

Timber Legality Risk Assessment Portugal

Version 1.1 | August 2017



COUNTRY RISK
ASSESSMENTS



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The original document of FSC can be accessed here <https://ic.fsc.org/en/document-center>.

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B. Overview of Legality risks

Timber Risk Score: 91 / 100 in 2017

This report contains an evaluation of the risk of illegality in Portugal for five categories and 21 sub-categories of law. We found:

- Low risk for 16 sub-categories.
- No specified risk
- No legal requirements for 5 sub-categories.

The Timber Risk Score for Portugal is 91 out of 100. The legality risks identified in this report concern timber harvesting activities and trade and transport.

For **Timber Harvesting Activities**, there is a risk that protected sites and species are damaged by forest management activities.

For **Trade and transport**, there is a risk that producers of timber in Portugal do not implement a due diligence system as required by the EU Timber Regulation.

Timber source types and risks

There are three timber source types found in Portugal. Knowing the “source type” that timber originates from is useful because different source types can be subject to different applicable legislation and have attributes that affect the risk of non-compliance with the legislation. We have analysed the risks for all source types and found them to be the same.

Protected area	Forests found in protected areas.
Classified area	Forests in lands classified as Classified area.
Production forest	Forests not in protected or classified areas.

This table summarises the findings of the timber legality risk assessment by source type.

Legal Category	Sub-Category	Source Type
		All sources
Legal rights to harvest	1.1 Land tenure and management rights	Low risk
	1.2 Concession licenses	N/A
	1.3 Management and harvesting planning	Low risk
	1.4 Harvesting permits	Low risk
Taxes and fees	1.5 Payment of royalties and harvesting fees	N/A
	1.6 Value added taxes and other sales taxes	Low risk
	1.7 Income and profit taxes	Low risk
	1.8 Timber harvesting regulations	Low risk

Timber harvesting activities	1.9 Protected sites and species	Low risk
	1.10 Environmental requirements	Low risk
	1.11 Health and safety	Low risk
	1.12 Legal employment	Low risk
Third parties' rights	1.13 Customary rights	Low risk
	1.14 Free prior and informed consent	N/A
	1.15 Indigenous/traditional peoples rights	N/A
Trade and transport	1.16 Classification of species, quantities, qualities	Low risk
	1.17 Trade and transport	Low risk
	1.18 Offshore trading and transfer pricing	Low risk
	1.19 Custom regulations	Low risk
	1.20 CITES	N/A
	1.21 Legislation requiring due diligence/due care procedures	Low risk

C. Overview of the forest sector in Portugal

In Portugal, around 97% of forest land is classed as private (including land owned by individuals, communities and corporations). The remaining 3% is public (State) forests - one of the smallest public forest estates of any country in the world. Private land ownership occurs even in protected and classified areas (representing about 22% of the territory), which means that even in these areas there is very little public forest.

Another unique feature is the existence of harvesting in most Portuguese forests (both natural and planted forests). Harvesting occurs both for timber production and extraction of non-timber forest products (NTFPs) such as cork: Portugal is the leading global producer of cork, accounting for almost 50% of global cork production. There is no legal separation or conceptual differentiation between protected and productive forest, because protected native tree species (*Quercus suber* and *Quercus ilex*) may be exploited for non-timber forest products (e.g. cork and acorns) even if timber harvesting of the species is prohibited.

Forest plantations of fast-growing Eucalyptus, traditionally dealt with separately in legislation and regulations, have become mixed with other forests since 2013, when the legal framework was updated. Eucalyptus plantations are the most widely distributed, comprising around 26% of the Portuguese forest area.

Given the level of private property tenure, responsibility for enforcement and forest regulation is primarily focused on the forest owner or manager.

Forest Management Plans (PGF) are obligatory for forest areas above a certain area and are required for 37% of Portugal's forest area. However, in certain cases, a simple communication to authorities may serve as a substitute for an obligatory licence and an approved PGF - for example, special cases of thinning for protected sites and species.

Felling licences are not compulsory, nor is prior notice required for commercial felling of most species in Portuguese forests. The only exceptions (where felling licences are required) are for:

- i. Protected species (such as Cork Oak [*Quercus suber*], Holm Oak [*Quercus ilex*] and Holly [*Ilex aquifolium*]);
- ii. Premature harvesting of Maritime Pine (*Pinus pinaster*) and Eucalyptus;
- iii. Some sensitive areas such as protected, classified, natural monument, and riparian areas;
- iv. Phytosanitary cutting related to Pine Nematode (Nemátodo da madeira do pinheiro) (NMP) disease.

The national forest authority is the Institute of Conservancy of Nature and Forests (ICNF) which regulates management of public forest areas, being also involved in the management of community areas. In addition, the Environmental Service of National Republican Guard (GNR/SEPNA) is also involved with inspection of environmental issues and natural resources.

Sources of information

The list of sources provided in FSC-PRO-60-002a, section 3.3.3 has been reviewed for relevance in regards to the national legality risk assessment of Portugal. The following sources have been used:

- a) Chatham House: <http://www.illegal-logging.info/>;
- b) EU FLEGT process:
http://ec.europa.eu/comm/development/body/theme/forest/initiative/index_en.htm;
- c) Government reports and assessments of compliance with related laws and regulations;
- d) Independent reports and assessments of compliance with related laws and regulations
- e) Interpol: <http://www.interpol.int/Crime-areas/Environmental-crime/Projects/Project-LEAF>;
- f) Stakeholder and expert consultation outcomes from NRA development processes;
- g) Transparency International Corruption Perceptions Index:
http://www.transparency.org/policy_research/surveys_indices/cpi;
- h) World Bank Worldwide Governance Indicators:
<http://data.worldbank.org/datacatalog/worldwide-governance-indicators>;
- i) In cases where other sources of information are not available, consultations with experts within the area were conducted.

Note that every Portuguese law publication is available from a central site:
<https://dre.pt/web/guest/pesquisa-avancada/<Name of Legislation and year>>

Where relevant, they have been specifically referenced under "Sources of Information" for each applicable sub-category.

D. Timber source types

The table **Timber Source Types in Portugal** identifies the different types of sources of timber it is possible to find in the country of origin.

'Timber Source Type' is a term used to describe the different legal sources of timber in a country, in order to allow a more detailed specification of risk. The Timber Source Type is used to clarify:

- which forest types timber can be sourced from legally;
- what the legal requirements are for each source type, and
- if there are risks related to certain source types and not others.

Timber Source Type can be defined by several different characteristics. It may be based on the actual type of forest (e.g. plantation or natural), or other attributes of forests such as ownership, management regime or legal land classification. In this context Timber Source Types are defined and discerned using the following characteristics:

- a) **Forest type** - refers to the type of forest such as plantation or natural tropical forest, or mixed temperate forest. Often the clearest differentiation is between natural forest and plantations.
- b) **Spatial scale (Region/Area)** - relating to meaningful divisions of a nation. However, in some cases the assessment may be carried out at national level where that allows the risk assessment to establish risk at a meaningful level. E.g. a small country with uniform legislation and a uniform level of risk in all areas of the country, as national level assessment may be enough. In case there are significant differences in the legal framework or legality risks between different types of ownership (e.g. public forest, private forest, industrial forest), between different type of forest (e.g. natural forest and plantations) and/or between different geographical regions the conformance risk evaluation shall specify these differences when specifying the risk and apply the appropriate control measures.
- c) **Legal land/forest classification** - refers to the legal classification of land. Focus is on land from where timber can be sourced, and this could entail a number of different legal categories such as e.g. permanent production forest, farm land, protected areas, etc.
- d) **Ownership** - Ownership of land may differ in a country and could be state, private, communal etc. Ownership of land obviously have impacts on how land can be managed and controlled.
- e) **Management regime** - Independently of the ownership of the land, the management of forest resources may differ between areas. Management may also be differentiated as private, state, communal or other relevant type.
- f) **License type** - Licenses may be issued to different entities with a range of underlying requirements for the licensee. A license might be issued on a limited area, limited period of time and have other restrictions and obligations. Examples could be a concession license, harvest permit, community forestry permit etc.

TIMBER SOURCE TYPES IN PORTUGAL

Forest type	Region/Area	Legal Land Classification	Ownership	Management regime	License / Permit Type	Description of source type
All Forest Types	All regions of mainland country	Protected areas	Private and communal	Private, community or mixed management with forest authorities	<p>Licenses in case of cuttings:</p> <ul style="list-style-type: none"> - in special areas inside Protected Areas according to the level of protection of each space; -age conditions (special permit is needed if young forest is harvest); -site conditions (special permit is mandatory if riparian forest are harvested); <p>-Approved Environment Impact Assessment for deforestation greater than 10 ha, or conversion to plantation greater to 70ha.</p> <p>-A phytosanitary manifest is required prior to commencement of harvesting, transport and processing of conifers wood, according to the National Action Plan for Control of NMP applies to all conifers which also includes the registration of all operators;</p> <p>-License from Forest Authorities for cuttings and pruning are applied for forests and trees of <i>Quercus suber</i>, <i>Quercus ilex</i>, <i>Ilex aquifolium</i></p>	Protected area
			State	State entities		
				Forest authorities		

		Classified area	Private and communal	Private, community or mixed management with forest authorities	<p>Licenses in case of:</p> <ul style="list-style-type: none"> - classified habitats; - forest conversions above 5 ha; -age conditions (special permit is needed if young forest is harvest); -site conditions (special permit is mandatory if riparian forest are harvested); -Approved Environment Impact Assessment for deforestation greater than 10 ha, or conversion to plantation greater to 70ha. -A phytosanitary manifest is required prior to commencement of harvesting, transport and processing of conifers wood, according to the -National Action Plan for Control of NMP applies to all conifers which also includes the registration of all operators License from Forest Authorities for cuttings and pruning are applied for forests and trees of <i>Quercus suber</i>, <i>Quercus ilex</i>, <i>Ilex aquifolium</i>; 	Classified area
			State	State entities		
				Forest Authority		

		Not protected or classified forest	Private and communal	Private, community or mixed management with forest authorities	Licenses in cases of: - special Classified Habitats; -age conditions (special permit is needed if young forest is harvest); -site conditions (special permit is mandatory if riparian forest are harvested); -Approved Environment Impact Assessment for deforestation greater than 50 ha, or conversion to plantation greater to 350ha. - A phytosanitary manifest is required prior to commencement of harvesting, transport and processing of conifers wood, according to the National Action Plan for Control of NMP applies to all conifers which also includes the registration of all operators -License from Forest Authorities for cuttings and pruning are applied for forests and trees of <i>Quercus suber</i> , <i>Quercus ilex</i> , <i>Ilex aquifolium</i>	Production forest
	State		State entities			
			Forest Authority		-Approved Environment Impact Assessment for deforestation greater than 50 ha, or conversion to plantation greater to 350ha. - A phytosanitary manifest is required prior to commencement of harvesting, transport and	Production forest

					processing of conifers wood, according to the National Action Plan for Control of NMP applies to all conifers which also includes the registration of all operators	
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E. Legality Risk Assessment

LEGAL RIGHTS TO HARVEST

1.1. Land tenure and management rights

Legislation covering land tenure rights, including customary rights as well as management rights that includes the use of legal methods to obtain tenure rights and management rights. It also covers legal business registration and tax registration, including relevant legal required licenses. Risk may be encountered where land rights have not been issued according to prevailing regulations and where corruption has been involved in the process of issuing land tenure and management rights. The intent of this indicator is to ensure that any land tenure and management rights have been issued according to the legislation.

1.1.1. Applicable laws and regulations

Legal regime of land reorganization:

- Law 152/2015 dated 14/09;
- Law 111/2015 dated 27/08;
- Decree Law (DL) 21/2014, dated 11/02;
- Law 62/2012 dated 10/12;
- Agriculture & Forest Soil:
- Law 86/95 dated 1/09, updated by DAR396/XII, not published

Land tenure rights:

- DL 224/84 dated 6/07 & 30 updates of Land Code Registry (Código do Registo Predial) including DL nº 116/2008, dated 4/08.

