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Assunção Cristas, Catarina Pinto Correia and Carolina Vaza
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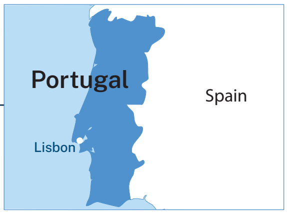

Law and Practice

Contributed by:
Assunção Cristas, Catarina Pinto Correia and Carolina Vaza
VdA

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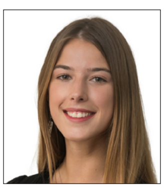

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VIEIRA DE ALMEIDA

1. Multilateral and Regional Regimes

1.1 Multilateral Climate Change Legal Regime

As a member of the EU, Portugal has integrated the EU position within the Climate Convention and is very active in the co-ordination procedures. The EU Nationally Determined Contribution (NDC) is an agreement of joint fulfilment submitted by the European Commission on behalf of the EU and its member states to the United Nations Framework Convention on Climate Change (UNFCCC). The positions are guided by the Council's conclusions. The Council's Working Party on International Environmental Issues – Climate Change (WPIEI-CC) is responsible for co-ordinating the EU's position and has a negotiating team composed of members from different member states. The Portuguese position is aligned with the most ambitious targets and the Portuguese authorities, both political and technical, usually play a role in supporting the push for more ambitious targets in mitigation issues, in line with national decisions (eg, the national Climate Framework Law opens the door to anticipating climate neutrality by 2045).

Adaptation is critical for Portugal, as the Iberian Peninsula is one of the regions of the world most vulnerable to climate change worldwide. Accordingly, Portugal is particularly vocal regarding adaptation issues. As part of the Community of Portuguese-Speaking Countries, Portugal works closely with nine other countries across five continents, including Angola and Mozambique, and is particularly sensitive to issues relating to technology transfer, which is usually addressed through its development assistance strategies and projects. Regarding climate finance, Portugal uses its public Environmental Fund to finance several climate-related projects at the international level, as part of its development aid strategy, particularly in Portuguese-speaking countries. The Fund also supports the implementation of Portugal's ambitious domestic climate policies. For instance, in 2023, Portugal and Cabo Verde signed an agreement to convert Cabo Verde's external debt into a Climate and Environment Fund. Thus, the amount of debt repayment to Portugal will be fully invested in this fund for the climate and energy transition, an amount that should reach EUR42,5 million by 2030. It is expected that, given a positive assessment of the agreement, the remaining debt can then also be converted into investments to increase the country's resilience and help to achieve the UN's Sustainable Development Goals.

1.2 Regional Climate Change Legal Regimes

As a member of the EU, Portuguese authorities, both at a political and technical level, are engaged with all the relevant legislative processes including those of the European Council, European Parliament and the European Commission. Portugal generally supports more ambitious mitigation targets, in line with its national climate policy. As referred to in **1.1 Multilateral Climate Change Legal Regime**, adaptation is an area of great concern and commitment for the Portuguese authorities. It should be noted that the European Climate Law was adopted in 2021 under the Portuguese Presidency of the Council of the EU and was one of the notable achievements of that Presidency.

On 18 March 2026, the amendment to the European Climate Law was published in the Official Journal of the European Union, introducing an obligation to achieve a 90% reduction in net greenhouse gas emissions by 2040, compared with 1990 levels. This amendment therefore fulfils that legal obligation by introducing a new target, in addition to the existing intermediate target, of at least a 55% net reduction in emissions by 2030, which has been part of the law from the outset. The European Climate Law originally established the European Union's commitment to achieve climate neutrality across the entire economy by 2050, by reducing net greenhouse gas emissions by that date and aiming thereafter to achieve net negative emissions.

The introduction of the 2040 legal target is consistent with the Climate Law and represents a significant development in the EU's long-term climate policy. However, notwithstanding a more demanding timeline, the Regulation also provides flexibility in how climate neutrality is to be achieved, notably by allowing greater scope for compensation mechanisms. It also sets out important policy guidelines regarding carbon removals, the use of international carbon credits, the competitiveness of European industry, and the evolution of the EU Emissions Trading System (EU ETS).

2. National Policy and Legal Regime (Overview)

2.1 National Climate Change Policy

At the end of 2025, the EC submitted to the UNFCCC an updated version of the EU NDC on behalf of the EU and its member states, replacing the previous one submitted in 2023. In the new document, the EC reiterates the EU's target of achieving a 55% net reduction in greenhouse gas emissions by 2030, whilst introducing an indicative contribution of 66.25% to 72.5% for 2035, on the path towards carbon neutrality by 2050. The updated NDC builds on previous commitments, aiming to accelerate the transition to a decarbonised economy and industry, and outlines the EU's ongoing efforts to achieve climate neutrality, in line with the objectives of the Paris Agreement. It should be noted that after the first Global Stocktake at COP28 in Dubai, the European Commission assumed an intermediate target of reducing 90% of emissions by 2040. As a member of the EU, Portugal is fully committed to the goals of the UNFCCC. It was part of the Kyoto Protocol and was particularly active in the preparation of the Paris Agreement. These international commitments have been implemented into the national climate change and energy efficiency legal framework through various instruments.

- The Roadmap to Carbon Neutrality (2050), which determines renewable energy targets for Portugal, set at 80% by 2030 and 100% by 2050.
- The National Climate and Energy Plan 2030 (PNEC 2030), which was updated in 2025 according to the provisions of the national Climate Framework Law, anticipates, within four years, reaching the goal of incorporating renewable energies in electricity production. Thus, as of 2026, 80% of the energy produced in the national territory should be of renewable origin.
- The Decree-Law No 84/2022, amended by Decree-Law No 23/2023, ensures the reinforcement of measures to accelerate the energy transition and the decarbonisation of the economy, establishing targets concerning energy consumption for renewable energy. For instance, in 2024, fuel suppliers, in addition to other mandatory measures, are also required to make a minimum annual contribution of advanced biofuels and biogas of 0.7% on the quantities of fuels they release for consumption.
- The National Air Strategy focused on the improvement of air quality.

Portugal has also approved the Green Growth Commitment (CCV), that imposed the following goals to be achieved in 2020 and 2030:

- reduce greenhouse gas emissions by between 30–40% in relation to 2005;
- increase the share of renewable energy in the final consumption of energy to 40%, which has been updated to 49% by Decree-Law No 84/2022, amended by Decree-Law No 23/2023; and
- increase energy efficiency through a reduction of 30% over the energy baseline in 2030.

The Portuguese Parliament also approved the Climate Framework Law in 2021, establishing the principles of climate policy and governance, which is particularly generous in providing litigation rights.

2.2 Constitutional Framework for the National Legal Regime for Climate Change

In Portugal, there is no separate constitutional provision specifically protecting the climate. Instead, it is covered and protected by the environmental constitutional framework, which grants everyone the right to a healthy and ecologically balanced environment in which to live, in accordance with Article 66 of the Portuguese Constitution.

