



EU AND COMPETITION LAW

News – Competition law and policy
1st Quarter 2026

Each quarter, we present the key developments in competition law in Portugal and the European Union.

This edition's highlights include the Portuguese Competition Authority's list of priorities for 2026 and the publication of the final version of its guidelines on ancillary restrictions in the context of merger control. Highlights also include the approval of various state aid measures aimed at strengthening the EU's energy capacity, and relevant case law developments at the CJEU regarding access to evidence.

This is a summary of current events to support our clients in overcoming the challenges they face in the market.

EU and Competition Law team

PORTUGAL

I. The Portuguese Competition Authority (PCA)

PCA defines its priorities for 2026: cartels, labour markets, public procurement and artificial intelligence

The Portuguese Competition Authority (PCA) has published its priorities for 2026. It has stated that it will step up its efforts to combat anti-competitive practices. Particular emphasis will be placed on cartels in public procurement, abuses of dominant positions, labour markets, and the liberal professions, as well as merger control.

The PCA will continue to use digital tools, such as machine learning and AI, to detect infringements of competition law ex officio. Public procurement is a critical area in this context, with the PCA highlighting the potential use of these tools to analyse data from the BASE portal to detect collusive patterns more efficiently.

In the digital sphere, the PCA will continue its series of short papers on generative AI and monitor the implementation of the Digital Markets Act (DMA) in close collaboration with the European Commission (Commission).

PCA approves CUF's acquisition of the HPA group subject to commitments

The PCA has adopted a decision of non-opposition, subject to the imposition of obligations designed to ensure compliance with commitments, regarding the merger by which CUF acquired sole control of Hospital Particular do Algarve (HPA).

An in-depth investigation was launched in July 2025, which included requests for information from competing hospitals, insurers, and regulators. The aim was to assess the impact of the transaction on negotiations with funding bodies, as well as on the costs borne by health insurance beneficiaries. Following the investigation, the PCA concluded that the transaction could create significant barriers to effective competition in the private hospital care market.

In view of these risks, the PCA imposed a set of divestment obligations relating to the new hospital in the Algarve and other healthcare facilities. The PCA also required behavioural commitments, such as maintaining commercial terms with limits on price increases and restrictions on price rises for uninsured patients, as well as obligations regarding transparency, reporting and monitoring.

PCA fines business associations for restrictive practices: tourism and temporary work

The PCA has fined the Association of Tourist Information Guides of the Azores (AGITA) for setting minimum prices for tourist guide services in the Azores archipelago. The investigation concluded that AGITA had recommended its members adopt a minimum price list, a practice that had been carried out continuously since November 2020. Taking into account the seriousness and duration of the infringement, as well as the association's financial situation, a fine of €8,200 was imposed.

The PCA also sanctioned the Portuguese Association of Private Sector Employment and Human Resources Companies (APESPE) for including a 'no-poaching' clause in its Code of Ethics, which was in force from December 1987 to March 2025. A fine of €4,519,000 was imposed on the basis of the member companies' turnover.

These decisions reinforce the PCA's commitment to combating business association practices that restrict their members' commercial autonomy, particularly in labour markets, an area identified as a priority for 2026.

PCA closes case against private security companies over alleged cartel in public tenders

On 28 January 2026, the PCA issued a decision to close case PRC/2019/4 concerning the investigation into practices in Portugal's human security and surveillance sector. The case was brought in October 2019 against twelve companies in the sector. The investigation followed complaints submitted by various contracting authorities and looked into the possible collusion of companies in public tenders.

The infringement decision issued by the PCA in July 2022 was appealed to the Lisbon Court of Appeal. However, in June 2024, the court ruled that the evidence obtained through the search and seizure of emails carried out by the PCA at the appellants' premises was invalid, as there had been no prior judicial authorisation. Consequently, on 4 April 2025, the Competition, Regulation and Supervision Court issued a judgment. This judgment ordered the exclusion of the seized email messages without authorisation from the investigating judge or consent from the entities subject to the search. Consequently, the court declared the Notice of Infringement and the Final Decision of the PCA null and void.

In this context, the PCA reassessed the evidence unaffected by the nullity. The PCA concluded that the evidence was manifestly insufficient to establish the objective and subjective elements underlying the practice under investigation. Consequently, the PCA ordered the case to be closed.

PCA adopts final version of guidelines on ancillary restrictions

In February 2026, the PCA published the final version of the Guidelines on Ancillary Restrictions, having put them out for public consultation in October 2025. The document aims to enhance transparency and legal certainty in the analysis of merger transactions. It clarifies the conditions under which certain clauses, such as non-competition or non-solicitation clauses, may be considered directly related to and necessary for the transaction, thereby falling within the scope of the PCA's non-opposition decision.

