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Portugal

ENVIRONMENTAL, SOCIAL AND GOVERNANCE

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VdA



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This country-specific Q&A provides an overview of environmental, social and governance laws and regulations applicable in Portugal.

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PORTUGAL

ENVIRONMENTAL, SOCIAL AND GOVERNANCE



1. Climate - the law governing operations that emit Greenhouse Gases (e.g. carbon trading) is addressed by Environment and Climate Change international guides, in respect of ESG: a. Is there any statutory duty to implement net zero business strategies; b. Is the use of carbon offsets to meet net zero or carbon neutral commitments regulated; c. Have there been any test cases brought against companies for undeliverable net zero strategies; d. Have there been any test cases brought against companies for their proportionate contribution to global levels of greenhouse gases (GHGs)?

a. In line with the European Climate Law, the necessity to reach net zero emissions in Portugal has been established in the Climate Framework Law (Law no. 98/2021) as an obligation to be complied with until 2050 by the State, and, under the same law, the Government is even bound to promote the development of studies to assess the possibility to reach net zero emissions by 2045. Nonetheless, currently, there is no statutory legal obligation in Portugal for companies to implement net zero business strategies.

Despite of that, the role of companies to reach net zero emissions is recognized in the Climate Legal Framework, as private entities are considered relevant actors in climate action, and the right to climate balance, as a right of defence against the impacts of climate change, counter obliges, equally, public, and private entities.

Although the roadmap for carbon neutrality 2050 submitted by Portugal to the United Nations highlights the role played by companies in reaching this target, it does not impose obligations, nor does it contain recommendations, on the implementation of net zero business strategies.

Moreover, Portugal has developed public policies to support the transition to a low-carbon economy, such as the National Energy and Climate Plan 2030. This Plan aims to reduce greenhouse gas emissions between 45% and 55% by 2030, having by reference the registered emissions in 2005, and achieve climate neutrality by 2050. Additionally, there are sectorial binding targets for emissions reduction.

So, although there is no statutory legal obligation in Portugal for companies to implement net zero carbon strategies, there is a regulatory environment that encourages the transition to a sustainable economy, which can lead to greater awareness and voluntary adoption of sustainable business practices by companies.

It must, however, be noted that the adoption of the legal instrument that will transpose the Corporate Sustainability Reporting Directive (Directive (EU) 2022/2464, known as "CSRD") into the Portuguese legal order, will result in a responsibility to report on greenhouses gases emissions. The first set of European Sustainability Reporting Standards (Delegated Regulation (EU) 2023/2772), specifying the information that companies shall be required to disclose with regards to environmental, social and governance matters within the framework of the CSRD, was adopted in December 2023. These norms stipulate that, under the CSRD, companies must report on the material impacts, risks and opportunities resulting from their activities, namely, in relation to greenhouse gases emissions Gross Scopes 1, 2, 3 and Total GHG emissions, as provided under ESRS E1-6. The transposition of the Directive must occur until 6 July 2024.

As part of the European Union, it is expected that this obligation will be established on the legislation under preparation. In fact, in March 2023, the European Commission adopted the Proposal of Net-Zero Industrial Act to achieve an economy with net-zero greenhouse gas emissions. The aim of this proposal is to increase the development of net-zero technologies, simplifying the

permitting procedures and administrative burdens, creating new opportunities for financing, and establishing sandboxes for testing the innovative net-zero projects.

b. In Portugal it was very recently enacted the framework for the Voluntary Carbon Market through the Decree-Law no. 4/2024. This Decree-Law regulates the creation and establishment of a regulated voluntary carbon market embracing two types of projects as a way of offsetting carbon emissions: carbon emissions reductions and carbon sequestration projects. The new legal framework institutes the qualification criteria, the types of carbon credits and condition for its generation, monitoring, reporting and verification obligation and sets up the framework for a platform for carbon credits registration and trading.