2.3 National Legal Regime

The Climate Framework Law (Law 98/2021), in force since 1 February 2022, establishes the principles of climate policy, targets, and requirements for the design of public policies across economic sectors and levels of governance. It also states a subjective right to the climate balance, and the law is applicable both to public and private entities and citizens. This legal instrument is essential to align Portuguese policies on climate change with the targets and objectives of the Paris Agreement. Indeed, the Climate Framework Law is the result of the Paris Agreement, the European Green Deal and the European Climate Law. In this context, the main purpose of the Climate Framework Law is to achieve carbon neutrality by 2050, as already established in the Roadmap for Carbon Neutrality (2050). Nevertheless, the law anticipates the possibility of achieving carbon neutrality by 2045 by imposing an obligation to conduct studies until 2025.

The major objectives on climate policy foreseen in the law are the following:

- promoting a quick and socially balanced transition towards a sustainable economy and greenhouse gas neutrality;
- guaranteeing climate justice, ensuring the protection of communities most vulnerable to climate crisis, respect for human rights, equality and collective rights;
- ensuring a sustainable and irreversible trajectory of reduction of greenhouse gas emissions;
- promoting the use of renewable energy as well as its integration into the national energy system;
- promoting a circular economy and improving energy and resource efficiency;
- promoting climate security;
- fighting against energy poverty, namely through the improvement of living conditions; and
- establishing a rigorous and ambitious basis for the definition and fulfilment of climate objectives, targets and policies.

The Climate Framework Law also establishes climate policies and targets, namely the following:

- A timeline for greenhouse gas reduction targets, setting reductions of at least 55% by 2030, 65–75% by 2040, and 90% by 2050. Note that these targets included in Portuguese law must always take into consideration the EU and international commitments. The national targets will therefore be updated in accordance with the recently approved EU intermediate target for 2040 under the European Climate Law. The framework also establishes a target for the equivalent net CO_2 sink from the land use and forestry sector of at least 13 megatonnes on average between 2040 and 2050, and a target for marine and coastal ecosystems.
- Sectoral targets for the reduction of GHG emissions relative to 2005 values and compulsory approval of sectoral plans for mitigation and adaptation to climate change.

Moreover, the law sets up a budget and tax policies, such as the creation of a new tax deduction category – *Imposto sobre o Rendimento das Pessoas Singulares-Verde* (Green Personal Income Tax) – which will benefit national taxpayers who acquire, use, or consume environmentally sustainable goods and services. This law also states a clear obligation for subnational level political actors (the Autonomous Regions of the Azores and Madeira, and municipalities all across the country, autonomous regions included) to develop regional/local climate policies and strategies aligned with the law. This means that the regional and local authorities are expected to develop their own strategies in line with the goals stated in the law. The municipalities, the Regional Spatial Planning Commissions (CCDR), the Inter-municipal Commissions, and the Metropolitan Areas of Lisbon and Oporto, are expected to approve local climate change plans. The municipalities and the

CCDRs are to approve the local climate change plans within two years, and the law anticipates the approval of an assessment mechanism. Although not in strict compliance with the two-year calendar, an increasing number of municipalities have put in place their climate plans or, at least, submitted them to public consultation. It should be noted that Lisboa, Porto and Guimarães are three of the 100 European cities that have assumed a commitment to become climate neutral by 2030.

National Policy and Legal Regime – Mitigation

In Portugal, as mentioned in **2.1 National Climate Change Policy**, there are several policy/regulatory instruments to achieve climate change goals. In order to achieve the above mentioned goals, there are also domestic regulations setting important rules on climate change/greenhouse gas emissions matters, such as:

- Decree-Law No 4/2024, which establishes the voluntary carbon market and lays down the rules for its operation;
- three ordinances published on 2 October 2024 to regulate three key aspects of the functioning of the voluntary carbon market: the amounts of the fees to be charged for acts that are a prerequisite for the activity of voluntary carbon markets agents (opening an account, registering projects and credit transactions); the qualification criteria for carrying out the role of independent project verifier (the sectors of activity, the requirements and procedures for entering the role); and the general requirements of the electronic registration platform, ie, the functionalities this platform must offer and the mandatory information to be entered into it, particularly by market agents;
- Decree-Law No 12/2020, which establishes Portugal's carbon trading scheme; and
- Decree-Law No 145/2017, which establishes mechanisms to reduce the emission of greenhouse gases.

Although Decree-Law No 4/2024 entered into force on 6 January 2024, the voluntary carbon market is still under development. The regulatory developments that took place last year, ie, the ordinances mentioned above, were approved to define the rules for the certification of independent verifiers and the creation of an online platform for the public registration of carbon projects and respective carbon credits. Regarding the approval of carbon methodologies, the Technical Monitoring Committee of the Voluntary Carbon Market developed the first carbon methodology focused on new forestations. This methodology establishes the requirements and guidelines for quantifying the net benefits of activities that sequester carbon by creating new forests in Portugal and was subject to public consultation. The methodology specifies rules for project eligibility, the methods for calculating the net effects of an afforestation project on greenhouse gas emissions and CO_2 removals from the atmosphere, the procedures for assessing the risk of reversal of sequestered carbon and the approaches for monitoring and reporting on the respective projects.

After the public consultation analysis, the adjustment of the proposed methodology and subsequent approval by the Climate Agency is expected. On the regulated carbon market side, under the European ETS, the operators subject to Decree-Law No 12/2020 must hold a permit allowing them to emit greenhouse gases and are obliged to monitor their emissions. Other activities are not subject to climate targets as a prerequisite for environmental permits. Nevertheless, if an entity applies for public funding, namely within the European Funds system, it is an increasingly common requirement that it complies with the "do no significant harm" principle. This requirement applies, for example, to the use of funds within the EU-funded Resilience and Recovery Plan. With regards to taxation of polluting activities, new carbon taxes for air and ship travel were approved by Ministerial Order 38, amended by Ministerial Orders 110/2023 and 242/2023. These amendments extended the scope of the carbon tax to air travel on small aircraft, while clarifying that only passenger air transport is taxed. Additionally, values of tax rates for oil and energy products were reviewed by Ministerial Order 111 A/2022, and subsequently by Ministerial Order 164 A/2022 and Ministerial Order 167-D/2022, with several amendments thereafter.

National Policy and Legal Regime – Adaptation

The Portuguese Climate Framework Law establishes climate policy instruments which are specifically designed for dealing with climate change adaptation.

- The National Strategy of Adaptation to Climate Change, which was approved by Council of Ministers Resolution 56/2015, the validity of which was extended until 31 December 2025 by the Council of Ministers Resolution 53/2020 (the public consultation phase for the proposal of the National Strategy of Adaptation to Climate Change 2030 ended in November 2025 and is still under review).
- Sectoral plans for adaptation to climate change, in particular with regards to: territory; geography; the natural environment; infrastructure; equipment; built environment; and economic, social and cultural activities.
- Inter-municipal and municipal plans for adaptation to climate change, for example in inter-municipalities such as Algarve and Arrábida and cities such as Lisbon, Aveiro, Maia and Leiria.