Cadastre:

- Res. do Cons. de Min n.º 56/2012 General Case
- DL 172/95, dated 18/07.
- SiNErGIC parishes in experimental regime
- Res. Cons. Min. 45/2006, dated 4/05 e
- DL 224/2007, dated 01/06

Baldios/community forest lands:

- Lei 68/93, dated 4/10
- Lei 89/97, dated 30/07 Rural rental/leasing
- DL 294/2009, dated 13/10

Civil Code:

- DL n.º 47344/66, dated 25/11 & 62 updates to Civil Code (Código Civil)

Registry of singular/collective entities:

- DL 403/86, dated 3/12 & updates Código Registo Comercial

1.1.2. Legal authority

Civil, commercial and property registry:

- Institute of Registrars and Notaries/ Ministry of Justice (Instituto dos Registos e Notariado/Ministério da Justiça)

Cadastre:

- Geographic Institute/ Ministry of Agriculture and Sea (Instituto Geográfico Português/ Ministério da Agricultura e do Mar)

1.1.3. Legally required documents or records

Land tenure:

- Description on the Land Registry (Descrição na Conservatória do Registo Predial) is the only official land tenure document:
- Content: certificate matrix article of tax office (Certidão de teor do artigo de Matriz da repartição de finanças & land notebook (Caderneta predial) is the fiscal document that confirms payment of taxes.

Other documents:

- Judicial final and unappealable decision (Sentença judicial transitada em julgado).
- Notarial deed (Escritura notarial)
- Testament (Testamento)

Rural Renting/ Leasing:

- Rural renting/ leasing contract (Contrato de Arrendamento Rural)

For Collective or Commercial entities:

- Extract from the commercial register (Certidão do Registo Comercial) to prove the specific responsibilities of owners/ managers/ presidents.

1.1.4. Sources of information

Government sources

- parlamento.pt (2005) *Constitution of the Portuguese Republic (Constituição da República Portuguesa)* [online]. Available at: <http://www.parlamento.pt/Legislacao/Documents/constpt2005.pdf>
- dgterritorio.pt (N.Y.) *Cadastral information*. [online] Cadastre at Direção Geral do Território. Available at: http://www.dgterritorio.pt/cadastro/cadastro_geometrico_da_propriedade_rustica_cgpr/_consultar_seccoes_cadastrais/

Non-Government sources

- transparency.org (N.Y.) *Transparency International's Corruption Perceptions Index 2014* [online] Transparency International -The global coalition against corruption – Available at: <https://www.transparency.org/cpi2014/results>

- worldbank.org (N.Y.) *Worldwide Governance Indicators Report* [online] World Bank. Available at: <http://info.worldbank.org/governance/wgi/index.aspx#reports>
- Beires, R.S. (2013) *O cadastro e a propriedade rustica em Portugal* [online] Fundação Francisco Manuel dos Santos e Rodrigo Sarmento de Beires. Available at: https://www.ffms.pt/upload/docs/o-cadastro-e-a-propriedade-rustica-em-portugal_yUM5ASBAUmUpHUIgJtp0A.pdf
- Revez, I. (2015) *Confirmação do cadastro predial gera o caos em Loulé* [online]. Publico online. Available at: <http://www.publico.pt/local/noticia/confirmacao-do-cadastro-predial-gera-o-caos-em-loule-1708034>
- visao.sapo.pt (2014) *Cadastro a prédios rústicos e urbanos em Portugal custaria 700 ME* [online] Revista Visão. Available at: <http://visao.sapo.pt/lusa/cadastro-a-predios-rusticos-e-urbanos-em-portugal-custaria-700-me=f774740>
- Costa, T. (2013) *Há um imposto que o Estado não consegue cobrar* [online] Dinheiro Vivo. Available at: http://www.dinheirovivo.pt/Imprimir.aspx?content_id=3758346

1.1.5. Risk determination

Overview of legal requirements

Forest land tenure in Portugal is based on one document (Description of the Land Registry), but several documents are used on the ground as transitory or incomplete evidence, as the Description on the Land Registry is not updated for all lands. There are, however, regions (53% of territory) where there is a geometric cadastral survey of rural lands (Cadastro Geométrico da Propriedade Rústica); so there is some conformity between spatial and numeric information held by tax offices (matriz e secção da Caderneta Predial Rústica da repartição das finanças). In regions where there is no rural geometric cadastre (47% of the territory), the land tenure documents are based only on descriptions of communications with neighbours. In the field, property borders are denoted with stone markers for only 75% of the registered land (this figure does not include the unknown proportion of marked land for which the owner is not known).

Description of risk

The rural cadastral process is very complex and there are still areas where the land tenure situation lacks transparency. Big differences exist therefore between regions with or without the rural geometric cadastral survey, and also with or without marked borders. A modern estate cadastre has been initiated – based on geo-referenced data – with the multiple objectives of conformity to the land description, legal tenure and tax payments. This has to date been completed for 3% of the territory. As there is no need for harvest permits in the common productive forests, the land tenure has become a problem in some regions as follows:

- Even the modern process of cadastral works readily becomes chaotic (for example in the public consultation of 2015);
- Challenges associated with cadastral works include the cost as well as the long timeframe (about twenty years);
- The cadastral issue is also a fiscal problem, as it is currently not possible for governments to collect the land taxes of rural lands that are not covered by cadastre (IMI).

While the scale of this issue is broad, the impact has been evaluated as limited. Despite the difficulties and complexities concerning land tenure and management rights (mainly due to the absence of geometric cadastre information), there is no significant evidence, at the national level, of conflicts or disputes about the issue.

Risk Conclusion

This indicator has been evaluated as low risk. Identified laws are upheld. Cases where law/regulations are violated are efficiently followed up via preventive actions taken by the authorities and/or by the relevant entities.

1.1.6. Risk designation and specification

Low risk

1.1.7. Control measures and verifiers

N/A

1.2. Concession licenses

Legislation regulating procedures for the issuing of forest concession licenses, including use of legal methods to obtain concession license. Especially bribery, corruption and nepotism are well-known issues in connection with concession licenses. The intent of this indicator is to avoid risk related to situations where organizations are obtaining concession licenses via illegal means such as bribery, or where organizations or entities that are not eligible to hold such rights do so via illegal means. Risk in this indicator relates to situations where due process has not been followed and the concession rights can therefore be considered to be illegally issued. The level of corruption in the country or sub-national region is considered to play an important role and corruption indicators (e.g., Corruption Perception Index, CPI) should therefore be considered when evaluating risks.

1.2.1. Applicable laws and regulations

N/A

1.2.2. Legal authority

N/A

1.2.3. Legally required documents or records

N/A

1.2.4. Sources of information

N/A

1.2.5. Risk determination

N/A

1.2.6. Risk designation and specification

N/A

1.2.7. Control measures and verifiers

N/A

1.3. Management and harvesting planning

Any legal requirements for management planning, including conducting forest inventories, having a forest management plan and related planning and monitoring, as well as approval of these by competent authorities. Cases where required management planning documents are not in place or are not approved by competent authorities should be considered. Low quality of the management plan resulting in illegal activities may be a risk factor for this indicator as well.

1.3.1. Applicable laws and regulations

Forest Management Plan (PGF):

- Decree-Law (DL) 114/2010, de 22/10
- DL 16/2009, de 14/01
- DL 205/99, de 9/06

Forest Intervention Area (ZIF):

- Port. 222/2006, de 8/03
- DL 127/2005, de 5/08
- DL 16/2009, de 14/01 (PROF; PGF; PEIF; PUB)
- DL 127/2005, de 5/08

Specific Plan for Forest Intervention (PEIF):

- Desp. 20194/2009 de 7/09
- Basic Law on Forest Policy Lei 33/96, 17/08

Forest fire areas:

- DL 139/88, de 22/05
- DL 180/89, de 30/05
- DL 55/2007, de 12/03
- DL 327/90, de 22/10
- Lei n.º 54/91, de 8/08
- DL 34/99, de 5 de Fevereiro
- Res. Cons. Min. 5/2006, de 18/01

Reforestation and afforestation actions:

- DL 96/2013 19/07

Environment Law:

- Law n.º 19/14 de 14/04
- DL 49/05, de 24/02
- DL 197/2005, de 8/11

Ecological National Reserve:

- DL 239/12 at 2/11
- Port 419/12 at 20/12

1.3.2. Legal authority

- Ministry of Agriculture and Sea (Ministério da Agricultura e do Mar)
- Institute of Nature Conservation and Forests (ICNF) (Instituto de Conservação da Natureza e Florestas)
- Republican National Guard (Guarda Nacional Republicana) (GNR)
- Serviço da Protecção da Natureza e do Ambiente (SEPNA) (The Office of the Protection of Nature and the Environment, i.e. the enforcement arm of GNR for environmental matters) (jointly the latter two agencies are known as GNR-SEPNA)
- Local municipalities

1.3.3. Legally required documents or records

Approval documentation of the Forest Management Plan (general case: mandatory above a specific area which varies with the Region Forest Plan definition), or Specific Plan for Forest Intervention, Community Use Area Plan (Plano de Utilização de Baldios) or Environmental Impact Assessment (EIA).

1.3.4. Sources of information

Government sources

- ICNF (N.Y.) *Instituto da Conservação da Natureza e Florestas*. [online] Available at: <http://www.icnf.pt/portal>

Non-Government sources

- quercus.pt (N.Y.) *Associação Nacional de Conservação da Natureza* [online] Available at: <http://www.quercus.pt/>
- lpn.pt (N.Y.) *Liga para a Protecção da Natureza* [online] Available at <http://www.lpn.pt/>
- wwf.pt (N.Y.) *World Wildlife Fund Portugal* [online] Available at: <http://www.wwf.pt>
- geota.pt (N.Y.) *Grupo de Estudos de Ordenamento do Território e Ambiente* [online] Available at: <http://www.geota.pt/scid/geotawebpage/>
- AIFF.pt (2014) *Relatório de Caracterização da Fileira Florestal Portuguesa 2014* [online] Associação para a Competitividade da Indústria da Fileira Florestal. Available at: <http://www.aiff.org.pt/assets/Relatorio-de-Characterizacao-da-Fileira-Florestal-2014-160p-CAPA-3-spread....pdf>
- Anefa.pt (N.Y.) *Associação Nacional de Empresas Florestais, Agrícolas e do Ambiente* [online] Available at: <http://www.anefa.pt/>

1.3.5. Risk determination

Overview of Legal Requirements

Requirements for Forest Management Plans (Community Use Area Plan (PUB), Specific Plan for Forest Intervention (PEIF), etc.) have been in place since 2000, and (up to 2013) were in place for about 44% of the Portuguese forest area.

In private areas, forest plans are mandatory for all forest areas greater than a certain area (from 25ha to 100ha, depending on the region); however lack of this requirement has not resulted in any known infringements.

In public areas, forest plans are obligatory for all areas; however numbers from 2012 indicate that only 43% of these forests have the PGF. As of 2015, it is an objective of the forest authority ICNF that 100% of its areas should have a PGF by 2017.

In community areas, forest plans are obligatory for all areas; however 2015 data show that Forest Plans (PUB) are in place in only 60% of cases.

The relationship between Management Plans and cutting or harvesting is not a direct one, as there is no requirement for a harvesting plan for commercial harvesting of most species. However, for certain species (e.g. Cork Oak, Holm Oak and Holly) some requirements are in place. For these species, a license is required (where no Forest Management Plan is in place) or the forest authorities (ICNF) shall be informed prior to harvesting (where a management plan exists). For some zones within protected areas for native species harvesting, an approved management plan or permit is required. In classified areas (RN2000), all forest conversions above 5 ha must have a permit; however this excludes normal forest activities.

