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New Regulatory Framework for Data Centres (Royal Decree 1032/2026 of 20 November)

I. Introduction

On 22 November 2026, Royal Decree 1032/2026 of 20 November came into force, regulating the requirements relating to energy sustainability, environmental sustainability, resilience, and digital sovereignty applicable to data centres ("**Royal Decree 1032/2026**").

This Legal Briefing seeks to analyse the main impacts of the new regulatory framework.

II. To which data centres does Royal Decree 1032/2026 apply?

1. General scope of application

In general, it applies to data centre projects with a grid access capacity of 10 MW[1] or more which, upon the entry into force of Royal Decree 1032/2026, meet any of the following criteria:

- Data centres that intend to apply for permits for access to and connection to the grid;
- Data centres that have applied for permits for access to and connection to the grid and whose application is awaiting resolution;
- Data centres that have applied for permits for access to and connection to the grid and whose application has been suspended due to the activation of a competitive allocation process for demand access capacity;
- Data centres that have been granted permits for access to and connection to the grid but are not yet connected to the grid.

For these purposes, a data centre is deemed to be connected to the grid when it has been electrically connected to the electricity transmission or distribution grids and the relevant third-party grid access contract (*contrato de acceso de terceros a la red*) ("**ATR contract**") has been signed.

2. Specific cases, exclusions, and special regimes

The Royal Decree provides for the following specific cases of application, exclusions, and special regimes:

- The digital sovereignty requirements apply to data centres that host information systems classified as "HIGH" under the National Security Scheme, in accordance with Annex I to Royal Decree 311/2022 of 3 May, which regulates the National Security Scheme;
- Obligations regarding the communication and disclosure of information are established for centres with an information technology ("**IT**") capacity equal to or greater than 500 kilowatts (kW);

1 It also applies to groups of data centres located in the same place and with the same holder which, taken together, reach this power capacity. In the case of technical facilities that house ICT equipment but whose main activity is not the provision of data centre services, only the power allocated to that activity is taken into account.

- A specific regime is provided for data centres that form part of strategic European digital sovereignty projects, such as artificial intelligence gigafactories and supercomputers, with specific conditions regarding energy and water efficiency, and the use of renewable energy;
- Data centres used exclusively for defence, civil protection, and public safety, as well as those owned by state public sector bodies that are classified as critical operators or are affiliated with them, are excluded from the scope of the Royal Decree.

III. Requirements for the granting of access and connection permits

The law establishes requirements relating to digital sovereignty, energy and water efficiency, and the use of renewable energy, compliance with which is a condition for the granting of access and connection permits.

In this regard, applicants must submit the following documentation alongside their application for access and connection permits to the grid operator, in addition to that required by Royal Decree 1183/2020 of 29 December on Access to and Connection to Electricity Transmission and Distribution Grids:

- a self-declaration of compliance (*declaración responsable*) with the digital sovereignty requirements;
- an undertaking to comply with the energy and water efficiency requirements; and
- an undertaking to comply with the requirements regarding additionality and hourly correlation.

These requirements must also be met in competitive allocation processes for demand access capacity. Applications that do not include the aforementioned documentation at the time of submission or, upon request by the grid operator, within ten (10) days, will not be admitted for processing.

IV. Requirements relating to digital sovereignty, energy and water efficiency, and renewable energy consumption

1. Digital sovereignty requirements

Who is required to comply?: The digital sovereignty requirements apply to data centres that host information systems classified as "HIGH" under the National Security Scheme,[2] regardless of their power capacity. Compliance is the responsibility of the holder (*titular*) of the data centre, but will only be enforceable once they have been notified that any of the hosted systems falls within that category.

What is required? To obtain access and connection permits, and while hosting these systems, the obliged subjects must:

- Ensure that the processing, storage, and transfer of data take place within the European Union ("**EU**") or the European Economic Area ("**EEA**"), unless a provision of EU law provides for an equivalent or alternative regime. This obligation covers the content data of information systems and data derived from the use of the service, including activity logs containing such data, as well as their replicas and backups. Technical management metadata and telemetry data are excluded.
- Have the necessary human and material resources available within the EU or the EEA to provide the hosting service.
- Limit administration, support, or maintenance tasks carried out from outside the EU or the EEA to cases where they are technically essential and to what is strictly necessary. In these cases, each operation and the identity of the person carrying it out must be recorded, and the record must be retained for at least five (5) years.