The PNEC 2030 (as discussed in **2.1 National Climate Change Policy**) contains a strategic long-term vision for a climate-neutral country, setting the following national targets to be achieved by the year 2030, aligned with a trajectory towards carbon neutrality by 2050:

- reducing CO2 emissions by 28.7% for non-ETS sectors;
- reducing CO2 emissions, excluding land Use, land-use change, and forestry (LULUCF), by 55%, with reference to the emissions registered in 2005;
- reducing primary energy consumption by 35%, with a view to better energy efficiency; and
- achieving 15% electricity interconnections.

Furthermore, PNEC 2030 sets CO2 reduction targets for the following specific sectors, to be achieved by 2030:

- 70% for services;
- 40% for transport;
- 35% for residences;
- 30% for waste and wastewater; and
- 11% for agriculture.

2.4 Key Policy/Regulatory Authorities

From a regulatory standpoint, there are several public entities responsible for enforcing the Portuguese climate change and environmental legal framework.

- The Portuguese Environment Agency, which has a mission to propose, develop and monitor the integrated and participatory management of environmental and sustainable development policies, in tandem with other sectorial policies, and in co-operation with public and private entities with the same purpose, with the aim of providing a high level of environmental protection and rendering high-quality services to citizens.
- The Portuguese Climate Agency, created by the Decree-Law 122/2024 of December 31st, which has the attributes and resources to act in a transversal and multi-sectoral manner on climate action, from reducing greenhouse gas emissions and increasing renewable energy usage to decarbonisation and climate neutrality. For this purpose, this recently established agency brings together services which have been transferred from the General Secretariat of the Ministry of the Environment and the Portuguese Environment Agency, while also taking on the management of the Blue Fund and the Environmental Fund, whose legal regimes the Decree-Law amends.
- The General Inspection of Agriculture, Sea, Environment, and Spatial Planning, which carries out inspections regarding all activities, and all public and private entities with environmental relevance, imposing the measures that prevent or eliminate situations of severe danger to human health and safety, and to goods and the environment.
- The Water and Waste Regulatory Authority, which ensures the regulation and supervision of the water and waste services, and aims to increase the efficiency and effectiveness of the provision of these services.
- The Institute for Nature Conservation and Forests, which has a mission to propose, develop, and ensure the execution of nature conservation and forest policies, taking into account the conservation, sustainable use, recovery and recognition of these natural assets.
- Regional spatial planning commissions, whose mission is to execute environmental, planning, and regional development policies.
- The Directorate-General for Natural Resources and for Maritime Services and Safety, which has a mission to execute policies for the preservation of natural marine resources, fisheries, and aquacul-

ture, and to develop maritime services and safety, including the maritime ports sector.
- The Secretariat-General of the Ministry of Environment, which has a mission to ensure support for policy formulation, strategic and operational planning and to support the performance of the Ministry of the Environment at an international level and in the application of EU law.

2.5 Bilateral/Multilateral Co-Operation Under the Paris Agreement

2.5.1 Article 6.2 – Internationally Transferred Mitigation Outcomes

Until now, Portugal has not established any formal, publicly known bilateral agreements for the establishment of internationally transferable mitigation outcomes (ITMOs). Nevertheless, Portugal co-operates with countries aligned with the Paris Agreement on other areas of climate change policy action.

2.5.2 Article 6.4 – The Paris Agreement Crediting Mechanism

The Portuguese Climate Agency (*Agência para o Clima*) is the national authority designated in the context of Article 6 of the Paris Agreement, monitoring the respective negotiations. In this context, it is the national competent authority pursuant to and for the purposes of Directive (EU) 2018/410 of the European Parliament and of the Council of 14 March 2018 that establishes a scheme for greenhouse gas (GHG) emission allowance trading within the EU. It is also the national authority responsible, within the voluntary carbon market established by the Decree-Law No 4/2024, for the approval of carbon methodologies, supervising the development and management of the platform for the registration of carbon projects and credits, monitoring the voluntary carbon market and making information on the functioning of this market publicly available on its website. The national legal regime for the voluntary carbon market excludes the possibility to use or claim carbon credits for complying with EU or international obligations, including for the purposes of the EU ETS and the Carbon Offsetting and Reduction Scheme for International Aviation (CORSIA) or for the fulfilment of NDCs from any other party to the Paris Agreement, but allows offsetting beyond residual emissions. The approval of all the complementary rules and the implementation of the online registration platform are expected shortly. Portugal's development co-operation framework involves permanent co-ordination between *Instituto Camões* – Institute for Cooperation and Language, I.P. (under the Ministry of Foreign Affairs) – as the institution responsible for coordinating development cooperation, and sectoral ministries, including the Ministry of Environment and Climate Action, responsible for thematic areas such as environment, climate change (CC) and energy.

2.5.3 Article 6.8 – Non-Market Approaches

The Strategy for Portuguese Co-Operation 2030 (ECP 2030) was adopted in 2022. This strategy constitutes a guiding instrument for public policy on international co-operation for development. The strategy includes co-operation on the protection of the environment, fight against climate change, promotion of sustainability, and ensuring a green transition. The ECP 2030 specifically states that Portuguese cooperation should substantially contribute to three key international commitments:

- the 2030 Agenda for Sustainable Development;
- the Action Agenda of Adis Abebda on financing development; and
- the Paris Agreement.

This strategy intends to strengthen the importance of international co-operation in Portugal. Moreover, the strategic framework and guidelines for development co-operation are aligned with the needs and priorities of partner countries and established by Strategic Co-Operation Programmes (PEC) signed with each partner country, including with long-time partners such as the PALOP countries (*Países Africanos de Língua Oficial Portuguesa*, Portuguese-speaking African countries) and Timor-Leste. Co-Operation with other Paris Agreement countries has been mostly achieved through the Environmental Fund established by Decree-Law No 42-A/2016, and geographically focused on the prioritisation of co-operation activities towards the Lusophone (Portuguese-speaking) developing countries. According to the Decree-Law No 42-A/2016, amended by the Decree-Law No 114/2021, the national public entity in charge of managing the Environmental Fund is the Secretariat-General of the Ministry of Environment. This Fund supports environmental policies for the pursuit of Sustainable Development Objectives, contributing to the achievement of national and international objectives and commitments, in particular those related to climate change adaptation, carbon markets, energy efficiency, water resources, waste, forests, nature conservation and biodiversity and co-operation in the area of environment and climate action, including for the fulfilment of international commitments. Specifically, Portugal has co-operated, through the Environmental Fund and PECs, with the PALOP countries and Timor-Leste. New beneficiary countries were added in the last few years, from North and Western Africa and Latin America, including Tunisia, Cote d'Ivoire, Colombia and Argentina. Portugal has also reiterated its collaboration with Brazil in a joint declaration on 22 April 2023 promoting just energy transition aimed at carbon neutrality, within the framework of the Paris Agreement. As an EU member state and as part of the Official Development Assistance programme, Portugal has made commitments to mobilise 0.15% to 0.20% of its Gross National Income and allocate it to Least Developed Countries by 2030. Portugal also endorsed the commitment derived from the 2014 ministerial-level meeting of the Development Assistance Committee (OECD/DAC) to focus support from member countries on countries most in need (which includes fragile states, least developed countries and small island developing states). Lastly, many of the co-operation agreements in the energy area also mention the need to achieve a just energy transition, namely one that is aligned with the objectives established by the Paris Agreement.

