



UPDATE ON THE SPANISH REGULATION GOVERNING THE REGENERATED WATER INDUSTRY

(ROYAL DECREE 1085/2024)



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New developments in the Spanish regulation on regenerated water give rise to investment opportunities that could yield significant returns

The reuse of wastewater for a new private purpose, after being treated, results in 'regenerated water' when it is returned to the public-water or maritime-terrestrial domain, as established in Article 109 of Spanish Royal Decree 1/2001 of 20 July, approving the revised text of the Spanish Water Law (the "Water Law").

Therefore, the production of regenerated water constitutes a step further in the management of the integrated water cycle, which is described below:

(i) First, water is drawn from the public hydraulic domain (rivers, lakes, and aquifers) for various uses, such as water supply for human consumption, agricultural irrigation or industrial purposes. Water drawn directly from these sources is considered raw water in its initial state, as it has not undergone any treatment.

(ii) Raw water drawn from natural sources is sent to a Drinking Water Treatment Plant (DWTP), where it undergoes a treatment process to remove impurities, microorganisms and other contaminants so that, once treated, it becomes potable water suitable for human consumption.

In case of industrial or irrigation uses, raw water will be allocated to its intended use, provided it meets the conditions under which such use was authorised.



(iii) After being used, wastewater is sent to a Wastewater Treatment Plant (WWTP) where it undergoes a treatment process before being poured into the public water system under the approved discharge conditions. Finally, the treated wastewater would go back to the maritime-terrestrial domain.

(iv) Traditionally, the integrated water cycle would end at this stage. However, in order to give the treated wastewater a new use before it is poured into the public hydraulic domain, water reclamation has been introduced.

Thus, the treated wastewater is sent to a Water Regeneration Station (WRS), where it undergoes an additional treatment process to ensure that it meets the necessary standards for the intended reuse.

At this stage, the treated water undergoes an advanced regeneration process that guarantees its quality for uses such as agricultural irrigation, industrial cooling, or urban cleaning. This treatment ensures that the regenerated water meets the standards required for its intended reuse, allowing it to be used without public health or environmental risks.

Regenerated water is mainly given urban uses (irrigation of green areas and gardens, street cleaning or industrial washing of vehicles), agricultural uses (irrigation of crops), industrial uses (cleaning of machinery, production equipment or cooling of machinery and equipment) or recreational uses (irrigation of golf courses, ponds or fountains). The use of regenerated water for human consumption or by the food industry is strictly forbidden.

The steps described above are illustrated in the following diagram:

The legal regime for the management of regenerated water in Spain has recently been developed by Royal Decree 1085/2024 of 22 October, which approves the Regulation on Water Reuse and amends various Royal Decrees on water management ("**Royal Decree 1085/2024**").

The main purpose of Royal Decree 1085/2024 is to establish a legal framework applicable to water reuse that guarantees regenerated water quality and protection of health and the environment, requiring a risk management plan to monitor the reuse process in sectors such as urban, agricultural, or industrial, among others.

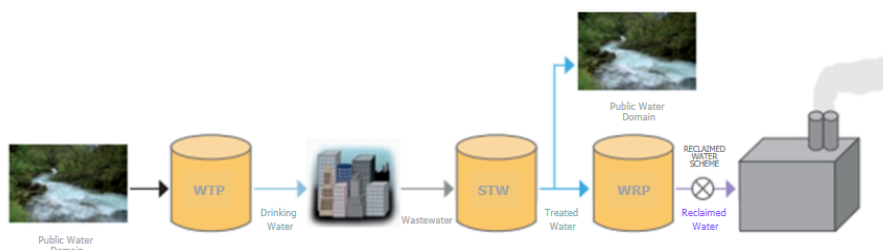
Furthermore, Royal Decree 1085/2024 introduces a modern and broad approach to water reclamation, expanding the range of permitted and excluded uses for regenerated water, with the aim of reducing pressure on natural water resources.

This is a new legal regime that opens the door for non-traditional actors in the sector to undertake business ventures

Among other relevant aspects, Royal Decree 1085/2024 also defines the different actors involved in the water regeneration process and sets out the obligations of each one, whose relations must be defined in a Risk Management Plan to be submitted to the competent authority by the producer and supplier of regenerated water to guarantee its proper use and management.

Due to its relevance in terms of permitting procedures and legal entitlements, it is important to differentiate between the producer and supplier of regenerated water, on the one hand, and the user of regenerated water, on the other hand:

(i) Production and supply of regenerated water. In accordance with articles 5 to 10 of Royal Decree 1085/2024, in relation to article 109 of the Water Law, **the production and supply of regenerated water requires prior authorisation by the competent authority^[1], that would be granted for a period of 10 years.**



[1]In accordance with Article 2(j) of RD 1085/2024, the competent authorities are the basin organisations in case of inter-community river basin districts and the equivalent water administrations of the Autonomous Communities in the case of intra-community river basin districts.



However, it is important to note the following:

- Holders of existing authorisations for regenerated water activities, or holders of regenerated water facilities operating under a valid enabling title—in both cases in accordance with Royal Decree 1620/2007 of 7 December, which established the legal regime for the reuse of treated water[2]— must apply for a change in the terms of the authorisation not later than 31 December 2028, or by the expiry date of the current authorisation if this is earlier.
- In case of entities engaged in the production and supply of regenerated water not covered by the scope of Regulation (EU) 2020/741, of the

European Parliament and of the Council of 25 May 2020, concerning minimum requirements for water reuse, they shall apply for the authorisation of production or supply of regenerated water to the relevant river basin organisation by 31 December 2025.

(ii) Use of regenerated water. Administrative concession requirement. As an exception to the need for a new concession, Article 13.4 of Royal Decree 1085/2024 provides that if the applicant is the first user[3] of the regenerated water and has a previous concession covering its intended use, a new concession is not required. In such cases, the concessionaire must request an amendment to the existing concession to expressly include such intended use of

regenerated water, if it is compatible with the hydrological plan and the rights of third parties.

Also, holders of previous concessions for the use of regenerated water must request the modification of the existing concession to adapt it to the new requirements of Royal Decree 1085/2024 by 31 December 2028 or the expiry date of the concession period, whichever comes first.

[2] Royal Decree 1085/2024 repealed this Royal Decree.

[3] According to Article 2(u) of RD 1085/2024, the first user is the natural or legal person who holds the concession for the first use of the derived water.



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