Description of Risk

Despite this being an obligatory requirement, there are risks associated with wood being harvested from a forest area where no Forest Management Plan is in place. Such risks, however, are considered to be low because:

- the risk is temporary, as the number of approved Management Plans has increased greatly in the past few years; and it is not feasible to estimate how much of the forest area does not conform given the situation with cadastral works (see 1.1 Land tenure and management rights);
- such risks cause a limited impact on forest resources as they are not directly related to forest harvesting.

Risk Conclusion

This indicator has been evaluated as low risk. Identified laws are upheld. Cases where law/regulations are violated are efficiently followed up via preventive actions taken by the authorities and/or by the relevant entities.

1.3.6. Risk designation and specification

Low risk

1.3.7. Control measures and verifiers

N/A

1.4. Harvesting permits

Legislation regulating the issuing of harvesting permits, licenses or other legal document required for specific harvesting operations. It includes the use of legal methods to obtain the permit. Corruption is a well-known issue in connection with the issuing of harvesting permits. Risk relates to situations where required harvesting is carried out without valid permits or where these are obtained via illegal means such as bribery. In some areas, bribery may be commonly used to obtain harvesting permits for areas and species that cannot be harvested legally (e.g., protected areas, areas that do not fulfil requirements of minimum age or diameter, tree species that cannot be harvested, etc.). In cases where harvesting permits classify species and qualities to estimate fees, corruption and bribery can be used to classify products that will result in a lower fee. The level of corruption in a country or sub-national region is considered to play an important role and corruption indicators should therefore be considered when evaluating risks. In cases of illegal logging, harvesting permits from sites other than the actual harvesting site may be provided as a false proof of legality with the harvested material.

1.4.1. Applicable laws and regulations

Cork Oak and Holm Oak (*Quercus suber* and *Quercus ilex*):

- Decree Law (DL) 155/2004, de 30/06
- DL 169/2001, de 25/05

Ilex aquifolium:

- DL 423/89, de 4/12

Pinus pinea cones:

- DL 77/15 de 12/05

Resination:

- DL 181/2015, de 28/08

Pine Nematode (Nemátodo da madeira do pinheiro) (NMP):

- Dec. Retificação n.º 38/2015 de 01/09
- DL 123/15, de 3/07
- DL 95/2011, de 8/08
- DL 154/05 de 6/09
- Dec. n. 30-A/2011, de 7/10

Premature harvesting of *Pinus pinaster* and *Eucalyptus*:

- Decreto-Lei n.º (DL) 173/88, de 17/05

Harvesting manifest:

- DL 174/88, de 17/05

Municipal licenses of vegetation destruction:

- Decreto-lei n.º 139/89

High risk areas for harvesting:

- Desp. 17 282/2003

Operational cuttings on forest regime areas:

- Desp. 18355/2008

Riparian vegetation destruction:

- Law 54/2005 15/11.

Environment Law:

- N.º 19/14 de 14/04
- DL 49/05, de 24/02
- DL 197/2005, de 8/11

Timber Operator Registry:

- DL76/2013 at 5/06

1.4.2. Legal authority

- Ministry of Agriculture and Sea (Ministério da Agricultura e do Mar);
- Institute of Nature Conservation and Forests (ICNF) (Instituto de Conservação da Natureza e Florestas);
- Environmental Service of National Republican Guard (GNR/ SEPNA);
- Local municipalities
- Concerning the National Action Plan for Control of NMP: other entities besides ICNF (Forest Authority) have responsibilities. e.g. DGAV - General Directorate of Food and Veterinary; and DGAP - General Directorate of Agriculture and Fisheries.

1.4.3. Legally required documents or records

- Written permit referring to applicable legislation;
- Operator registration and previous notification in all cases involving conifers because of National Action Plan for Control of NMP;
- Operator registration and previous notification in cases of resination and pine cone (*Pinus pinea*) harvesting;

1.4.4. Sources of information

Government sources

- ICNF (N.Y.) *Instituto da Conservação da Natureza e Florestas*. [online] Available at: <http://www.icnf.pt/portal>
- apambiente.pt (N.Y.) *Agência Portuguesa de Ambiente* [online] Available at: <http://apambiente.pt/index.php>
- cm-<NAME>.pt (N.Y.) *Municipalities* [online] Available at: <http://www.cm-<NAME>.pt/>
- gnr.pt (online) *Serviço da Protecção da Natureza e do Ambiente | GNR - Guarda Nacional Republicana* [online] Available at: <http://www.gnr.pt/default.asp?do=5r20n/DF.zv55n1/Zv55n1>

Non-Government sources

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- lpn.pt (N.Y.) *Liga para a Protecção da Natureza* [online] Available at <http://www.lpn.pt/>
- geota.pt (N.Y.) *Grupo de Estudos de Ordenamento do Território e Ambiente* [online] Available at: <http://www.geota.pt/scid/geotawebpage/>
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- wwf.pt (N.Y) *World Wildlife Fund Portugal* [online] Available at: <http://www.wwf.pt>
- Anefa.pt (N.Y.) *Associação Nacional de Empresas Florestais, Agrícolas e do Ambiente* [online] Available at: <http://www.anefa.pt/>
- aimmp.pt (N.Y.) *Associação das Indústrias de Madeira e Mobiliário de Portugal* [online] Available at: <http://aimmp.pt/>
- isa.utl.pt (N.Y) *Centro de Ecologia Aplicada Prof. Baeta Neves* [online] Available at: <http://www.isa.utl.pt/ceabn/>
- esac.pt (N.Y) *Escola Superior Agrária de Coimbra* [online] Available at: <http://portal.esac.pt/portal/>

1.4.5. Risk determination

Overview of Legal Requirements

No permit is required for normal silvicultural harvesting, including the final cut. (Refer also 1.9 Protected sites and species.)

A harvesting manifest is obligatory for all normal commercial harvesting activities (timber and cork), and may be submitted to forest authorities (ICNF) up to 30 days after the felling operation.

Approval documentation is required for the specific operations relating to Cork Oak and Holm Oak including cuttings and pruning, Holly cuttings, riparian cuttings, and also premature harvesting of Eucalyptus and *Pinus pinaster*.

In all areas it is obligatory to have an Environmental Impact Assessment approved if afforestation or reforestation is taking place with fast-growing forest species covering over 350 ha; or cutting and conversion to non-forest uses in an area greater than 50 ha.

A National Action Plan for Control of Nemátodo da madeira do pinheiro (NMP) (*Bursaphelenchus xylophilus*) and its vector insect *Monochamus galloprovincialis* is in place. This mostly focuses on *Pinus pinaster* (23% of all forest areas) but applies to all other host conifers: *Abies* spp., *Cedrus* spp., *Larix* spp., *Picea* spp., *Pinus* spp., *Pseudotsuga* spp., *Tsuga* spp. – with these species covering 8% of forests.

Pine cone collection is regulated by new legislation (2015), which includes the obligatory registration of operators and also notification of the forest authorities before any operations commence.

Since 2013 and the introduction of the EUTR laws, operators are required to register their activities on a Digital Platform managed by forest authorities (ICNF).

Description of Risk

As there is no permit required for ordinary forest harvesting, all attention is focused on exceptional cases; which are considered Low Risk because of the reduced scale of potential impact:

- Cork Oak, Holm Oak and Holly operations and also riparian vegetation and protected areas (refer 1.9 Protected sites and species);
- Conversion from forest to plantations for areas larger than 350 ha; or conversion to other (non-forest) uses for areas greater than 50 ha, as described in Category 4 Conversion;
- The National Action Plan for Control of NMP applies to all conifers and includes a strict phytosanitary plan requiring up-front registration of all operators and notification to authorities, prior to commencement of harvesting, transport and processing of wood.

Risk Conclusion

This indicator has been evaluated as low risk. Identified laws are upheld. Cases where law/regulations are violated are efficiently followed up via preventive actions taken by the authorities and/or by the relevant entities.

1.4.6. Risk designation and specification

Low risk

1.4.7. Control measures and verifiers

N/A

TAXES AND FEES

1.5. Payment of royalties and harvesting fees

Legislation covering payment of all legally required forest harvesting specific fees such as royalties, stumpage fees and other volume based fees. It also includes payments of the fees based on correct classification of quantities, qualities and species. Incorrect classification of forest products is a well-known issue often combined with bribery of officials in charge of controlling the classification.

1.5.1. Applicable laws and regulations

N/A (harvesting fees are not relevant in Portugal)

1.5.2. Legal authority

N/A

1.5.3. Legally required documents or records

N/A

1.5.4. Sources of information

N/A

1.5.5. Risk determination

N/A

1.5.6. Risk designation and specification

N/A

1.5.7. Control measures and verifiers

N/A

1.6. Value added taxes and other sales taxes

Legislation covering different types of sales taxes, which apply to the material being sold, including selling material as growing forest (standing stock sales). Risk relates to situations where products are sold without legal sales documents or far below market price resulting in illegal avoidance of taxes.

1.6.1. Applicable laws and regulations

VAT Code

- CIVA
- Decree Law (DL) n.º 102/2008, de 20/6
- Port. 1137-B/2008, de 9/10

1.6.2. Legal authority

- Tributary and customs authority/ Tax Ministry - Autoridade Aduaneira/ Ministério das Finanças

1.6.3. Legally required documents or records

- Valid Invoice/receipts
- Valid declaration of non-debt

1.6.4. Sources of information

Government sources

- portaldasfinancas.gov.pt (N.Y.) *Autoridade Tributária e Aduaneira* [online] Available at: <https://www.portaldasfinancas.gov.pt/pt/home.action>
- info.portaldasfinancas.gov.pt (2012) *VAT Exemption and reduction* [online] Autoridade Tributária e Aduaneira. Available at: <http://info.portaldasfinancas.gov.pt/NR/rdonlyres/9A86386D-7EB8-447F-9EAC-CEB67C206BD2/0/INFORMA%C3%87%C3%83O.3526.pdf>
- info.portaldasfinancas.gov.pt (2013) *Self invoicing by the buyer* [online] Autoridade Tributária e Aduaneira. Available at: (http://info.portaldasfinancas.gov.pt/NR/rdonlyres/A4FB3349-0071-47FC-97EC-ADE2061C094A/0/Informacao_5332.pdf)

Non-Government sources

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- Anefa.pt (N.Y.) *Associação Nacional de Empresas Florestais, Agrícolas e do Ambiente* [online] Available at: <http://www.anefa.pt/>
- aimmp.pt (N.Y.) *Associação das Indústrias de Madeira e Mobiliário de Portugal* [online] Available at: <http://aimmp.pt/>
- otoc.pt (N.Y.) *Ordem dos Contabilistas Certificados* [online] Available at: <http://www.otoc.pt/pt/a-ordem/>

1.6.5. Risk determination

Overview of Legal Requirements

A normal tax rate of 23% VAT is applied to the sale of wood. In special cases, a VAT reduction to 6% can be applied to the owner of 'standing wood' or 'standing stock sales'; or even VAT exemption if the owner is an agriculturalist or silviculturalist. Invoices must be issued by the seller, but self-invoicing by the buyer may occur in exceptional circumstances if some conditions are met (previous agreement, data conformity, etc.).

Description of Risk

As no specific evidence of irregularity has been identified in relation to payment of VAT, this requirement is considered Low Risk. The payment of VAT is by a simple requisition that is easy to verify and legally undertake by both entities (seller and buyer). The exceptional regimes of reduced taxes or exemption are in place to include the cases of forest owners with special profiles as agriculturalist or silviculturalist.

Risk Conclusion

This indicator has been evaluated as low risk. Identified laws are upheld. Cases where law/regulations are violated are efficiently followed up via preventive actions taken by the authorities and/or by the relevant entities.

1.6.6. Risk designation and specification

Low risk

1.6.7. Control measures and verifiers

N/A

1.7. Income and profit taxes

Legislation covering income and profit taxes related to the profit derived from sale of forest products and harvesting activities. This category is also related to income from the sale of timber and does not include other taxes generally applicable for companies or related to salary payments.