2.6 Climate Litigation

Climate change litigation is an increasingly significant feature of the legal landscape in Portugal, reflecting broader European and global trends. While Portugal has not seen the same volume of climate-related cases as some other jurisdictions, such as the Netherlands, Germany or the United Kingdom, there is a clear and growing interest in using the courts to address climate change issues. This trend is shaped by both domestic legal developments and Portugal's obligations under European Union law and international agreements. The Portuguese Climate Framework Law (Law No 98/2021 of 31 of December) establishes the concept of environmental citizenship in Article 7, stating that everyone has the duty to protect, preserve, respect and ensure the safeguarding of the environmental equilibrium, contributing actively to mitigate climate change. In 2024, climate litigation became topical in Portugal due to a legal proceeding moved by *Associação Último Recurso* (a Portuguese non-profit organisation focused on climate justice and strategic climate litigation) against the Portuguese state for lack of climate accountability, seeking a ruling that declares Portugal must set stricter targets for reducing greenhouse gas emissions and to define long-term plans for carbon neutrality. The Supreme Court invited the associations that brought the proceedings to identify the measures they considered sufficient for adoption by the Portuguese state to ensure, by 2030, a reduction of at least 55% of greenhouse gas emissions (excluding the contribution of soil and forests). The core issue raised was the vagueness of the Portuguese Climate Framework Law regarding the implementation and execution of the targets settled.

3. Responses to International Developments

3.1 Voluntary Carbon Markets

The Portuguese Climate Agency (ApC), established by Decree-Law No 122/2024 and operational since 1 January 2025, has replaced the Portuguese Environment Agency (APA) in responsibilities related to climate. ApC therefore plays a role in areas relevant to Article 6 of the Paris Agreement and follows developments in the related negotiations. In addition, the ApC is responsible for other functions, such as managing climate-related funds (for example, the Environmental Fund and the Social Climate Fund), co-ordinating decarbonisation efforts in the sectors of industry, transport, buildings, agriculture and forestry, and implementing PNEC 2030. Therefore, the ApC now centralises climate policy and action in Portugal, including oversight of the voluntary carbon markets, which were formerly the responsibility of the APA. The national carbon trading scheme is foreseen in Decree-Law No 12/2020, enacting Directive 2018/410/ EU, and establishing a scheme for greenhouse gas emissions allowance trading within the European Community (the Amended Emissions Trading Directive). Operators subject to this legal regime must hold a permit allowing them to emit greenhouse gases, which must be monitored annually and sent to the Portuguese Climate Agency. The permit is annexed to the environmental licence of the operator issued under the Industrial Emissions Regime. Concerning the voluntary carbon markets – seen as a powerful tool to support the NDCs under Article 6 of the Paris Agreement – it should be highlighted that a national trend to compensate greenhouse gas emissions through these markets is emerging. Indeed, since 6 January 2024, Decree-Law No 4/2024 has entered into force, which establishes the voluntary carbon market (VCM) and lays down the rules for its operation. The VCM covers greenhouse gas emission reduction projects and carbon sequestration projects, if they are developed on national territory. Its operating mode can be briefly described as follows:

- carbon projects shall be developed according to methodologies for each approved typology (such as forests and “blue carbon”);
- the reduction of GHG emissions or carbon sequestration within the voluntary carbon market generates carbon credits;
- one carbon credit corresponds to one tonne of CO_2;
- carbon projects and carbon credits are recorded on a public platform specifically provided for this purpose and may be traded between voluntary carbon market actors or used by their holders;
- the use of credits could be either for emission compensation or for contributing to climate action; and
- once used, the carbon credits must be cancelled on the public platform.

A technical committee has already been established to support the development of carbon methodologies, which will be submitted to the ApC for approval, and to monitor the voluntary carbon market.

The first methodology for carbon projects concerning new afforestation has been approved and two others, related to active forest management and natural reforestation, are under preparation. Meanwhile, the requirements for the certification of independent verifiers have been published and the public registry platform for carbon projects and credits has been regulated and is in place, making the voluntary carbon market fully operative. Although it has not moved on, the first fund in Portugal that foresees carbon sequestration rights namely as a way to remunerate in kind a class of fund units, considered a dark green investment under Article 9 of the Sustainable Finance Disclosure Regulation (SFDR), was approved by the Portuguese Securities Market Commission (CMVM) in February 2023. An additional note regarding Regulation (EU) 2024/3012 of the European Parliament and of the Council of 27 November 2024 entered into force on 26 December 2024. The regulation establishes an EU certification framework for permanent carbon removals, carbon farming and carbon storage in products and the first methodologies have been put to public consultation. The aim of the Regulation is to establish rules in the EU for carbon credit certification schemes to make sure that they:

- issue carbon credits that reflect actual and verifiable removals or reductions in soil emissions;
- ensure transparency and trust in carbon markets through disclosure requirements and interoperability between their platforms, avoiding double counting of credits; and
- ensure environmental integrity by promoting associated biodiversity benefits while avoiding green washing.

The regulation is voluntary; however, it is likely that the demand side of the carbon markets will move towards favouring credits issued under the regulation. This is because credibility will be key to the growth of this market, and carbon removal/reduction tokens that comply with the rules will benefit from enhanced credibility. The certification system established by the regulation in question does not directly apply to the carbon credits themselves, but rather to the certification frameworks, or carbon markets, through which these credits are issued and recorded. Recognition of these certification frameworks is granted by a decision of the European Commission, which evaluates whether the market’s rules are robust enough to ensure that the carbon projects and credits admitted to the framework comply with the Regulation’s standards and thus merit the associated credibility. These certification frameworks are obliged to submit annual reports to the Commission, providing ongoing oversight and transparency. Certification is granted for a period of five years, after which it must be renewed with the Commission to maintain its validity. This process ensures that only those frameworks consistently meeting the required criteria retain their certified status. The regulation's structured approach to certification, which flows from the Commission down to each individual carbon credit, is designed to safeguard the quality and integrity of these climate change instruments within the European Union. This chain of certification aims to instil confidence in the environmental effectiveness of carbon credits and the markets in which they are traded.

