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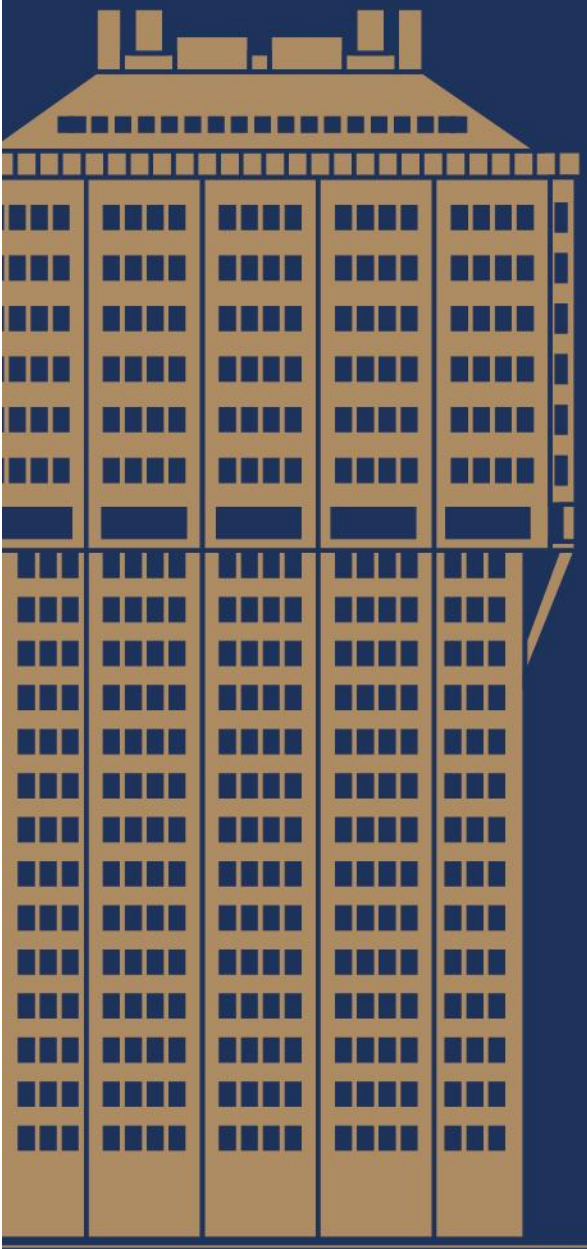
Real Estate News



Quarterly insights

no.6

January 2026

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Real Estate

Gift of property: a turning point. Easier transfers, reduced risks

The new regulation removes the main concern of purchasers and banks: the possibility of having to return the property following an action for reduction brought by the legitimate heirs.

The purchaser of a property acquired through a gift is finally protected, and liability falls solely on the donor-seller, with a mechanism that leads to possible payment of compensation by the seller, but not to the loss of the property by the purchaser.

A reform that has been awaited for years and will smooth out a market segment that has long been "locked up" by hereditary fears.

The actual impact with regard to gifts already made will be assessed on a case-by-case basis according to the final text of the regulation.

The reform also changes the market for gift-related insurance policies.

Insurance policies designed to cover the risk of return by the third-party purchaser – often used to make donated properties "marketable" – will see their scope reduced.

Conversely, new policies may emerge to cover the risk of compensation owed by the seller to the legitimate heirs.

The focus shifts: no longer the protection of the purchaser, but rather the regulation of the economical relationships between the donor and the heirs.

The reform also affects corporate transactions: should the scope be extended to movable assets and shares, many insurance policies currently used in share deals will no longer apply.

A new scenario is therefore taking shape—which will require a reorganization of contractual instruments and market practices.

Tax

Residential properties investments and VAT deduction: Italy's outlook

The Italian Supreme Court (*Corte di Cassazione*) has reaffirmed that VAT deduction on the acquisition and management of properties must be determined based on the actual use of the property in an economic activity, irrespective of its cadastral classification (Decision no. 31506/2025).

The Court emphasized that VAT neutrality – a fundamental principle governing the operation of this tax as set forth primarily in the EU VAT Directive – must be guaranteed to economic operators.

Accordingly, the Court held that VAT deduction must be permitted on the acquisition, maintenance, renovation, or management of residential properties where such properties are allocated by the owner to an economic activity.

The case law

It follows that Article 19-*bis*1, paragraph 1, letter i) of Italian VAT Law – which provides for the non-deductibility of VAT relating to buildings classified in the Land Registry as residential (with limited exceptions) – must be disapplied.

Article 19-*bis*1, paragraph 1, letter i) excludes VAT deduction on:

- the purchase of residential properties, and
- their maintenance, renovation, and management.

The only exceptions provided by that provision are for:

- companies whose exclusive or principal business activity is the construction of residential properties, and
- companies engaged in VAT-exempt rental activities.

According to the consistent jurisprudence of the Supreme Court, VAT is deductible – notwithstanding the above provision – if residential properties are used in the context of an economic activity (Decision no. 23296/2025).

Tax Authority's view

The Revenue Agency (*Agenzia delle Entrate*) has recognized this interpretation with respect to buildings classified in the Land Registry as residential only in certain cases, not on a generalized basis. For example, the Agency allows VAT deductibility where residential properties are used for tourist accommodation activities with hotel services, but not if they are used for other types of rental business (see Ruling no. 60 of 2024).

The non-deductibility provision described above is inconsistent with the VAT system. Moreover, the tax system already provides other provisions suitable for addressing any improper VAT deduction connected to residential properties.

Outlook

The foregoing constitutes one of the tax obstacles to the development of investment in the living sector by institutional real estate investors. The flow of institutional capital into this sector can promote the increase and improvement of the supply of residential properties.

From another perspective, the above VAT rule is inconsistent with the energy efficiency improvement objectives for the building stock provided for in the EPBD (Energy Performance of Buildings Directive) – which must be transposed by May 29, 2026.

Italy's upcoming VAT reform should remove these obstacles, guaranteeing VAT deduction and neutrality with respect to residential properties allocated to economic activities.