1.7.1. Applicable laws and regulations

Individual Income Code:

- Código IRS – Available at: http://info.portaldasfinancas.gov.pt/NR/rdonlyres/8787D561-FF96-4DC1-B8B3-23A4AC97947E/0/CIRS_07_2015.pdf
- Decree Law (DL) 442-A/88 - Updated by Law 82-D/2014, de 31/12

Commercial Income Code:

- Código do IRC - Available at: <http://info.portaldasfinancas.gov.pt/NR/rdonlyres/DB0D5898-6686-41CA-A750-3498D9BCB579/0/CIRC.pdf>
- DL 442-B/88 Updated by Law n.º 2/2014 de 16/12
- Port.- 55/2010 21/01

1.7.2. Legal authority

- Tributary and customs authority/ Tax Ministry - Autoridade Aduaneira/ Ministério das Finanças

1.7.3. Legally required documents or records

- IEES
- Non-debt declaration IRS/IRC
- Proof of Annual declaration IRS/IRC
- Relatório Único

1.7.4. Sources of information

Government sources

- portaldasfinancas.gov.pt (N.Y.) *Autoridade Tributária e Aduaneira* [online] Available at: <https://www.portaldasfinancas.gov.pt/pt/home.action>

Non-Government sources

- AIFF.pt (2014) *Relatório de Caracterização da Fileira Florestal Portuguesa 2014* [online] Associação para a Competitividade da Indústria da Fileira Florestal. Available at: <http://www.aiff.org.pt/assets/Relatorio-de-Characterizacao-da-Fileira-Florestal-2014-160p-CAPA-3-spread....pdf>
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- aimmp.pt (N.Y.) *Associação das Indústrias de Madeira e Mobiliário de Portugal* [online] Available at: <http://aimmp.pt/>
- otoc.pt (N.Y.) *Ordem dos Contabilistas Certificados* [online] Available at: <http://www.otoc.pt/pt/a-ordem/>

1.7.5. Risk determination

Overview of Legal Requirements

Legal requirements are listed in column H and include explicit documents that are readily verified.

Description of Risk

Risk is perceived as low as objective documentation exists related to income tax payments (individually or as collective entities) and information is freely available to third parties upon request via web application to the tax authorities.

Risk Conclusion

This indicator has been evaluated as low risk. Identified laws are upheld. Cases where law/regulations are violated are efficiently followed up via preventive actions taken by the authorities and/or by the relevant entities.

1.7.6. Risk designation and specification

Low risk

1.7.7. Control measures and verifiers

N/A

TIMBER HARVESTING ACTIVITIES

1.8. Timber harvesting regulations

Any legal requirements for harvesting techniques and technology including selective cutting, shelter wood regenerations, clear felling, transport of timber from felling site and seasonal limitations etc. Typically this includes regulations on the size of felling areas, minimum age and/or diameter for felling activities and elements that shall be preserved during felling etc. Establishment of skidding or hauling trails, road construction, drainage systems and bridges etc. shall also be considered as well as planning and monitoring of harvesting activities. Any legally binding codes for harvesting practices shall be considered.

1.8.1. Applicable laws and regulations

Cork Oak and Holm Oak (*Quercus suber* and *Quercus ilex*):

- Decree Law (DL) 155/2004, de 30/06
- DL 169/2001, de 25/05

Ilex aquifolium:

- DL 423/89, de 4/12

Pinus pinea cones:

- DL 77/15 de 12/05

Resination:

- DL 181/2015, at 28/08

Pine Nematode (Nemátodo da madeira do pinheiro) (NMP):

- Dec. Retificação n.º 38/2015 de 01/09
- DL 123/15, de 3/07
- DL 95/2011, de 8/08
- DL 154/05 6/09
- Dec. n. 30-A/2011, de 7/10

Premature harvesting of Pinus pinaster and Eucalyptus

- Decreto-Lei (DL) n.º 173/88, de 17/05

Harvesting manifest

- DL 174/88, de 17/05

Municipal licenses of vegetation destruction

- Decreto-lei n.º 139/89

High risk areas for harvesting

- Desp. 17 282/2003

Operational cuttings on forest regime areas

- Desp. 18355/2008 Riparian vegetation destruction: Law 54/2005 15/11.
- Environment law n.º 19/14 de 14/04
- DL 49/05, de 24/02

- DL 197/2005, de 8/11

Timber Operator Registry:

- DL76/2013 de 5/06

1.8.2. Legal authority

- Ministry of Agriculture and Sea (Ministério da Agricultura e do Mar);
- Institute of Nature Conservation and Forests (ICNF) (Instituto de Conservação da Natureza e Florestas);
- Environmental Service of National Republican Guard (GNR/ SEPNA);

1.8.3. Legally required documents or records

- Previous communication to INCF in the case of harvest of *Quercus suber* and *Quercus ilex* relating to approved Forest Management Plans.
- Other existing communications, licenses or manifests referred to in 1.4 Harvesting permits.
- Regulations for NTFPs such as cork, pine cones or resin (and even wood and timber harvesting) do not require documented records.

1.8.4. Sources of Information

Government sources

- ICNF (N.Y.) *Instituto da Conservação da Natureza e Florestas*. [online] Available at: <http://www.icnf.pt/portal>
- apambiente.pt (N.Y.) *Agência Portuguesa de Ambiente* [online] Available at: <http://apambiente.pt/index.php>
- cm-<NAME>.pt (N.Y.) *Municipalities* [online] Available at: <http://www.cm-<NAME>.pt/>

Non-Government sources

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1.8.5. Risk determination

Overview of Legal Requirements

The Portuguese authorities attribute to forest lands many protective functions; however such functions are dispersed throughout a large volume of protective legislation, regulations and plans; a substantial proportion of which is not fulfilled in practice. For example, there are several recommendations relating to the size of harvesting areas; or protection of riparian areas inside harvesting sites; but they are subjective or dispersed through the forest legislation framework or incorporated in sections with many other generic best practices. There are no known contraventions in relation to ordinary harvesting regulations.

There are no specific regulations or legislation covering ordinary commercial harvesting operations; so therefore there is normally no objective requirement with which to comply.

Regulations covering specific harvesting activities exist in exceptional cases such as:

- Cork collection, in which the regulations define the procedures to harvest cork (diameter, age of cork, etc.); but there is no licence, permit or records associated with the regulations;
- Cork Oak and Holm Oak pruning and harvesting, with the regulations defining the seasonal requirements and other technical procedures, and a licence is issued by the forest authorities;
- Premature harvesting of Eucalyptus and *Pinus pinaster*; the regulations define minimum diameters for cutting of these species for commercial use, and a licence is issued for such cases;
- Phytosanitary procedures associated with NMP disease, applying to *Pinus pinaster* and all conifers – with different levels pertaining to specific geographic areas of the country.

Description of Risk

On the one hand, there are good examples of the application of harvesting regulations (for example, relating to cork harvesting), which are considered globally to be the best. On the other hand, poor examples of harvesting operations may be seen in the field with cases such as pruning Holm Oak, or riparian protection inside felling areas.

Other situations are very complex to verify, for example the maximum size of harvesting areas. Such situations require verification using the Regional Forest Management Plan – and the FMU Management Plan if there is one. Another example of the complexity of legislation is the premature harvesting of Eucalyptus and *Pinus pinaster* from a time where there were no biomass plantings in the country.

Despite the lack of information about harvesting operations – including objective data or reports based on field inspections by authorities – the risk is considered low because there is no evidence of large-scale impacts, either spatially or temporally.

Risk Conclusion

This indicator has been evaluated as low risk. Identified laws are upheld. Cases where law/regulations are violated are efficiently followed up via preventive actions taken by the authorities and/or by the relevant entities.

1.8.6. Risk designation and specification

Low risk

1.8.7. Control measures and verifiers

- N/A

1.9. Protected sites and species

International, national, and sub national treaties, laws, and regulations related to protected areas allowable forest uses and activities, and/or, rare, threatened, or endangered species, including their habitats and potential habitats. Risk relates to illegal harvesting within protected sites, as well as illegal harvest of protected species. Note that protected areas may include protected cultural sites, including sites with historical monuments.

1.9.1. Applicable laws and regulations

Management/ Plan of Conditions for each protected area:

- Decree Law (DL) 142/2008 de 24/07 Artº 43º Available at:
<https://dre.pt/application/dir/pdf1sdip/2008/07/14200/0459604611.PDF>

Biodiversity Convention:

- DL 21/93, de 21/06

Bern Convention:

- DL 95/81, de 23/07
- DL 316/89, de 22/09

Bonn Convention:

- DL 103/80, de 11/10

Birds Directive:

- DL 140/99, de 24/05
- DL 384-B/99, de 23/09

Habitats Directive:

- Res. Cons. Min. 198/97, de 28/08
- Res. Cons. Min. 76/2000 de 5/07

Birds and Habitats Directive:

- DL 49/05 24/02

Natural habitats, fauna and flora:

- DL 140/99, de 24/05
- DL 226/97, de 27/08
- DL 155/2004, de 30/06

Quercus suber and Quercus ilex:

- DL 169/2001, de 25/05 Artº 2º. Available at:
<https://dre.pt/application/dir/pdf1sdip/2001/05/121A00/30533059.pdf> updated by DL 155/2004, 30/06 Available at:
<https://dre.pt/application/dir/pdf1sdip/2004/06/152A00/39673968.pdf>

Ilex aquifolium:

- DL 423/89, de 4/12

Riparian vegetation destruction:

- Law 58/2005 29/12
- Law 54/2005 15/11.
- Monumental trees and forests Law 53/2012 5/09 (Artº 4). Available at:
<https://dre.pt/application/dir/pdf1sdip/2012/09/17200/0512405126.pdf>
- Environment Law 19/2014 14/04
- DL 49/05, de 24/02
- DL 197/2005, de 8/11

1.9.2. Legal authority

All forests, protected species and sites:

Relevant competent authority:

- Ministry of Agriculture and Sea (Ministério da Agricultura e do Mar);
- Institute of Nature Conservation and Forests (ICNF) (Instituto de Conservação da Natureza e Florestas);
- Inspection authority: GNR/SEPNA

Environment:

- Water issues: Portuguese Agency of Environment (APA)/
- Other environmental issues: General Inspection of Agriculture, Environment and Territory Planning (IGAMAOT).
- Other fiscalization authority: GNR/ SEPNA

1.9.3. Legally required documents or records

- Each protected site (protected areas and reserves) has forest regulations within its Plan of Conditions with indications about the licensing of forest activities, which may include interdicted and conditional (to licensing) forest actions, as well as the activities included in an approved Forest Management Plan; these activities being automatically licensed.
- Classified areas (RN2000) have prohibitions on destruction or cutting of all classified species without a special license.

- Cutting of riparian vegetation is dependant on license from the Portuguese Environment Agency (APA).
- Felling or pruning of protected forest species (within protected, classified and riparian areas) including Cork Oak (*Quercus suber*), Holm Oak (*Quercus ilex*) and common Holly (*Ilex aquifolium*) depends on a license issued by the Institute of Nature Conservation and Forests (ICNF).
- In all sensitive areas (protected, classified and monumental areas), it is obligatory to have an approved Environmental Impact Assessment if afforestation or reforestation is taking place with fast-growing forest species covering over 70 ha or conversion to non-forest uses (deforestation) in an area greater than 10 ha.

1.9.4. Sources of Information

Government sources

- ICNF (N.Y.) *Instituto da Conservação da Natureza e Florestas*. [online] Available at: <http://www.icnf.pt/porta>
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<http://www.guimaraesdigital.com/noticias/56561/abate-de-arvores-e-remocao-de-terras-em-infantas-sem-licenca-da-camara>

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- Rodrigues E. (2015) *Butwell condenada por crime contra a Natureza e desobediência qualificada na Ria de Alvor* [online] 11/07/2015 at Sulinformação. Available at: <http://www.sulinformacao.pt/2015/07/butwell-condenada-por-crime-contra-a-natureza-e-desobediencia-qualificada-ria-de-alvor>
- peticaopublica.com (2013) *Construção de estrada no Parque Natural do Alvão ameaça população de lobos e de borboletas* [online] 2/08/2013 Available at: <http://peticaopublica.com/pview.aspx?pi=P2013N40609>

1.9.5. Risk determination

Overview of Legal Requirements

Every protected area in Portugal has specific regulations (specific conditions or management plan) for forestry activities including prohibited and conditional operations with obligatory licenses for commercial and/or pre-commercial harvesting; or an approved forest management plan, in addition to water, soil and protected species legislation. These forestry rules normally depend on the grade of protection of each area.