3.2 Carbon Pricing and Trade Impacts

The EU Regulation establishing a Carbon Border Adjustment Mechanism (CBAM) entered into force on 17 May 2023. As a member state of the EU, Portugal will be impacted by the obligations arising from this mechanism. Bearing in mind that the main objective of the EU CBAM is to avoid carbon leakage and inspire partner countries to establish carbon pricing policies to fight climate change, the import of relevant goods – so far, cement, iron and steel, aluminium, fertiliser, hydrogen and electricity – into Portugal will be dependent on the issuance of CBAM certificates. Only authorised CBAM declarants will be able to import the relevant goods to EU territory, which means importers that operate in Portugal will also have to become authorised CBAM declarants. CBAM declarants will need to:

- buy CBAM certificates at the beginning of each year;
- report, until 31 May of each year, on the quantity of relevant goods imported into the EU in the preceding year, on the number of CBAM certificates purchased, and on its correspondence with the amount of greenhouse gas emissions embedded in the products; and
- submit proof that CBAM certificates were bought for the calendar year in question until 31 May.

Starting on 1 October 2023, importers of relevant goods are obliged to provide information concerning embedded emissions. Authorisations to become CBAM declarants will need to be requested from 1 January 2024 onwards and, starting on 1 January 2026, CBAM declarants will be obliged to declare the goods imported, their embedded greenhouse gas emissions, and the quantity of corresponding CBAM certificates bought. Recently, in September 2025, the European Council adopted a regulation that simplified and strengthened the EU's CBAM, as part of the Omnibus I legislative package. The regulation aimed to simplify the CBAM and make compliance more cost-effective. The main objective was to reduce the regulatory and administrative burden, as well as compliance costs for EU businesses, particularly SMEs. The climate ambition underlying the CBAM remains unchanged, as around 99% of the emissions embedded in imported goods will continue to fall within the scope of the CBAM.

Replacing the current threshold that exempts goods of negligible value from the scope of the CBAM, the amendments establish a new de minimis threshold based on mass, under which imports of up to 50 tonnes per importer per year will not be subject to the CBAM rules. The measure is expected to exempt from the CBAM primarily SMEs and individuals who import small or negligible quantities of goods covered by the CBAM regulation.

4. Liability for Climate Change and ESG Reporting

4.1 Liability for Climate Change and ESG Reporting

As part of the EU, all the EU legislation on reporting and information obligations, namely to investors, is fully applicable in Portugal. A growing number of investors are creating specific funds under the most stringent EU regulations to address climate issues, combining the SFDR and the European Taxonomy. It should be noted that the Corporate Sustainability Reporting Directive (CSRD) sets mandatory reporting obligations for in-scope companies concerning ESG sustainability matters, whilst the TCFD only provides for voluntary disclosure of information concerning climate-related risks and opportunities. The Corporate Sustainability Due Diligence Directive (CSDDD), published in 2024, but amended by Omnibus I legislative package, has a broader scope than the TCFD, which goes far beyond the disclosure of related risks and opportunities, establishing liability provisions for companies. The demand for climate response initiatives is a growing trend, produced both by pressure from investors and also the feeling that consumers increasingly value the sustainability commitment of companies and institutions. Investment and industrial operational decisions tend to influence each other, and the shortage of green assets might turn out to be a powerful engine. The financial sector, as a whole, is expected to play a relevant part in these transformations.

4.2 Directors' Climate Change Liability

Directors or persons who hold a management position in companies are responsible, on a subsidiary level, for the payment of fines and procedural costs related to environmental administrative offences. The majority of misdemeanours due to environmental damage are regulated by the Environmental Misdemeanour Framework Law. According to this legal regime, environmental misdemeanours can be considered light, serious or very serious, depending on the gravity of the infraction. For very serious environmental misdemeanours, the applicable fine ranges between EUR10,000 and EUR200,000 for individuals and between EUR24,000 and EUR5 million for companies. Whenever the presence, emission or release of one or more hazardous substances seriously affects the health, safety of persons and goods, and the environment, the minimum and maximum limits of the above-mentioned fines may be elevated to double the amount. For serious environmental misdemeanours, the applicable fine ranges between EUR2,000 and EUR40,000 for individuals and between EUR12,000 and EUR216,000 for companies. For light environmental misdemeanours, the applicable fine ranges between EUR200 and EUR4,000 for individuals and between EUR2,000 and EUR36,000 for companies. Ancillary penalties can also be applied alongside very serious and serious environmental misdemeanours, comprising the following:

- prohibition against applying for subsidies and public benefits;
- prohibition against participating in public tenders;
- suspension of licences and authorisations;
- closing down of industrial facilities or sites subject to authorisation or licensing issued by a public authority;
- sealing of equipment; and
- seizure of animals.

Additionally, the Climate Framework Law foresees 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. However, the Climate Framework Law does not foresee any sanctions, nor any type of liability, for the non-compliance with these duties. 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, imposes on the directors of companies of public interest with an average of 500 employees the duty to include non-financial demonstrations in the management report. The report must contain information on the evolution, performance, position and impact of the company's activity regarding environmental matters, namely impact on climate change. It shall be noted that the number of companies, and consequently of directors, to which these duties are applicable, will grow after the approval of the legal instrument that will transpose the CSRD into the Portuguese legal order, which must have occurred, initially, until 6 July 2024. A delay in the implementation of the CSRD for countries that have not yet completed the transposition of the directive (such as Portugal) has been granted, until 19 March 2027. This extension will allow the directive to be implemented with the proposed amendments – namely those introduced by the Omnibus I legislative package – already included, reducing regulatory uncertainty.

4.3 Shareholder or Parent Company Liability

According to Article 72 of the Climate Framework Law, harmful acts and omissions that accelerate or contribute to climate change give rise to liability. Misdemeanour penalties will be laid down in a separate statute, still to be approved. Article 72 provision assumes an important dissuasive function for:

- acts and omissions harmful to the climate;
- practices that violate legal provisions on climate; and
- the improper or abusive use of natural resources.

Pursuant to the CSDDD, a parent company can be liable without prejudice to the civil liability of its subsidiaries or of any direct and indirect business partners in the chain of activities of the company. Nonetheless, when the damage was caused jointly by the parent company and its subsidiary, direct or indirect business partner, they shall be liable jointly and severally. Where the parent company fulfils the obligation of combating climate change on behalf of the subsidiary, the subsidiary shall comply with the obligations laid down in Article 22 of the CSDDD concerning combating climate change in accordance with the parent company's transition plan for climate change mitigation accordingly adapted to its business model and strategy. It should be noted that the fulfilment of some of the due diligence obligations at a group level should be without prejudice to the civil liability of subsidiaries under the CSDDD in respect of victims to whom the damage is caused. In fact, if the conditions for civil liability are met, the subsidiary could be held liable for damage that occurred, irrespective of whether the due diligence obligations were carried out by the subsidiary or by the parent company on behalf of the subsidiary.