In parallel, the proposal for a European Regulation on a certification framework for carbon removals, as part of the European Green Deal, is awaiting Parliament's approval at the time of the writing. This Regulation aims to ensure high-quality EU certified carbon removals, through a transparent and credible governance framework. This would increase the possibility for further investments towards carbon removal activities and increased deployment.

The scope of application of the Portuguese Voluntary Carbon Market Decree-Law is therefore broader than the scope of the proposed EU Regulation on the certification of carbon credit removals.

c. Until this date, there are no test cases brought against companies for undeliverable net zero strategies nor for their proportionate contribution to global levels of greenhouse gases (GHGs).

2. Biodiversity - are new projects required to demonstrate biodiversity net gain to receive development consent?

In Portugal, there is no legal requirement for projects to demonstrate biodiversity net gain to receive development consent. However, it is important to emphasise that biodiversity conservation is an important environmental topic in Portugal.

Under Portuguese Law, certain projects are required to carry out an Environmental Impact Assessment (EIA) before their approval, as established under Decree-Law no. 151-B/2013 to evaluate the environmental impact of such projects. One of the objectives of the EIA is to identify, describe, and analyse the possible significant environmental impacts that a project, directly or indirectly, may have on biodiversity. Nonetheless, the

requirements of the EIA procedure do not expressly require that projects have a biodiversity net gain, as the EIA's main aim is to ensure that these projects do not seriously hinder biodiversity.

Some companies and organisations have adopted voluntary practices in this regard, for instance, the implementation of environmental and biodiversity management plans in their activities, including actions to recover degraded areas and compensate for environmental impacts.

The recent Decree-Law no. 4/2024 establishing the Voluntary Carbon Market, includes also a specific type of carbon credits, identified in the registry as "Carbon Credit +", for projects which, in addition to carbon sequestration, incorporate significant additional benefits in terms of biodiversity and natural capital, provided that there is a methodology for determining and monitoring that benefit. Also, whenever applicable and scientifically feasible, methodologies should include approaches that make it possible to associate carbon projects with the added value of environmental co-benefits, namely the promotion of biodiversity.

In conclusion, although there is not yet a consolidated legal requirement to demonstrate the net gain of biodiversity when obtaining consent for development projects, the topic has been gaining increasing relevance.

3. Water - are companies required to report on water usage?

Pursuant to the Portuguese Legal Framework on Use of Water Resources (Decree-Law no. 226-A/2007), companies are required to obtain authorisations, licences or concessions (TURH - "títulos de utilização de recursos hídricos") for specific types of use of water, such as the investigation and construction for the capture of groundwater belonging to the public domain, the rejection of industrial wastewater, the occupation of the public hydric domain, or the production of electric power from wave energy, agriculture. To this end, after submitting the necessary information to obtain these titles, companies are required to update this information whenever necessary.

As regards the regular use of water, for companies' own consumption while performing their normal activities, there are no reporting obligations in this respect. However, when a company is the manager of a private water supply system for human consumption, apart from the abovementioned permitting requirements, monitoring obligations are also applicable, in accordance with Decree-Law no. 69/2023, to ensure the quality of

water destined for human consumption. When this is the case, monitoring results must also be reported annually to the competent environmental and water and waste authorities, and, in case of non-fulfilment of the values and criteria laid down in Decree-Law no. 69/2023, that must also be communicated to the health authority and to the water sector regulator (ERSAR).

The Portuguese Securities Market Commission provides a model for the report of non-financial demonstration on sustainable matters, required for certain listed companies and financial sector entities, which includes a reference to the report on water consumption. While it is optional to follow this model, and the requirements applicable to the reporting of non-financial demonstration on sustainable matters do not specifically oblige to the report on water consumption, this report is, nevertheless, advisable within this context.

In turn, companies which are not obliged to the submission of a non-financial demonstration on sustainability matters may choose to report on water consumption on their sustainability reports, but this disclosure is completely optional.

