for engaging in administrative offences are established in the Legal Framework for Economic Administrative Offences.

In addition to fines, accessory sanctions may be imposed, including forfeiture of infringing goods, temporary bans on carrying out an activity, closure of establishments, deprivation of the right to participate in fairs or markets, and publication of the decision.

Negligence and attempt are also punishable under law and repeated offences are treated as an aggravating factor that increases the severity of the sanction.

5. FINAL REMARKS

This briefing provides an overview of the IP protection framework in Portugal. The following are the main takeaways:

- **IP Regulatory Framework.** Portugal offers a stable IP protection regime, aligned with European Union directives and regulations, and is a party to several international treaties and conventions, such as the Berne Convention (1886), the Universal Copyright Convention (UCC, 1952), the WIPO Copyright Treaty (WCT, 1996), TRIPS (1994). Portugal's IP main legislation includes the Portuguese Author Rights Code and the Industrial Property Code, ensuring protection for copyright, patents, trademarks, designs, and trade secrets.
- **Recent Legislative Developments.** The Portuguese Author Rights Code was amended to implement the EU DSM Directive on copyright in the digital environment, granting authors and performers the right to receive additional compensation when the revenue generated by the work significantly exceeds what was expected at the time of its creation. The DSA, in force since February 2024, imposes strict rules on online platforms, specifically in large social network operators like Meta, YouTube, TikTok etc..
- **Copyright and Related Rights.** Authors benefit from both economic and personal (moral) rights under Portuguese law. Economic rights include the rights to transfer or license the use of the work, while moral rights, which are inalienable, protect authorship and the integrity of the work. Copyright protection extends for 70 years after the author's death, and registration with IGAC, though not mandatory, provides a presumption of ownership.
- **Industrial Property Rights.** Patents, utility models, designs, and trademarks are protected under the Industrial Property Code, with registration managed by INPI. Patents last for 20 years, designs up to 25 years with renewals, and trademarks for 10 years, renewable indefinitely. Utility models offer a shorter protection period of up to 10 years with a simplified approval process.
- **Software and Databases.** Software is protected as a literary work under the Software Law. Databases receive copyright protection if they reflect original intellectual creation or *sui generis* protection when they entail significant investment, lasting 15 years.

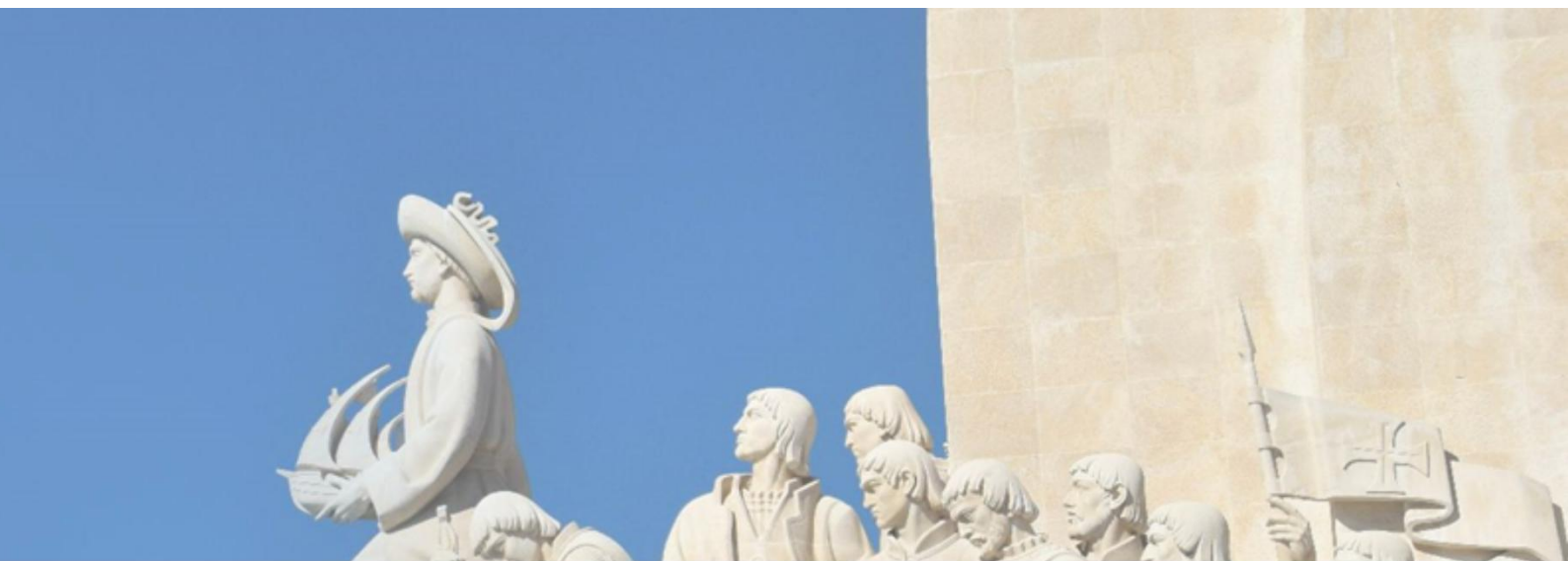
- **Enforcement Mechanisms.** The Portuguese IP protection framework includes civil, criminal and administrative enforcement mechanisms. Civil remedies include, among others, actions for damages, injunctions, and the seizure of infringing goods. Serious violations, such as counterfeiting and misuse of trademarks, are subject to criminal sanctions. Administrative measures offer more expedient remedy against violations, principally of economic nature, without the need for immediate judicial intervention.

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