The CSDDD provides the possibility to exclude an ultimate parent company from any due diligence obligations if its main activity is the holding of shares in operational subsidiaries and does not engage in the taking of management, operational or financial decisions affecting the group or one or more of its subsidiaries, and only if one of its subsidiaries established in the EU fulfils all obligations under the CSDDD on behalf of the holding company. For that purpose, an application needs to be submitted to the competent supervisory authority of the holding company. Joint liability for both the ultimate parent company and the designated subsidiary is foreseen in case of failure of the subsidiary to comply with the obligations. The CSDDD was revised under the Omnibus I Package, with the due diligence methodology becoming clear and more proportionate. For example, companies must begin with a scoping exercise, based solely on reasonably available information, to identify where potential adverse impacts on the environment and human rights are most likely and most severe. Requests for information from partners are also limited to what is necessary, and, in the case of partners with fewer than 5,000 employees, should only be made when the information cannot be obtained by other means.

The deadline for transposition has been delayed until 26 July 2028 and the rules will apply to companies from July 2029, with the Commission due to issue general due diligence guidelines by 26 July 2027 to support implementation.

4.4 Social Context

In Portugal, although there are very generous laws in this area and there is a public awareness of the impact of climate change, there is no particularly consistent social pressure or action to influence stakeholders' decisions.

In other words, there is widespread consensus in Portugal regarding the importance and impact of climate change on everyone's lives and future, with growing awareness, particularly following the forest fires of 2017 and more recently the 2026 windstorms and floods. However, there are no organised movements that are representative of society and capable of putting pressure on the relevant authorities and stakeholders in a consistent and vocal manner.

5. Transactions

5.1 Due Diligence

There is already a visible trend to include climate change due diligence and even minimum safeguards due diligence in M&A, finance and property transactions. Currently, companies that are eligible under the European Taxonomy Regulation to have an activity aligned with the taxonomy must:

- make a substantial contribution to one of the six environmental objectives;
- not significantly harm the other remaining five objectives; and

- carry out their activities in compliance with the minimum safeguards, which include a due diligence through the value chain.

Compliance with Minimum Safeguards 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. Although the alignment with the European Taxonomy is optional, the mandatory reporting represents a significant pressure. The technical screening criteria of the Taxonomy Delegated Acts is also under simplification in the context of the Omnibus I package. In Portugal, there are no statutory duties to perform due diligence throughout the value chain. Nonetheless, with the transposition into the Portuguese legal order of the CSDDD, the statutory duties to perform due diligence on environmental and social matters are expected to be established through a progressive in scope timeline from 2029. The CSDDD will require in-scope companies to conduct environmental (which includes climate related) and human rights due diligence. This includes EU and non-EU companies and parent companies with over 5,000 employees and with a turnover of more than EUR1.5 billion in the EU, as well as franchises with a turnover of more than EUR275 million if at least EUR75 million was generated by royalties in the EU. In-scope companies must integrate due diligence in their policies, identify actual or potential adverse impacts, prevent and mitigate potential adverse impacts, monitor the effectiveness of their due diligence policy and measures, and publicly communicating on due diligence. Since the CSDDD is built on a value chain approach, it will have an indirect impact on SMEs, as these SMEs are part of the chain of activities.

6. Climate-Friendly Investment Support

6.1 Renewable Energy

Portugal has implemented the National Action Plan for Renewable Energies, establishing concrete objectives regarding the share of Portugal's energy supply from renewable sources, as well as the National Action Plan for Energy Efficiency. Concerning energy efficiency, Portugal has established an energy certification system for buildings, with the purpose of improving the energy performance of buildings and making the obtaining of energy certificates mandatory. More recently, the National Long-Term Strategy to Eliminate Energy Poverty 2023–2050 was approved. Its main goal is to eradicate energy poverty in Portugal by 2050, protecting vulnerable consumers and actively integrating them into the energy and climate transition, which is intended to be fair, democratic and cohesive. The major objectives established by the Climate Framework Law regarding the energy sector were to ban the use of coal to produce electricity from 2021, and the use of natural gas of fossil origin to produce electricity from 2040. With regard to energy supply, it is worth noting that the ocean will play a key role as an important source of electricity production. Recently, the following decrees and decisions regarding renewable energies were approved and published.

- Decree-Law 85/2025, which sets targets for the integration of energy from renewable sources in the industry and transport sectors.
- Decree-Law 22/2024, that extends the exceptional measures to simplify procedures for the production of energy from renewable sources. It aims to maintain the exceptional and temporary measures established in 2022 for the implementation of projects and initiatives for the production and storage of energy from renewable sources, including the procedures for the prior control of urban operations, in order to adapt them to the material simplicity of the operations for the installation of power plants for renewable energy sources and the production of hydrogen by water electrolysis.
- Decree-Law 18/2024, that creates a mechanism to compensate municipalities for strategic electricity 18 projects of great impact that generate significant negative externalities in their territories. The objective is to establish a compensations framework (financial or other) for municipalities strongly impacted by high-impact strategic national projects that involve the construction and rapid operation of new renewable power plants, energy storage facilities and the development of new electricity grid capacities developed as part of the acceleration of the energy transition to reduce dependence on fossil fuels.
- Resolution of the Council of Ministers 19/2025, that approves the Allocation Plan for Offshore

Renewable Energy. This plan defines the areas and volumes of the national maritime space within the continental shelf for the commercial exploitation of renewable energy of oceanic origin or located in the ocean.

- Resolution of the Council of Ministers 50/2024, that establishes the legal entity for the "Licensing of Renewable Energy Projects 2030" in the framework for the Recovery and Resilience Plan and in line with RePowerEU. It has a mission to ensure simplification of the legal and regulatory framework applicable to renewable energy projects through the implementation of a one-stop-shop for project licensing, the consolidation of the sector's legal framework and the creation of a monitoring system, which results in effective monitoring and control of projects.
- Resolution of the Council of Ministers 41/2024, that approves the Biomethane Action Plan 2024–2040. It foresees two phases, with different time horizons: a first phase that aims to create a biomethane market in Portugal, and a second phase that aims to strengthen and consolidate that biomethane market. In addition, a complementary axis is also presented, which will be transversal to the use of biomethane at a national level, and aims to ensure social and environmental sustainability.

At EU level, the Renewable Energy Directive was revised by the amending Directive EU/2023/2413, and has been in force since 20 November 2023 and shall be transposed by member states in an 18-month period, with a shorter deadline of July 2024 for some provisions related to permitting for renewables. The purpose is to accelerate the EU's independence from fossil fuels, raising the 2030 target to at least 42.5% (up from 32%), aiming for 45%, meaning that member states shall collectively ensure that the share of energy from renewable sources in the EU's gross final consumption of energy reaches those targets by 2030. Though of broader scope, the regulation on establishing a framework of measures for strengthening Europe's net-zero technology products manufacturing ecosystem (Net-Zero Industry Act), adopted on 27 May 2024, should also be mentioned. It recognises 19 net-zero technologies, including those related to renewable and nuclear energy, grid and energy storage, hydrogen, biogas and biomethane, carbon capture and storage, and biotechnologies, and creates favourable conditions for investment in such technologies. This regulation is now pending publication in the Official Journal of the European Union and will enter into force on the day of its publication.

