CLIMATE CHANGE LEGISLATION IN

PORTUGAL

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Portugal

Legislative Process

The Portuguese Republic is a democratic and unitary state. Politically and administratively, the structure (mainland and autonomous regions) is based on a tripartite division of its territory into Districts (total of 20), Municipalities (total of 308) and Parishes (total of 3092). The archipelagos of the Azores and Madeira are autonomous regions with their own political and administrative statutes.

The Constitution distinguishes four independent and sovereign organs: the President of the Republic, Parliament, the Government and the Courts of Law. Parliament is the representative assembly of all Portuguese citizens. It is composed of a minimum of 180 and a maximum of 230 Members. Members are elected by electoral districts, which may be either multi-member or single member electoral districts to ensure proportional representation. The Government is responsible for setting policy. It is also the superior organ of the public administration and it is formed by the Prime Minister, the Ministers and Secretaries and Secretaries of State. The Government has political, legislative and administrative competences.

The Government and the Assembly have the competence to draw up national legislation. Legislation is issued in the form of Decree-Laws. When legislative texts containing legislative rules are passed by Parliament, they become known as Decrees of the Assembly of the Republic and, once they are enacted by the President, as Laws of the Republic. Decree-Laws issued by the President and Laws issued by the Parliament all possess equal force.

The competence to initiate laws and referenda lies with the members of the Assembly, parliamentary groups, the Government, and also, under the terms and conditions established by law, with groups of registered electors. The competence to initiate laws in relation to the autonomous regions lies with the respective Legislative Assemblies. Discussion of bills comprises a debate on the general principles and another on the details. Voting comprises a vote on the general principles, a vote on the details and a final overall vote. If the Assembly so decides, texts that are passed on the general principles shall be put to the vote on the details in committee, without prejudice to the Assembly's power to mandate the Plenary to put the details to the vote, or to the final overall vote by the Plenary.

The last general election was held in 2011 and elected the President and all 230 members of the Assembly. The next election is scheduled to take place by October 2015.

Approach to Climate Change

The focus of climate policy is on developing a low carbon economy. Through policies and legislation, Portugal has promoted energy efficiency, effective liberalisation of energy markets and reduced dependence on fossil fuels through increased use of biofuels and improved public transport. Portugal established a Climate Change Commission in 1998. In 2012 it was dissolved and the new Portuguese Environment Agency (APA IP) became responsible for monitoring and development of climate policy at the national level. APA IP operates within the Ministry of Environment, Spatial Planning and Energy (MAOTE), which holds competence under climate policy, thereby assuming a decisive role in the proposal, development and implementation of related policies.

The key instruments for the implementation of climate policies are the National Climate Change Programme (PNAC), the Portuguese Carbon Fund, the National Adaptation Climate Change Strategy

(ENAAC), and the National Low Carbon Roadmap (RNBC). The Programme of the Government explicitly mentions compliance with GHG emission reduction targets as one of its main objectives.

The National Climate Change Programme (PNAC) is the main strategic instrument for compliance with GHG limitation commitments in the context of the Kyoto Protocol and the European Union Burden Sharing Agreement. The proposed policies and measures are broken down into those included in the Reference Scenario, and additional measures, defined at a later stage for ensuring that GHG reduction targets are met. The last PNAC was introduced in 2006, reviewed in 2007, and set the policies and measures aiming at complying with Kyoto targets for 2008–2012. The PNAC for 2013-2020 (PNAC 2020), not available before publication of this edition, should consolidate the measures and instruments mentioned in PNAC 2006 and define new policies for non-ETS sectors.

The Portuguese Carbon Fund (FPC), also established in 2006, finances or co-finances projects that promote transition to a resilient, competitive and low-carbon economy. Since 2012 the Carbon Fund has been managed by APA, IP. The FPC only has its own income, including funds from the harmonisation between taxes on diesel fuel for heating and for transport, and from taxes on low-efficiency bulbs. The compensation does not incorporate biofuels and revenues from auctioning allowances under the EU ETS (industrial installations and aviation operators). By the end of 2013 the Carbon Fund had about 6.8 Mt CO_2e carbon credits.

The National Low Carbon Roadmap 2050 (RNBC), published in 2012, considers a number of elements to be taken into account in the planning of actions to tackle climate change. The underlying vision of the RNBC is aligned with the objective of the EU to reduce GHG emissions by 80-95% in 2050 compared to 1990 levels in order to achieve a transition to a competitive, low carbon economy. Portugal has the goal of limiting the growth of GHG emissions to 1% by 2020 compared to 2005, for sectors not covered by the EU-ETS (including LULUCF and aviation emissions). The RNBC aims to support strategic planning and development of national GHG emissions reduction pathways by 2050. The RNBC studies the technical and economic feasibility of trajectories to reduce emissions in the energy sector, industrial and waste processes, agriculture, forestry and land use.