The classified areas (RN2000) have specific prohibitions for harvesting and restrictions in relation to afforestation activities that require the authorization and approval of a management plan for private owners. For all conversions greater than 5 ha in area, a permit must be obtained, but this excludes normal forest activities.

In all sensitive areas (protected, classified and monumental areas), it is obligatory to have an approved Environmental Impact Assessment if afforestation or reforestation is taking place with fast-growing forest species covering over 70 ha or conversion to non-forest uses (deforestation) in an area greater than 10 ha.

Vegetation occupying publicly maintained waterways (both on public and private land), such as riparian trees and shrubs, is protected against harvesting and destruction.

Protected forest species are Cork Oak (*Quercus suber*), Holm Oak (*Quercus ilex*) and Holly (*Ilex aquifolium*).

Description of Risk

NGOs have published many descriptions of damage to protected species and/or protected sites, including felling or removal, reforestation with fast-growing species, urbanization, mining, and lack of protection from forest fires. The principal fiscal entity SEPNA/ GNR reports an increasing number of cases of crimes and administrative offenses from 2003 to 2007 (from 174 to 2384) but, in the section 'Flora, reserves, parks and forests,' decreasing to 2049 cases in 2010 (with no subsequent updated data). No compiled data or reports have been identified to assist with evaluating the magnitude of the problem; but these actions are not rare, occurring throughout the country.

Such reports released by NGOs include descriptions of offenses by administrative entities, with some rare cases involving directors, politicians, and bankers.

The perception of risks in relation to the management of protected forest species and sites is that the legislative framework is very dynamic and complex (there is no Forest Code in Portugal); responsibilities are widely dispersed within authorities (ICNF, SEPNA/ GNR, municipalities, APA, IGAMAOT, etc.); the size and capacity of authorities in the field is low; most forest land in Portugal is privately owned and managed; and forest ownership is difficult to ascertain because of cadastral issues.

As a result, convictions for environmental crimes and administrative offenses in Portugal are rare, with the largest recorded in 2015 for an amount of 140 000€.

Risk Conclusion

This indicator has been evaluated as specified risk. Identified laws are not upheld consistently by all entities and/or are often ignored, and/or are not enforced by relevant authorities.

1.9.6. Risk designation and specification

Specified risk

1.9.7. Control measures and verifiers

- Owners of forest areas shall have approved Forest Management Plans in all areas where it is obligatory, depending on land size as stated by Regional Forest Management Plan;
- Owners of forest areas without Forest Management Plans shall have licenses for cutting and pruning Cork Oak, Holm Oak and Common Holly.
- Owners of forest areas without Forest Management Plans shall have licenses for forestry activities inside protected and classified areas, depending on the specific applicable regulations on each of those areas;
- All harvesting of vegetation from alongside publicly managed watercourses shall have a special license;
- Environment Impact Assessment is obligatory in sensitive areas for all afforestation or reforestation of fast-growing forest species above an area of 70 ha or for conversion to non-forest uses above 10 ha.
- Consultation with authorities
- Field verification
- 3rd party certification?

1.10. Environmental requirements

National and sub-national laws and regulations related to the identification and/or protection of environmental values including but not limited to those relating to or affected by harvesting, acceptable level for soil damage, establishment of buffer zones (e.g. along water courses, open areas, breeding sites), maintenance of retention trees on felling site, seasonal limitation of harvesting time, environmental requirements for forest machineries, use of pesticides and other chemicals, biodiversity conservation, air quality, protection and restoration of water quality, operation of recreational equipment, development of non-forestry infrastructure, mineral exploration and extraction, etc... Risk relates to systematic and/or large-scale non-compliance with legally required environmental protection measures that are evident to an extent that threatens the forest resources or other environmental values.

1.10.1. Applicable laws and regulations

Environment Law:

- Decree Law (DL) 19/2014, de 14/04
- DL 49/05, de 24/02
- DL 197/2005, de 8/11

National Ecological Reserve:

- DL 239/12 at 2/11
- Port. 419/12 at 20/12

EIA:

- DL 151-B/2013 Artº 1º. Available at:
<https://dre.pt/application/dir/pdf1sdip/2013/10/21102/0000600031.pdf>
- DL 47/2014, 24/03 31/10
- DL 179/2015, 27/08

Machinery:

- NP 1948, de 1994

Forest Equipment – Chainsaw:

- NP 2761, de 1988
- NP EN 13525:2005+A2:2009

Pollution:

- Dir. 96/61/CE 24/09

Forest fire areas:

- DL 139/88, de 22/05
- DL 180/89, de 30/05
- DL 55/2007, de 12/03
- DL 327/90, de 22/10
- Lei n.º 54/91, de 8/08
- DL 34/99, de 5 de Fevereiro
- Res. Cons. Min. 5/2006, de 18/01

1.10.2. Legal authority

All forests, protected species and sites:

Relevant competent authority:

- Ministry of Agriculture and Sea (Ministério da Agricultura e do Mar);
- Institute of Nature Conservation and Forests (ICNF) (Instituto de Conservação da Natureza e Florestas);
- Inspection authority: GNR/SEPNA

Environment:

- Water issues: Portuguese Agency of Environment (APA)/
- Other environmental issues: General Inspection of Agriculture, Environment and Territory Planning (IGAMAOT).
- Other fiscalization authority: GNR/ SEPNA

1.10.3. Legally required documents or records

- Approved EIA when applicable
- Records of oil and hazardous chemicals delivery.

1.10.4. Sources of information

Government sources

- ICNF (N.Y.) *Instituto da Conservação da Natureza e Florestas*. [online] Available at: <http://www.icnf.pt/portal>
- apambiente.pt (N.Y.) *Agência Portuguesa de Ambiente* [online] Available at: <http://apambiente.pt/index.php>
- cm-<NAME>.pt (N.Y.) *Municipalities* [online] Available at: <http://www.cm-<NAME>.pt/>

Non-Government sources

- quercus.pt (N.Y.) *Associação Nacional de Conservação da Natureza* [online] Available at: <http://www.quercus.pt/>
- lpn.pt (N.Y.) *Liga para a Protecção da Natureza* [online] Available at <http://www.lpn.pt/>
- wwf.pt (N.Y.) *World Wildlife Fund Portugal* [online] Available at: <http://www.wwf.pt>
- geota.pt (N.Y.) *Grupo de Estudos de Ordenamento do Território e Ambiente* [online] Available at: <http://www.geota.pt/scid/geotawebpage/>
- greenpeace.org (N.Y.) *Greenpeace International* [online] Available at: <http://www.greenpeace.org/international/en>
- Anefa.pt (N.Y.) *Associação Nacional de Empresas Florestais, Agrícolas e do Ambiente* [online] Available at: <http://www.anefa.pt/>
- aimmp.pt (N.Y.) *Associação das Indústrias de Madeira e Mobiliário de Portugal* [online] Available at: <http://aimmp.pt/>
- isa.utl.pt (N.Y.) *Centro de Ecologia Aplicada Prof. Baeta Neves* [online] Available at: <http://www.isa.utl.pt/ceabn/>
- esac.pt (N.Y.) *Escola Superior Agrária de Coimbra* [online] Available at: <http://portal.esac.pt/portal/>

1.10.5. Risk determination

Overview of Legal Requirements

Most environmental legal requirements relating to forestry planning activities are included in Portugal's forestry legislation. In the administrative process of forest planning or afforestation projects, the ICNF consults all other government departments (e.g. APA, GNR-SEPNA, etc.).

Exceptions to this process are the activities that require an Environment Impact Assessment such as conversion to non-forest uses on an area larger than 50 ha, or reforestation with fast-growing forest species on an area greater than 350 ha (as treated at 1.4 Harvesting permits and Category 4 Conversion).

In addition to the above forest process are environmental obligations related to machinery (maintenance, accident procedures) or agrochemicals – with these obligations regulated by specific environmental laws.

Description of Risk

The Portuguese authorities attribute to forest lands many protective functions; however such functions are dispersed throughout a large volume of protective legislation, regulations and plans; a substantial proportion of which is not fulfilled in practice. There is no forest code that could serve to centralise all the legislation and regulations relating to forest activities.

Despite the lack of information about harvesting operations – including objective data or reports based on field inspections by authorities – the risk is considered low because there is no evidence of large-scale impacts, either spatially or temporally.

Risk Conclusion

This indicator has been evaluated as low risk. Identified laws are upheld. Cases where law/regulations are violated are efficiently followed up via preventive actions taken by the authorities and/or by the relevant entities.

1.10.6. Risk designation and specification

Low risk

1.10.7. Control measures and verifiers

N/A

1.11. Health and safety

Legally required personnel protection equipment for persons involved in harvesting activities, use of safe felling and transport practice, establishment of protection zones around harvesting sites, and safety requirements to machinery used. Legally required safety requirements in relation to chemical usage. The health and safety requirements that shall be considered relate to operations in the forest (not office work, or other activities less related to actual forest operations). Risk relates to situations/areas where health and safety regulations are consistently violated to such a degree that puts the health and safety of forest workers at significant risk throughout forest operations.

1.11.1. Applicable laws and regulations

Labor Code:

- Lei n.º 7/09 12/02 and updates ([http://www.act.gov.pt/\(pt-PT\)/Legislacao/Codigodotrabalhoatualizado/Paginas/default.aspx](http://www.act.gov.pt/(pt-PT)/Legislacao/Codigodotrabalhoatualizado/Paginas/default.aspx))

Health and Safety (H & S) Laws:

- Res. Ass. Rep. n.º 109/2012. 08/08
<http://dre.pt/util/getpdf.asp?s=diad&serie=1&iddr=2012.153&iddip=20121525>
- Aviso n.º 6/2014. 01/09
<https://dre.pt/util/getpdf.asp?s=diad&serie=1&iddr=2014.6&iddip=20140033>
- Decree Law (DL) 441/91, de 14/11f
- DL 133/99, de 21/04
- DL 2728, de 05/01
- DL 26/94, de 1/02
- DL 362/93, de 15/10
- Port. 137/94, de 08/03
- Lei n.º 100/97, de 13/09
- DL 143/99, de 30/04
- DL 248/99, de 02/07f
- DL 128/93, de 22/04
- DL 348/93, 06/10
- Port. 988/93, de 06/10
- Port.1131/93, de 04/11
- Port. 109/96, de 06/04
- Port.695/97, de 19/08
- DL 141/95, de 14/06
- Port. n.º 1456-A/95, de 11/10
- DL 349/93 e Port. 988/93, de 6/10
- DL 331 e 330/93, de 25/09
- DL 347/93, de 1/10
- DL 348/93, de 1/10
- DL 182/2006, de 6/09
- NP 2761:1988
- Health and Safety Guide for Agroforestry works: [http://www.act.gov.pt/\(pt-PT\)/Itens/Noticias/Documents/Seguran%C3%A7a%20e%20Saude%20no%20Trabalho%20no%20Setor%20Agro-Florestal.pdf](http://www.act.gov.pt/(pt-PT)/Itens/Noticias/Documents/Seguran%C3%A7a%20e%20Saude%20no%20Trabalho%20no%20Setor%20Agro-Florestal.pdf)

1.11.2. Legal authority

- Ministério da Solidariedade, Emprego e Segurança Social (Ministry of Solidarity, Employment and Social Security)
- Autoridade para as Condições do Trabalho (ACT) (Authority for Labor Conditions)

1.11.3. Legally required documents or records

- Card relating to accredited professional courses (e.g. chainsaw, machinery operator, phyto-pharmaceutical applicator) and/or certificates relating to specific training sessions.
- Records of H & S procedures and distribution of Personal Protective Equipment by the Organization.
- Record of machinery, safety tools and equipment on original document register.