Commercial leases and tenant default: rent subject to corporate income tax (IRES) even if uncollected, until termination of the lease

With judgment no. 27451 of 14 October 2025, the Supreme Court ruled again on the IRES provision whereby, in commercial leases (unlike residential leases), the rent contributes to the landlord's taxable income if it is due under the lease agreement, regardless of whether it is actually collected (Article 26 of the Consolidated Income Tax Act).

The legitimacy of this provision was confirmed by the Constitutional Court in its ruling no. 362/2000.

It follows that the subsequent termination of the lease does not exclude the taxation of rents that were not collected and relating to the period prior to termination.

Accordingly, until the lease is terminated, the rent:

- contributes to the landlord's taxable income even if uncollected due to the tenant's default;
- is taxable in the tax period in which it is due under the lease agreement.

This is an aspect that shall be considered when drafting lease agreements for properties other than residential ones.

Real estate investment funds participated in by non-institutional individual investors

With judgment no. 30657 of 20 November 2025, the Joint Sections of the Supreme Court provided important and innovative clarifications regarding the participation in real estate funds by individuals who qualify as non-institutional investors.

In particular, the Supreme Court ruled on the calculation of the 5% threshold, exceeding which implies taxation through transparency of the "non-institutional" shareholder.

According to the Supreme Court:

- the cumulative calculation of the 5% threshold (i.e., taking into account the shares held by family members) constitutes an anti-avoidance provision;
- this is a relative presumption;
- consequently, shareholders are allowed to provide contrary evidence, including through a ruling request submitted to the Italian Revenue Agency;
- the ruling provides detailed guidance on the type of evidence required, which cannot be limited to the different residence of the shareholders;
- the Court emphasises that the rule must be interpreted in such a way as not to hinder access to real estate funds by small and medium-sized investors (non-institutional individuals).

Real estate funds and asset separation: recent confirmations from the Supreme Court

In a recent judgment concerning civil litigation involving a lease agreement, the Italian Supreme Court took the opportunity to reaffirm certain fundamental characteristics of real estate funds arising from the segregation of assets from the alternative investment fund manager (SGR) as established by Article 36 of Legislative Decree no. 58/1998 (Consolidated Finance Act, hereinafter "**TUF**").

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1. The case

In Judgment no. 25875 of 22 September 2025, the Italian Supreme Court reaffirmed certain fundamental characteristics of real estate funds pursuant to Article 36 of Legislative Decree no. 58/1998.[1]

The case giving rise to the litigation involved an action brought by a corporation, as tenant of a property owned by a real estate fund, against the fund as landlord, for alleged breach by the landlord in connection with defects in the property. Beyond the

[1] *The provision containing the definition of collective investment fund.*

specific circumstances, which concern the particular lease agreement, it is worth pointing out the section of the judgment in which the Supreme Court addressed the fundamental characteristics of funds:

- The (absence of) full independent legal personality of the real estate fund.
- The configuration of the fund as an autonomous pool of assets to which legal effects are attributed.
- The relationship between the real estate fund and the alternative investment fund manager (SGR), including a successor SGR in management.

The order reaffirmed that a real estate fund, as a collective investment vehicle (OICR), is not an autonomous legal entity but rather, pursuant to Article 36 of the TUF, an autonomous and segregated pool of assets belonging to the SGR – this is consistent with the opinion expressed by the Supreme Court since 2010.[2]

The judgment then elaborated on this concept by stating that:

- Properties in the fund are registered in the Public Real Estate Register in the name of the SGR, which holds formal title".
- The SGR exercises all rights relating to the properties, attributing profits and losses to the real estate fund.
- The SGR is liable for the fund's obligations with the assets allocated to the fund.

In this context, the Supreme Court emphasizes that: (i) standing in litigation relating to the fund necessarily lies with the SGR, (ii) in the event of replacement of the SGR during pending proceedings, Article 111 of the Code of Civil Procedure applies regarding succession with respect to the disputed right.

2. Segregation of assets as a fundamental characteristic of real estate funds

The point of the judgment we wish to emphasize here is the following: the Supreme Court clearly states that, by operation of Article 36 of the TUF, liabilities relating to the fund's activities are formally the responsibility of the alternative investment fund manager (SGR), as the sole legal entity that can act in legal proceedings, but only to the extent of the fund's assets, and therefore not with its own assets or with the assets of other funds under management.

The Supreme Court considers this point settled and mentions it only as a premise for other considerations, not to demonstrate it: "the fact that, in any event, pursuant to Article 36 of the TUF, the SGR is liable for obligations incurred in the interest of the Fund with the Fund's assets and not with its own, is evidently a settled matter". And it is a settled matter because it derives from the definition of investment fund established by law, not from mere accounting-management segregation.

Consequently, actions by potential creditors of the fund can only affect the assets of the fund, not those of the SGR that managed it during the period in question or of any successor SGR.

[2] *Italian Supreme Court, Civil Division I, Judgment no. 16605 of July 15, 2010.*

The judgment does not explicitly address asset segregation between a real estate fund and other real estate funds managed by the same SGR. However, it is clear that what is stated regarding segregation between the fund and the SGR also applies among the various funds managed by the same SGR.

3. Consequences of asset segregation (brief overview)

The judgment does not address the concept of fund liabilities and, therefore, does not specify whether these refer only to certain types of liabilities or generally to all obligations incurred in the interest of the fund and all related liabilities.

However, reading the judgment, it appears that asset segregation applies to all types of liabilities relating to the fund's real estate investment activities, irrespective of the source. Therefore, the limitation of liability to the fund's assets alone must apply both to liabilities arising from contracts, including damages for breach of contract, and to liabilities arising by operation of law (e.g., taxes relating to the fund's properties).

Consequently, tax liabilities relating to the real estate fund's activities are the responsibility of the fund's assets, not the SGR's assets. Otherwise, there would be a violation of Article 36 of the TUF and a notion of fund for tax purposes different from that provided by the TUF would be established – which is not feasible, since the notion of real estate fund for tax purposes is the one provided by the TUF.

