Data Center Sector Update

Selected Legal Developments in France, Germany, and Italy

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Contents

Overview

In recent years data centers have emerged as a critical asset class at the intersection of digital transformation, energy policy and real estate development.

As enablers of cloud computing, artificial intelligence and data-driven services, they support everything from public administration to global finance, healthcare and logistics. Their physical footprint – large, power-intensive and reliant on infrastructure – has significant implications for urban planning, environmental regulation and the national power grid.

Across Europe, the growth of data centers is driven by increased demand for low-latency services, the expansion of cloud infrastructure and the geopolitical drive for digital sovereignty. Yet this trend also encounters growing scrutiny: data center siting, energy consumption, water use, and integration into national critical infrastructure frameworks are all subject to evolving regulation.

In this context, legal advisors play a key role in assisting investors and developers in navigating a fragmented and rapidly changing regulatory environment.

This joint paper examines the regulatory landscape for data center development and investment across three key European jurisdictions: France, Germany, and Italy.

As data infrastructure becomes increasingly strategic, all three countries are experiencing a rise in transactions and a clear effort by governments to foster a legal framework supportive of this type of investment.

Regulation must strike a careful balance: attracting and facilitating investment in these infrastructures - assets that are widely regarded as beneficial to national economies - while safeguarding national security, promoting environmental sustainability and preserving coherent urban planning. The paper offers a comparative analysis focused on legal frameworks, recent policy changes and the practical impact of the regulatory context on investors and developers.

France

1. Introduction

Driven by robust growth, France is one of Europe's leading data center markets and is becoming an essential strategic hub for the sector.

The total capacity of French data centers currently exceeds 700 MW and, according to RTE (the French grid operator), approximately 5 GW of connection requests are currently in progress or have already been signed, including hyperscale projects with individual sites exceeding 100 MW, for projects to be carried out by 2030.

Paris area largely dominates the French market, with a historical concentration of more than 75% of national power. However, there is a trend toward decentralization toward hubs such as Marseille (strategic for submarine fibre cables) and regions such as Hauts-de-France and Auvergne-Rhône-Alpes.

Demand is driven by the following factors:

- **Energy advantage**: France's attractiveness lies in its decarbonized electricity mix (nuclear and renewables), offering stable, abundant energy that is aligned with the carbon neutrality goals of tech giants;
- **Growth drivers**: expansion is driven globally by generative artificial intelligence and the shift to the cloud, as well as by digital sovereignty requirements (GDPR);
- **Institutional support**: Strong political will of the French State institutions, reflected in ongoing projects to implement accelerated administrative procedures for connection and construction of new data centers projects.

2. Overview of the Regulatory Framework

2.1. Planning and zoning rules

A data center construction project will have to comply with the different French planning and zoning rules.

The main regulations are defined, at the national level by the Town Planning Code (*Code de l'Urbanisme*) and, at the local level, by the local town plan (*Plan Local d'Urbanisme*).

After some debate, data centers have been recently assimilated to the "warehouse" type of use under the Town Planning Code.

2.2. Environmental regulations

The project must comply with the rules applicable to classified installations for environmental protection (ICPE), which usually apply to data center projects, especially for the back-up generators.

The project also must comply with Water Law regulations which aim to organize management of water resources, preventing pollution and protecting and restoring aquatic environments and the ecosystems that depend on them.

2.3. Power supply

Power supply is a key factor for the implementation and the operation of a data center project.

The main point to consider for new projects is the securing of an adequate connection to the French grid. The operation of the French grid is centralized within two entities: the French high voltage grid is operated by RTE and the low and medium voltage grid is operated by Enedis. These entities are regulated by the Energy Regulation Commission (*CRE*).

For each new project, a connection agreement has to be secured with the relevant grid operator, following a formal process involving several steps / preliminary studies.

2.4. Permitting regime

The project's success depends on close coordination with central and local authorities, including the town hall and the Prefecture's environmental services.

Necessary approvals involve building permits and, depending on the project's scope, environmental permits (ICPE and Water Law) as well as the "*Agrément Île-de-France*" for Ile-De-France projects. The process typically requires between 18 and 24 months to secure final permits (cleared of appeal and withdrawal) but can be longer, notably in case of claim which can delay project by several years.

Early planning and support of the local authorities are essential to secure the project's timeline.

3. Contractual Models and Development Structures

3.1. Common structures

The main common contractual structures are:

- **Colocation**: a data center specialist company operates a building that provides servers to users. In such a case, a colocation agreement is signed between the company operating the data center and each user.
- **Lease**: the company that will operate the data center for its own needs, signs a lease agreement with the owner of the data center.