It must, however, be noted that more demanding sustainability reporting duties are expected, following the adoption of the legal instrument that will transpose the Corporate Sustainability Reporting Directive (Directive (EU) 2022/2464, known as "CSRD") into the Portuguese legal order, which will result in an, at least indirect, responsibility to report on water consumption. The first set of European Sustainability Reporting Standards (Delegated Regulation (EU) 2023/2772), specifying the information that companies shall be required to disclose with regards to environmental, social and governance matters within the framework of the CSRD, was adopted in December 2023. These norms stipulate that, under the CSRD, companies must report on the material impacts, risks and opportunities resulting from their activities, namely, in relation to pollution of air, water and soil, according to ESRS E2-4, as well as water consumption, according to ESRS E3-4. The transposition of the Directive must occur until 6 July 2024.

4. Forever chemicals - have there been any test cases brought against companies for product liability or pollution of the environment related to forever chemicals such as Perfluoroalkyl and Polyfluoroalkyl Substances (PFAS)?

As part of the European Union, Portugal will be subject to the announced European ban on all perfluoroalkyl and

polyfluoroalkyl substances, which is under preparation by the European Chemicals Agency (ECHA), within the framework of the REACH Regulation (Regulation (EC) no. 1907/2006, on the registration, evaluation, authorisation, and restriction of chemicals). Likewise, Portugal does not have any specific legislation currently in force relating to these matters.

Although it was disclosed, in 2023, that there are nine points of contamination of PFAS in Portugal, up to this date there are no known test cases brought against companies for product liability or pollution of the environment related to forever chemicals.

5. Circularity - the law governing the waste hierarchy is addressed by the Environment international guide, in respect of ESG are any duties placed on producers, distributors or retailers of products to ensure levels of recycling and / or incorporate a proportionate amount of recycled materials in product construction?

Circularity takes a central place in waste hierarchy, which is internationally recognised as a guiding principle for sustainable waste management. In the Portuguese legal framework, waste management is ruled by the General Waste Management Legal Framework (Decree-Law no. 102-D/2020) and the Unified Legal Framework for Specific Waste Streams (Decree-Law no. 152-D/2017), which have just been amended by Decree-Law no. 24/2024.

Both these instruments impose recycling and recovery targets on companies responsible for waste management, as well as on producers which, under the legislation on specific waste streams, are covered by the extended producer responsibility principle (which obliges producers of certain products to manage the product throughout its entire lifecycle, including production, use and end of life). For instance, under the General Waste Management Legal Framework, companies responsible for waste management must ensure that a minimum increase to 70% (in comparison with 2020) in weight of waste stemming from construction and demolitions is prepared for reuse, recycling, and other forms of material recovery.

As for obligations imposed on producers, the incorporation of recycled materials in product conception constitutes one of the guiding principles of waste management and, with this in view, the General Waste Management Legal Framework foresees that the placement on the market of certain products and

materials may be subject to compliance with a minimum rate of incorporation of recycled material. Nevertheless, to this date, under this general framework, it is only mandatory to use at least 10% of recycled materials, or materials incorporating recycled materials, in the construction and maintenance of infrastructures under the Public Procurement Code.

In turn Unified Legal Framework for Specific Waste Streams, which introduces the principle of extended producer responsibility with respect to certain categories of products and waste (such as packages, used oils, electric and electronic equipment, batteries and accumulators, tires, among others), establishes, for each of these categories, specific minimum targets and criteria that must be met by companies with regards products' recyclability, as well as recovery, preparation for reuse, and valorisation.

It should also be noted that the recently approved amendment to the specific waste streams legislation (Decree-Law no. 24/2024) added two new categories of products and waste to the specific waste streams covered by the extended producer responsibility within this framework, namely, those of (i) furniture placed on the market, mattresses and their respective waste, and (ii) products and waste from medical self-care at home (which include, namely, needles, lancets, syringes, bloody pads, and self-diagnosis, monitoring or medication administration equipment).

6. Plastics - what laws are in place to deter and punish plastic pollution (e.g. producer responsibility, plastic tax or bans on certain plastic uses)?

