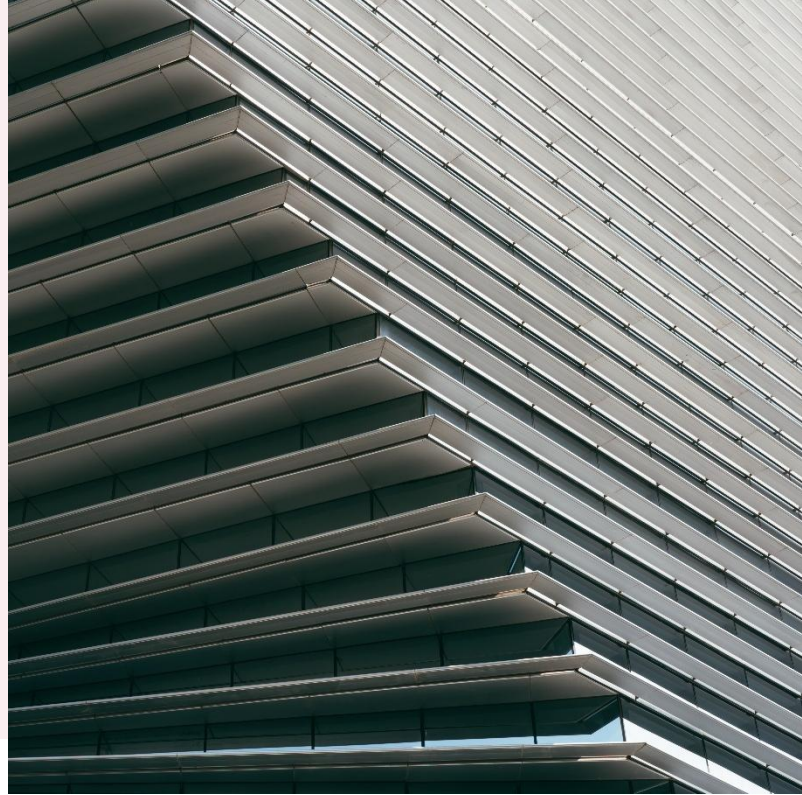


Spain proposes new data centre regulation

17 September 2026



Thursday, 10 September, marked the end of the public consultation period on the draft royal decree regulating the requirements of energy and environmental sustainability, resilience and digital sovereignty applicable to data centres ("**DRD**"), which has caused significant concern within the sector.

Key issues

- 1 The text is not final as it has not yet been formally approved by the government
- 2 It introduces new reporting, public disclosure and operational requirements for data centres
- 3 The reporting and public disclosure requirements will apply depending on a data centre's IT load, regardless of when it became operational
- 4 The operational requirements will apply depending on a data centre's grid access capacity, although only to those that connect to the grid after the requirements come into force, regardless of the date of their access permit
- 5 Data centres that are entirely off-grid will not be subject to the new regulation's operational requirements
- 6 In terms of resilience and digital sovereignty, data centres must ensure either that data remains within the European Union or that the traceability and scope of access from outside the European Union are effectively controlled, in accordance with the law

- 7 The highest standards of energy and water efficiency are required
- 8 Additionality and hourly correlation requirements on renewable energy usage are being introduced
- 9 The additionality rule requires that 80% of power used come from renewable power stations (or associated storage facilities) in Spain commissioned no earlier than 18 months prior to the data centre becoming operational
- 10 The hourly correlation rule requires that 80% of the energy used correspond to the renewable energy procured in each and every hour of the year

Will these be the requirements that ultimately apply to data centres?

It is still only a draft regulation and has only just completed the consultation process, so its content is not final. We therefore cannot be sure as to its ultimate content; we do not even know whether the regulation will ultimately be approved. Last year another draft data centre regulation was put forward for public consultation, but was ultimately not approved.

What requirements does the DRD introduce?

It essentially introduces two types of requirements for data centres. It sets out (1) requirements for regular reporting and public disclosure on energy efficiency and sustainability and (2) operational requirements, which in practice are the most significant.

Will these new requirements apply to all data centres?

No. The requirements for regular reporting and public disclosure will apply to all data centres (in operation or otherwise) with an IT load of 500 kW or more, regardless of their grid connection capacity, although certain regular reporting requirements (reporting on whether and how they take into account the best practices set out in the latest version of the European Code of Conduct for Energy Efficiency in Data Centres, and justifying why they do not apply them, as the case may be) are only mandatory for data centres with an IT load of 1 MW or more.

The operational requirements will only apply to data centres that meet all the following criteria:

- Their grid connection capacity is 1 MW or more (data centres with a lower capacity that are at the same site and are owned by the same entity must also meet these requirements if their aggregate capacity is 1 MW or more);

- They connect to the grid after the regulation's entry into force, connection being understood to have occurred when:
 - (i) they have signed the grid connection agreement; and
 - (ii) they have been effectively connected to the transmission and distribution network.

