

---

# Legal regime for voluntary carbon market

Decree-Law 4/2024 of January 5 establishes the voluntary carbon market and defines the rules for its operation.

Portugal - Legal Update

January 10, 2024



---

## Key aspects

- > The voluntary carbon market aims to incentivize public and private players to develop projects that ensure a balance between economic and environmental sustainability.
- > Projects that focus on carbon sequestration in forested areas are prioritized, given their vulnerability to wildfires.
- > A tradable carbon credit mechanism is created to incentivize carbon sequestration.
- > Carbon credits will be managed through registration on a centralized platform, which is expected to be operational from 2025.



---

## Key aspects of voluntary carbon market

Decree-Law 4/2024 of January 5 (“Decree-Law 4/2024”) introduces the voluntary carbon market with the aim of promoting projects that reduce emissions or sequester carbon, in order to achieve the climate change targets set out in the Basic Climate Law, the Roadmap for Carbon Neutrality 2050, and the National Energy and Climate Plan 2030. The decree-law follows a public consultation that took place in the first quarter of 2023, with the government predicting that the market will impact around 500,000 hectares of forest in Portugal.<sup>1</sup>

### Guiding principles

- The main principles guiding the voluntary carbon market are:
  - a) credibility, based on realistic and robust reference scenarios for calculating greenhouse gas reductions or carbon sequestration;
  - b) additionality, ensuring that greenhouse gas emissions are reduced or carbon is sequestered as a result of the project;
  - c) permanence, particularly for sequestered emissions, ensuring the existence of mechanisms that compensate for situations of reversal;<sup>2</sup>
  - d) efficiency, avoiding carbon leakage in the implemented projects;
  - e) follow-up, ensuring a monitoring, reporting and verification process for all projects’ key implementation and execution stages;
  - f) transparency, ensuring public access to voluntary carbon market data; and
  - g) sustainability, particularly of the management model for the voluntary market and its assets, in line with pertinent instruments for reducing greenhouse gas emissions and achieving carbon neutrality.
  
- **Prioritization of carbon sequestration projects in forests.** As the government had anticipated, carbon sequestration projects in forests that contribute to conserving natural capital and building a more adapted and resilient landscape, including reduced fire vulnerability, have been prioritized. These are vulnerable areas, particularly those with landscape reordering and management plans (PRGP) or integrated landscape management areas (AIGP), as well as forest intervention zones (ZIF), wasteland, the Natura 2000 Network, and the National Network of Protected Areas. The objective scope of this prioritization can be extended to

---

<sup>1</sup><https://www.jornaldenegocios.pt/empresas/energia/detalhe/mercado-voluntario-de-carbono-deve-impactar-500-mil-hectares-de-floresta-em-portugal>.

<sup>2</sup> Decree-Law 4/2024 defines a reversal as a situation where “the net benefit of a given carbon project is negative (...).”



other areas that the Institute for Nature Conservation and Forests, I.P. (“ICNF”) or the Portuguese Environment Agency, I.P. (“APA”) identifies as priorities.

- **Awarding carbon credits in return for reducing emissions.** Carbon credits are awarded when emissions are reduced or sequestered. These credits are generated once a qualified independent entity validates and verifies that emissions have actually been reduced or sequestered. These credits can be traded and traced through a centralized electronic platform and are valid indefinitely. Carbon credits that incorporate additional benefits in terms of biodiversity and natural capital can be considered carbon credits+, provided they are properly determined and monitored. Carbon credits can be generated before emissions are reduced or sequestered (future carbon credits)<sup>3</sup> or after (verified carbon credits).

The registration platform is estimated to become operational in 2025 and will be developed by the APA.<sup>4</sup>

- **Creation of a guarantee fund for cases of unintentional reversal of sequestered emissions.** If a project developer generates unintended emissions during the carbon sequestration project period, they can use the guarantee fund to offset the effects of the reversal. This fund comprises 20% of future and verified carbon credits issued by carbon sequestration projects that contribute to the fund—in the case of projects developed in priority areas, the reversal amount is 10%. The use of the fund is only available to developers that have contributed to it and have taken out insurance to cover reversal situations, while the fund’s credits can only be used for credits that have not been offset. Project developers that have not registered any emission reversal situations can benefit from a refund of up to 30% of the credits paid into the guarantee fund (40% in the case of projects located in priority areas) at the end of the project.
- **Supervision.** The APA and ICNF can carry out random checks, in addition to the periodic checks to which projects are subject.
- **Entry into force:** Decree-Law 4/2024 entered into force on January 6, 2024.

## Conclusion

- The voluntary carbon market represents an opportunity for project developers seeking to reduce or sequester their greenhouse gas emissions, as they can benefit from the allocation of tradable and traceable carbon credits. These credits can incorporate additional benefits in terms of biodiversity and natural capital, known as carbon credits+.

---

<sup>3</sup> In this case, the credits cannot exceed 20% of the total carbon credits established for the sequestration or mitigation project period.

<sup>4</sup><https://eco.sapo.pt/descodificador/na-terra-e-no-mar-como-va-o-funcionar-os-mercados-voluntarios-de-carbono/>.



- Carbon sequestration projects in forests are incentivized, especially in priority areas. Such projects can benefit from more favorable conditions regarding contributions to the guarantee fund and the return of credits at the end of the project.
- However, project developers must be aware of the obligations arising from the legal regime for the voluntary carbon market, particularly regarding the validation and verification of projects by a qualified independent entity, the taking out of insurance to cover reversal situations, the monitoring and reporting of project results, and the supervision of the APA and ICNF.

---

For additional information on the contents of this document, please contact *Cuatrecasas*.

©2024 CUATRECASAS

All rights reserved.

This document is a compilation of legal information prepared by Cuatrecasas. The information and comments included in it do not constitute legal advice.

Cuatrecasas owns the intellectual property rights over this document. Any reproduction, distribution, assignment or any other full or partial use of this legal flash is prohibited, unless with the consent of Cuatrecasas



IS 713573