Plastic products and waste in Portugal are regulated within the Unified Legal Framework on Specific Waste Streams, as part of the system for extended producer responsibility as regards packages and packaging waste. As such, the law subjects these product categories to certain recycling objectives and targets, namely, that, by the end of 2025, 65% of the weight of all packaging waste (including plastic) must be recycled, as well as that at least 50% of the weight of the plastic components of all packages must be recycled.

Moreover, special measures for certain types of plastic products have been implemented, such as:

- Payment of a fee for the use of plastic bags (under the Unified Legal Framework for Specific Waste Streams);
- Implementation of a system for deposit and refund for non-reusable beverage packaging,

imposing on packagers, namely, the obligation to ensure that, by the end of 2026, 70% (in weight) of non-reusable beverage packaging placed on the market are collected for recycling under this system (under the Unified Legal Framework for Specific Waste Streams, as amended by Decree-Law no. 24/2024);

- Reporting obligations on producers to communicate to the environmental authority the estimated amount of plastic bags to be placed on the market each year (under the Unified Legal Framework for Specific Waste Streams, as amended by Decree-Law no. 24/2024);
- Prohibition of placement in the market of certain single-use plastic products and any oxo-degradable (under Decree-Law no. 78/2021, as amended by Decree-Law no. 83/2022, both of which transpose Directive (EU) 2019/904 on the reduction of the impact of certain plastic products on the environment);
- Obligation to offer reusable alternatives for plastic packaging (under Decree-Law no. 78/2021);
- Extended producer responsibility for certain single use plastic products (under Decree-Law no. 78/2021, as amended by Decree-Law no. 83/2022);
- Prohibition applicable to commercial establishments to make ultra-light plastic bags available for primary packaging or transport of bread, fruit and vegetables that are not 100% biodegradable, biologic, or renewable (under Decree-Law no. 77/2019);
- Prohibition applicable to commercial establishments to sell bread, fruit and vegetables enclosed in plastic disposable containers that are not biodegradable, biologic, or renewable (under Decree-Law no. 77/2019);
- Prohibition applicable to activities in the restaurant, beverage sector and in retail trade to use and make available single use plastic cutlery (under Decree-Law no. 76/2019);
- Application of a special tax contribution on light and very light plastics (under the current annual State Budget Law, Law no. 82/2023);
- Application of a special tax contribution on single use plastic or aluminium packages, used for ready-to-eat meals (under Ordinance no. 331-E/2021, as amended by Ordinance no. 270/2023).

Non-compliance with the aforementioned obligations

may, in some cases, be considered an environmental misdemeanour (either light or serious) and consequently lead to fines ranging between EUR 2.000 to EUR 216.000 depending on their gravity and the nature of the behaviour as negligent or wilful.

7. Equality Diversity and Inclusion (EDI) - what legal obligations are placed on an employer to ensure equality, diversity and inclusion in the workplace?

Employees (and candidates) are protected from discrimination in all aspects of the employment contract, from the recruitment process to training, promotion and working conditions, including salary, and termination of employment, on the grounds of protected characteristics prescribed by the Labour Code, namely, age, gender, sexual orientation, education, reduced capacity to work, chronic illness, nationality, language, religion, trade union membership, among others.

There is a set of legal obligations in place for employers to ensure EDI, such as:

- a. Implementation of a code of good conduct to prevent and combat harassment at work for employers with seven or more employees;
- b. Obligation to trigger disciplinary proceedings whenever it becomes aware of alleged situations of harassment at work;
- c. Obligation for companies to implement reporting channels and procedures and that prohibits any retaliation against whistleblowers (Whistleblowing directive, introduced in Portugal by Law no. 93/2021);
- d. Increased protection against dismissal of pregnant, postpartum or lactating employees and employees in parental leave;
- e. To post information on the rights and duties of employees in terms of equality and non-discrimination in the company.

In addition, there is also national legislation that imposes positive action measures in terms of diversity (creation of quotas for the under-represented gender in the top bodies of public and private organizations – Law no. 62/2017, 1 August 2017) and inclusion (the establishment of quotas for the integration of people with disabilities – Law no. 4/2019, 10 January 2019).