- **Ownership**: the company that will operate the data center for its needs directly purchases the data center or purchases the site and commissions the construction of a data center on the site (in the context of a forward purchase agreement or a construction contract). The purchase can be either a direct asset purchase or a purchase of the shares of the entity owning the site.

The main common development structures are:

- **Brownfield**: reconversion of sites previously used for other purposes (e.g., former military or industrial sites), which is now the preferred mode of development in France, given the increase of environmental regulations.
- **Greenfield**: construction of a data center on agricultural land, which was the most common mode of development, but which is tending to decline due to environmental regulations.

3.2. Key contractual frameworks: land, power, connectivity and service-level agreements

- **Electrical connection**: The electrical connection of the site is the key. It must be planned as far in advance as possible. The electrical connection of the data center site requires to sign a connection agreement with the grid operator (RTE for the high voltage and Enedis for the medium or low voltage). Depending on the projects, it may be required for the grid operator to carry out substantial studies and works to create the connection required for the data center. This gives rise to preliminary agreements called "*PTF*" for RTE and "*PDR*" for Enedis aiming to launch and finance the corresponding studies.
- **Fiber connectivity**: agreements must be signed to secure the arrival of fiber. In practice, it is recommended to provide multiple fiber networks.
- **Service Level Agreement (SLA)**: SLA agreement is usually signed with users in the context of colocation or leased data centers. The SLA agreement is the hosting provider's contractual commitment to the continuous availability of the premises (power, air conditioning, security). It sets strict performance thresholds, failure to meet which automatically triggers financial penalties in favour of the user.

4. Forthcoming Legal Developments and Incentive Schemes

4.1. Draft legislation on national or regional level to facilitate new developments of data centers

There are ongoing discussions at the national level, in France, aiming to facilitate new developments of data centers. This resulted recently in the adoption by the CRE of accelerated electrical connection process (fast track procedure) for some very large data center projects.

In addition, a draft law currently in discussion at Parliament aims also to simplify the town planning and environmental framework for data center projects which are considered as industrial project of major national interest.

4.2. Key elements to be considered in new transactions

Key elements to be considered in new transactions are as follows:

- careful consideration shall be given to the electrical connection requirements for a new data center project given that due to steady increase of the projects, the timing for the securing of the power connection can take several years;

- priority should be given to the conversion of brownfields sites, to comply with environmental regulations and to take into account the increasing constraints which will be applicable to new greenfield sites (especially the net zero artificialization regulations);

- to obtain and maintain local support, it is very important to take local interests into account in the project and to ensure that local development is integrated into the project.

Germany

1. Introduction

Germany is one of Europe's leading data center markets. The total installed IT load currently exceeds roughly 3–3.5 GW and is growing quickly, with Frankfurt remaining the undisputed core of activity, followed by Berlin and, to a lesser extent, Munich, Hamburg, and Düsseldorf. Frankfurt (as part of the "FLAP-D" markets) dominates due to connectivity advantages and DE-CIX; secondary hubs are increasingly used to diversify risk and address rising costs and grid constraints. Demand is driven by the following factors:

- Hyperscaler and cloud provider expansion (AWS, Google, Microsoft, etc.)
- AI and digitalisation across industries (including high-density GPU clusters)
- Increasing enterprise demand for secure and compliant infrastructure (NIS2/KRITIS readiness)
- Germany's political stability, regulatory stance on data sovereignty and GDPR compliance

2. Overview of the Regulatory Framework

(a) Planning and Zoning Rules

Data centers are typically developed in commercial or industrial zones. Land-use plans (*Bebauungspläne*) must permit such use; amendments or new adoption may be needed. This political process involves early authority coordination, public participation, planning balance and council resolution, and can take considerable time. Early confirmation of planning permissibility is critical.

(b) Environmental Regulations

Developments must comply with federal and state environmental law. The Federal Immission Control Act (*BImSchG*) is often relevant for backup generators (emissions such as noise and exhaust), while a building permit may suffice for the core facility. Environmental impact assessment (*EIA*) requirements are threshold-dependent; a EIA screening is frequently required for larger projects.

(c) Power Supply

Data centers rely heavily on stable grid access. As the grid in Germany is fragmented, access needs to be secured via direct agreements with regional grid operators. Procedures vary. On-site backup generation is standard; continuous on-site generation may be considered where grid constraints exist, **subject to stricter permitting and emission rules. Renewable energy sourcing is increasingly important** for ESG compliance and target achievement.