The reporting and operational requirements will not apply to data centres used exclusively for defence, civil protection and public safety.

What about data centres that are currently under development?

The operational requirements also apply to projects under development, unless they have signed a grid access agreement and have been connected to the grid in question. Merely obtaining a grid access permit does not exempt them from meeting these operational requirements.

Projects under development will have a transition period of three months (for data centres that have applied for an access permit prior to the DRD coming into force but not yet obtained it) or six months (for data centres that already hold an access permit but have not yet connected to the grid) from the date the DRD comes into force to comply with the new rules. Should they not wish to comply, they may withdraw their application or permit within six months of the DRD coming into force without forfeiting their security deposits.

In the specific case of the operational requirements relating to digital sovereignty and resilience, the transition period will be six months as from the approval of the order implementing the regulation in relation to such matters.

Are off-grid data centres subject to this new regulation?

As off-grid data centres are not connected to the grid, they are not subject to the DRD's operational requirements; however, the regular reporting requirements will apply if they have the IT load mentioned above.

What operational requirements are introduced in the DRD?

The DRD establishes three kinds of operational requirements:

- Resilience and digital sovereignty requirements.
- Energy and water efficiency requirements.
- Renewable energy requirements.

What do the resilience and digital sovereignty requirements involve?

In relation to elements subject to direct or contractual control by the data centre operator:

- They must be in the European Union.
- The data, metadata and records processed must remain within the European Union.
- Appropriate legal, technical and organisational measures must be put in place to control access and support or maintenance operations carried out in third countries, and to ensure their traceability in a way that does not compromise their operational autonomy.
- Direct subcontractors involved in the operation of the centre or who have access to data and systems must be identified and monitored.
- Appropriate and proportionate measures must be put in place to address requests for access to and transfer of data from third-country authorities that contravene applicable EU or national law, provided that such requests are not covered by an international agreement.

Furthermore, data centres may not host information systems covered by the royal decree on the National Security Framework and which process data under the control of public-sector entities or entities linked to national security and defence, unless the data, records and metadata are processed, stored and transferred solely within the European Union.

What do the energy and water efficiency requirements involve?

The data centre operator must demonstrate that it holds a European Class A label in accordance with the EU delegated regulation to establish a rating scheme for data centres in relation to energy efficiency and sustainability. At the end of the first full year of operation and thereafter by 15 October each year, the operator must provide evidence of the European label for the project in operation, confirming that the required values are being maintained.

As this delegated regulation has not yet been finalised, the DRD sets out certain provisional mandatory benchmarks ahead of it being passed, namely:

- A power usage effectiveness (PUE) of 1.15 or less will be required
- A water usage effectiveness (WUE) of 0.1 or less will be required.

What do the renewable energy requirements involve?

Although the DRD envisages two possible alternatives for meeting these requirements, one of them (simply connecting to the grid when the renewable electricity market share in Spain exceeds 90% in year n-2) does not depend on the data centre operator and, what is more, seems to be a remote possibility, as the share of renewable electricity in 2025 stood at 55.5%, a far cry from that 90%.

Consequently, there is currently only one practical way to meet the renewable energy requirements, and that is to demonstrate that 80% of the power used, in each and every hour of the year (the "hourly correlation" rule), comes from renewable power stations (or associated storage facilities) in Spain commissioned no earlier than 18 months prior to the signing of the data centre's grid access agreement, or to the first usage of electricity, if earlier than the signing of the grid access agreement (the "additionality" rule).

Energy can be procured through any form of self-generation arrangement or through one or more fixed-term renewable power purchase agreements.

If the decision is made to enter into fixed-term renewable power purchase agreements, the following, amongst other things, will be required:

- Unambiguous identification of the data centre operator and the producer(s), as well as the associated generating and storage facilities.
- Identification of the envisaged supply-demand formula.
- Minimum duration of ten years.
- Financial PPAs signed by the parent or another company within the group are not permitted unless they reflect the relationship between the data centre and associated generating and storage facilities.
- No hedges based on forward contracts traded on organised markets where the renewable origin is certified exclusively by guarantees of origin.
- Notarisation.

What happens if the operational requirements are not met?

Failure to comply with the operating requirements may ultimately lead to the loss of access and connection permits.

In the specific case of the resilience and digital sovereignty requirements, as well as those concerning energy efficiency, if the mandatory self-declaration submitted is inaccurate, false or omits essential information, the data centre will not be permitted to continue operating as such, although it may be remedied within a period of three months.

In the case of the renewable energy requirements, failure to comply may lead – prior to the loss of access and connection permits – to the imposition of surcharges on access fees and electricity system charges.



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