6.2 Other Support

The Recovery and Resilience Plan, the national programme implementing the next generation EU strategic instruments to mitigate the economic and social impact of the environmental crisis, is aimed at providing investment opportunities for resilience, climate change and digital transition projects, and encompasses projects focused on renewable energy. Moreover, Ministerial Order No 98-A/2022 approved a regulation for an incentive system for production of renewable hydrogen and other renewable gases. The Portugal 2030 programme materialises the Partnership Agreement established between Portugal and the European Commission, which defines the major strategic objectives for the implementation, between 2021 and 2027, of the overall amount of EUR23 billion from the EU funds for regional development, employment, social aid and innovation and territorial cohesion, just transition, maritime, fisheries and aquaculture. It is implemented through 12 programmes including the Sustainable 2030 programme dedicated to climate action and sustainability. This programme, with an allocation of EUR3.1 billion, is an important contribution for the country to achieve carbon neutrality by 2050, providing investments to answer the challenges of climate change adaptation, risk prevention and disaster resilience, the transition to a circular economy and sustainable urban mobility, and delivers on the EU's strategic policy objective for a greener Europe implementing the Paris Agreement by investing in the energy transition, renewable energy and the fight against climate change.

Trends and Developments

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VdA

VdA is a leading international law firm with more than 50 years of history, recognised for its impressive track record and innovative approach in corporate legal services. The excellence of its highly specialised legal services, covering several industries and practice areas, enables VdA to overcome the increasingly complex challenges faced by its clients. Recognition of the excellence of its work is shared by the entire team, as well as by clients and stakeholders, and is acknowledged by leading professional associations, legal publications, and academic entities. VdA has been consistently recognised for its outstanding and innovative services, having received the most prestigious international accolades and awards of the legal industry. Through the VdA Legal Partners network, clients have access to eight jurisdictions (Angola, Brazil, Cabo Verde, Mozambique, Portugal, Sao Tome & Principe, Spain, and Timor-Leste), with a broad sectoral coverage in all Portuguese-speaking countries.

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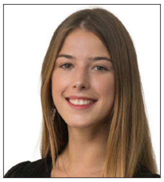

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The European and Portuguese Regulatory Landscape: Regulation of the Voluntary Carbon Market

The European regulatory landscape is undergoing significant transformation, marked by a series of ambitious initiatives aimed at bolstering economic resilience, fostering sustainable growth and enhancing the competitiveness of the single market. Among the most notable recent developments are the Draghi report, the Omnibus I package and the Clean Industrial Act, each of which signals a renewed commitment by EU institutions to address both longstanding and emerging challenges. These measures collectively reflect a strategic pivot towards greater integration, innovation and sustainability, setting the stage for a new era in European policymaking.

The Draghi report, commissioned to assess the future of European competitiveness, has provided a comprehensive blueprint for revitalising the continent's economic model. Its recommendations emphasise the need for deeper capital markets, increased investment in digital and green technologies, and a more agile regulatory framework. In parallel, the Omnibus I package not only provides more time for adaptation to ESG obligations, but also proposes reviewed criteria for the targeted entities and lightens the obligations. Meanwhile, the Clean Industrial Act underscores the EU's determination to lead the global transition to net zero, proposing robust support for clean technologies and the decarbonisation of key industrial sectors. Together, these initiatives are shaping a dynamic regulatory environment, with far-reaching implications for businesses and investors across Europe.

The Draghi report, Omnibus I package and Clean Industrial Act collectively illustrate a strategic pivot in European policy-making by signalling a shift towards a more integrated, forward-looking and sustainability-driven approach. This new direction is characterised by a recognition that the challenges facing the European Union – from economic competitiveness to climate change – require co-ordinated, comprehensive responses rather than "piecemeal" reforms. Taken together, these initiatives represent a holistic strategy that seeks to align economic, financial and environmental objectives, marking a clear departure from previous, more siloed approaches. This integrated policy-making framework is designed to position Europe as a global leader in both competitiveness and sustainability, setting a new benchmark for regulatory ambition and coherence.

As part of the EU, all these changes are applicable in Portugal, and the recently published versions of the directives must be transposed in due time. While there is a certain sense of providing more time to implement the ESG agenda, the challenges of climate change, biodiversity loss and circular economy remain. The strict targets set out in the European Climate Law to achieve climate neutrality by 2050 are currently not under revision, but the pathway to achieving them is undergoing changes and expected to continue to do so. One such change may be a recalibrated balance between cutting emissions and offsetting. The European Regulation for certification of carbon removals, although very strict, opens the door to that path, and is expected to provide ground for a credible voluntary carbon market.

Portugal has shown a very favourable development toward the growth of the voluntary carbon market, as the regulatory environment has been adapting in that direction. This evolution has been driven by a combination of proactive government policies, alignment with EU climate objectives, and a growing recognition of the economic and environmental benefits associated with carbon trading.

A clear example of this is the political signal represented by the creation of the Climate Agency, created in 2024 as a new public institute with very broad attributes which include:

- the development of the voluntary carbon market;
- the exercise of functions as the competent national authority within the scope of the European Emissions Trading System;
- the management of the Environmental Fund and of the Blue Fund; and
- the co-ordination of national, European and international funds, programmes and projects within the government area of environment and energy.

The Portuguese Voluntary Carbon Market was created by the Decree-Law No 4/2024, on January 5th (the Framework for the Voluntary Carbon Market), which established the rules for its functioning. Its effective implementation and execution depends on the following complementary steps, mostly already taken:

- a regulatory framework established through Ordinances;
- the development of a public platform to register carbon projects and carbon credits (already in place);
- the appointment and publication of the member of the Technical Monitoring Committee, created by Dispatch No 3771/2024, of April 8 (already published); and
- developing carbon methodologies, placing them into public consultation and effectively implementing them.

Three out of the four Ordinances mentioned in the Framework for the Voluntary Carbon Market were published on 2 October 2024. The final Ordinance is expected to regulate the conditions and minimal capital requirements of insurance policies covering cases of reversal of sequestered emissions, which may occur, for example, following a forest fire. These Ordinances are the following:

- Ordinance No 239/2024 on Fees, which establishes the fees to be charged in the ambit of the voluntary carbon market by the supervisory and management entities of the platform (account opening, project registration and credit transactions);
- Ordinance No 240/2024 on Qualification Criteria for the activity of independent project verifier (sectors of activity, requirements and procedures); and
- Ordinance No 241/2024 on the General Requirements for the Electronic Registration Platform, namely, the functionalities that the platform must offer and the mandatory information to be entered into it, particularly by the market agents.

These Ordinances represent an important step towards the operationalisation of the Voluntary Carbon Market in Portugal.

It should be noted that, under Portuguese Law, it is possible to issue simple "carbon credits" or "carbon credits +" that accommodate other ecosystem services and social concerns, opening the door to "biodiversity credits". The evolution will depend on the specific methodologies approved over time.

