

How the Climate Law may change the Portuguese economy

Recently, Portugal took another important step to consolidate its commitment to fighting climate change, previously made in the Paris Agreement, by the publication on 31 December 2021 of the new Framework Law on the Climate (Law 98/2021 of 31 December), which establishes the guiding principles of climate policy and governance. It also introduces targets and provides for mechanisms to combat climate change, to decarbonise the economy and to achieve sustainable development.

The Framework Law on the Climate is a comprehensive and programme-based law that focuses on various sectors, including the energy industry, construction, agriculture and fisheries. It also addresses financial assets and green taxation. The assumption of an integrated vision of the different sectors of the economy as a fundamental vector to mitigate and adapt to climate change is the realisation of one of the structuring principles of public policy on the environment – the principle of transversality and integration.

This new law also reinforces and brings together other legal instruments in force on climate change. These include the National Strategy for Adaptation to Climate Change (ENAC) 2020, the Roadmap to Carbon Neutrality 2050, the National Energy and Climate Plan 2021-2030 (PNEC 2030), and the Action Programme for Adaptation to Climate Change (P-3AC). It thus condenses the guidelines for Portuguese climate policy, with the aim of achieving carbon neutrality in the country.

In line with the European Climate law, the major objective is to achieve ecological balance and neutrality in greenhouse gases by 2050, taking into account the targets for the reduction of emissions of these gases by at least 55% by 2030, 65% to 75% by 2040 and 90% by 2050, considering the reference to 2005 values.

Above all, as a result of its transversal nature and the integrated vision of the economy underlying it, the Framework Law on the Climate sets out the development guidelines for the economic policies to be implemented in Portugal in the near future. In particular, for this purpose, it outlines some strategic lines of the economic policies as an instrument to fight climate changes:

In the **energy sector**, decarbonisation of the electro-production system is planned. This is to be done by banning the use of coal to produce electricity from 2021, and of natural gas of fossil origin to produce electricity from 2040, provided the security of supply is guaranteed. Together with decarbonisation, the policy to produce electricity from renewable sources is reaffirmed. There is also

a focus on the aspects of decentralised production and energy efficiency. Another important point of focus is on the sea as a preferential area to harness energy from renewable sources for electricity production. Finally, the Portuguese State will prohibit the granting of new concessions for exploration and exploitation of hydrocarbons in Portuguese territory.

In the **industrial sector**, the focus is on promoting decarbonisation and the consequent energy transition. For this purpose, ‘the green industrial strategy’ to support companies in this transition is expected to be in place by February 2024.

Concerning **transport policy**, besides the provision to develop measures to promote sustainable mobility, 2035 is set as the reference date for the end of sales in Portugal of new light vehicles powered exclusively by fossil fuels.

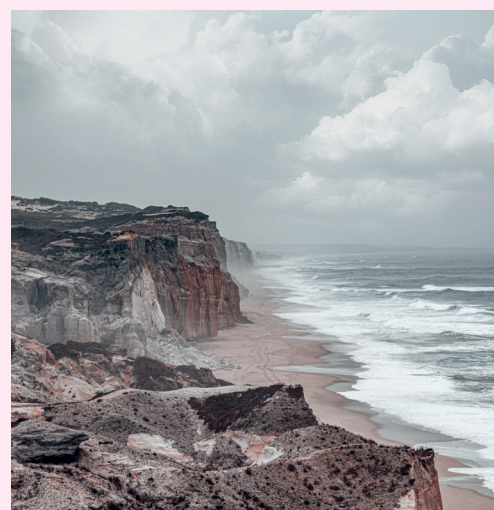
As the **forest** plays a central role in carbon sequestration, provision is made to support the sustainability and resilience of forests. This is to be achieved by maintaining and incorporating residual forest biomass into the soil and promoting more sustainable and resilient forest crops, such as native species, white oaks and hard woods.

Regarding **materials and consumption policy**, the circular economy is recognised as the cornerstone of decarbonisation and it is established that the design of products, packaging, infrastructures and buildings must follow a logic of ecodesign.

In terms of **waste policy**, the Portuguese State is obliged to adopt a bio-waste collection and recovery model and, by 2025, incentive and returnable packaging waste systems to effectively recover plastic packaging from urban waste.

Concerning the **agri-food chain**, provision is made to encourage the decarbonisation of agriculture, fisheries and aquaculture, and to encourage sustainable and healthy eating habits, with a reduction in food waste.

For the **financial system**, it is established that the public and private agents and institutions must take into account climate risk and climate impact in their financing decisions. The new law provides that any lack of transparency or failure to share information regarding the consideration of climate risk and climate impact in financing decisions is considered an inadequate sale, under the terms of the regulation on markets in financial instruments. In addition, the new law also provides that the analysis of risk in financial intermediation should take into account the climate risk and climate impact of the activities that seek financing.



Finally, **public investment** is also subject to the principles described in the law, which sets out a preference, in the financing of projects, contracting of services or concession of public services, exclusively or partially, for actions that comply with the principles of the taxonomy on environmentally sustainable activities of the European Union. Moreover, the largest public investments will now be subject to a strategic evaluation that deals with the risks associated with climate change in national and sector-by-sector planning and economic investment decisions.

In a nutshell, although the law already establishes a set of specific targets, it will still be necessary to implement it in a set of other laws.

It is undeniable that the goals of this new law have good intentions and are ambitious. However, their effectiveness may fail if they are not implemented and they simply remain on paper.

For more information, please contact:

Diogo Duarte Campos, partner
João Marques Mendes, partner
Raquel Freitas, managing associate

PLMJ
Av. Fontes Pereira de Melo, 43
1050-119 Lisboa, Portugal

T: (+351) 213 197 300
E: plmjlaw@plmj.pt

www.plmj.com/en