1.11.4. Sources of information

Government sources

- Act.gov.pt (N.Y.) *Labour Conditions Authority - ACT - Autoridade para as Condições do Trabalho* [online] Available at: [http://www.act.gov.pt/\(pt-PT\)/Paginas/default.aspx](http://www.act.gov.pt/(pt-PT)/Paginas/default.aspx)
- Act.gov.pt (N.Y.) *Work accident statistics from ACT - Autoridade para as Condições do Trabalho*. Available at: [http://www.act.gov.pt/\(pt-pt\)/centroinformacao/estatistica/paginas/acidentesdetrabalhograves.aspx](http://www.act.gov.pt/(pt-pt)/centroinformacao/estatistica/paginas/acidentesdetrabalhograves.aspx) / [http://www.act.gov.pt/\(pt-PT\)/CentroInformacao/Estatistica/Paginas/AcidentesdeTrabalhoMortais.aspx](http://www.act.gov.pt/(pt-PT)/CentroInformacao/Estatistica/Paginas/AcidentesdeTrabalhoMortais.aspx)
- portugal.gov.pt (N.Y.) *Ministry of Solidarity, Employment and Social Security* [online] Ministério da Solidariedade, Emprego e Segurança Social. Available at: <http://www.portugal.gov.pt/pt/ministerios/mtsss.aspx>
- iefp.pt (N.Y.) *Employment and Professional Training Institute* [online] Instituto do Emprego e Formação Profissional. Available at: <https://www.iefp.pt/>

Non-Government sources

Labour Unions:

- setaa.pt (N.Y.) SETAA - Sindicato da Agriculture, Alimentação e Florestas. [online] Available at: <http://www.setaa.pt/>
- ugt.pt (N.Y.) UGT - União Geral de Trabalhadores. [online] Available at: <https://www.ugt.pt/>
- cgtp.pt (N.Y.) CGTP - Confederação Geral de Trabalhadores Portugueses. [online] Available at: <http://www.cgtp.pt/>
- Agroportal Online (2013) Available at: <https://www.agroportal.pt>
<http://www.agroportal.pt/x/agronoticias/2013/10/04e.htm#.VjCVDLfhDIU>

1.11.5. Risk determination

Overview of Legal Requirements

Legal requirements include the cards, certificates and registry as described in Column H

Description of Risk

Historically, a risk under this category has been present based on a low level of compliance with the requirements for accreditation and/or professional training. In recent years, many obligations have changed and private entities have started to develop courses for some forest worker activities (for example for chainsaw, machinery or phytopharmaceutical users). There continues to be a lack of credible courses for some forest activities with lower levels of risk, such as cork or resin harvesters. Statistical data do not provide clarity on the actual number of workplace accidents, because forest accidents are included in statistics covering agriculture and fisheries operations. There have been no recent reports (in the media or elsewhere) of substantial forest accidents.

Despite the unclear legislation, the lack of information supported by objective data, or reports based on field inspection by authorities about forest health and safety, the risk for this category is considered low because it has been determined that the scale and impact of these issues is limited spatially or temporally.

Risk Conclusion

This indicator has been evaluated as low risk. Identified laws are upheld. Cases where law/regulations are violated are efficiently followed up via preventive actions taken by the authorities and/or by the relevant entities.

1.11.6. Risk designation and specification

Low risk

1.11.7. Control measures and verifiers

N/A

1.12. Legal employment

Legal requirements for employment of personnel involved in harvesting activities including requirement for contracts and working permits, requirements for obligatory insurances, requirements for competence certificates and other training requirements, and payment of social and income taxes withhold by employer. Furthermore, the points cover observance of minimum working age and minimum age for personnel involved in hazardous work, legislation against forced and compulsory labour, and discrimination and freedom of association. Risk relates to situations/areas where systematic or large scale noncompliance with labour and/or employment laws. The objective is to identify where serious violations of the legal rights of workers take place, such as forced, underage or illegal labour.

1.12.1. Applicable laws and regulations

Labor Code:

- Lei n.º 7/09 12/02 and updates including L69/13, de 30/08 (includes obligatory professional training). Available at: [http://www.act.gov.pt/\(pt-PT\)/Legislacao/Codigodotrabalhoatualizado/Paginas/default.aspx](http://www.act.gov.pt/(pt-PT)/Legislacao/Codigodotrabalhoatualizado/Paginas/default.aspx)

ILO Convention numbers 87, 98, 29, 105, 100, 101, 129 e 138, 184

- Res. Ass. Rep. n.º 109/2012. 08/08 Available at: <http://dre.pt/util/getpdf.asp?s=diad&serie=1&iddr=2012.153&iddip=20121525>
- Aviso n.º 6/2014. 01/09 Available at: <https://dre.pt/util/getpdf.asp?s=diad&serie=1&iddr=2014.6&iddip=20140033>

Foreign workers:

- Law n.º 23/2007 at 04/07 and updates Available at: http://www.pgdlisboa.pt/leis/lei_mostra_articulado.php?nid=920&tabela=leis&so_miolo

1.12.2. Legal authority

- Immigration and Borders Services/ Ministry of Internal Administration (Serviços de Estrangeiros e Fronteiras SEF /Ministério de Administração Interna)
- Labor Conditions Authority/ Ministry of Solidarity, Employment and Social Security (Autoridade para as Condições do Trabalho ACT/ Ministério da Solidariedade, Emprego e Segurança Social)

1.12.3. Legally required documents or records

- Worker's identity card
 - Valid written contract.
 - Valid visa and residence working permit for foreigners out of EU, Iceland, Liechtenstein, Norway, Turkey, Brazil (with equal rights status), Cabo Verde, Guiné Bissau, São Tomé e Príncipe.
 - Obligatory insurance document.
 - Updated social security payment document
 - IRS/ IRC taxes - Relatório Único.
 - Record of training sessions.
- Salaries should be in accordance with the updated collective agreements.

1.12.4. Sources of information

Government sources

- Act.gov.pt (N.Y.) *Labour Conditions Authority - ACT - Autoridade para as Condições do Trabalho* [online] Available at: [http://www.act.gov.pt/\(pt-PT\)/Paginas/default.aspx](http://www.act.gov.pt/(pt-PT)/Paginas/default.aspx)
- portugal.gov.pt (N.Y.) *Ministry of Solidarity, Employment and Social Security* [online] Ministério da Solidariedade, Emprego e Segurança Social. Available at: <http://www.portugal.gov.pt/pt/ministerios/mtsss.aspx>
- iefp.pt (N.Y.) *Employment and Professional Training Institute* [online] Instituto do Emprego e Formação Profissional. Available at: <https://www.iefp.pt/>
- portugal.gov.pt (N.Y.) *Ministry of Internal Administration/ Ministério de Administração Interna* [online] Available at: <http://www.portugal.gov.pt/pt/ministerios/mai.aspx>

- sef.pt (N.Y.) Immigration and Borders Services / Serviço de Estrangeiros e Fronteiras [online] Available at: <http://www.sef.pt/portal/V10/EN/asp/page.aspx>

Non-Government sources

Labour Unions:

- setaa.pt (N.Y.) SETAA - Sindicato da Agriculture, Alimentação e Florestas. [online] Available at: <http://www.setaa.pt/>
- ugt.pt (N.Y.) UGT - União Geral de Trabalhadores. [online] Available at: <https://www.ugt.pt/>
- cgtp.pt (N.Y.) CGTP - Confederação Geral de Trabalhadores Portugueses. [online] Available at: <http://www.cgtp.pt/>
- Agroportal (N.Y.) Available at: <https://www.agroportal.pt>

Corporate Forest, Agriculture and Environment Associations:

- Anefa.pt (N.Y.) *Associação Nacional de Empresas Florestais, Agrícolas e do Ambiente* [online] Available at: <http://www.anefa.pt/>

Forest Owners Federations:

- unac.pt (N.Y.) UNAC - União da Floresta Mediterrânica [online] Available at: <http://www.unac.pt>
- forumflorestal.pt (N.Y.) Forum Florestal - Estrutura Federativa da Floresta Portuguesa [online] Available at: <http://forumflorestal.pt>
- forestis.pt (N.Y.) Forestis - Associação Florestal de Portugal [online] Available at: <http://www.forestis.pt>
- fnapf.pt (N.Y.) FNAPF - Federação Nacional das Associações de Proprietários Florestais [online] Available at: <http://www.fnapf.pt>
- confagri.pt (N.Y.) Confagri - Confederação Nacional das Cooperativas Agrícolas e do Crédito Agrícola de Portugal, CCRL [online] Available at: <http://www.confagri.pt>
- cna.pt (N.Y.) CNA - Confederação Nacional de Agricultura . [online] Available at: <http://www.cna.pt>
- cap.pt (N.Y.) CAP - Confederação dos Agricultores de Portugal . [online] Available at: <http://www.cap.pt>
- baladi.pt (N.Y.) BALADI - Federação Nacional dos Baldios. [online] Available at: www.baladi.pt

1.12.5. Risk determination

Overview of Legal Requirements

Legal requirements include the contracts and other documents listed in column H.

Description of Risk

Forestry worker inspections are not easy to conduct because forestry works are spread over the territory, often in isolated areas. As such they tend to be conducted at roads, with multiple task teams. Consultation with expert sources however, lead to the conclusion that there is a low level of illegality in this category. There is a lack of information supported by objective data, or reports based on field inspection by authorities about legal employment in the forest sector, but the risk is nonetheless considered low because the potential scale of impacts, spatially or temporally, appears low.

Risk Conclusion

This indicator has been evaluated as low risk. Identified laws are upheld. Cases where law/regulations are violated are efficiently followed up via preventive actions taken by the authorities and/or by the relevant entities.

1.12.6. Risk designation and specification

Low risk

1.12.7. Control measures and verifiers

N/A

THIRD PARTIES' RIGHTS

1.13 Customary rights

Legislation covering customary rights relevant to forest harvesting activities including requirements covering sharing of benefits and indigenous rights.

1.13.1. Applicable laws and regulations

N/A

1.13.2. Legal authority

N/A

1.13.3. Legally required documents or records

N/A

1.13.4. Sources of information

N/A

1.13.5. Risk determination

N/A

1.13.6. Risk designation and specification

N/A

1.13.7. Control measures and verifiers

N/A

1.14. Free prior and informed consent

Legislation covering "free prior and informed consent" in connection with transfer of forest management rights and customary rights to the organisation in charge of the harvesting operation.

1.14.1. Applicable laws and regulations

N/A

1.14.2. Legal authority

N/A

1.14.3. Legally required documents or records

N/A

1.14.4. Sources of information

N/A

1.14.5. Risk determination

N/A

1.14.6. Risk designation and specification

N/A

1.14.7. Control measures and verifiers

N/A

1.15. Indigenous/traditional peoples' rights

Legislation that regulates the rights of indigenous/traditional people as far as it's related to forestry activities. Possible aspects to consider are land tenure, right to use certain forest related resources or practice traditional activities, which may involve forest lands.

1.15.1. Applicable laws and regulations

N/A

1.15.2. Legal authority

N/A

1.15.3. Legally required documents or records

N/A

1.15.4. Sources of information

N/A

1.15.5. Risk determination

N/A

1.15.6. Risk designation and specification

N/A

1.15.7. Control measures and verifiers

N/A

TRADE AND TRANSPORT

1.16. Classification of species, quantities, qualities

Legislation regulating how harvested material is classified in terms of species, volumes and qualities in connection with trade and transport. Incorrect classification of harvested material is a well-known method to reduce/avoid payment of legality prescribed taxes and fees. Risk relates to material traded under illegal false statements of species, quantities or qualities. This could cover cases where this type of false classification is done to avoid payment of royalties or taxes or where trade bans on product types or species are implemented locally, nationally or internationally. This is mainly an issue in countries with high levels of corruption (CPI<50).