The circumstance that the fund is not a full legal person, as stated by Supreme Court case law, affects procedural aspects of the litigation more than the financial liability.

Town planning

Constitutional Court: Tuscany's Tourism Act related to Short-Term Rentals and Hotel Activities is legitimate

With ruling no. 186 of 16 December 2025, the Italian Constitutional Court declared the constitutional challenges brought by the Presidency of the Council of Ministers against the Tourism Act of the Region of Tuscany (Regional Law No. 61/2024) to be partly unfounded and partly inadmissible, thereby confirming the overall validity of the regulatory framework.

The Court's main holdings are summarized below:

- Increase in hotel accommodation capacity (Article 22, paragraph 6): The provision allowing hotels to increase their accommodation capacity by up to 40% through the association of residential units located within 200 meters is legitimate. The attribution to municipalities of the power to set more restrictive limits is consistent with their urban planning functions and does not infringe the principles of reasonableness, proportionality or freedom of economic initiative.

- Permitted use for non-hotel accommodation activities (Article 41, paragraph 3): The rule limiting non-hotel accommodation activities to properties with a tourist-accommodation designated use, excluding residential properties, is consistent with Article 3 of the Constitution (principle of equality), given that such activities are organized and carried out on an entrepreneurial basis.

- Transitional regime (Article 144, paragraph 3): The transitional provision postponing the application of Article 41, paragraph 3 until 1 July 2026, under which both residential and tourism-accommodation properties may continue to be used until that date, finding it lawful and not discriminatory.

- Restrictions on the cumulative accommodation capacity of multiple facilities within the same building (Article 41, paragraph 4): The provision limiting the number of rooms and the overall accommodation capacity where the same operator manages multiple facilities (such as guesthouses, B&Bs and historic residences) within the same building does not infringe the freedom of economic initiative, as it aims to prevent circumvention of the size limits set by law.

- Requirement of entrepreneurial management (Articles 42–45): The obligation to operate non-hotel accommodation facilities with residential characteristics under an entrepreneurial management model is legitimate, as it concerns the modalities for carrying out accommodation activities and falls within the regional legislative competence in the field of tourism.

- Restrictions on short-term tourist rentals (Article 59): The provision granting high-tourism-density municipalities and provincial capitals the power to identify zones and limits for short-term tourist rentals, subjecting such activities to the issuance of a five-year authorization, is consistent with the Constitution, as it falls within the matters of territorial governance and tourism.

The full text of the sentence is available here.

Milan: Procedures Defined for the Handling of Remedial Applications Concerning Building Works Subject to Ongoing Criminal Proceedings

By Executive Determination no. 11478 of 11 December 2025 (the "**Determination**"), the Municipality of Milan approved the procedures for the handling of remedial applications concerning building works that have already been carried out, are currently under execution, or have not yet commenced, on the basis of building titles already effective and currently subject to criminal proceedings relating to alleged building offences.

In particular, the Determination instructs the competent municipal offices to carry out the examination of remedial applications in accordance with the following steps:

A. a preliminary verification that the procedure has been properly initiated by the private operator through the filing of a specific application;

B. verification of the classification of the works and the consequent adjustment of the construction contribution, depending on whether the works are (i) reclassified as "new construction", or (ii) confirmed as "building renovation", in accordance with the criteria set out in the Determination;

C. with regard to standards:

   (i) for building works which, following the remedial procedure, require additional private works—even if only completion works—not qualifying as essential variations, or which do not require any further works, any monetization shall be determined using the calculation method set out in Municipal Executive Resolution (DGC) no. 1512/2024, applying OMI values as at the date of issuance or effectiveness of the original building title;

   (ii) for building works requiring additional private works to be completed or carried out pursuant to the final measure adopted at the conclusion of the remedial procedure and qualifying as essential variations, verification of standards shall be carried out, giving priority to the transfer and/or dedication to public use of the areas.

D. exclusively for building works yet to be carried out and reclassified as new construction, verification of compliance with the rules governing Building Coverage Ratio under the PGT and the consequent adjustment of the project.

E. for procedures following the submission of applications for the approval of an implementation plan, the following additional requirements shall apply:

   (i) screening for Strategic Environmental Assessment (SEA), with respect to building works yet to be carried out;

   (ii) verification of compliance with the permeability index provided for under Article 10(4)(c) of the Rules Plan (PdR) of the 2020 PGT, without prejudice to the possibility of compensation or monetization pursuant to paragraph 5 of the same article, applying the base value for building refurbishment works.

The Determination also provides guidance, with reference to Article 10.5 of the Rules Plan of the current PGT and the option to monetize the requirements under paragraph

4 of the same article, on the methods for calculating monetization in cases where the RIC threshold is not met (reference is made to the Determination for a detailed examination of the applicable rules).

Finally, the Determination instructs the competent offices to:

- initiate, upon receipt of the above-mentioned applications, the procedure aimed at the adoption of the relevant remedial measures (implementation plans, town planning agreements, or building permits subject to the signing of a town planning agreement), without prejudice to the investigations already carried out in connection with the building titles previously issued or formed, and limiting further checks to those specifically set out under points A, B, C, D and E;
- carry out only the additional investigative activities outlined above, which shall be considered supplementary to those already performed, insofar as they are strictly functional to the new modalities for implementing the building works (subject to criminal proceedings) for which the relevant permit had been issued or had otherwise become effective.

The full text of the Determination is available here.

New Developments in Real Estate: 2025 Simplification Bill

Introduction

On 26 November, Parliament definitively approved the "Simplifications 2025" bill, which became law upon its publication in the Official Gazette (Law no. 182 of 2 December 2025). The Bill introduces a set of cross-sector simplification measures of relevance to the real estate sector, covering the following areas.

The law enters into force on 18 December.

Administrative Self-Revocation

The time limit within which the public administration may revoke, on its own initiative, an illegitimate administrative measure in the public interest, is reduced from 12 months to 6 months.

Building Permits for Protected Properties

The tacit approval procedure is now also applicable to properties subject to hydrogeological, environmental, landscape or cultural protection constraints, provided that the relevant authorizations, clearances or other mandatory approvals required under the applicable protection legislation have already been obtained and are valid.