(d) Permitting Regime

Key permits include building permits and, where applicable, environmental permits (including immissions and water law). Special permits may be required depending on the development site (e.g., tree-felling, ground and other monuments, endangered species). Authorities typically involved

include local building authorities, environmental agencies, and energy regulators. Timelines vary: brownfield projects without EIA tend toward the lower end, while greenfield projects with EIA/BImSchG permit take longer. Early planning clearance and grid commitments are make-or-break for schedule.

(e) Foreign Direct Investment Control

Foreign investments in critical infrastructure, including data centers, may trigger screening under the Foreign Trade and Payments Ordinance (AWV) depending on deal structure. Notifications are mandatory if thresholds are met, with reviews potentially extending over several months. Early assessment of transaction types and KRITIS/NIS2 relevance is recommended.

3. Contractual Models and Development Structures

(a) Common Structures

- Greenfield development: frequently by real estate or infrastructure investors, sometimes with hyperscaler pre-leases
- Colocation: operated by third-party providers leasing out space and power to enterprises
- Leasing: long-term leases by operators from asset owners
- Joint ventures: common between developers and infrastructure funds or institutional investors

(b) Key Contractual Frameworks

- Land: purchase agreements or, less commonly, hereditary building right agreements, often with conditionality (permits, power, connectivity), long-stop dates and termination rights
- Power: grid connection agreements and PPAs (increasingly with renewable sourcing and GoOs), early capacity reservation with DSO/TSO
- Connectivity: agreements with telecom providers, IXPs (e.g., DE-CIX), dark fiber/backhaul, redundant routes and scalable capacity
- Service-Level Agreements (SLAs): regulate uptime, maintenance, response times; include redundancy tiers and liquidated damages; compliance annexes (ISMS, audit rights)

4. Forthcoming Legal Developments and Key Transaction Considerations

(a) Draft Legislation and Planning Incentives

- The German government aims to be a key customer for digital infrastructure to bolster digital sovereignty via private IT providers; plans include end-to-end digitalisation with a sovereign, Europe-compatible “Germany Stack” and improved legal frameworks.
- Germany seeks leadership in AI and quantum tech, with plans for an AI gigafactory, new HPC centers, and quantum supercomputers.
- To strengthen Germany as a data center hub (including Eastern regions), development and grid integration are to be accelerated, with edge computing promoted; regulations and power costs to be eased alongside practical climate rules supporting waste heat reuse.

(b) Key Transaction Considerations

- Environmental sustainability: high priority, with requirements for energy reuse, renewable sourcing, and carbon footprint documentation
- Brownfield preference: authorities increasingly favour reuse of existing industrial sites over greenfield
- Power constraints: securing grid access early is essential—power availability can be a make-or-break factor
- Community acceptance: growing focus on integrating facilities with local urban planning and infrastructure

Italy

1. Introduction

Italy is experiencing significant growth in the data centre sector, positioning itself as an increasingly strategic hub in the European landscape.

As of 2025, energy demand requests from data centre initiatives reached approximately 55 GW, with over 70% concentrated in Lombardy and Piedmont, though other regions including Lazio and Puglia are experiencing notable growth.

Demand is driven by:

- Cloud infrastructure expansion by hyperscalers and major providers
- AI development and digitalisation across industries
- Public sector digital transformation, including the National Strategic Hub (Polo Strategico Nazionale)
- Italy's strategic Mediterranean position as a digital bridge between Europe, Africa, and Asia
- Growing emphasis on data sovereignty and GDPR compliance

2. Overview of the Regulatory Framework

(a) Planning and Zoning Rules

Data centre development in Italy operates within a fragmented regulatory. Urban planning competence primarily rests with municipalities, requiring alignment with local planning instruments.

Currently, there is no national regulatory framework that definitively establishes the land use classification for data centres. In practice, municipalities tend to classify these infrastructures as industrial/productive uses, permitting their development in industrial zones. Furthermore, data centres are generally considered compatible with directional/office uses as well.

This lack of uniform national regulation creates uncertainty and potential inconsistency across different municipalities. The absence of standardized criteria means that:

- Each municipality may interpret land use compatibility differently
- Urban planning variance procedures may be required even where classification appears appropriate
- Timing and conditions for approval can vary significantly by location

Some regions are beginning to address this gap. Lombardy's proposed Regional Law 150/2025, currently under parliamentary review, would introduce specific classifications based on power connection capacity thresholds and establish mandatory co-planning procedures for larger projects. Similar initiatives are expected in other regions.

(b) Environmental Regulations

Data centres must comply with national and regional environmental legislation. The MASE Directorial Decree 257/2024 provides specific guidelines for data centre environmental assessment procedures, which must be read in conjunction with the Legislative Decree 152/2006 (Environmental Code).