Public policies on climate change have been mainstreamed in a number of sectoral policies. The "carbon dimension" is now part of the strategic and economic considerations of the energy and industry sectors, and increasingly also of the agriculture and forestry sectors. In transport, some steps have already been given to decarbonise the fleet of vehicles, for instance, promoting natural gas for the urban bus fleet and the electric vehicle program. However, delays on the elaboration of instruments to reduce GHG emissions, such as the PNAC 2020, the low-carbon sectoral plans, as well as the progress reports of the adaptation strategy indicate that since the financial crisis discussions about climate policies has had lower importance on Portugal's political agenda.

Energy supply

Portugal has scarce fossil fuel resources, such as oil, coal and natural gas, and is largely dependent on external sources (78.1% in 2011). In the past decade the energy dependence rate has been declining though and Portugal is exploring more of its renewable energy sources, particularly hydro, wind, solar, geothermal and biomass. The main contribution of renewable energy comes from hydropower and forest biomass energy. Between 2007 and 2011 the total installed capacity in renewables grew by 35.3%. Geothermal energy is only used in the Azores. Solar radiation offers great potential and the potential of wave energy is considerable. Due to the available potential along the coastline to exploring ocean energy, a pilot area was created to further explore this concept and to develop offshore wind energy projects.

The most important means of promotion of renewables is a feed-in tariff for existing installations and for micro- and mini- generation units. Most of the feed-in tariffs were defined in 2007 and are

applicable to renewable technologies (except large hydropower plants) for a certain timeframe or until an upper limit of production is reached.

The structural plans for the energy sector, such as the PNAC, the National Action Plan for Energy Efficiency (PNAEE) and the Strategic Transport Plan had an important role in improving the overall energy performance of the country at the same time as reducing CO2 emissions from fossil fuels. The PNAEE comprises a number of energy efficiency programmes and measures in the areas of transport, residential and services, industry and State. The last National Action Plan for Energy Efficiency (PNAEE 2015), which comprised a number of energy efficiency programmes and measures with a 2015 timeline, was recently replaced by a new National Action Plan for Energy Efficiency (PNAEE 2016), which was combined with the National Action Plan for Renewable Energy (PNAER 2020). The revision establishes new targets for 2016 and a reduction of primary energy use for 2020.

Within the framework of European 20/20/20 targets, reflected in the National Energy Strategy 2020 (2010), by 2020 Portugal aims to reduce primary energy consumption by 25%, with public bodies to cut energy use by 30%. As part of the plan to use energy from indigenous renewable sources, Portugal aims to derive 31% of final gross energy consumption and 10% of energy for transport from renewable sources, at the smallest cost for the economy while also reducing its energy dependence and ensuring security of supplies by promoting a balanced energy mix.

However, according to the PNAEE 2016 and the PNAER 2020, the emphasis on renewable energy sources has to be set against current crisis and macroeconomic forecasts. For example, the new plans suggest revising incentives for installing additional renewable energy capacity, above all in the case of technologies which might not be sufficiently competitive.

Carbon pricing

The government transposed into national legislation the regulation that allows the country to implement the EU-ETS and its subsequent regulations and amendments. The latest regulation reflects the phase of the EU-ETS for 2013-2020.

REDD+ and LULUCF

The LULUCF sector turned from a net-source of emissions in 1990 to an overall net-sink in 2011. The main drivers for this change have been changes in land-use patterns over time, and the introduction of policies for increasing afforestation, improving the system for the prevention and combat of forest fires (introduced after the 'big fire' seasons of 2003 and 2005), and the introduction of carbon sequestration incentives in agricultural and grassland soils.

Transportation

Transportation has been a major source of GHG emissions. The total number of passengers travelling by public road transport and railway fell sharply from 1991 to 2011 (33.64% and 45.82%, respectively), and there was a sharp increase in individual transport usage rate, which more than doubled between 1991 and 2011 for passenger vehicles.

In the National Energy Strategy 2020, the government set the objective of having 10% of the energy consumption in transport coming from renewable sources by 2020. One project established to achieve this target was the Electric Mobility Programme (Mobi.E). Other support schemes for the use of renewable energy sources in the transport sector include adjustment of the Petrol Product Tax (ISP) for small producers and a biofuel quota to companies supplying fuels from 2011 to 2020.