2 The National Security Scheme (Royal Decree 311/2022) is the cybersecurity framework applicable to the public sector and its technology providers, which classifies systems as basic, medium or high according to the impact of a security incident.

- Adopt legal, technical, and organisational safeguards against requests for access to or the transfer of data made by authorities in third countries that are contrary to EU law or national law.

What are the implications for the holder? The obliged subject must:

- Include in its contracts the obligation to communicate, before hosting begins and before any subsequent change, that the system has the HIGH classification.
- Pass on these conditions to customers, suppliers, and direct subcontractors involved in the relevant operations or who have access to the data centre's data or systems.
- Adopt, within its sphere of control, technical, organisational, and contractual measures to monitor compliance and put an end to any breaches as soon as they come to its attention.

In this regard, the obliged subject will not be held liable for breaches beyond its direct or contractual control, nor for those arising from omitted or inaccurate information provided by third parties which it was unable to detect with due diligence. However, it must report such breaches to the Ministry for Digital Transformation and the Public Function within ten (10) days of becoming aware of them and adopt measures to ensure that they cease. This Ministry carries out subsequent monitoring and, if it detects a breach, will require it to be rectified within a minimum period of three (3) months, which may be reduced if the data is exposed outside the EU/EEA. If the breach persists beyond this period, it will be attributed to the obliged subject.

2. Energy and water efficiency requirements

Who is required to comply? Compliance is the responsibility of the entity operating the data centre or, if there is no separate operating entity, its holder.

What is required? The data centre must achieve energy and water efficiency levels corresponding to class "A". For water efficiency, this will be the class set out in the European labelling scheme to be developed pursuant to Directive (EU) 2023/1791. For energy efficiency, this will be the highest category resulting from the methodology to be approved by the Ministry for Ecological Transition and the Demographic Challenge (*Ministerio para la Transición Ecológica y el Reto Demográfico*) ("**MITERD**") to adjust the indicator to climatic conditions.

The following transitional values will be required until the European labelling system, scheduled for August 2027, becomes applicable and, in the case of energy efficiency, until the MITERD methodology is also rolled out:

- Water efficiency: a a water usage effectiveness (WUE) of 0.1 or less.
- Energy efficiency: a power usage effectiveness (PUE) value of 1.25 or less.[3]

When must these targets be met and how are they verified? Water efficiency levels must be achieved within one year of the data centre becoming operational, and energy efficiency levels within two (2) years. Compliance will be verified annually from the first full calendar year following the expiry of the relevant deadline.

As a specific provision, centres that formalise their ATR contract before 1 January 2029 may, until 31 December 2031, comply with a PUE of 1.25 or less, even if the MITERD methodology is already applicable. From 1 January 2032, they must achieve energy efficiency class "A" in accordance with that methodology.

3. Renewable energy consumption requirements

Who is required to comply? Compliance is the responsibility of the entity operating the data centre or, if there is no separate operating entity, the holder of the data centre.

What is required of them? The data centre must meet at least 80% of its energy consumption with renewable energy, through two cumulative requirements:

3 PUE (Power Usage Effectiveness) is the indicator of energy efficiency, and WUE (Water Usage Effectiveness) is the indicator of water efficiency. They are calculated in accordance with points (a) and (b) respectively of Annex III to Delegated Regulation (EU) 2024/1364.

- Additionality: 80% of the centre's total consumption must come from new renewable energy facilities, either through self-consumption or through fixed-term renewable electricity power purchase agreements ("**PPAs**") with producers who own renewable energy and storage facilities located in Spain. Facilities are considered new if they were commissioned no more than thirty-six (36) months prior to the data centre becoming operational, which is defined as the date the ATR contract was signed, or prior to the first use of the corresponding energy, subject to the following specific conditions: (a) photovoltaic facilities are counted regardless of their commissioning date, provided they did not have a PPA in place when Royal Decree 1032/2026 entered into force; (b) in the case of repowering projects that require a substantial revision of the connection agreement, the thirty-six (36)-month period is calculated from the date of that revision; and (c) for certain biomass and biogas facilities in categories b.6, b.7 and b.8 which, having benefited from the specific remuneration scheme, reach the end of their regulatory useful life, the period of thirty-six (36) months shall be calculated from the date on which the regulatory useful life ends.
- Hourly correlation: at least 80% of the energy consumed each hour must be backed by renewable electricity generated in that same hour, through self-consumption, PPAs or storage. Energy fed into the grid from associated storage is presumed to be renewable, with specific calculation rules for hybrid storage and for storage systems holding access and demand connection permits for demand.

