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Portugal: Trends and Developments

Assunção Cristas, Catarina Pinto Correia,
João Almeida Filipe and Carolina Vaza
VdA



Trends and Developments

Contributed by:

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VdA

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Authors



Assunção Cristas is a partner at VdA, head of its ESG integrated services platform and co-head of its environment and climate change practice. She is an associate professor at Nova

School of Law, where she co-ordinates the master's degree in Law and Economics of the Sea – Ocean Governance. She is also a director of NOVA OCEAN. She has held several political positions, including Minister of Agriculture, the Sea, Environment and Spatial Planning. Additionally, she is a member of the World Economic Forum's Expert Network on the ocean and sustainability. She was a speaker at The World Ocean Summit 2024 and the H2O Sustainability Summit, and at both COP28 and COP29.



Catarina Pinto Correia is a partner at VdA and co-head of the environment and climate change practice, which includes agribusiness and ocean matters. With an extensive background in

environmental law and climate change, Catarina advises on a range of critical issues, including waste management, water, carbon projects and credits, biodiversity and ecosystem services projects, soil contamination, environmental licensing and reporting, and due diligence. Catarina is a prolific author and lecturer, and also a board member of the BlueBio Alliance. She actively participated at COP29 (Uzbekistan 2024) and also at the NY Climate Week and Sustainable Development Impact Meetings in September 2024, in parallel with the United Nations General Assembly.

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João Almeida Filipe joined VdA in 2023 as a principal consultant in the environment practice area. He is a guest assistant professor at Nova University of Lisbon, and he was a legal adviser to

several members of government, including the Minister of the Environment and Climate Action, giving advice in the fields of spatial planning, coastal zone management, nature conservation and sustainable use of biodiversity, forests, carbon markets, nature conservation, sustainable use of biodiversity and water resources. He was also a parliamentary adviser for the European Affairs Committee at the Portuguese parliament.



Carolina Vaza joined VdA in 2018. She is an associate in the environment practice area, where she has been involved in several transactions, and she is part of the team dedicated to

agribusiness. In addition to her LLB from the University of Lisbon, Carolina has a post-grad qualification in administrative litigation and another in environmental law. She also has a master's in Law and Economics of the Sea – Ocean Governance, from Nova School of Law.

VdA

Rua Dom Luis I, 28
1200-151
Lisboa
Portugal

Tel: +351 2131 13400
Email: fvda@vda.pt
Web: www.vda.pt



First Projects and Methodologies to Emerge in the Portuguese Voluntary Carbon Market

Although the European Commission's proposal for a regulation to certify carbon removals submitted in November 2022 is still pending approval, Portugal has already set its national rules and criteria. Both legal frameworks aim to create a healthy market for developing high-quality carbon mitigation projects within a transparent system that can prevent greenwashing.

Portuguese Decree-Law 4/2024, published on 5 January 2024, sets the rules for operating the Voluntary Carbon Market (VCM), based on the assumption that it can significantly support efforts to reduce greenhouse gas emissions. The VCM can further contribute to achieving other ambitious national goals, including as arising from the Portuguese Climate Framework Law, which requires the government to evaluate whether climate neutrality can be achieved before the 2050 EU target.

The development of the VCM has been discussed in Portugal since the publication of its legal framework at the beginning of this year.

Market operators have from that moment on been hopeful about the future of investments in carbon projects under the national regulation and still-to-be-determined rules, such as how to access the public platform to register carbon projects and credits, and the criteria for becoming an independent verifier.

A series of measures was recently announced to address these questions, which is especially important for those wishing to have methodologies and carbon projects approved in the VCM in the short and medium term.

Disclosed Requirements to Operate on the VCM

The effective implementation of the VCM is predicted on the adoption of additional measures after the publication of the relevant decree-law.

These measures include launching a public platform for registering carbon projects and credits, developing carbon methodologies in line with VCM principles, appointing members to the technical committee responsible for validation, and adopting a series of ordinances.

These ordinances are needed to set detailed rules for registering carbon projects and credits, to provide insurance for situations of reversal of sequestered emissions, and to outline the requirements for verifiers working under the VCM. Three out of four ordinances were already published on 2 October 2024, setting rules on the following:

- the requirements for the qualification of independent verifiers of GHG projects to work in the VCM and the appointment of the entity tasked with the qualification system;
- the general requirements for the electronic platform to register the VCM; and
- the fee amounts payable to the supervisory and managing entities of the registration platform within the VCM.