1.16.1. Applicable laws and regulations

N/A – No legislation regulating classification of wood and timber harvested in Portugal in terms of species, quantities or qualities has been identified.

1.16.2. Legal authority

N/A

1.16.3. Legally required documents or records

N/A

1.16.4. Sources of information

N/A

1.16.5. Risk determination

N/A

1.16.6. Risk designation and specification

N/A

1.16.7. Control measures and verifiers

N/A

1.17. Trade and transport

All required trading permits shall exist as well as legally required transport document which accompany transport of wood from forest operation. Risk relates to the issuing of documents permitting the removal of timber from the harvesting site (e.g., legally required removal passes, waybills, timber tags, etc.). In countries with high levels of corruption, these documents are often falsified or obtained by using bribery. In cases of illegal logging, transport documents from sites other than the actual harvesting site are often provided as a fake proof of legality with the harvested material.

1.17.1. Applicable laws and regulations

Domestic transportation:

- DL 198/2012 de 24/08 Available at:
<http://info.portaldasfinancas.gov.pt/NR/rdonlyres/907FD2F4-9A9C-485D-8A99-FD164BF9FCEC/0/Decreto-Lei%20n%20 198 2012 24 08.pdf>

Pine Nematode (Nemátodo da madeira do pinheiro) (NMP):

- Dec. Retificação n.º 38/2015 de 01/09 Available at: <https://dre.pt/application/file/70144398>
- DL 123/15, at 3/07 Available at: <https://dre.pt/application/conteudo/67664950>

1.17.2. Legal authority

- ASAE - Economic and Food Security Authority Economy Ministry (ASAE - Autoridade da Segurança Alimentar e Económica /Ministério da Economia)
- GNR - National Republican Guard
- PSP - Public Security Police

1.17.3. Legally required documents or records

- Regular invoice for trading operation or transport documentation or waybill, or devolution note;
- CRM on international transportation;
- In the case of coniferous timber, the hauler must have an economic operator registration and a manifest for each felling (if timber from a single felling is transported in multiple loads it is mandatory to copy the manifest for all loads).

1.17.4. Sources of information

Government sources

- portaldasfinancas.gov.pt (N.Y.) *Autoridade Tributária e Aduaneira* [online] Available at: <https://www.portaldasfinancas.gov.pt/pt/home.action>

Non-Government sources

- Anefa.pt (N.Y.) *Associação Nacional de Empresas Florestais, Agrícolas e do Ambiente* [online] Available at: <http://www.anefa.pt/>
- aimmp.pt (N.Y.) *Associação das Indústrias de Madeira e Mobiliário de Portugal* [online] Available at: <http://aimmp.pt/>
- aiff.org.pt (N.Y.) AIFF – Associação para a Competitividade da Indústria da Fileira Florestal [online] Available at: <http://www.aiff.org.pt>
- otoc.pt (N.Y.) *Ordem dos Contabilistas Certificados* [online] Available at: <http://www.otoc.pt/pt/a-ordem/>

1.17.5. Risk determination

Overview of Legal Requirements

Legal requirements include having the correct and valid invoice or transport documentation as listed in column H.

Description of Risk

The issue of required transport and sales documents is well understood and regulations are largely adhered to. It is obligatory to generate a unique AT code number in the Tax Authority online platform. This is required prior to transport occurring, with the code being specific to each trip, allowing for assignation of all goods to a particular freight journey. Inspections are common on Portuguese roads and enforcement of regulations is seen to be robust.

Risk Conclusion

This indicator has been evaluated as low risk. Identified laws are upheld. Cases where law/regulations are violated are efficiently followed up via preventive actions taken by the authorities and/or by the relevant entities.

1.17.6. Risk designation and specification

Low risk

1.17.7. Control measures and verifiers

N/A

1.18. Offshore trading and transfer pricing

Legislation regulating offshore trading. Offshore trading with related companies placed in tax havens combined with artificial transfer prices is a well-known way to avoid payment of legally prescribed taxes and fees to the country of harvest and considered as an important generator of funds that can be used for payment of bribery and black money to the forest operation and personnel involved in the harvesting operation. Many countries have established legislation covering transfer pricing and offshore trading. It should be noted that only transfer pricing and offshore trading as far as it is legally prohibited in the country, can be included here. Risk relates to situations when products are sold out of the country for prices that are significantly lower than market value and then sold to the next link in the supply chain for market prices, which is often a clear indicator of tax laundry. Commonly, the products are not physically transferred to the trading company.

1.18.1. Applicable laws and regulations

- IRC Code DL 442-B/88 Updated by Law n.º 2/2014 at 16/12 artº 63º Available at: http://info.portaldasfinancas.gov.pt/pt/informacao_fiscal/codigos_tributarios/CIRC_2R/irc6_3.htm

1.18.2. Legal authority

N/A

1.18.3. Legally required documents or records

- Taxes Authority - Tax Ministry - Autoridade Tributária/ Ministério das Finanças

1.18.4. Sources of information

Government sources

- portaldasfinancas.gov.pt (N.Y.) *Autoridade Tributária e Aduaneira* [online] Available at: <https://www.portaldasfinancas.gov.pt/pt/home.action>

Non-Government sources

- transparency.org (N.Y.) *Transparency International's Corruption Perceptions Index* [online] Transparency International -The global coalition against corruption – Available at: <https://www.transparency.org/country/#PRT>
- eoi-tax.org (2015) *The Exchange of Tax Information Portal* [online] Available at: <http://www.eoi-tax.org/jurisdictions/PT#latest>
- PWC (2015) *International Transfer Pricing 2015/16* [online] Available at: <http://www.pwc.com/gx/en/international-transfer-pricing/assets/itp-2015-2016-final.pdf>

1.18.5. Risk determination

Overview of Legal Requirements

Every taxpayer shall indicate, in their annual declaration of accounting and fiscal information (IES/Declaração Anual), the existence of any transaction with an associated enterprise. The required information includes details of the associated enterprise(s), and the amounts of any controlled transactions with each associated enterprise. In addition, it must be made clear whether supporting information for transfer prices was created at the time the transactions took place (and if this information is still available).

Description of Risk

No evidence of illegal transfer pricing involving wood/ timber enterprises was found. Portugal has a low perceived level of corruption (CPI Score = 63) and other data are positive. Portugal has clear statutory transfer pricing documentation requirements in place and national legislation is in line with OECD guidelines. Fines for non-compliance are in place and may range from €750 to €150 000.

Risk Conclusion

This indicator has been evaluated as low risk. Identified laws are upheld. Cases where law/regulations are violated are efficiently followed up via preventive actions taken by the authorities and/or by the relevant entities.

1.18.6. Risk designation and specification

Low risk

1.18.7. Control measures and verifiers

N/A

1.19. Custom regulations

Custom legislation covering areas such as export/import licenses, product classification (codes, quantities, qualities and species).

1.19.1. Applicable laws and regulations

Exporting:

- Special legislation only in case of Pinus spp. because of Pine Nematode (Nemátodo da madeira do pinheiro) (NMP) (refer to 1.17 Trade and transport, above)

1.19.2. Legal authority

- Custom and Taxes Authority/ Tax Ministry (Autoridade tributária e Aduaneira/ Ministério das Finanças);
- Environmental Service of National Republican Guard (GNR/ SEPNA)

1.19.3. Legally required documents or records

- Invoice and Intrastat Declaration (EU).
- Proof of fees or tax payments, if applicable.
- Bill of Lading (maritime), CMR (road) or CIM/ COTIF (train)

1.19.4. Sources of information

Government sources

- portaldasfinancas.gov.pt (N.Y.) *Autoridade Tributária e Aduaneira* [online] Available at: <https://www.portaldasfinancas.gov.pt/pt/home.action>
- aduaneiro.portaldasfinancas.gov.pt (N.Y.) *Autoridade Aduaneira* [online] Available at: <https://aduaneiro.portaldasfinancas.gov.pt/jsp/main.jsp>
- icnf.pt (N.Y.) *NMP page at ICNF* [online] Available at: <http://www.icnf.pt/portal/florestas/prag-doe/ag-bn/nmp/reg-op-econ>

Non-Government sources

- anefa.pt (N.Y.) *Associação Nacional de Empresas Florestais, Agrícolas e do Ambiente* [online] Available at: <http://www.anefa.pt/>
- aimmp.pt (N.Y.) *Associação das Indústrias de Madeira e Mobiliário de Portugal* [online] Available at: <http://aimmp.pt/>
- aiff.org.pt (N.Y.) *AIFF – Associação para a Competitividade da Indústria da Fileira Florestal* [online] Available at: <http://www.aiff.org.pt>

1.19.5. Risk determination

Overview of Legal Requirements

All products exported from Portugal must be accompanied by applicable invoices, intrastate declarations and bills of lading, according to EU law, as listed in column H

Description of Risk

The risk of materials being exported in contravention of export regulations is considered low due to the enforcement of export requirements by authorities and due to the standardised nature of trade documentation (Bills of Lading (maritime), CMR (road) and CIM/ COTIF (train)). This documentation is required globally both for export from Portugal and – for most trade partners – typically forms part of the import requirements. In addition, no reports of illegal export of wood or timber products from Portugal were identified from government sources, NGOs or in the media.

Risk Conclusion

This indicator has been evaluated as low risk. Identified laws are upheld. Cases where law/regulations are violated are efficiently followed up via preventive actions taken by the authorities and/or by the relevant entities.

1.19.6. Risk designation and specification

Low risk

1.19.7. Control measures and verifiers

N/A

1.20. CITES

CITES permits (the Convention on International Trade in Endangered Species of Wild Fauna and Flora, also known as the Washington Convention). Note that the indicator relates to legislation existing for the area under assessment (and not e.g., the area from which CITES species are imported).

1.20.1. Applicable laws and regulations

CITES:

- Decree Law (DL) 114/90, de 5/05
- DL 50/80 de 23/07
- DL 211/2009, 03/09
- Port. 1225/2009 de 12/10 and Port. 1226/2009 12/10
- Port. 7/2010. 05/01
- Port. 60/2012.19/03

EU legislation:

- Council Regulation (EC) No 338/97 of 9 December 1996 on the protection of species of wild fauna and flora by regulating trade therein, article 4, 5, 7, 8
- (<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CONSLEG:1997R0338:20080411:EN:PDF>)
- Date of CITES application on EU: JOUE L 189, de 2015-07-17

All CITES legislation is available at: <http://www.icnf.pt/portal/cites/enq-leg>

1.20.2. Legal authority

- Principal Authority: Institute of Conservation of Nature and Forests - ICNF/ Ministry of Agriculture and Sea (ICNF/Ministério da Agricultura e Mar)
- Other relevant authorities: Custom Authority/ Taxes Ministry Autoridade tributária/ Ministério das Finanças
- Environmental Service of National Republican Guard (GNR/ SEPNA);
- Republic Attorney General/ Representante do Procurador-Geral da República

1.20.3. Legally required documents or records

Several documents included in the relevant CITES annex including:

- CITES certificate, importing/ exporting license and importing notification.
- For CITES movements inside the EU and for re-export, the original EC import permit is required.