Both requirements shall apply until the share of renewable generation in the national electricity system exceeds 90% of the national electricity mix, at which point they shall be deemed to have been met.

In addition, the following specific provisions must be taken into account:

- If compliance is achieved through PPAs, the PPAs must identify the parties and the associated facilities, expressly state their link to the data centre, have a minimum duration of six (6) years, and be recorded in a public deed, among other conditions.
- Regarding hourly correlation, for the five (5) years following the entry into force of Royal Decree 1032/2026, data centres enrolled in the automatic power reduction system (*sistema de reducción automática de potencia*) ("**SRAP**") will be subject to the following progressively increasing requirements: until 31 December 2028, 60% of the energy consumed in each hour of the period in P1; and, from 1 January 2029 until the end of the transitional period, 70% of the energy consumed each hour in P1 and 60% each hour in P2.[4] Withdrawal from the SRAP or failure to comply with its requirements may result in the facility being disconnected for as long as is strictly necessary.

When must these targets be met and how are they verified? Effective compliance is required from the moment the centre becomes operational; however, until 31 December 2028, the holders of the centres will have six (6) months from the formalisation of the ATR contract to meet the additionality requirement.

For verification purposes, upon signing the ATR contract, the operating entity or the holder must provide the grid operator with a list of the generation and storage facilities that will be used to meet each requirement, and update this information when new facilities are added.

V. Transparency obligations

Data centres with an IT capacity equal to or greater than 500 kW, irrespective of their access capacity, must submit to MITERD, before 15 May each year, the information on their energy efficiency and sustainability for the previous year, as set out in Annexes I and II to Delegated Regulation (EU) 2024/1364. This information will be published on the Ministry's website, except where it is covered by trade secrets or confidentiality; in such cases, the party responsible must state the reasons and specify the particular data concerned.

4 P1 and P2 are the time periods for access tolls corresponding to the centre's voltage level, in accordance with Circular 3/2020 of 15 January issued by the National Commission for Markets and Competition (*Comisión Nacional de los Mercados y la Competencia*) ("**CNMC**"), which establishes the methodology for calculating electricity transmission and distribution tolls.

Furthermore, centres with an IT capacity of 1 MW or more must state, within the same timeframe, whether they take into account the best practices set out in the European Code of Conduct on Energy Efficiency in Data Centres and how they apply them or, if not, explain why.

VI. Does Royal Decree 1032/2026 provide for a system of sanctions?

The Royal Decree distinguishes between compensation for deviations from the requirements regarding additionality and hourly correlation, and any sanctions that may apply for non-compliance with the relevant requirements.

1. Compensation for deviations

Deviations in renewable energy consumption give rise to compensation intended to cover the costs of capacity mechanisms and, where applicable, other additional costs for consumers. This compensation is expressed in MWh of energy consumed, depending on the degree of deviation.

The grid operator invoices the compensation monthly, on a provisional basis, based on the system operator's calculation. The State Secretariat for Energy shall approve the final compensation figures for the previous year before 31 March of each year. Grid operators shall adjust any differences from the amounts invoiced on a provisional basis in the subsequent invoice.