The requirements for qualifying independent verifiers of GHG projects are expected to become applicable by the end of the year, but the last two ordinances already came into effect on 3 October 2024.

Understanding the practical application of all VCM regulations requires a careful and combined reading of the different ordinances and the ordinances and Decree-Law 4/2024.

Requirements to qualify independent verifiers of GHG projects in the VCM

Independent verifiers are key to validate projects and their results for the generation of carbon credits as part of the framework of a robust monitoring, reporting and verification system. The VCM's legal framework requires independent verifiers to be “duly qualified”, relying on the criteria specified in Ordinance 240/2024.

The following is required to qualify as an independent verifier:

- higher education in the relevant area of expertise;
- relevant professional experience;
- professional training in auditing;
- passing an exam of the qualification management entity; and
- being an effective member of the respective public professional association, where applicable.

ADENE – Energy Agency (“ADENE”) is the “qualification management entity”, whose remit under the ordinance is to conduct the qualification procedure, which includes administering a compulsory exam and issuing the relevant certificate of approval. In so far as this is a condition to freely exercising a profession, it must be closely scrutinised in accordance with the principle of proportionality.

Registration platform requirements

The transparency of the VCM is vital to the success of this reputable and reliable market. To this end, the VCM has established a public platform that allows the tracking of carbon credits.

Ordinance 241/2024 regulates the platform's operational requirements. It establishes the requirements for operating the platform and the

functionalities it must ensure. A combined reading of the ordinance and Article 18 of the VCM legal framework shows that:

- market agents have to open an account;
- projects and carbon credits must be registered;
- credits (including the guarantee exchange mechanism) must be issued and cancelled;
- promoters must submit their project monitoring reports;
- initial verification reports and periodic verification by independent verifiers must be submitted; and
- proposals for carbon methodologies must be submitted (and managed) on the platform.

Some aspects, however, raise interpretation or application doubts that need to be resolved, such as the following – on the one hand, the rules governing the trade of carbon credits could use some clarification. For example, the ordinance introduces a novel definition of credit “trade” different to the definition included in Decree-Law 4/2024.

The latter requires “registering credits traded between market operators on the platform, which occurs whenever there is a change in ownership”.

In other words, it suggests that credit trade (ie, changes in ownership), occur outside but must subsequently be registered on the platform, which means that the registration does not operate as a transfer of ownership.

The ordinance defines “credit trade” as “a procedure on the platform involving the transfer of carbon credits between accounts”, presumably opened on the platform. There is also reference to the possibility of the platform providing con-

nections to external marketplaces to support such trades.

It would seem that the platform is designed to ensure the transparency and trackability of carbon credit trades rather than to operate as a marketplace. It is also not clear from either act whether carbon credits can be traded on the registration platform.

On the other hand, the distinction between the information market operators will be required to submit on the platform, and that which will then be made publicly available, is yet to be clarified.

The VCM provides for certain information and documentation to be available to the public to ensure the transparency of the activities developed within the VCM.

The ordinance, however, adds that “additional information that is deemed relevant” may still be made available to the public without specifying anything further. The access to this information is free and does not require prior registration on the platform. The scope of the information to become publicly available should, however, be defined beforehand to reinforce operators’ trust in this market.

It bears pointing out that the ordinance vests in ADENE the power to define which documentation or information should, or should not, be kept confidential at the request of the market operators. It would also be appropriate to clarify the intervention of the Portuguese Environment Agency as a supervisory entity and the criteria for submitting and approving confidentiality requests.

Market operator, carbon project, and credit trading fees

VCM fee amounts are set out in Ordinance 239/2024:

- opening and maintaining an account on the registration platform (between EUR50 and EUR500 for natural and legal persons, respectively);
- registering carbon projects or programmes on the registration platform (EUR950 plus an additional amount for each project added to programmes after the initial project);
- carbon credit trades (EUR0.20/credit); and
- approving methodologies proposed by market operators (EUR3,000 per new submission and EUR1,500 per review).

A EUR500 fee will be required for approving methodologies put forward by market operators by 31/12/2026. In other words, the ordinance is seemingly worded to imply that the standard EUR3,000 fee will only apply from 1 January 2027.