Parking Areas for Hotel Facilities

Hotel facilities may be granted, on a temporary basis, the use of portions of public road land for parking purposes and for the loading and unloading of luggage, in compliance with the provisions of the Highway Code governing occupation of public roadways.

Workers in the Tourism and Hospitality Sector

Urban planning or building refurbishment works, as well as demolition and reconstruction works, commenced by 31 December 2026 by beneficiaries of public funding allocated to the creation, redevelopment and upgrading of subsidized housing for workers in the tourism and hospitality sector, shall continue to be governed by Article 10 (7-*ter*) of Decree-Law no. 76/2020 (i.e. SCIA and the possibility of increasing existing gross floor area or volume by up to 20%, in compliance with Ministerial Decree no. 1444/1968). In addition:

- such properties shall be subject to a ten-year use restriction;
- the related change of use, where functional to these purposes, shall be governed by Article 23-*ter* of Presidential Decree no. 380/2001 and shall therefore always be permitted (subject to the conditions set out in municipal planning instruments), without requiring additional areas for public services or compliance with the minimum parking standards set out in Law no. 1150/1942. Subject to the limits established under regional legislation, where applicable, the payment of contributions required for secondary urbanization charges shall remain due;
- in any event, beneficiaries must enter into agreements with parking facility operators in order to mitigate the increased urban load;
- the provisions of the Cultural Heritage and Landscape Code (Legislative Decree no. 42/2004) shall remain fully applicable.

The full text of the law is provided here.

New Developments in Real Estate: Bill on the Building and Construction Code

Introduction

On 4 December, the Council of Ministers approved the draft bill providing for the "delegation to the Government for the adoption of the Building and Construction Code" (the "**Bill**").

The Bill grants the Government the authority to adopt one or more legislative decrees for the comprehensive reform of building regulation, aimed at reorganizing the legal framework currently set out in Presidential Decree no. 380/2001 (Consolidated Building Act), Law no. 1086/1971 and Law no. 64/1974.

The Bill must be approved by Parliament and, once the enabling law enters into force, the Government will have twelve months to adopt the relevant legislative decrees.

Principles and Guidelines for the Reform

In adopting the legislative decrees, the Government shall comply with the following principles and guidelines:

- simplification and systematic reorganization of building legislation and technical construction rules within a single regulatory text;
- identification, within the legislative decrees, of those building provisions adopted pursuant to the exclusive legislative powers of the State (Article

117(2) of the Constitution) and those adopted under the concurrent legislative powers of the State and the Regions (Article 117(3) of the Constitution), in order to avoid overlaps and inconsistencies between national and regional legislation;

- identification of essential levels of performance in the building sector, as minimum mandatory requirements applicable nationwide (e.g. minimum building standards for construction in areas lacking a general or implementation planning instrument);
- simplification and reorganization of the rules governing the lawful status of properties, through the precise definition of criteria, procedures, permits and documents required to prove such status;
- simplification and revision of categories of building works, in order to clarify the types of construction activities included in each category and their respective administrative regimes (free building activity, CILA, SCIA, building permit, derogation building permit, etc.);
- simplification and digitalization of building procedures, including to promote coordination mechanisms among different administrations and to reduce formal requirements and burdens for private parties;
- revision of the rules governing building irregularities and tolerances, with a view to defining a uniform national classification of irregularities, as well as revising amnesty procedures and sanctioning regimes;
- simplification and reorganization of the rules governing changes of use, enhancing the principle of functional neutrality and distinguishing between changes of use with or without building works;
- simplification and reorganization of the rules on certificate of use and occupancy;
- redefinition of the criteria and methods for determining the financial charges applicable to building works, including extraordinary contributions;
- reorganization and simplification of the provisions governing the supervisory and inspection powers over urban planning and building activities;
- revision of the rules governing building activity, identifying measures aimed at promoting the redevelopment of existing building stock, urban regeneration, energy efficiency, seismic safety, hydrogeological risk protection, land consumption containment and the reduction of greenhouse gas emissions;
- revision of the rules governing construction works, with specific regard to structural resistance, stability, sustainability and accessibility.

"Milan Case": the Municipality Announces the New "Remedial Measures"

Our Managing Partner, Guido Alberto Inzaghi, commented in Il Foglio on the "remedial measures" adopted by the Municipal Executive with Resolution (DGC) no. 1409/2025.

The Resolution provides operational guidance on how to manage building works that are currently the subject of pending criminal proceedings.

Inzaghi observes that some operators are already considering the solution proposed by the Municipality, viewing it as a useful remedy in a critical situation. While he maintains that the appointment of a *commissario ad acta* would be the most effective and rapid route, he acknowledges that—if such an option is not feasible—it is understandable that operators seek alternative pathways. He reiterates, however, that he continues to consider the building titles challenged by the Public Prosecutor's Office to be lawful.

Inzaghi further explains that the course proposed by the Municipality may represent the "lesser evil" for operators, even though it does not extinguish the building offence, it may lead the criminal court to refrain from ordering the demolition or even the confiscation of the properties.

The full article is available here.

Municipality of Milan – The Landscape Commission Is Operational Again

Following several months of deadlock caused by the near-total resignation of the previous Landscape Commission, the Municipality of Milan appointed the 11 new members of the Commission on 20 November. They will remain in office until 2028.

The new Regulation of the Landscape Commission (approved by City Council Resolution no. 44 of 12 June 2025) has enabled the reconstitution of the body, streamlining its composition and introducing stricter requirements to ensure the quality and independence of its members.

The Deputy Mayor responsible for Urban Regeneration recalled that, with the launch of the partial regulatory amendment to the Rules Plan and the Services Plan, the framework within which the Commission will operate, assessing the consistency of projects with landscape and environmental constraints and their proper integration within the urban context, has now been defined.

The communication of the Municipality of Milan on the appointment of the Commission's members is available here.