8. Workplace welfare - the law governing health and safety at work is addressed in the Health and Safety international guide,

in respect of ESG are there any legal duties on employers to treat employees fairly and with respect?

Portuguese labour legislation foresees that employers must respect and treat employees with courtesy and probity, refraining from any acts that may affect the employee's dignity, that are discriminatory, harmful, intimidating, hostile or humiliating to the employee, namely harassment. Furthermore, employers must provide good physical and moral working conditions, that must be equal to all employees.

9. Living wage - the law governing employment rights is addressed in the Employment and Labour international guide, in respect of ESG is there a legal requirement to pay a wage that is high enough to maintain a normal standard of living?

Employers are required to pay a salary that must be fair and appropriate to the work provided by employees. In addition, employees are guaranteed a national minimum monthly wage, the value of which is determined annually by the Government, which takes into account the employees' needs, the rise in the cost of living, and productivity trends, in order to ensure a decent living.

10. Human rights in the supply chain - in relation to adverse impact on human rights or the environment in the supply chain: a. Are there any statutory duties to perform due diligence; b. Have there been any test cases brought against companies?

a. In Portugal there are still no statutory duties to perform due diligence throughout the value chain.

Human rights violations such as human trafficking or modern-day slavery are crimes for which legal persons can be sanctioned under the Portuguese Penal Code and may also amount to labour law violations. However, there are still no statutory duties requiring companies to conduct due diligence processes to prevent such violations as established in the United Nations Guiding Principles on Business and Human Rights.

Nonetheless, companies eligible under the European Taxonomy Regulation, in order to have an activity aligned with the taxonomy, besides making a substantial contribution to one of the six environmental objectives and not significantly harming the other remaining

environmental objectives, must also carry out their activities in compliance with the Minimum Safeguards in matters of human rights (and labour rights), anti-corruption, responsible taxation, and fair competition, which include a due diligence through the value chain. Compliance with Minimum Safeguards on human rights implies the execution of due diligence procedures to ensure the alignment with the OECD Guidelines for Multinational Enterprises and the UN Guiding Principles on Business and Human Rights. Such procedures shall consider human rights violations in the supply chain.

The alignment is not mandatory for companies, as they are only obliged to report the alignment or non-alignment of the eligible activities.

The statutory duties to perform due diligence on these matters are expected to be established once the proposal for a Corporate Sustainability Due Diligence Directive is approved. The CSDDD's aim is to anchor human rights and environmental considerations in companies' operations and corporate governance. After overcoming some setbacks at the European Council endorsement level, an adjusted text proposal of the CSDDD was approved by the European Council and, at the time of the writing of this article, it is awaiting the European's Parliament formal approval. The Directive will require in-scope companies to conduct human rights and environmental due diligence throughout their chains of activities. The recent text adjustments imply, among other aspects, a reduction of its scope of application, so that the new due-diligence rules will be applicable for EU and non-EU companies and parent companies with over 1000 employees and with a turnover of more than 450 million euro and to franchises with a turnover of more than 80 million if at least 22.5 million was generated by royalties. As the CSDDD is built on a chain of activities approach, it will have an indirect impact on Small Medium Enterprises as the latter are part of the chain of activities.

b. Until this date, since there are no statutory duties to perform due diligence, and we are not aware of any cases brought against companies for human rights violations in their supply chain.

11. Responsibility for host communities, environment and indigenous populations - in relation to adverse impact on human rights or the environment in host communities: a. Are there any statutory duties to perform due diligence; b. Have there been any test cases brought against

companies?

a. Adverse impacts on human rights or the environment in host communities are subject to the legal framework referred to in question 10.a. Therefore, there are still no statutory duties to perform due diligence.

As also referred to in 10.a, in the specific case of companies that wish or must be Taxonomy-aligned, the Taxonomy Regulation determines the need to comply with the minimum safeguards and, therefore, to implement due diligence procedures to ensure the alignment with the OECD Guidelines for Multinational Enterprises and the UN Guiding Principles on Business and Human Rights. Such procedures shall consider human rights violations in host communities.

