

Infrastructure & Energy Europe – Regulatory Compass

Selected regulatory developments in European energy and infrastructure

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September 2026

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This newsletter provides you with timely insights on key regulatory developments across Europe, as well as highlights of recent publications from

our team. Our aim is to keep you informed of the latest trends, challenges and opportunities in the energy and infrastructure sectors – helping you anticipate changes, navigate complex regulations and make informed decisions for your business.

Recent Energy & Infrastructure regulatory developments at a glance

Czech Republic – Introduction of the Czech Capacity Mechanism

On 16 July 2026, the European Commission approved the Czech capacity mechanism under EU State aid rules under the Clean Industrial Deal State Aid Framework (CISAF), confirming compatibility with the internal market under Article 107(3)(c) TFEU. The mechanism remunerates capacity availability rather than generation, is technology-neutral, and is open to generation, storage, cross-border capacity and demand response through competitive auctions; the State aid scheme runs for ten years, with individual capacity agreements of up to 15 years. The estimated budget is EUR 3.1 – 6.2 billion, financed through the regulated system component of the electricity price paid by consumers. The first delivery period was originally targeted for 1 November 2030 to 31 October 2031, with pre-qualification, bidding and evaluation all originally scheduled across September – October 2026.

ČEPS, the Czech Transmission System Operator in charge of the auctions extended the pre-qualification application deadline from 20 September to 18 November 2026 (23:59), covering the main Y-6 auction and the supplementary Y-5 and Y-4 auctions. ČEPS will publish next steps only once the Ministry of Trade and Industry amends the underlying measure of a general nature, expected by 14 October 2026. The Ministry cites strained energy-equipment supply chains and a wish to broaden competition among capacity providers as reasons, indicating a deliberate effort to widen first-round participation rather than a routine delay.

The revised bidding and evaluation timetable is not yet published, and it is unclear whether the November 2030 delivery start will hold or shift. Final de-rating factors, price caps, and the penalty regime for non-availability also remain to be fully confirmed.

The extension likely favours later-stage or supply-chain-constrained developers (gas, batteries, demand response) needing more preparation time, but compresses the runway to first delivery for eventual winners, since that date has not been reported as moved.

EU – The European Commission publishes Data Centre Energy Efficiency Package

On 21 September 2026, the European Commission (“**EC**”) proposed a package of measures to increase transparency on data centres’ energy use and support their sustainable integration into the energy system of the European Union (“**EU**”). The move emphasises that data centres are critical infrastructure for the adoption and development of artificial intelligence, but they come with a challenge for water and energy consumption.

The package’s centrepiece is a Delegated Regulation, supplementing the recast Energy Efficiency Directive (Directive (EU) 2023/1791) and amending Delegated Regulation (EU) 2024/1364, which establishes a common Union rating scheme for data centres.¹ The Regulation is now subject to a two-month scrutiny period before the European Parliament and the Council.

Under Article 1, the European database on data centres will automatically issue each reporting data centre an electronic label rating it from A to G on Power Usage Effectiveness (PUE) and Water Usage Effectiveness

¹ Commission delegated regulation of 21 September 2026 supplementing Directive (EU) 2023/1791 of the European Parliament and of the Council and amending Commission Delegated Regulation (EU) 2024/1364 as regards the establishment of a common Union rating scheme for data centres, available [here](#).

(WUE).² The label will additionally disclose the data centre's energy sourcing mix (on-site generation, power purchase agreements and guarantees of origin, split between renewable and nuclear sources), cooling degree days for its location, whether the facility provides flexibility services to the grid or not, and whether it is waste heat reuse ready or not.

In practice, the first labels are due by 15 August 2027, renewed annually thereafter, and each label is valid for one year, subject to extension where the host Member State has not confirmed completion of reporting by that date. Operators must make their label available electronically to any person requesting it, and may not produce or display labels mimicking the official one.

The Delegated Regulation also amends the underlying 2024 reporting scheme: data centres with installed IT power demand below 500 kW may now opt in voluntarily, as may facilities not yet in operation, on the basis of their designed or expected performance. On the contrary, data centres used exclusively for defence or civil protection purposes are exempted from reporting.

Alongside the label, the EC published a report to the European Parliament and the Council assessing the energy efficiency of data centres during first period of reporting under the 2024 database.³

In connection with this, the Commission also launched a call for evidence and public consultation on future EU-wide minimum performance standards for data centres,⁴ envisaged as a proposal for a Regulation of the European Parliament and of the Council, targeted for Q2 2027, that would require all new or retrofitted data centres to meet minimum performance levels for energy efficiency, water use, waste-heat reuse and grid services. Stakeholders can submit their contributions until 14 December 2026.

Germany – ECJ Pulls the Plug on Germany's Three-Year Fix for Unfair Price Clauses

In Case C 900/24 (SVB), the Court of Justice of the EU ruled that EU consumer protection law precludes a national rule or practice that keeps an unfair price adjustment clause in effect where the customer has not challenged resulting price increases within three years, and also precludes a national rule allowing an energy supplier to unilaterally revise a price adjustment clause once it has been declared unfair.

Once an unfair term is removed, the contract should generally continue to bind the parties, with national courts able to fill the resulting gap using domestic law provisions, but not by rewriting the unfair term itself.