Milan: the Municipal Board Clarifies How to Handle Building Works Involved in Criminal Proceedings

Introduction

With Resolution no. 1409/2025, the Municipal Board of Milan addresses an issue of significant practical relevance for operators and developers: the management of building works already completed or currently in progress under building titles that have been duly issued, but implicated in criminal proceedings for alleged building offences.

In Brief

In line with the case law of the Constitutional Court and the Court of Cassation, the Resolution introduces a mechanism for the ex-post verification of the urban-planning compliance of building works.

This instrument allows the Municipality to acknowledge the substantive legitimacy of works already completed or ongoing, without amounting to an amnesty in the technical sense - an option unavailable in cases of unlawful subdivision - but providing legal certainty to private parties and to the administration.

The verification is formalized through a municipal measure certifying ex-post the urban-planning compliance of the intervention.

Scope of Application

The ex-post verification applies where:

(i) the intervention has been completed or is ongoing on the basis of a building title formally valid and effective

(ii) both the title and the intervention are challenged by the Public Prosecutor's Office and are the subject of a pending criminal proceeding.

Purpose

Although it does not extinguish the building offence, the ex-post compliance measure may prevent the criminal judge from ordering the demolition or acquisition of the property which the Municipality has deemed compliant with the applicable planning framework.

Practical Operation

Once the ex-post verification procedure has been initiated upon request of the interested parties, the Municipality proceeds as follows:

- it verifies the compliance of the works with the criteria set out in DGC no. 552/2025 and subsequent determinations, preserving the evidence already acquired;
- it may supplement the existing administrative file where necessary;
- in qualifying the nature of the building works, it takes into account Council of State Judgement no. 85/42/225;
- it may request the payment of any outstanding amounts, where sums due under the indirect title (*e.g.* standard monetization, different incidence of charges) exceed those already paid under the direct title.

Here is the link to the full text for consultation.

Data Center – The MIMIT Presents the New National Strategy for Attracting Foreign Investment

The Ministry of Enterprises and Made in Italy (MIMIT) has published the updated version of the "National Strategy for Attracting Foreign Investment in Data Center", developed through consultation between central and local administrations, trade associations, and industry operators.

The goal is to make Italy a leading digital hub in the Mediterranean and in Europe by simplifying permitting procedures, coordinating incentives, and promoting industrial policies focused on innovation and sustainability.

Among the main actions envisaged to attract new investment are:

- the creation of a uniform regulatory framework across the national territory, with clear and predictable timelines for the various stages of the permitting process
- incentives for facilities demonstrating high environmental performance in electricity, water, and thermal management
- the identification of areas best suited for infrastructure development, starting with decommissioned industrial sites
- the promotion of investment in electricity grids and the production of energy from renewable sources.

Here is the full text of the document.

Regional Administrative Court of Lombardy (TAR) – Demolition and Reconstruction Developments are Entitled to Reductions in Construction Cost Contributions Even if Classified as New Construction

With ruling no. 3605/2025, the Regional Administrative Court of Lombardy (TAR Milano) ruled that reductions on the Construction Cost Contribution (CCC) apply to demolition and reconstruction works, regardless of whether they are formally classified as building refurbishment or new construction.

The Court, while acknowledging the technical discretion of the Municipality in qualifying as "new construction" those works that entail a substantial transformation of the territory — and therefore deeming legitimate the municipal policy acts and provisions adopted following the investigations of the Public Prosecutor's Office — however, the Court confirmed the applicability of the 50% reduction of the CCC (as provided under Article 48.6 of Regional Law no. 12/2005) to demolition and reconstruction developments, even where classified as new work.

In its reasoning, the TAR observed that:

"The regional provision at issue, as already noted, expressly refers to demolition and reconstruction works. Restricting its scope of application on the basis of the absence of a general or specific act clarifying its operation depending on the overall qualification of the intervention (Refurbishment or New Construction) constitutes an interpretative criterion which, apparently, lacks any statutory basis."

The Court further clarified that the 20% reduction in the CCC (provided under Article 17(4-*bis*) of Presidential Decree no. 380/2001) is objective in nature and cannot be denied merely on the basis of the formal classification of the intervention, unless adequately justified by the municipal administration.

The full text of the TAR Milano ruling may be consulted here.

Launch of the Amendment Procedure to Milan's PGT – Statement by Guido Inzaghi for Confindustria Assoimmobiliare

Following the publication of the Municipal Board Resolution launching the regulatory amendment to Milan's Town Planning Scheme (PGT), our Managing Partner released a brief comment, which we report below together with the statement issued by the Association.

Confindustria Assoimmobiliare welcomes with great interest the commencement of the procedure for the regulatory amendment to the PGT.

The initiative undertaken by the Municipal Administration represents a valuable opportunity to reorganize the city's urban planning framework and to promote a more effective approach to urban regeneration.

"We hope that this process will lead to the definition of clear, stable and proportionate rules that do not hinder redevelopment works on the existing building stock and that ensure certain and reasonable timeframes for the processing of building applications," stated Guido Alberto Inzaghi, Chair of the Urban Planning Committee of Confindustria Assoimmobiliare. "Only in this way will it be possible to overcome the unsustainable delays currently affecting many pending procedures and to encourage the submission of new projects that support the city's development and competitiveness. The Municipality of Milan - Inzaghi added - must be equipped with an organizational structure adequate to the volume of work required to promptly clear the substantial backlog of applications and to ensure an efficient administrative process consistent with the city's urban renewal objectives."

Particular attention should be paid to the matter of Social Housing (*Edilizia Residenziale Sociale* – ERS): Confindustria Assoimmobiliare considers it essential that the new rules translate into concrete and sustainable measures, avoiding demagogic approaches and instead promoting solutions that genuinely address housing needs without undermining the economic balance of development projects.

In full respect of institutional roles and competences, the Association will continue to closely monitor the evolution of the procedure, offering its cooperation to help define a regulatory framework that is fair, stable, and conducive to urban regeneration and the sustainable growth of Milan.