2. Sanctioning regime

Non-compliance with the requirements set out in Royal Decree 1032/2026 shall be sanctioned in accordance with the provisions of Law 24/2013, of 26 December, on the Electricity Sector; Law 18/2014, of 15 October, which approves Urgent Measures for Growth, Competitiveness and Efficiency; and Royal Decree-Law 7/2026 of 20 March. These regulations have been amended by Royal Decree-Law 41/2026, of 20 November,[5] which introduces the following offences and sanctions:

i) **Digital sovereignty (Royal Decree-Law 7/2026)**: non-compliance with these requirements may constitute a minor offence, punishable by a fine of up to EUR 100,000; a serious offence, punishable by a fine of up to EUR 1,000,000; or a very serious offence, punishable by a fine of up to EUR 5,000,000.

ii) **Energy and water efficiency (Law 18/2014)**: non-compliance with these requirements constitutes a serious offence, punishable by fines ranging from EUR 600,001 to EUR 6,000,000. If the non-compliance is repeated, the offence will be classified as very serious, with fines ranging from EUR 6,000,001 to EUR 60,000,000.

iii) **Renewable energy consumption (Law 24/2013)**: non-compliance with the requirements regarding additionality and hourly correlation by more than 25% of the required value constitutes a serious offence, punishable by a fine of between EUR 600,001 and EUR 6,000,000. If repeated, this constitutes a very serious infringement, punishable by a fine of between EUR 6,000,001 and EUR 60,000,000. As an ancillary sanction, access and connection permits may be suspended for a maximum of one (1) or three (3) years, respectively.

iv) **Information on sustainability (Law 18/2014)**: the provision of false information to the European database or to the competent authority, as well as the omission or insufficient provision of information to that database, constitute very serious infringements. Serious infringements include, among others, the failure to provide information required by the competent authority and the improper invocation of confidentiality to avoid providing such information. Any other breaches of the obligations to report to the European database that do not constitute a very serious or serious infringement are classified as minor.

5 The Third, Fourth, and Fifth Final Provisions of Royal Decree-Law 41/2026, of 20 November, amending Law 1/2005, of 9 March, which regulates the Greenhouse Gas Emissions Trading Scheme, as ratified by the Permanent Deputation of the Congress of Deputies on 26 November 2026, amend, respectively, (i) Law 24/2013, of 26 December, on the Electricity Sector (Articles 64.54, 65.46 and 68); (ii) Law 18/2014, of 15 October, which approves Urgent Measures for Growth, Competitiveness and Efficiency (Articles 80 *bis*, 80 *ter* and 82 *bis*); and (iii) Royal Decree-Law 7/2026, of 20 March, which approves the Comprehensive Plan for the Response to the Crisis in the Middle East (first additional provision and new additional provision 1 *bis*).

VII. Transitional regime

Projects that fall within the scope of Royal Decree 1032/2026 which were not connected to the grid at the time of its entry into force have the following deadlines to demonstrate compliance with the applicable requirements, counted from the date of entry into force:

- Applications currently being processed: Applications for the granting of access and connection capacity that have been submitted but not yet approved are subject to the requirements of Royal Decree 1032/2026, compliance with which must be demonstrated within three (3) months. Failure to do so will result in the applications being refused, following a request for rectification and a hearing.
- Applications suspended due to the launch of a competitive allocation process for demand access capacity: Applications for the granting of access and connection capacity that have been suspended due to the launch of a demand capacity allocation process are also subject to the requirements of Royal Decree 1032/2026, compliance with which must be demonstrated within three (3) months. Failure to do so will result in the applications being refused, following a request for rectification and a hearing.
- Projects with permits granted but not yet connected: These projects must demonstrate compliance with the requirements for renewable energy, and energy and water efficiency within six (6) months of the entry into force of Royal Decree 1032/2026. If this period elapses without such compliance being demonstrated, the access and connection permits will lapse and the guarantees deposited will be enforced.

  Regarding digital sovereignty requirements, it should be noted that centres intended to house systems classified as "HIGH" under the National Security Scheme, have twelve (12) months from the entry into force of Royal Decree 1032/2026 to comply with the required conditions and submit the relevant self-declaration of compliance. Once this period has elapsed, compliance will be subject to subsequent monitoring by the Ministry for Digital Transformation and the Public Function; however, failure to comply will not result in the expiry of the permits or the enforcement of the guarantees deposited.

- Voluntary withdrawal: Holders of outstanding applications or of permits granted for facilities not connected at the time Royal Decree 1032/2026 enters into force may withdraw from them within the following six (6) months, without the guarantees deposited being enforced.

However, the option to withdraw without the guarantees being enforced does not resolve the issue of how sums already paid as a fee for the reservation of access capacity are to be treated, as their refund is not expressly provided for in Royal Decree 1032/2026.

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