If approved and after transposition, the CSDDD will require in-scope companies to conduct human rights and environmental due diligence, by integrating due diligence in their policies, identifying actual or potential adverse impacts, preventing, and mitigating potential adverse impacts, monitoring the effectiveness of their due diligence policy and measures, and publicly communicating on due diligence. The directive proposal includes provisions related to the responsibility of companies for the host communities, environment, and indigenous population as in-scope companies will also have to adopt complaints mechanisms and engage with individuals and communities adversely affected by their actions. So, companies within its scope will have a duty to perform due diligence and to consider potentially affected groups or communities.

b. There are no visible cases brought against companies for human rights violations in host communities. There are, however, some legal cases and criminal investigations brought against Portuguese companies for human rights violations such as modern-day slavery and women trafficking for sexual exploitation.

12. Have the Advertising authorities required any businesses to remove adverts for unsubstantiated sustainability claims?

In Portugal, the publication and issuance of adverts with sustainability claims that are not fully substantiated or accurate may be considered an unfair commercial practice, as these claims are inconsistent with the due professional diligence, distorting or likely distorting the economic behaviour of consumers, in accordance with Decree-Law no. 57/2008 as amended by Law no. 10/2023. Therefore, adverts with such content may be considered in breach of legal requirements and lead to precautionary measures (as the removal of the adverts)

or to administrative liability.

The scrutiny over these claims and general awareness on this topic has been significantly increasing, having the Directorate-General for the Consumer (DGC) and the Portuguese Advertising Self-Regulation entity (ARP), the competent authorities on the matter, published a guide of good practices on green claims. Administrative offence procedures concerning unsubstantiated or misleading sustainability claims have been initiated by DGC, with possible fines ranging up to €90.000,00, but to this date there are no known condemnations. The recent amendment to Decree-Law no. 57/2008, introduced by Law no. 10/2023, establishes that the maximum limit for fines for the scope of coordinated actions, i.e. penalties imposed on the offender for the same offence in other Member States, can reach the maximum limit of 4 % of the offender's annual turnover in the concerned Member States or € 2 000 000 when information on the offender's annual turnover is not available.

Complementarily was recently published the Directive (EU) 2024/825, which introduced new prohibited practices under the Directive on Unfair Commercial Practices, relating namely to potentially misleading environmental claims (or green claims) or claims about circularity aspects. It also creates through amendments to the Consumers' Rights Directive, additional obligations for traders to provide information on the durability and reparability of goods. The Directive needs to be transposed into the Portuguese legal order until the 26 March 2026 and will be applicable to all EU-based companies, as well as non-EU companies which operate, trade or distribute products and services in the EU space.

Nonetheless, this matter is expected to evolve as a consequence of the forthcoming Green Claims European Directive, on substantiation and communication of explicit environmental claims, which will lead to more demanding obligations and more severe scrutiny on these matters, as well as penalties for breaking the rules provided therein. The proposal for the Green Claims Directive is awaiting the European Parliament's approval.

13. Have the Competition and Markets authorities taken action, fined or prosecuted any businesses for unsubstantiated sustainability claims relating to products or services?

In Portugal, as unsubstantiated sustainability claims may be regarded as an unfair commercial practice, the

authorities responsible for the supervision and instruction of administrative offence procedures are either the Food and Economic Safety Authority (ASAE) or the competent authorities of the sector in which the unfair commercial practice occurs.

In the finance sector, the competent authorities are the Bank of Portugal, the Portuguese Securities Market Commission (CMVM), and the Insurance and Pension Funds Supervisory Authority (ASF). In the advertising sector the competent authority to initiate procedures is the Directorate-General for the Consumer (DGC).

Besides the administrative offence procedures initiated by the DGC and mentioned above in 12., until this date, there are no known situations of procedures against businesses concerning unsubstantiated sustainability claims relating to products or services.

14. Have there been any test cases brought against businesses for unsubstantiated enterprise wide sustainability commitments?

Until this date, there are no test cases brought against businesses for unsubstantiated enterprise wide sustainability commitments.