New Milan PGT – Guidelines Approved for the Launch of the Partial Amendment

With Municipal Board Resolution no. 1358 of 6 November 2025, the Municipality of Milan approved the guidelines for initiating the partial amendment to the Territorial

Government Plan (PGT), which will update the Implementation Rules of the Plan of Rules and the Plan of Services.

The purpose of this initiative is to bring Milan's urban planning framework into alignment with recent regional and national provisions, address certain implementation issues, and simplify administrative procedures pending the forthcoming general amendment, whose timing does not allow short-term solutions to current criticalities. At the same time, the previous resolution launching the comprehensive review of the PGT (DGC no. 496/2023) has been revoked.

In summary, the new amendment process will pursue the following key objectives:

- align the implementation procedures of the Plan of Rules with the most recent municipal provisions (DGC 552/2025 and DD 4192/2025);
- provide a clear and unambiguous geometric definition of the courtyard as a morphological element;
- clarify the procedures for transferring building rights through equalisation, including within areas subject to detailed planning;
- restrict deviations from morphological rules to detailed planning procedures, supported by comparative analyses between project and urban context;
- align the landscape provisions of the Plan of Rules with the Cultural Heritage Code (Legislative Decree 42/2004), clarifying the role and binding effect of opinions issued by the Landscape Commission;
- define the administrative process for introducing building rights in municipal areas and for interventions in Squares and Transport Hubs, to be carried out through detailed planning;
- limit changes of use of car parks and garages, preserving their original function;
- update the provisions on Social Housing (ERS), specifying the types of social housing permitted;
- allow the development of ERS above the base index only where consistent with morphological requirements or, in duly justified cases, within detailed planning processes, ensuring the necessary provision of services;
- adapt the rules governing commercial activities to new and subsequent legislation;
- ensure the protection of rural buildings, prohibiting demolition and promoting the conservation of historical building stock;
- update the planning framework for Parco Nord Milano areas, harmonizing competences between the Municipality and the Park Authority;
- revise transitional and final provisions to ensure regulatory consistency;
- adapt the service provision standards for public and private facilities, in line with urban needs;
- ensure morphological compliance for interventions on private facilities under agreement and on accessory areas (excluding public services);
- define procedures for updating the Plan of Services in cases of decommissioning, relocation, or integration of public and general-interest services, both on public and private properties.

Pending approval of the regulatory amendment to the PGT, the Municipal Board has also issued transitional instructions for the application of the rules governing deviations from morphological requirements (Articles 19 §§ 4–5, 21 § 8, 23 § 4 of the Implementation Rules of the current Plan of Rules). Specifically:

- deviations from morphological rules must be interpreted and applied with utmost caution, ensuring coherent and harmonious urban development;
- each request for derogation must be thoroughly justified and assessed by the competent offices and the Landscape Commission, which must issue detailed opinions on the landscape and environmental consistency of the projects;
- until the approval of the amendment, deviations may be authorized only within detailed planning procedures, in accordance with DGC 552/2025 and DD 4192/2025, and must be supported by a technical and morphological report;
- in all other cases, derogations may be granted only where the height of existing buildings is respected and following a detailed review by the competent offices, based on a typo-morphological and architectural analysis of the urban context;
- where inconsistency or deterioration of the urban context is identified, the offices may deny the request for deviation, even without seeking the opinion of the Landscape Commission.

The resolution also provides for the initiation of the related screening procedure for Strategic Environmental Assessment (SEA) and the publication of the notice of commencement in local newspapers, on the municipal website, on the official register (*Albo Pretorio*), in the BURL and on the SIVAS platform.

Within 30 days of publication, citizens and stakeholders may submit suggestions and proposals.

The full text of the resolution is available here.

How urbanization charges are calculated in Milan: new Executive Decision in application of Council Resolution no. 28/2023

With Executive Decision no. 9501 of 24 October 2025, the Municipality of Milan defined the criteria for applying City Council Resolution no. 28/2023, concerning the updating of primary and secondary urbanization charges.

Among the main changes:

1. Demolition and reconstruction with a time gap: if more than one-year elapses between demolition and the new building permit, the charges will be calculated at 100% as for new construction, without applying the 68% reduction.
2. Interventions with equalization rights: the 68% reduction applies only to the pre-existing gross area, while the part deriving from equalized rights remains subject to full charges.

3. Conditional SCIA (certified notification of commencement of works): charges must be updated at the time of the condition's dissolution, with reference to the rates in force on that date.

The act provides uniform guidelines for municipal technical offices and clarifies the application of reductions on charges, a frequently discussed topic in Milanese building practice.

The Executive Decision can be consulted here.

Council of State: "continuity" between demolished and rebuilt buildings marks the boundary between building renovation and new construction

With judgment no. 8542/2025, the Council of State upheld the first instance judgment, annulling the building and urban planning compliance certificate with which the Municipality of Milan had deemed legitimate a demolition and reconstruction project, with a change of use from industrial to residential, carried out on the basis of a SCIA (certified notification of commencement of works) as an alternative to a building permit.

The decision—while acknowledging that the concept of building renovation has evolved over time, moving away from the strict requirement of "faithful reconstruction"—states that demolition and reconstruction can only be classified as building renovation if there is effective continuity between the demolished building and the one resulting from the reconstruction.

In the absence of a clear regulatory definition of the concept of "continuity," the Council of State identifies the conditions for its application, specifying that it exists only when the following limits and conditions are met:

1. The intervention must concern a single building, excluding mergers or divisions of volumes.
2. There must be temporal contiguity between demolition and reconstruction, which must be legitimized by the same building permit.
3. The volume of the reconstructed building may not exceed that of the demolished building, without prejudice to the possibility of allowing increases in volume only in exceptional cases expressly provided for, on a one-off basis, by current legislation or municipal urban planning instruments for building renovation works.

In fact, the intervention must be neutral in terms of its impact on the territory in its physical dimension.

In the absence of continuity, the intervention must be considered a new construction, thus requiring a building permit.

The Council of State therefore rejected the appeals of the Municipality of Milan and the owner company, confirming the annulment of the building permit's certificate of conformity.

The full text of the judgment can be consulted here.