This benefit is relevant to encourage kicking off the VCM across several industries. In the future, a reduced fee could be offered during an initial period for opening and maintaining an account. Additionally, the fee amounts could vary depending on the role of carbon market operators (such as promoters, intermediaries and buyers). Lastly, applying different fees based on whether the individuals are natural persons or legal entities would make the fee structure more consistent.

The Missing Pieces of the Puzzle

Despite the significance of the rules mentioned above for the development of the VCM in Portugal, some key aspects have not yet been made publicly available.

Publication of the ordinance

Firstly, it is crucial to publish the ordinance that sets out the capital requirements and minimum conditions for insurance to cover potential reversals of sequestered emissions, which may arise from natural risks (such as, wild fires, storms, floods, pests and diseases). This is essential in terms of reassurance.

The minimum conditions and capital requirements for insurance to cover potential sequestered emission reversals are crucial for ensuring market reliability and investor trust, especially in forestry projects, a sector prioritised by the law.

Given the high risk of wild fires in Portugal, it is paramount to quickly regulate the conditions for insurance coverage to support forest sequestration projects and other nature-based projects.

These insurance policies can be standalone or combined with contributions to a public guarantee fund, which would cover unintended emission reversals for the project's duration.

If an unintended reversal of emissions occurs within a project, an equivalent number of untraded carbon credits must be cancelled on the VCM platform.

It bears noting that any reversal of emissions during a project does not affect the carbon credits already issued by that project and traded between the promoter and third parties.

Appointment of the Technical Monitoring Committee

Secondly, the appointment of the Technical Monitoring Committee members remains pending. Although the committee's composition was determined in April of this year, no members

have yet been appointed, leaving this crucial aspect unaddressed.

This committee is the public body responsible for developing methodologies for each type of carbon project (such as forestry, agricultural, marine, etc) and for validating methodologies submitted by interested parties.

The committee is therefore fundamental to approving methodologies and the stringency or flexibility of its requirements will influence the attractiveness and success of the VCM in Portugal. Balance and adaptation to national realities are the key to success.

The development of the digital platform

Lastly, the development and entry into operation of the digital platform for public registration is required.

As previously mentioned, it would appear that the primary purpose of the platform is registration, not trade. Once a credit is traded outside the platform, the platform's records must be updated with the new holder's name, helping to ensure legal certainty.

The Light at the End of the Tunnel

The regulatory framework for the VCM market in Portugal has been developing step by step, taking into account both international climate action policies and the national market's interest in and capacity for implementing carbon projects.

A [website](#) has been made available online with all the relevant information regarding VCM in Portugal. This site also allows users to register their interest in submitting methodology proposals or carbon projects to the VCM. It provides information on the next steps scheduled to occur in the first half of 2025:

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- the start of training for independent verifiers by the ADENE Academy, considering that the ordinance outlining the requirements will come into effect by the end of 2024; and
- the public discussion of the first carbon methodology, which will focus on forest sequestration projects aimed at conserving natural capital and creating a more resilient landscape, including reducing fire vulnerability, in accordance with the priorities established in Decree-Law 4/2024.

A significant step is still required for the VCM to operate effectively – launching the public platform for registering market operators, approved methodologies, carbon projects and their follow-up reports, qualified independent verifiers, carbon credits, and their trades and final uses.

Although initially expected to be available in 2024, no one can now predict exactly when the VCM platform will be fully operational. This platform is crucial for implementing the VCM in Portugal, and its repeated delays have turned out to be the proverbial fly in the ointment.

However, the launch of a public tender in October for developing a VCM registration platform brings renewed hope. It suggests that 2025 might be the first year of carbon projects and credits issued under the VCM scheme in Portugal.

Voluntary carbon markets are anticipated to surge in the coming years. They will enable companies not only to offset their own carbon footprint but also to support climate action by financing carbon reduction and removal projects. This can be done by acquiring and retiring the corresponding credits from the market. Additionally, companies can go a step further by obtaining “Carbon Credits+” that offer benefits beyond just carbon reduction.

Portugal is certainly on the right track to host projects that enhance the value of terrestrial and marine ecosystem services. These projects could attract private sector investments for climate mitigation actions and help combat biodiversity loss within the country.

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