

### **DECO v Language School (2010)**

**The Consumer Protection Association (DECO) filed a popular action** against a Language School (Centros de Inglês), Sociedade Unipessoal, Lda., and two Credit Financial Institutions.

DECO claimed that service contracts ("technical language education services") had been concluded between the defendant Centros de Inglês, Sociedade Unipessoal, Lda., and a high number of consumers, which the defendant began to default in August 2002, making it impossible for students to complete the courses they had enrolled in and for which they had used credit. Between 1200 and 1500 consumers were represented in this action, none of whom exercised the right to opt-out.

By Supreme Court judgement in 2010, DECO obtained the declaration of nullity of these contracts and the Court also ordered the defendants to return to the represented consumers the amounts paid under these contracts. No public details are known concerning how many consumers were actually compensated.

### **DECO v. Portugal Telecom (2003)**

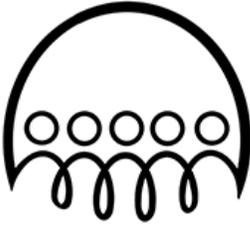
**The Consumer Protection Association (DECO) filed a popular action** against Portugal Telecom, asking the Court to order Portugal Telecom to immediately put an end to the charging of the activation fee provided for in the tariff for 1999, as well as to return any sums received.

In total, 2 million Portugal Telecom customers were represented in the process and only 5 people exercised the right to opt-out, the administrators of the defendant. The case took approximately 4 years, from the first to the last instance.

DECO and Portugal Telecom reached an agreement for the estimated value of 120 million euros (€60 per client). This amount was paid in kind, in the form of free national calls to all fixed line Portuguese phones on 14 consecutive Sundays. Portugal Telecom also agreed to reimburse any customer who claims their share of the 1998 call setup charges. No information is publicly available about how many consumers did so.

### **DECO v. Portugal Telecom (1996)**

**The Consumer Protection Association (DECO) filed a popular action** against Portugal Telecom, asking the Court to order the compensation of all consumers who were injured by contractual



breach, since October/November 1994. In particular, the collection, without prior notice, during this period, of the value corresponding to two monthly subscriptions of the telephones that it has made available, through a supply contract. This practice was considered a unilateral change in contractual conditions.

On March 28, 1996, the Lisbon Court of Appeal found that DECO had no legitimacy, by itself, to bring civil actions aimed at protecting the interests of consumers and could only intervene as an assistant when the Public Prosecutor filed such an action.

### **DECO v. Banco Espírito Santo (BES)**

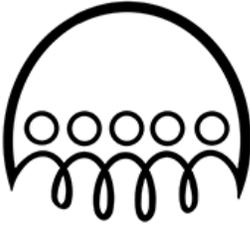
On February 02, 2015 the **Consumer Protection Association (DECO)** filed a popular action in defense of the interests of BES' small shareholders, against 27 defendants, including Banco Espírito Santo de Investimento, SA.; KPMG & Associados - Sociedade de Revisores Oficiais de Contas, SA and 25 other defendants, natural persons, all former members of the Board of Directors of BES and of the Audit Committee.

DECO asked that the defendants be ordered to pay, under joint liability, compensation to the represented persons in the amount of the difference between the value of BES shares at the time of the 2014 capital increase, and the value of those shares at present or at the moment the represented persons sold them after the capital increase.

In a judgment of February 25, 2021, the Lisbon Court of Appeal dismissed the appeal filed by DECO, finding that only an association meeting the requirements of the Portuguese Securities Market Code could bring this action on behalf of small shareholders and that small not professional investors cannot be equated with consumers. In this context, the Court concluded that DECO was not an Investors Consumer Association, thus lacking active legitimacy to bring the action. An appeal seems to be pending under the Supreme Court.

### **DECO v. Facebook**

On November 26, 2018, the **Consumer Protection Association (DECO)** filed a popular action against Facebook Ireland Limited and Facebook Incorporated for having, through the social network "Facebook", collected and used the personal data of users in a manner non-compliant with the rules on data protection.



## OBSERVATOIRE DES ACTIONS DE GROUPE et autres Actions Collectives

This case would have provided the first opportunity to determine if, under Portuguese and European Union legislation, the popular action in matters of data protection is admissible. However, the court did not get the chance to make that determination.

In a joint application from both parties, DECO withdrew its claim on January 28, 2021, informing the court that an agreement had been reached with Facebook whereby this would fund unspecified activities by DECO, namely concerning data protection. This application was accepted by Judgment of February 15, 2021, which brought the case to an end.

### **DECO v. Volkswagen**

**The Consumer Protection Association (DECO)** filed a popular action against Volkswagen Ag, Seat, SA, SIVA - Sociedade de Importação de Veículos, SA and Seat Portugal Unipessoal, Lda., on 27 October 2016, representing Portuguese consumers. At issue was the implementation of software in vehicles with diesel engines of the EA129 type, through which the results obtained in the New European Driving Cycle "(NEDC)" test, to measure the NOx emission values, were adulterated (i.e. the so-called "dieselgate").

The first instance court found that it was not competent, internationally, to decide this case. By judgment of April 27, 2021, the Lisbon Court of Appeal revoked that judgment and ordered the first instance court to proceed with the case.

DECO asks that the defendants to be jointly ordered to take back the allegedly affected vehicles, paying the respective owners an amount that will depend on the initial value of the vehicle, the year and the mileage, or repair them, if possible. In addition, it asks for compensation to consumers harmed by the misleading advertising and the depreciation of the vehicle's value.

### **Pedro Gomes v. Volkswagen**

On November 22, 2015, Pedro Manuel Sabino Martins Gomes filed another popular action against VOLKSWAGEN AKTIENGESELLSCHAFT asking for the defendant to be ordered to pay certain amounts, not to injured consumers, but to be used for social and environmental causes.

The first instance court ordered that the claim be immediately dismissed due to the manifest inadmissibility of the requests made. The applicant appealed, and the Lisbon Court of Appeal, on July 6, 2017, confirmed the first instance judgment.