Bill to Unblock Construction Sites in Milan

A bill has been submitted to the Senate providing for the designation of a Special Commissioner by the Government to unlock construction sites in Milan that are currently under seizure or subject to judicial investigation.

Our Managing Partner, Guido Alberto Inzaghi, commented on the matter, stressing that the designation of a commissioner represents "the only way to overcome an emergency that is damaging the City's image and its economy."

An extraordinary measure, therefore, but a necessary one to address an issue that directly affects the recovery of Milan's urban economic fabric, pending a structural reform of planning law through the upcoming Consolidated Building Act (*Testo unico delle costruzioni*).

Here the full article.

The Lombardy Regional Administrative Court Upholds the legitimacy of the Municipality of Milan's Review Process in the Well-Known Case of Alleged Building Irregularities Under Investigation by the Public Prosecutor's Office

Summary

With ruling no. 3105/2025, the Lombardy Regional Administrative Court – Milan (Section II) confirmed the lawfulness of the review conducted by the Municipality of Milan concerning the well-known demolition and reconstruction development project involving changes to the building's footprint and shape, consisting in the construction of a twenty-four-storey building submitted through a Certified Notice of Commencement of Works as an alternative to a Building Permit (SCIA ex Article 23 of Presidential Decree No.380/2001).

In dismissing the claim filed by the owner of an adjacent property, the Court upheld the correctness of the Municipality's approach, clarifying that:

1. To determine the volumetric consistency of a building, it is possible to rely on a sworn statement when the original building or planning records are unavailable.
2. The exchange between the applicant and the Landscape Commission are a natural part of the procedure and may result in overcoming an initial negative opinion through appropriate design amendments.

3. The morphological rules under the PGT may be waived where a positive opinion is issued by the Landscape Commission and the applicant undertakes to comply with the related conditions.
4. The opinion of the Landscape Commission constitutes an exercise of technical discretion, which may only be challenged before the courts in cases of manifest illogicality or factual misrepresentation.

Comment

The judgment did not directly concern the abstract lawfulness of the SCIA as an alternative to a Building Permit, but rather the challenge, brought by a third party, against the communication through which the Municipality of Milan responded to a verification request pursuant to Article 19 (6-*ter*) of Law no.241/1990, relating to an alternative SCIA for demolition and reconstruction works.

Accordingly, the dispute did not involve the classification of the works from a town-planning stand point, but the legitimacy of the Municipality's response. The decision therefore could not—and did not intend to—establish a general principle concerning the type of authorizing instrument applicable, however, does not imply that the Court excluded the legitimacy of the SCIA procedure.

Specifically, as set out on page 4 of the ruling, the claimant alleged that the Municipality's approach was inconsistent, stating that "if this is a case of "new construction", the assigned building index is clearly not respected; conversely, if it is considered a "reconstruction outside the original shape", the existing volume is clearly not maintained, since a three-storey building is being replaced by a tower of at least twenty-one storeys."

In response , the Municipality clarified that "the development qualifies as building renovation pursuant to Articles 3(1)(d) and 10(1)(c) of Presidential Decree no. 380/2001, involving demolition and reconstruction with changes to the building's shape and footprint," and that "the project's building volume corresponds to the reconstruction of the existing built form, albeit with a new modulation of architectural volumes".

The reasoning provided by the Municipality was neither challenged nor refuted by the Regional Administrative Court, which treated it as a legitimate element of the administrative record and a sufficient basis for the contested measure. Specifically:

1. The Court did not declare unlawful, nor did it in any way question, the Municipality's classification of the development as a building refurbishment.
2. Starting from this classification, the volume realized corresponds to that of the existing building, calculated in accordance with the applicable regulations.
3. The judgment therefore implicitly acknowledges the validity of the administrative process examined, including the qualification of the works.

For further details, the full text of the judgment is available here.

Contracts

New rules concerning Building Minimum Environmental Criteria: scope of application, transitional regime and obligations for urbanisation works for deduction

The decree of the Ministry of the Environment and Energy Security dated 24 November 2025, published in the Official Gazette no. 281 of 3 December 2025, introduced a new regulatory framework governing the Minimum Environmental Criteria (the "**MEC**") for the awarding of design services and construction works, fully repealing the previous Ministerial Decree no. 256/2022 and the subsequent corrective decree of 5 August 2024.

The Decree – which will enter into force on 1 February 2026, sixty days after its publication – contains provisions of particular relevance also for real estate operators involved in the construction of urbanization works for deduction.

The explicit obligation for urbanization works: parties involved and scope of application

Paragraph 1.1 of Annex 1 to the Decree provides that the MEC provisions "also apply to the award of public works carried out by private entities holding a building permit or other authorizing title, who directly undertake the execution of urbanization works in total or partial offset of the contribution required for the issuance of the permit, pursuant to Article 16, paragraph 2, of Presidential Decree no. 380/2001 and Article 28, paragraph 5, of Law no. 1150/1942, or who carry out such works under an agreement, as provided for by Article 13, paragraph 7, of the Public Contracts Code".

This provision definitively clarifies that private entities carrying out urbanization works are considered equivalent to public contractors with respect to the application of the MEC.

As from 1 February 2026, the new building MEC will therefore apply to:

- public contractors;
- granting authorities;
- concessionaires;
- private entities holding a building permit or other authorizing title who directly execute urbanization works for deduction;
- private entities carrying out urbanization works under agreements.

From an objective standpoint, the new MEC will apply to all public contracts concerning design and construction management services for building and civil engineering works, as well as to the execution of works, including construction, renovation, maintenance and upgrading activities.

Unlike in the past, the scope of application is therefore not limited to works relating to buildings (which include passenger buildings or stations) but has been extended to works and services for any type of structure or infrastructure, pending the adoption of MEC specific to particular types of works or assets.

Operational implications for urbanization works for deduction: from design to execution

The full application of the MEC to urbanization works for deduction entails significant operational consequences, altering the traditional approach to managing such works.

Unlike the provisions of Annex I.12 to the Public Contracts Code – which excludes the execution phase of urbanization works for deduction from the application of the Code, except for testing – the MEC also apply to the construction phase, as they constitute mandatory technical specifications pursuant to Article 57, paragraph 2, of the Code.