Adaptation

In 2010, Portugal adopted the National Adaptation Climate Change Strategy (ENAAC), which aims to raise awareness about climate change, keep updated and available scientific knowledge on climate change and its impacts, and strengthen measures to monitor the effects of climate change. The first

phase of the ENAAC, to 2013, involved a through collection of key action areas and adaptation measures. There were some difficulties related to the need for better communication between sectors, a more solid scientific base, prioritisation of actions, and further institutional and political support. These aspects are being addressed in the revision and implementation of the ENAAC.

Portugal also has a National Risk Assessment, based on the 2010 ENAAC, the 2013 Emergency Plan for Civil Protection, and the 2006 National Plan for Fighting Fires. The National Risk Assessment was prepared by the National Civil Protection Authority and approved by the National Civil Protection Commission in January 2014. The National Risk Assessment follows EU guidelines for Risk Assessment and Mapping Guidelines for Disaster Management and considers the impacts of climate change based on different scenarios.

Portugal: Executive portfolio

Name of policy	Resolution of Council of Ministers 20/2013, established the National Action Plan fo Energy Efficiency (PNAEE 2016) and a National Action Plan for Renewable Energy (PNAER 2020)
Date	10 April 2013
Summary	This Resolution established the National Action Plan for Energy Efficiency (PNAEE 2016 and the National Action Plan for Renewable Energy (PNAER 2020). It repeals the PNAEI 2015, approved by the Resolution of Council of Ministers 80/2008, of 16 May 2008. It i underpinned by the idea that reducing oil dependency reduces the foreign trade deficit as well as CO2 emissions.
	Within the framework of European '20-20-20' targets, Portugal established a genera target to be achieved by 2020, to reduce primary energy consumption by 25% along with a specific target for Public Administration of achieving a reduction of 30%. As part of the plan to use energy from indigenous renewable sources, Portugal aims to have 31% of fina gross energy consumption and 10% of energy for transport derived from renewable sources, at the least possible cost the economy. It also aims to reduce the nation's energy dependence and ensure security of supplies, by promoting a balanced energy mix.
	The PNAEE and PNAER establish ways of achieving these targets and international commitments with regard to energy efficiency and the use of energy from renewable sources. In addition to intensifying the goals, the plans also identify existing barriers and the potential for improvement with a view to establishing the most suitable programme and measures for complying with its commitments.
	The revision of the PNAEE is based on three lines of intervention: (i) action (suitability of the measures); (ii) monitoring (review of the methods for monitoring results), and (ii governance (redefining the PNAEE governance model). To this end, an estimated impact analysis was carried out for all the measures in the PNAEE, in accordance with European norms on monitoring energy efficiency plans and measures.
	The Resolution aims to operationalise the Energy Efficiency Fund and integrate it wit other programmes to support energy efficiency, so as to optimise incentives. Th Resolution takes into consideration measures already established by the National Climat Change Programme (PNAC).
	The implementation of PNAEE 2016 and PNAER 2020 should benefit from a common structure tracking and monitoring of the progress and results of the measures and action: taken in each Plan. The PNAEE 2016 and PNAER 2020 should also be articulated with the structure of supervision and monitoring of the PNAC in 2020, allowing the provision or information for assessing national commitments energy and climate.
	Resolution 20/2013 attributes the responsibility for monitoring the implementation of the PNAEE and the PNAER to the minister responsible for the energy sector.

Name of policy	Decree-Law 56/2012 on the Portuguese Environment Agency (APA I.P)
Date	12 March 2012
Summary	The Portuguese Environment Agency (APA I.P) was established through the Decree-Law 56/2012, replacing the earlier Climate Change Commission (1998). Operating within the Ministry of Environment, Spatial Planning and Energy (MAOTE), it became responsible for monitoring and development of climate policy at the national level. The Agency holds the entire competence for climate policy development, thereby assuming a decisive role in the proposal, development and implementation of related policies.

Name of policy	Resolution of Council of Ministers 93/2010, mandates the development of a new regulatory framework for post-2010 climate policy in Portugal.
Date	26 November 2010
Summary	 This Resolution establishes that the Government will draft different documents to address the challenges of climate change arising from commitments for the post-2012 period: a National Low Carbon Roadmap, with horizons of 2020, 2030 and 2050, taking into account the European Low Carbon Guideline, prepared by the Commission, and its lessons for national climate policy in the short and medium term a National Climate Change Plan 2020, listing the measures for emission reduction aimed at attaining, at least, the targets stipulated by the Effort Sharing Decision and preparing higher targets for the country, to be defined by community institutions Low Carbon Sector Plans, stipulating the contribution by the different ministries and departments (including related enterprises) towards the reduction of their indirect emissions.