1.20.4. Sources of information

Government sources

- ec.europa.eu (2007) *Regulamentação relativa ao comércio de espécies da fauna e da flora selvagens na União Europeia* [online] European Union page. Available at: http://ec.europa.eu/environment/cites/pdf/trade_regulations/KH7707262PTC.pdf
- icnf.pt (N.Y.) *CITES at Instituto da Conservação da Natureza e Florestas* [online] Available at: <http://www.icnf.pt/portal/icnf/serv/formularios/cites>
- cites.org (N.Y.) *CITES Reports* [online] Available at: <https://cites.org/sites/default/files/reports/13-14Portugal.pdf>

Non-Government sources

- quercus.pt (N.Y.) *Quercus e Greenpeace denunciam novos casos de entrada de madeira ilegal em Portugal* [online] Quercus - Associação Nacional de Conservação da Natureza. Available at: <http://www.quercus.pt/comunicados/2015/maio/4319-quercus-e-greenpeace-denunciam-novos-casos-de-entrada-de-madeira-ilegal-em-portugal>
- Mendes, A.I. (2014) *Autoridades reforçam controlo de tráfico ilegal de animais nos aeroportos* [online] 11/03/2014 in Jornal Público. Available at: <http://www.publico.pt/sociedade/noticia/autoridades-reforcaram-controlo-de-trafico-ilegal-de-animais-nos-aeroportos-1627896>
- jn.pt (2012) *Apreensão de aves ilegais bateu recorde em Portugal em 2011* [online] 26/02/2012 in Jornal de Notícias. Available at: <http://www.jn.pt/blogs/osbichos/archive/2012/02/26/apreens-227-o-de-aves-ilegais-bateu-recorde-em-portugal-em-2011.aspx>

1.20.5. Risk determination

No CITES species are currently grown as timber or cork species in Portugal, therefore the risk for this category has been assessed as low.

1.20.6. Risk designation and specification

Low risk

1.20.7. Control measures and verifiers

N/A

1.21. Legislation requiring due diligence/due care procedures

Legislation covering due diligence/due care procedures, including e.g. due diligence/due care systems, declaration obligations, and /or the keeping of trade related documents, legislation establishing procedures to prevent trade in illegally harvested timber and products derived from such timber, etc.

1.21.1. Applicable laws and regulations

- EUTR DL 76/2013 de 5/06 Available at:
<https://dre.pt/application/dir/pdf1sdip/2013/06/10800/0322203225.pdf>

1.21.2. Legal authority

- ICNF is the Competent Authority
- Republican National Guard (GNR) is the enforcement authority
- Other collaborating authorities: Custom Authority (AT), Economic and Food Security Authority (ASAE)

1.21.3. Legally required documents or records

- Operator registry
- Information about the wood/ timber products which shall include quality, quantity, the supplier, country of origin, and conformity with national legislation;
- Risk evaluation as to the illegality of the timber by operator of the supply chain, based on the information collected.
- Risk mitigation - through additional information, verification should the evaluation reveal specified risks.

1.21.4. Sources of information

Government sources

- icnf.pt (N.Y.) *Instituto da Conservação da Natureza e Florestas* [online] Available at:
<http://www.icnf.pt/portal/florestas/fileiras/reg-op>
- ICNF (2015) *Regulamento da União Europeia sobre a Madeira e Produtos da Madeira (RUEM)* [online] Report. Available at:
<http://www.icnf.pt/portal/florestas/fileiras/resource/docs/icnf-ruem>

Non-Government sources

- quercus.pt (2015) *Quercus - Associação Nacional de Conservação da Natureza.* [online] Available at: <http://www.quercus.pt/comunicados/2015/>

- greenpeace.org (N.Y.). *Greenpeace International* [online] Available at: <http://www.greenpeace.org/international/en>
- greenpeace.org (2015) *The Amazon's Silent Crisis: Partners in Crime* [online] Greenpeace Brasil; Nov/2015 Available at: http://www.greenpeace.org/brasil/Global/brasil/documentos/2015/amazon_silent_crisis_partners_in_crime.pdf Cut it Out:
- greenpeace.org (2013) *Illegal Logging in the Democratic Republic of Congo (DRC)* [online] Greenpeace Africa, Mar/2013. Available at: <http://www.greenpeace.org/africa/Global/africa/publications/forests/CutItOut.pdf>
- greenpeace.org (2014) *The Amazon's Silent Crisis: Night Terrors* [online] Greenpeace Brasil; Oct/2014 Available at: http://www.greenpeace.org.uk/sites/files/gpuk/gp_amz_silent_crimefile_final_dps.pdf
- wwf.pt (2014) *Países da União Europeia falham no que respeita a travar o comércio ilegal de madeira* [online] Barata, M.3/09/2014 WWF Mediterrâneo (Portugal). Available at: <http://www.wwf.pt/?228335/Pases-da-Unio-Europeia-falham-no-que-respeita-a-travar-o-comrcio-ilegal-de-madeira>
- wwf.pt (2015) *Consumidores portugueses querem regras mais rígidas na UE para combater a madeira ilegal* [online] Barata, M.23/09/2015 WWF Mediterrâneo (Portugal). Available at: <http://www.wwf.pt/?253290/Consumidores-portugueses-querem-regras-mais-rigid-as-na-UE-paracombater-a-madeira-ilegal>
- drctimbertracker.globalwitness.org (N.Y.) *Exporting Impunity - How Congo's rainforest is illegally logged for international markets* [online] Global Witness Limited, 2015. Available at: <http://drctimbertracker.globalwitness.org/>
- portugalglobal.pt (N.Y.) *Portugal É O 3º País Na Importação Ilegal De Madeira Da RD Congo* [online] Oje/Lusa,03/06/2015 in AICEP-Agência para o Investimento e Comércio Externo de Portugal. Available at: <http://www.portugalglobal.pt/PT/PortugalNews/Paginas/NewDetail.aspx?newId=%7BAB7D61CE-9E67-4FAE-9E82-2DD38970A421%7D>

Other sources

- Anefa.pt (N.Y.) *Associação Nacional de Empresas Florestais, Agrícolas e do Ambiente* [online] Available at: <http://www.anefa.pt/>
- aimmp.pt (N.Y.) *Associação das Indústrias de Madeira e Mobiliário de Portugal* [online] Available at: <http://aimmp.pt/>

1.21.5. Risk determination

Overview of Legal Requirements

Since the onset of the EUTR in 2013, enterprises classed as 'Operators' under the regulation have been required to register their activities on a Digital Platform managed by the forest authorities (ICNF) (<http://www.icnf.pt/portal/florestas/fileiras/reg-op#reg>). By October 2015 a total of 2,198 Operators were registered in the country - of which 36 (1.6%) were forest producers and 251 (11%) were loggers and forest service providers.

In addition to the register, Operators must have due diligence system in place for each placement of wood/ timber on to the EU market, which includes procedures for: access to information, risk assessment and risk mitigation. This information must be kept and be provided to competent authorities upon request.

The Competent Authority in Portugal for ensuring implementation of the EUTR is Institute for Nature Conservation and Forests (ICNF). The enforcement authority is the National Republican Guard (GNR) which conducts enforcement according to ICNF procedures.

Prior to 2015, enforcement was poor and highlighted by NGOs such as Greenpeace. However, cases on non-compliance mainly focused upon imported materials.

Since the start of 2015 a far-reaching regime of inspections has begun:

- ICNF started inspections in January 2015 and indicated it conducted 29 inspections in 2015.
- GNR reported 265 inspections of wood/ timber supply chains. This resulted in five contraventions and two seizures.

Description of Risk

Whilst initial implementation was poor, enforcement by the Competent Authority throughout 2015 has decreased risk of legal non-compliance against this sub-category. ICNF has documented a large number of inspections, demonstrating enforcement by the authorities. However, it is expected that many parts of the trade (especially those not subject to the 2015 inspections) are yet to implement a robust due diligence system. Figures for the number of Operators placing materials of Portuguese origin on the EU market are unclear as are the number of inspections on these types of Operator. However, no high profile cases of non-compliance were detected in media/NGO or government reports.

Risk Conclusion

This indicator has been evaluated as specified risk. Identified laws are not upheld consistently by all entities and/or are often ignored, and/or are not enforced by relevant authorities.

1.21.6. Risk designation and specification

Specified risk

1.21.7. Control measures and verifiers

- Obtain evidence that demonstrates the implementation of a due diligence system

F. Expert Consultation

	Name	Email	Address	Job title	Organisation	Area of expertise (category/sub-category)	Contact made	Meeting time/date
1.	Ana Dahlin	ana@capitalnatural.pt	Capital Natural, Lda. R. Estrada nº 9 6060-069 Proença-a-Velha	Forest Engineer	Capital Natural	FSC, CW, EUTR		
2.	Joaquim Sande Silva	jss@esac.pt	Escola Superior Agrária de Coimbra – ESAC (Coimbra College of Agriculture/Polytechnic Institute of Coimbra) Bencanta 3040-316 Coimbra PORTUGAL	Researcher PhD	ESAC -Escola Superior Agrária Coimbra	Eucalyptus, conversion, fire ecology		19-Nov-15
3.	Conceição Ferreira	dgpf@icnf.pt	(351) 213 507 900	Director	ICNF	Forest Production and Management Department (Departamento de Gestão e Produção Florestal -DGPF)		
4.	Alexandra Pardal	apardal@globalwitness.org	+44 (0) 772 073 7954	campaign leader	Global Witness	Ilegal Timber		
5.	Rui Barreira	iberica@wwfmedpo.org	351,934,499,204	Project Officer	WWF Portugal	FSC, EUTR	Skype: rui.elb	
6.	Domingos Patacho	florestas@quercus.pt	351,937,515,218	Engineer	Quercus Associação Nacional de Conservação de Natureza	Forests		
7.	João Loureiro	joao.loureiro@icnf.pt	(351) 213 507 900	Division Chief	ICNF	CITES		

Annex I. Timber source types

The table **Timber Source Types in Portugal** identifies the different types of sources of timber it is possible to find in the country of origin.

'Timber Source Type' is a term used to describe the different legal sources of timber in a country, in order to allow a more detailed specification of risk. The Timber Source Type is used to clarify:

- which forest types timber can be sourced from legally;
- what the legal requirements are for each source type, and
- if there are risks related to certain source types and not others.

Timber Source Type can be defined by several different characteristics. It may be based on the actual type of forest (e.g. plantation or natural), or other attributes of forests such as ownership, management regime or legal land classification. In this context Timber Source Types are defined and discerned using the following characteristics:

- a. Forest type - refers to the type of forest such as plantation or natural tropical forest, or mixed temperate forest. Often the clearest differentiation is between natural forest and plantations.
- b. Spatial scale (Region/Area) - relating to meaningful divisions of a nation. However, in some cases the assessment may be carried out at national level where that allows the risk assessment to establish risk at a meaningful level. E.g. a small country with uniform legislation and a uniform level of risk in all areas of the country, as national level assessment may be enough. In case there are significant differences in the legal framework or legality risks between different types of ownership (e.g. public forest, private forest, industrial forest), between different type of forest (e.g. natural forest and plantations) and/or between different geographical regions the conformance risk evaluation shall specify these differences when specifying the risk and apply the appropriate control measures.
- c. Legal land/forest classification - refers to the legal classification of land. Focus is on land from where timber can be sourced, and this could entail a number of different legal categories such as e.g. permanent production forest, farm land, protected areas, etc.
- d. Ownership - Ownership of land may differ in a country and could be state, private, communal etc. Ownership of land obviously have impacts on how land can be managed and controlled.
- e. Management regime - Independently of the ownership of the land, the management of forest resources may differ between areas. Management may also be differentiated as private, state, communal or other relevant type.
- f. License type - Licenses may be issued to different entities with a range of underlying requirements for the licensee. A license might be issued on a limited area, limited period of time and have other restrictions and obligations. Examples could be a concession license, harvest permit, community forestry permit etc.

TIMBER SOURCE TYPES IN PORTUGAL						
Forest type	Region/Area	Legal Land Classification	Ownership	Management regime	License / Permit Type	Description of source type



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About

Supporting Legal Timber Trade

Supporting Legal Timber Trade is a joint project run by NEPCon with the aim of supporting timber-related companies in Europe with knowledge, tools and training in the requirements of the EU Timber Regulation. Knowing your timber's origin is not only good for the forests, but good for business. The joint project is funded by the LIFE programme of the European Union and UK aid from the UK government.



NEPCon (Nature Economy and People Connected) is an international, non-profit organisation that builds commitment and capacity for mainstreaming sustainability. Together with our partners, we foster solutions for safeguarding our natural resources and protecting our climate.

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