Design Phase

The private entity shall prepare the technical and economic feasibility project (the "**PFTE**") and the executive project in compliance with the technical design specifications set out in Chapter 2 of Annex 1 to the Decree, ensuring:

- compliance with environmental requirements for construction products (concrete, steel, masonry, timber, insulation materials);
- energy performance of the building (including the summer performance);
- sustainable management of rainwater;
- thermal comfort and indoor air quality;
- acoustic comfort and natural lighting;
- implementation of water-saving systems.

The project shall be accompanied by a MEC design report, a mandatory document describing the design choices adopted in relation to the Minimum Environmental Criteria and documenting any technical impossibility to comply with specific requirements.

Tender Documentation

The tender specifications shall include the mandatory contractual clauses set out in Chapter 3 of Annex 1, concerning:

- environmental management of the construction site;
- requirements for materials to be used;
- personnel training;
- construction machinery and site vehicles;
- biodegradable lubricants and greases.

Execution Phase

Works supervision will play a central role in verifying the compliance of the construction products actually used, through the acquisition of:

- product certifications;
- environmental product declarations (EPD compliant with EN 15804);
- test reports;
- other means of proof provided for by Annex II.8 to the Code.

Failure by the contractor to comply with the obligations undertaken may result in the application of penalties or, in the most serious cases, termination of the contract pursuant to Article 122 of the Code.

The transitional regime: when the previous MEC continue to apply

To facilitate the transition, the Decree provides for a transitional regime allowing the continued application of the previous MEC (Ministerial Decree no. 256/2022, as amended) even after 1 February 2026, but only for a limited period of time.

Starting from 1 May 2026, indeed, any tender procedure must be launched on the basis of a project that complies with the new MEC, even if the project was validated prior to the entry into force of the Ministerial Decree.

The general principle: validation date of the project used as the tender basis

In order to determine whether a project shall comply with the previous or the new MEC, two situations shall be distinguished:

- projects validated before 1 February 2026: may benefit from the transitional regime (previous MEC) only if the tender is launched within three months from the relevant validation;
- projects validated on or after 1 February 2026: the new MEC always apply, no exceptions allowed.

Practical Examples

Some practical examples may help to clarify how the regime works.

Assuming that a project gets approved on 15 December 2025 (i.e. before the of new MEC come into force):

Scenario A – Tender launched within 3 months

- Project validation: 15 December 2025
- Tender publication: 10 March 2026 (within 3 months)
- Previous MEC (DM 256/2022) shall apply

Scenario B – Tender launched after 3 months

- Project validation: 15 December 2025
- Tender publication: 20 March 2026 (after 3 months)
- New MEC shall apply

In other words, all tenders launched from 1 May 2026 onwards must be based on a PFTE or executive projects (depending on the type of contract) compliant with the new MEC, even if such projects were validated before 1 February 2026.

Works-only contracts vs integrated contracts

The regime described applies both to works-only contracts and to integrated contracts.

For integrated contracts, which include both executive project and construction works, the decisive element is the validation date of the Technical and Economic Feasibility Project (PFTE), as this is the project used as the tender basis.

For works-only contracts, the relevant reference date is the validation of the executive project.

The mandatory nature of the deadline

Based on the literal wording of the Decree, the three-month deadline must be considered mandatory, as no further extensions or exceptions are provided for.

The expertise required: training and specialist consulting

The mandatory application of the MEC requires specialist expertise in environmental sustainability, such as:

- life cycle assessment (LCA) in accordance with EN 15804 and EN 15978;
- environmental product declarations (EPD);
- environmental certifications and qualification systems;
- technical standards for the industry (UNI, EN, ISO);
- energy performance and indoor comfort;
- sustainable construction site management.

Private entities responsible for the execution of urbanization works for deduction shall therefore assess whether to develop such expertise internally through specialized training programs or to establish stable partnerships with sustainability consultants.

Works managers must also possess the necessary expertise to carry out the compliance checks required by Article 1, paragraph 2, letter g), of Annex II.14 to the Code, which expressly requires verification of the consistency of materials with the requirements of the National Action Plan for environmental sustainability.

Risk management: documentation and traceability

Proper application of the MEC also requires the implementation, within the tender specifications, of accurate documentation and traceability systems capable of demonstrating compliance with environmental requirements at every stage of the project.

The control system shall ensure:

- preservation of the MEC project report, highlighting the technical choices adopted;
- prior acquisition of certifications and EPDs for construction products before installation;
- works management reports documenting compliance checks;
- traceability of the supply chain for materials;
- documentation of inspections of construction machinery and lubricants;
- reporting on environmental management of the construction site.

Failure to prepare adequate documentation exposes the private entity to disputes during the testing phase, with the potential denial of the deduction for the urbanization works not compliant with the environmental requirements.

Conclusions

The introduction of the new building MEC and the explicit confirmation of their mandatory application to urbanization works for deduction significantly reshape the operational framework for parties involved in town panning agreements that provide for the construction of urbanization works for deduction.

It is therefore advisable to proceed immediately with:

1. Reviewing ongoing projects verifying the progress of each project and the validation timelines to identify the applicable MEC regime.
2. Economic assessment of the deduction, integrating the incremental costs arising from the application of MECs into the overall cost-benefit analysis.
3. Development of internal expertise through specialized training or by establishing partnerships with sustainability consultants.
4. Updating operational tools by preparing MEC report templates, compliant tender specifications and document verification procedures.
5. Establishing qualified supplier networks for materials that comply with environmental requirements and developing databases of updated price.

For projects with a PFTE or an executive project validated before 1 February 2026, a careful evaluation shall be made as to whether it is advisable to publish the call for tender within the mandatory three-month period in order to benefit from the transitional regime, compared with the alternative of adapting the project to the new MEC.

Given the complexity of the subject matter, a multidisciplinary approach integrating legal, technical and environmental expertise is essential to ensure full regulatory compliance and optimization of the implementation process.