15. Is there a statutory duty on directors to oversee environmental and social impacts?

In Portugal, the Climate Framework Law (Law no. 98/2021) provides that the duties of care, loyalty, and reporting on accounting imposed on directors or members of governing bodies with supervisory functions must include the careful assessment of the risk that climate change poses to the business model, capital structure and assets of companies.

The amendments introduced to the Commercial Company Act by Decree-Law no. 89/2017, which transposed the Non-Financial Reporting Directive (Directive 2014/95/EU) into the Portuguese legal order, impose on the directors of companies of public interest that have an average of 500 employees the duty to include non-financial demonstrations in the management report. Such non-financial demonstrations must contain information on the evolution, performance, position, and impact of the company's activity regarding environmental, social, and employee-related matters, equality between women and men, non-discrimination, respect for human rights, combating corruption, and money laundering. Moreover, directors of listed companies are required to implement a diversity policy,

applicable to the governing bodies in what regards aspects concerning age, sex, professional competences, diversity objectives, and implementation.

The number of companies, and consequently of directors, to which these duties are applicable will increase with the approval of the legal instrument that transposes the Corporate Sustainability Reporting Directive (Directive (EU) 2022/2464) into the Portuguese legal order. The transposition must occur until the 6 July 2024. As provided under CSRD, all large companies, as well as listed Small Medium Enterprises, will now progressively be required to report on sustainability, and some non-EU companies will also have to report.

16. Have there been any test cases brought against directors for presenting misleading information on environmental and social impact?

Until this date, there are no tests cases brought against directors for presenting misleading information on environmental and social impact.

17. Are financial institutions and large or listed corporates required to report against sustainable investment criteria?

The requirements provided for in the Sustainable Finance Disclosure Regulation (Regulation (EU) 2019/2088), in the financing sector delegated acts, in the Non-Financial Reporting Directive (Directive 2014/95/EU, "NFRD"), in the Taxonomy Regulation (Regulation (EU) 2020/852) and its delegated acts, and in the Capital Requirements Regulation (Regulation (EU) 575/2013) and its delegated acts, are applicable and establish the necessary obligations imposed on financial institutions and listed corporations to report against sustainable investment criteria.

Financial market participants that have an average number of 500 employees on an individual or consolidated basis are obliged to report on the principal adverse impacts on sustainability factors and on their alignment with the sustainable investment criteria set out in the Taxonomy Regulation through a nonfinancial demonstration. They must also disclose ESG risks on their investment decision-making, in what regards financial products.

Pursuant to NFRD, listed companies, banks, and insurance companies with an average number of 500 employees on an individual or consolidated basis are obliged to report on the principal adverse impacts on

sustainability factors through a non-financial demonstration, which includes their alignment with the sustainable investment criteria set out in the Taxonomy Regulation.

These reporting obligations will be progressively applicable to a larger number of companies with the transposition of the Corporate Sustainability Reporting Directive (Directive (EU) 2022/2464) into the Portuguese legal order, which must occur until the 6 July 2024. In fact, CSRD extends the mentioned NFRD's scope of reporting obligations, such as: in 2025, to all big companies established in a Member State that fulfil at least two of the following criteria: (i) balance of more than €25 million; (ii) turnover of more than €50 million; and (iii) more than 250 employees, in 2026, to Small Medium Enterprises with values listed on the regulated market of a Member State (with a possibility of opting out until 2028), in 2028, to Small Medium Enterprises that opted out and companies headquartered outside of the EU, that have at least a subsidiary or branch in the EU with a turnover of €150 million or more. These companies will have to report according to European Sustainability Reporting Standards ("ESRS"), the first set of which was published in December 2023.

18. Is there a statutory responsibility on businesses to report on managing climate related financial risks?

In Portugal, under the Climate Framework Law (Law no. 98/2021), companies must consider, in their governance mechanisms, climate change risks and analyse these risks in their decisions procedures.