Projects are subject to:

- Environmental Impact Assessment (VIA) if emergency generator thermal capacity exceeds 150 MW
- VIA Screening if thermal capacity is between 50-150 MW
- Integrated Environmental Authorization (AIA) when thermal capacity exceeds 50 MW

Key environmental considerations include:

- Site location and brownfield prioritization
- Air emissions and climate verification per EU Regulation 1060/2021
- Water usage and preferred adoption of closed-loop cooling or non-potable water sources
- Waste heat recovery for district heating or industrial processes
- Noise impact assessment across different operational scenarios
- Cumulative environmental impacts with existing facilities
- Biodiversity protection and Natura 2000 site compatibility

(c) Power Supply

Italy's electrical grid infrastructure is generally robust, with high-voltage networks distributed nationally. Connection to the medium and high voltage grid requires agreements with Terna (national transmission system operator).

The connection process requires:

- a formal grid connection request;
- technical feasibility assessments;
- acceptance of connection terms and timelines, which may involve substantial infrastructure upgrades and therefore

On-site backup generation is standard practice.

(d) Permitting Regime

The authorization process typically involves the following steps and timeline:

1. (if necessary) implementation plan, often including the Environmental Strategic Assessment (VAS) (approx. 6 to 8 months);
2. Environmental assessments (VIA screening or VIA) (approx. 3 months to 1 year depending on project scale);

3. Integrated Environmental Authorization (AIA) (150 days);
4. Building permit (approx. 3 to 4 months).

Total timeline for greenfield projects: 18 months to over 3 years from initial application to construction commencement.

Key authorities involved include:

- Municipalities (building permits, urban planning)
- Region or Province (environmental authorizations)
- MASE (VIA for projects above thresholds)
- Terna (grid connection)

Timing is highly variable. Brownfield projects in industrial zones without full VIA requirements may progress within predictable timeframes, while greenfield projects or developments subject to implementation plan / VAS and full VIA can face significant delays. Coordination among authorities and early engagement are essential to mitigate procedural risks.

(e) Foreign Direct Investment Control

While the Italian Foreign Direct Investment Control (so called Golden Power) regime should not, in principle, apply to the contemplated investments, such aspect must be verified on a case-by-case basis depending upon the specific deal structure and transaction mechanics.

3. Contractual Models and Development Structures

(a) Common Structures

Colocation: developer builds and runs facilities, leasing space, power, cooling to various clients (retail for many small users; wholesale for fewer large ones).

Hyperscale: developers build for single massive tenants (e.g., Cloud providers), often as self-builds or build-to-suit, focusing on large scale and high density.

Colocation hyperscale: developers build large scale and high density facilities dedicated to few tenants

Edge: Growing demand for distributed, smaller facilities near users to reduce latency, requiring regional development.

(b) Key Contractual Frameworks

Traditional Sale: Developer builds, sells the asset and land.

Sale & Leaseback: Operator sells the completed data center to an investor, then leases it back, shifting from Capex to Opex.

Joint Ventures (JV): Partners collaborate long-term for shared economic benefits.

Construction contracts: fully functional and efficient claims and risk management can assist in avoiding pitfalls as well as significant delays and cost overruns.

Service-Level Agreements (SLAs): fundamental for the day by day activities of the data center that regulate uptime, maintenance and response times.

A key driver of each contract is sustainability (heat reuse, green tech) given the high energy consumption.

4. Forthcoming Legal Developments and Key Transaction Considerations

(a) Regulatory Framework Developments

National level
Several parliamentary bills are currently under discussion with the aim of introducing a unified national framework for data centre development. The proposed measures include, inter alia:

- accelerated authorization procedures;
- incentives for sustainable and energy-efficient facilities;
- enhanced coordination mechanisms between national and regional competences.

In addition, strategic fast-track mechanisms for major investments are already in place, such as Article 13 of Law Decree No. 104/2023, which provides for the appointment of an Extraordinary Commissioner for investments exceeding €1 billion.

Regional level
At regional level, the Lombardy Region is also moving in the same direction. In particular, Proposal No. 150/2025 aims to introduce new rules to promote data centre investments and to ensure a more homogeneous regulatory framework across the region.

(b) Key Transaction Considerations

- Power capacity and timing: early commitments regarding grid connection are critical.
- Environmental assessments: authorization procedures may be lengthy and complex.
- Brownfield sites: the regulatory framework strongly favours the redevelopment and conversion of dismissed or underused industrial areas.
- Regulatory evolution: the legislative environment is highly dynamic and requires a flexible and adaptable transaction structure.

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