The electronic registration platform and its role

The transparency of the voluntary carbon market is essential for its success as a credible and reputable part of the system. To this effect, the Framework for the Voluntary Carbon Market determines the creation of a public platform where the credits are registered, allowing for its traceability and avoiding double trading of the same credit. Ordinance No 241/2024 establishes the framework for the requirements of the functioning of the platform in question, but, above all, it identifies which functionalities this platform must ensure are in place. A combined reading of Ordinance No 241/2024 and Article 18 of the Framework for the Voluntary Carbon Market shows that:

- market agents must open an account;
- carbon projects and carbon credits must be duly registered;

- the granting and cancellation of credits is undertaken;
- project monitoring initial reports are submitted and periodically verified by independent verifiers; and
- eventually, proposals for carbon methodologies may be submitted and managed through the platform.

It should be noted that the first methodology, relating to new afforestation, has been approved, and two others (forestry management and natural reforestation) are under preparation. The first projects have been registered in the public platform, and it is expected that the soon the first credits will be issued and registered.

Understanding the regulatory framework holistically

In order to fully grasp the practical application of the regulatory framework of the Voluntary Carbon Market, a careful and holistic reading of the different Ordinances and of the Framework itself must be undertaken.

There are still questions regarding certain topics, such as the transaction of carbon credits. Considering that Ordinance No 241/2024 defines "transaction" of credits in different terms to those in the Framework for the Voluntary Carbon Market, a question remains as to how the term is to be interpreted.

Under the terms of the Framework for the Voluntary Carbon Market, a "credit transaction between market agents must be registered on the platform and always occurs when a change of ownership is verified". Conversely, under the terms of the Ordinance No 241/2024, a "credit transaction" is defined as a "process on the platform that involves a carbon credit transfer between accounts", and it is presumed that these accounts have been opened on the platform. From here we could question whether carbon credits can or must be transacted on the platform. Despite the wording of the Ordinance being very clear, it seems that there is a reference to the possibility of connecting to external marketplaces to support these transactions, and that the platform may merely register transactions – whether they take place on the platform or not.

In the framework of a monitoring, reporting and verification system, the role of the independent project verifier is a cornerstone for the validation of projects and their results for the generation of carbon credits. The Framework for the Voluntary Carbon Market demands that an independent project verifier be "duly qualified", by measure of criteria which are now laid out in Ordinance No 240/2024. The qualification of an independent project verifier requires:

- higher education in their field of practice;
- relevant professional experience;
- professional training in auditing;
- approval in an exam performed by a qualification management body; and
- being an effective member of the respective professional public association, when applicable.

The qualification management body is *Agência para a Energia* (ADENE), Portuguese Energy Agency, which, according to the Ordinance, is responsible for overseeing the procedure for individuals seeking qualification as independent project verifiers. This includes organising the mandatory exam and issuing the corresponding approval certificate. This requirement, while it may restrict access to the profession, requires close scrutiny in light of the principle of proportionality, especially with respect to the Framework for accessing and exercising professions. The lack of specific provisions allowing other qualified professionals who have obtained their qualifications in another EU member states to carry out this activity also necessitates a careful analysis of the applicable legislation.

Regulation (EU) 2024/3012: the new European regulation on the voluntary carbon market

Regulation (EU) 2024/3012 of the European Parliament and of the Council of 27 November 2024 entered into force on 26 December 2024. The Regulation establishes an EU certification framework for permanent carbon removals, carbon farming and carbon storage in products. The aim of the Regulation is to establish rules in the EU for carbon credit certification schemes to make sure that they:

- issue carbon credits that reflect actual and verifiable removals or reductions in soil emissions;

- ensure transparency and trust in carbon markets through disclosure requirements and interoperability between their platforms, avoiding double counting of credits; and
- ensure environmental integrity by promoting associated biodiversity benefits while avoiding green washing.

The Regulation is voluntary; however, it is likely that the demand side of the carbon markets will move towards favouring credits issued under the Regulation. Credibility will be key to the growth of this market, and carbon removal/reduction tokens that comply with the rules will benefit from enhanced credibility. The certification system established by the Regulation in question does not directly apply to the carbon credits themselves, but rather to the certification frameworks, or carbon markets, through which these credits are issued and recorded.

Recognition of these certification frameworks is granted by a decision of the European Commission, which evaluates whether the market's rules are robust enough to ensure that the carbon projects and credits admitted to the framework comply with the Regulation's standards and thus merit the associated credibility. These certification frameworks are obliged to submit annual reports to the Commission, providing ongoing oversight and transparency. Certification is granted for a period of five years, after which it must be renewed with the Commission to maintain its validity. This process ensures that only those frameworks consistently meeting the required criteria retain their certified status. The Regulation's structured approach to certification, which flows from the Commission down to each individual carbon credit, is designed to safeguard the quality and integrity of these climate change instruments within the European Union. This chain of certification aims to instil confidence in the environmental effectiveness of carbon credits and the markets in which they are traded.

Conclusion

While the European and the Portuguese regulation on voluntary carbon markets share the same concerns on high integrity and credibility, rooted in certified methodologies, independent certifiers and public registration, the legal options differ slightly, since the Portuguese regulation is broader and more open to innovation. Although the priority, as reflected in the Decree-Law, is attributed to methodologies concerning the forestry sector (namely as a way to prioritise areas devastated by wildfires) and blue carbon pilot projects, the law allows any interested party to propose new methodologies in any field. This makes it possible to attract innovative methodologies and subsequent projects.

As for the use of carbon credits, the Portuguese legislation again is more open and does not impose the sole compensation of residual emissions, most possibly anticipating a trend that could already be foreseen. The recent regulatory advancements in Portugal's voluntary carbon market reflect a decisive move towards establishing a robust, transparent, and credible framework for carbon trading. The creation of the Climate Agency and the publication of key ordinances in 2024 demonstrate the government's commitment to aligning national policy with broader European Union climate objectives. By instituting clear rules for market operation, project verification, and the management of carbon credits, Portugal is positioning itself as a possible market mover in the development of voluntary carbon markets within the EU. This regulatory clarity is expected to foster greater investor confidence and encourage the participation of a diverse range of market agents.

Looking ahead, the Portuguese voluntary carbon market is likely to experience increased activity and innovation as the regulatory framework matures and operational details are clarified. The ongoing development of supporting infrastructure, such as the public platform and the finalisation of insurance requirements, will be critical in ensuring the market's resilience and adaptability. Additionally, the alignment with EU-wide sustainability goals and the potential for interoperability with external marketplaces suggest that Portugal's approach could serve as a model for other jurisdictions seeking to balance environmental ambition with economic opportunity. As the market evolves, continued attention to regulatory coherence and inclusivity will be essential to sustaining growth and maximising the environmental impact of carbon trading initiatives.

CHAMBERS GLOBAL PRACTICE GUIDES