So far, in Portugal, only public interest companies with an average of 500 employees in the European Union, on an individual or consolidated basis, i.e. listed companies and companies of the financial sector, are required to report through a non-financial demonstration, information concerning the evolution, performance, position, and impact of the company's activity regarding environmental, social, and employee-related matters, respect for human rights, equality between women and men and non-discrimination and anti-corruption and money laundering.

These duties will become more demanding, as explained on question 17., because they will be applicable to a larger number of companies following the transposition of the Corporate Sustainability Reporting Directive (Directive (EU) 2022/2464) into the Portuguese legal order. The transposition must occur until the 6 July 2024.

If the CSDDD proposal is approved and transposed, in-

scope companies will also have to adopt a plan to ensure that business model and strategy of the company are compatible with the transition to a sustainable economy and with the limiting of global warming to 1.5° C in line with the Paris Agreement.

19. Is there a statutory responsibility on businesses to report on energy consumption?

In Portugal, there is no statutory responsibility imposed on businesses to report on energy consumption.

The Portuguese Securities Market Commission provides a model for the report of non-financial demonstration on sustainable matters, which needs to be submitted by certain listed companies and financial sector entities. This model includes a reference to the report on energy consumption. While this model is optional, and the mandatory requirements of the report of non-financial demonstration on sustainable matters do not specifically oblige to the report on energy consumption, this report is, nevertheless, recommended within this context.

Companies not obliged to the submit of a non-financial demonstration on sustainability matters may choose to report on energy consumption on their sustainability reports, but this disclosure is not mandatory.

However, reporting duties will become more demanding with the transposition of the Corporate Sustainability Reporting Directive (Directive (EU) 2022/2464) into the Portuguese legal order, which will result in an, at least indirect, responsibility to report on energy consumption. The first set of European Sustainability Reporting Standards (Delegated Regulation (EU) 2023/2772), specifying the information that companies shall be required to disclose with regards to environmental, social and governance sustainability matters within the framework of the CSRD, was adopted in December 2023. Under the CSRD, companies must report on the material impacts, risks and opportunities resulting from their activities, namely, in relation to energy consumption, according to the ESRS E1-5 - Energy consumption and mix, and also, indirectly, in relation to gross scope 2 greenhouse gases emissions, i.e., indirect emissions from the generation of purchased or acquired electricity, steam, heat, or cooling consumed by the undertaking, pursuant to ESRS E1-6 - Gross Scopes 1, 2, 3 and Total GHG emissions. Therefore, CSRD in-scope companies will have to disclose information on energy consumption. The transposition of the CSRD must occur until 6 July 2024.

20. Is there a statutory responsibility on businesses to report on EDI and / or gender pay gaps?

On an annual basis, companies must file a report (Relatório Único) on their social activity, which includes information on several topics, including salaries.

Based on that information, the Working Conditions Authority (ACT) is competent to develop and make available statistical information on the pay gap between women and men, which then shall proceed to notify the employers to present a plan for evaluating such pay gap.

Moreover, employers shall ensure the existence of a transparent remuneration policy.

These measures to promote equal pay for women and men for work of equal value were established by Law no. 60/2018, 21 August 2018.

21. Is there a statutory responsibility to report on modern day slavery in the supply chain?

No, there is not a specific statutory responsibility to report on modern day slavery in the supply chain.

The current national legal framework does not provide for a duty to perform due diligence in the supply chain (see question 10.a above), nor does it include specific legal provisions that expressly establish a duty to report cases of modern-day slavery. Naturally, such circumstances can make it difficult to identify and report cases of this violation of human rights in the supply chain.

However, we believe that such responsibility can be considered as part of the fundamental duties of the board members provided for in the Commercial Company Act and also as part of the diligent and reasonable management of a company.

Moreover, in the specific case of companies that wish or must be Taxonomy-aligned, the Taxonomy Regulation determines the need to comply with the minimum safeguards and, therefore, to implement due diligence procedures to ensure the alignment with the OECD Guidelines for Multinational Enterprises and the UN Guiding Principles on Business and Human Rights. Such procedures shall consider human rights violations in the value chain, which include the cases of modern-day slavery.

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