Name of policy	Decree-Law No. 117/2010, regulating sustainability criteria for production and use of biofuel and bio liquids, amended by Decree-Law 6/2012
Date	25 October 2010, amended on 17 January 2012
Summary	This Decree-Law establishes sustainability criteria for production, marketing and use of biofuel and bio liquids and defines the limits of mandatory incorporation of biofuels from 2011 to 2020.
	It sets a goal for the incorporation of biofuels for each year, which is obligatory for the entities providing fuels for consumption. In terms of energy content, the goals are as follows: 5.0% for 2011 and 2012; 5.5% for 2013 and 2014; 7.5% for 2015 and 2016; 9.0% for 2017 and 2018; 10.0% for 2019 and 2020. From 2015 onwards there will also be a specific target of 2.5% of energy content for incorporating diesel substitute biofuels.
	To prove compliance with the goal, incorporators have to submit a sufficient number of biofuel incorporation certificates (TdB) every year for cancellation. One TdB corresponds to 1 toe of biofuels introduced into consumption. Biofuels will have to comply with sustainability criteria in order to be eligible for TdBs.
	With regard to Small Dedicated Producers (SDP), Order No 320-E/2011 of 30 December 2011, which regulates Article 90(4) of the CIEC, stipulates the terms by which SDPs can continue to benefit from ISP exemptions. The biofuels they produce must comply with the sustainability criteria but are not entitled to TdBs.

Name of policy	Resolution of the Council of Ministers 24/2010, adopts the National Strategy for Adaptation to Climate Change (ENAAC)
Date	1st April 2010
Summary	The ENAAC sets out the need for adaptation. It was adopted through the Resolution of the Council of Ministers 24/2010.
	 The ENAAC is structured around four objectives that reflect its approach to the problem. Information and knowledge is the basis for the development of the strategy, focusing on the need to collect, consolidate, and develop a strong technical and scientific basis. Reducing vulnerability and increasing the response capacity. This is the core of ENAAC and frames the work of identifying vulnerabilities, defining priorities

and implementing the main adaptation measures.

- 3. Participation, awareness raising and dissemination. This highlights the importance of educating and involving all relevant agents in the efforts to identify and implement the most adequate adaptation measures.
- 4. International co-operation efforts within the European Union, the UNFCCC and other international forums to promote co-ordination and information sharing and to support adaptation efforts in developing countries.

The Strategy also identifies nine priority sectors and creates nine sectoral working groups, each co-ordinated by the ministry or the agency responsible for the policy area. This sectoral approach brings together the actors with interest and know-how in each particular sector and thus identifies the most adequate adaptation measures. The creation of an inter-ministerial co-ordination group aims to address all cross-cutting issues and provides a forum for discussing cross-sectoral issues. The co-ordination group includes representatives of the Ministry of Foreign Affairs, the Autonomous Regions of Azores and Madeira and of the National Association of Portuguese Municipalities. The nine sectors considered are: territory and urban development; water resources; safety of people and goods; human health; energy and industry; tourism; agriculture, forests and fisheries; coastal areas; and biodiversity.

Name of policy	Decree-Law 39/2010 on electric mobility, last amended by Decree-Law 90/2014
Date	26 April 2010, last amended on 11 June 2014
Summary	The Electric Mobility Programme was established by the Resolution of the Council or Ministries 20/2009, of 20 February 2009. Decree-Law 39/2010 regulated the Programme It aims to encourage the purchase of electric vehicles, guarantee recharging through a efficient and integrated network, and establish universal access to electric mobilit services.
	Decree-Law 39/2010 was implemented by Decree Order 1201/2010, of November 25 which sets forth the technical requirements for granting licences to operate chargin points. Decree Order 1202/2010, also of November 29, sets out the terms applicable to the licensing of private usage of State or municipal property for the installation of batter charging points for electric vehicles. This Decree Order also implements Decree-Law 39/2010.
	Ministerial Decree 468/2010 implemented Decree-Law 39/2010 on Electric Mobility b establishing subsidies for private purchases of electric cars to be combines with additiona subsidies when a used vehicle also is scrapped.
	Decree-Law 90/2014 revises the Programme with the objective of improving the existin model, ensuring its sustainability. Decree-Law 90/2014 establishes rules to integrate th electric mobility network, also expanding it to the autonomous regions of Acores an Madeira.

