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## Energy performance of data centers in Portugal: reporting obligations under Decree-Law No. 84/2024, of 4 November

The information and communication technology sector is increasingly contributing to global energy consumption. According to the European Commission, the electricity demand of data centers is projected to account for 3.2% of the European Union's total electricity consumption by 2030 – a 28% increase from 2018.

Driving transparency and efficiency in energy use is critical to achieving climate neutrality by 2030.

To address the rising energy demands of data centers, the European Union has implemented measures to promote highly energy-efficient and sustainable data centers while ensuring that their environmental footprint is transparent. Key initiatives include:

- The European Energy Efficiency Directive – Directive (EU) 2023/1791, adopted on 13 September 2023.
- The Commission Delegated Regulation (EU) 2024/1364, adopted on 14 March 2024, which outlines sustainability reporting obligations for data centers. This regulation specifies the information and key performance indicators (KPIs) that data center operators must report to the European database. These reports are necessary to establish a unified system for assessing the sustainability of data centers across the Union, supported by a common methodology for measurement and calculation.

In accordance with EU legislation, the Portuguese Government has enacted Decree-Law No. 84/2024, establishing a legal framework for the energy performance of data centers. Below are its key provisions:

### 1. Scope

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The Decree-Law partially transposes the European Energy Efficiency Directive and implements Commission Delegated Regulation (EU) 2024/1364. Its focus is on mandating the disclosure of energy performance information for data centers.

### 2. Applicability

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The Decree-Law applies to data centers located in Portugal with an installed power demand of at least 500 kW for information technology (IT) equipment. This threshold is calculated by aggregating the nominal power demand, in kW, of the network or networks, servers and storage equipment installed in the data center computer room floor area.

### 3. Reporting obligations

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Owners and operators of data centers subject to this Decree-Law must publicly disclose and update the following information in a clear and accessible manner:

- The identity of the data center, including the date it commenced operations;
- The identity of the owner and/or operator of the data center;

- Information on the data center’s (i) built-up area, (ii) installed power capacity, (iii) annual incoming and outgoing data traffic, and (iv) the amount of data stored and processed; and
- Information on the performance levels of the data center – determined according to KPIs such as energy consumption, energy use, temperature regulation points, use of residual heat, water consumption and the use of renewable energy sources<sup>1,2</sup>.

The disclosed information and KPIs must reflect the preceding calendar year. For data centers that have been operational for less than one year, reporting is required for the operational period and must clearly state its duration.

This information must be made available on the data center’s website and electronically reported to the General Directorate of Energy and Geology (*Direção-Geral de Energia e Geologia*) (DGEG) by 15 May each year.

The DGEG will, in turn, publish the data on its website.

#### **4. Government incentives**

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The legal framework introduces potential incentives for implementing best practices in energy efficiency, as outlined in the European Code of Conduct for Energy Efficiency in Data Centers. These incentives will apply only to data centers with an installed power demand of 1 MW or more for IT equipment.

#### **5. Enforcement**

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The DGEG is responsible for supervising compliance with Decree-Law No. 84/2024 and Commission Delegated Regulation (EU) 2024/1364. Non-compliance constitutes an administrative offence which is punishable by fines of up to € 40,000, along with applicable ancillary sanctions.

#### **6. Entry into force**

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The Decree-Law entered into force on 5 November 2024.

By introducing this framework, Portugal seeks alignment with European Union energy efficiency goals while fostering greater transparency and sustainability in the data center sector.

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<sup>1</sup> For more details regarding the calculation of these KPIs, see the calculation methodologies available in Annex III to the Commission Delegated Regulation (EU) 2024/1364.

<sup>2</sup> Without prejudice to the applicable regulations on the protection of trade, business secrecy and legal confidentiality rules.

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