The case concerned a district heating contract from 2012 between a consumer and an energy supplier containing a price adjustment clause. After the supplier unilaterally changed that clause from May 2019, the customer challenged the resulting price increases before the German courts, prompting the Higher Regional Court of Berlin to ask the ECJ whether the German Federal Court of Justice's settled case law under which a customer cannot rely on the invalidity of price increases unless challenged within three years and the practice

² Annexes to the Commission delegated regulation of 21 September 2026 supplementing Directive (EU) 2023/1791 of the European Parliament and of the Council and amending Commission Delegated Regulation (EU) 2024/1364 as regards the establishment of a common Union rating scheme for data centres, available [here](#).

³ Commission communication to the European Parliament and the Council of 21 September 2026 on the energy efficiency of data centres in the EU, available [here](#).

⁴ Commission call for evidence for an initiative with an impact assessment of 21 September 2026 on the minimum performance standards for data centres in the EU, available [here](#).

of allowing a supplier to unilaterally amend an unfair clause are compatible with the EU consumer protection law.

The ECJ has now ruled that both the three-year limitation period established by the Federal Court of Justice's case law and the supplier's unilateral power to amend the clause are incompatible with EU law.

The German Federal Court of Justice's previous, carefully balanced solution to what was in essence a barely resolvable problem has thus found no favour with the ECJ. It remains to be seen whether this ruling will now trigger a new wave of litigation in district heating or other energy contract price adjustment matters.

Italy – New Rules for Long Term Procurement Mechanism for New Electricity Storage Capacity and Generation Capacity Remuneration

By decree of the Minister of Environment and Energy Security of 27 March 2026, No. 95, the proposed update to the long-term procurement mechanism for new electricity storage capacity, submitted by Terna, was approved for the purposes of the auction with 2029 delivery. Subsequently, by decree of 20 May 2026, No. 162, the electricity storage capacity requirement proposal submitted by Terna was approved, limited to the 2029 delivery year. These measures form part of the structural storage-capacity auction mechanism introduced by Article 18 of Legislative Decree No. 210 of 8 November 2021, based on periodic long-term auctions run by Terna, with an annual remuneration guaranteed to successful bidders.

By decree of the Minister of Environment and Energy Security of 6 August 2026, No. 259, the proposed rules for the electricity generation capacity remuneration system for the auction with 2028 delivery, submitted by Terna, were approved. This is a mechanism distinct from the storage one, but also relevant to storage plants participating as available capacity in the electricity system.

Poland – Amendment to the Nuclear Investment Act: Introduction of the Preliminary Construction Works Permit

On 3 July 2026, the Polish parliament adopted an act amending the law on the preparation and implementation of investments in nuclear energy facilities and associated investments (the “**Nuclear Investment Act**”). The amendment was signed by the President on 13 August 2026 and published in the Journal of Laws on 18 August 2026. It entered into force in September 2026 (14 days after publication). The reform is designed to shorten the investment and construction process for nuclear facilities by up to two years, drawing on international experience with staging complex nuclear construction projects.

Key changes in practice:

- Staged building permits. Article 33(1) of the Construction Law – which normally limits a partial building permit to components capable of independently functioning according to their purpose – no longer applies to nuclear energy facilities. Since a nuclear power plant comprises dozens of interdependent structures that cannot function independently until the whole project is complete, investors can now obtain sequential, partial building permits for defined work packages (e.g. the nuclear/turbine island, the conventional part of the plant, or worker accommodation);
- New “preliminary construction works” permit. Before obtaining the building permit for the nuclear facility itself, investors may apply for a permit covering preliminary construction works – earthworks, dewatering, firefighting and stormwater tanks, assembly yards, access roads, rail sidings, and foundation-related works;
- Two-tier nuclear-safety clearance. “Qualified” preliminary works (e.g. ground stabilisation and foundation works) additionally require a new authorisation from the President of the National Atomic Energy Agency (“**PAA**”), which in turn requires a positive opinion from the Head of the Internal Security Agency (ABW) on the physical protection system. The President of the PAA must issue this decision within nine months of receiving a complete application, subject to a PLN 1,500,000 (approx. EUR 345,000) application fee;
- Parallel processing. Applications for the main nuclear building permit and for the preliminary-works permit may now be processed in parallel for the same facility. Corresponding partial occupancy permits for completed stages of nuclear facilities have also been introduced; and
- Longer environmental review window. The statutory deadline for environmental-impact decisions on nuclear projects has been extended from 45 to 90 days.

For contractors, technology suppliers and financiers involved in Poland's nuclear programme (including the planned 3.75 GW plant at Lubiatowo-Kopalino in the municipality of Choczewo), this is a concrete tool to compress the investment timeline: site preparation and early civil works can proceed while the main permitting track continues. Given the substantial application fee and the nine-month statutory review period, early engagement with the PAA on scope and documentation will be critical to capturing this benefit in practice.

White & Case insights and publications (a selection of recent White & Case publications on European Energy & Infrastructure regulation)

Second wave of strategic projects on the horizon – do the CRMA's permitting schedules have teeth? –
13 July 2026

Authors: [Rebecca Campbell](#), [Kamran Ahmad](#), [Genevra Forwood](#), [Anna Burghardt-Kaufmann](#)

[Link to the full Alert](#)

EU Supply Chain Navigator

Authors: [Genevra Forwood](#), [Clare Connellan](#), [Stephen Shergold](#), [Sara Nordin](#)

[Link to the full Alert](#)

Germany's new network tariff rules take shape – draft determination for future network tariff regulation published – 24 August 2026

Authors: [Thomas Burmeister](#), [Dr. Petra Karin Iffert \(née Kistner\)](#), [Dr. Karen Sievert](#)

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AI Watch: Global Regulatory Tracker

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