Name of policy	Decree-Law 71/2006 on the Portuguese Carbon Fund
Date	24 March 2006
Summary	Establishes the Portuguese Carbon Fund (FPC), a state financial instrument for acting on the carbon market to ensure compliance with national targets on climate change issues, making use of the flexibility mechanisms of the Kyoto Protocol and supporting national projects to reduce emissions.
	This financial/ economic instrument is an autonomous fund with a financial and administrative autonomy and its main duties are crediting the emission of GHGs generated under the flexibility mechanisms: Clean Development Mechanism (CDM), Joint Implementation (JI), International Emission Trading (IET); crediting of GHG emissions through investment in funds managed by third parties or other instruments of the carbon market; supporting projects in Portugal leading to a reduction of GHG on energy efficiency, renewable energies, carbon sinks, geological capture and sequestration of CO2, adoption of new technologies; promotion of participation of public and private entities in flexibility mechanisms; support of international cooperation projects; support of infrastructural projects accounting GHG emissions and carbon sequestration in Portugal.

Name of policy	Council of Ministers Resolutions 104/2006 and 1/2008, establishes and amends th National Climate Change Programme (PNAC)
Date	23 August 2006 and 4 January 2008
Summary	The PNAC 2006 contains a set of measures defined for the sectors of the economy wit an impact on GHG emissions: energy (demand and supply, including the sub-sector transport, residential and services, and industry), agriculture and livestock, forestry an waste, and thereby developed a framework of policies and measures. GHG emissions ar estimated and projected up to 2010, systematised considering a reference scenario and 'with additional measures' scenario for the period 1990-2010, assumed as the averagy year of the period 2008-2012.
	The PNAC 2006 was complemented with a new set of policies and measures, throug Council of Ministers' Resolution 1/2008 in order to further strengthen Portugal' commitments on key emission sources such as energy (supply and demand) an transport.
	Resolution 1/2008 includes: an increase to 45% of the share of electricity production fror renewable sources (previously 39%); the operational start of new natural gas combine cycle power plants (2160 MW in 2006 will now be 5360 MW in 2010); and the increase of the 5.75% biofuels goal to 10% in 2010, among others. The GHG emissions reductio potential from new 2007 measures is about 1 556 kt CO2e (adopted by CME 1/2008).
	RCM 1/2008 also approved the ETS National Allocation Plan for the period 2008-201 (PNALE II) and provided an update on GHG allocations by sector for each of the activitie established in Annex I of Directive 2003/87/EC.
	Order 13322/2013, of October 18, mandated the creation of the Working Group of th PNAC 2020 to monitor its development, with overall coordination left to the Environmer Agency (APA, I. P.).

Name of policy	Resolution of Council of Ministers 68/2005, establishes the National System for the Estimation of Emissions by Sources and Removals by Sinks and Air Pollutants (SNIERPA)
Date	17 March 2005
Summary	This Resolution establishes the National System for the Estimation of Emissions by Sources and Removals by Sinks and Air Pollutants (SNIERPA). It contains a set of legal, institutional and procedural arrangements that aim at ensuring the accurate estimation of emissions by sources and removals by sinks of GHG and other air pollutants.
	SNIERPA is composed of three technical elements: a quality assurance and quality control system; a methodological development programme; and an integrated IT system.
	The Resolution defines the Institute for the Environment as the responsible entity for the inventory preparation and for its submission to the relevant international organizations. The Resolution also defines the duties, tasks, and responsibilities of all the entities engaged in estimating emissions. It also includes a procedure for the final approval of the inventory.

Name of policy	Decree-Law 20/1996 on the Protection System Fund to combat Climatic Changes (SIPAC), amended by Decree-Law 23/2000
Date	19 March 1996, amended on 2 March 2000
Summary	This Decree-Law 20/1996 creates the Protection System Fund to combat natural disaster dues to climatic changes (SIPAC). It consists of 7 chapters regulating the issuing of compensation for agricultural harvest destruction due to environmental disaster caused by climatic change. It also establishes the composition, duties and competencies of the aforementioned fund entitled to issue financial assistance to farmers.
	Decree-Law 23/2000 established new requirements to be satisfied in order to benefit from compensations due for agricultural harvest destruction caused by climatic change, amendments in particular relevant to sanctions to be paid for illegal activity.
	Decree-Law 20/1996 was implemented by: Order 90/96, of 25 March 1996, which approved the regulation on SIPAC; Order 576-A/2000, of 8 August 2000 which created a credit system for the agricultural sector; Order 318/2011, of 30 December 2011, which approved the SIPAC; Order 45/2013, of 4 February 2013, on the requirements to be satisfied by vine products in order to benefit from the Fund; and Order 65/2014, of 12 March 2014, which approved the regulation of crop insurance and compensation claims, integrated in the SIPAC.

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