Compared to the initial draft, the final version introduces greater flexibility, incorporating contributions from stakeholders, notably PLMJ and the ICC, to relieve companies of an excessive burden of proof. The requirement for an exhaustive demonstration of the absence of less restrictive alternatives has been removed, and now only a 'minimal and objective' justification of the necessity of the restrictions is required.

EUROPEAN UNION

II. European Commission

Commission extends divestment deadlines for SATA and TAP, but requires a partial reduction of the aid

The Commission has extended the deadlines for SATA and TAP to complete the divestments that constitute conditions for the restructuring aid granted by Portugal to be compatible with the internal market. For SATA, the deadline for selling 51% of Azores Airlines and the ground handling business has been extended to 31 December 2026. For TAP, the deadline for selling SPdH and Cateringpor has been extended to 30 June 2026. To mitigate the impact on competition, the aid has been reduced by approximately €25 million for TAP and €3 million for SATA. Additionally, the duration of the competition measures already adopted will be extended by the same amount.

Public consultation on the revision of the general block exemption regulation on state aid

The Commission has launched a public consultation on the draft General Block Exemption Regulation on state aid. This declares certain categories of state aid to be compatible with the internal market, provided certain criteria are met. Key proposed changes include:

- o Simplified conditions for small amounts of aid
- o More flexible rules for SMEs
- o The facilitation of operating aid for renewable energy (with no overall annual budget cap of €300 million)
- o Updated rules for social housing and vocational training
- o The consultation ran until 23 April 2026, with the adoption of the revised Regulation scheduled for late 2026.

Commission gives green light to aid to boost the green transition

In the first quarter of 2026, the Commission approved a significant amount of state aid aimed at accelerating the transition to a carbon-neutral economy under the Clean Industrial Deal State Aid Framework (CISAF).

- o **Spain – €200 million** for investments in the electric vehicle supply chain, particularly in batteries and hydrogen technologies.
- o **Germany – €3 billion** for strategic investments in clean technology manufacturing capacity, including net-zero technologies and critical raw materials. This funding was provided in the form of grants, tax incentives, and guarantees for new loans.
- o **France – €1.1 billion** for investments in production capacity for net-zero technologies (solar, wind, heat pumps and batteries), in the form of tax credits.
- o **Greece – €400 million** for investments in cleantech manufacturing capacity.

These approvals reflect the accelerated use of the CISAF, which was adopted by the Commission on 25 June 2025. This has made the granting of aid more flexible in order to accelerate the development of renewable energy, industrial decarbonisation, and clean technology manufacturing. This measure will remain in force until 31 December 2030.

Commission notifies META of possible interim measures over exclusion of AI on Whatsapp

The Commission has sent Meta a statement of objections, indicating on a preliminary basis that the company has breached EU competition rules by preventing third-party AI assistants from being used on WhatsApp. Following an update to the terms of service announced in October 2025, the only AI assistant available on WhatsApp since 15 January 2026 is Meta AI. The Commission has announced its intention to impose interim measures to prevent serious and irreparable harm to the market for AI assistants, without prejudice to the rights of the party concerned to defend itself.

Commission approves UMG's acquisition of Downtown, subject to conditions

The Commission has approved the acquisition of Downtown Music by Universal Music Group (UMG) under the EU Merger Regulation, subject to the full divestment of the Curve royalty management platform.

Following an in-depth investigation, the Commission concluded that UMG could gain access to sensitive commercial data from competing publishers stored on Curve, which could harm competition in the wholesale distribution market for recorded music.

In the Commission's view, the full divestment of Curve – including customers, data, staff, source code and algorithms – mitigates the competition concerns identified.

Cooperation agreement between the EU and the United Kingdom on the application of competition law

On 25 February 2026, the Commission and the United Kingdom signed the new Competition Cooperation Agreement. This agreement will enable the Commission, national competition authorities of EU Member States, and the UK competition authority to cooperate directly on competition investigations. The agreement will enter into force once internal ratification procedures have been completed.

Guidelines on the foreign subsidies regulation

On 9 January 2026, the Commission published the new guidelines on the application of the Foreign Subsidies Regulation (FSR). The guidelines clarify the criteria for assessing distortions in the internal market, analysing abnormally advantageous tenders in public procurement procedures, carrying out the balancing test, and exercising call-in powers. One of the main new features is the distinction between targeted and non-targeted subsidies. A review of the FSR is scheduled for July 2026.

III. The European Court of Justice (CJEU)

CJEU clarifies rules on access to evidence in pre-litigation proceedings

On 29 January 2026, the CJEU delivered its judgment in Case C-286/24 (Ius Omnibus), following a request for a preliminary ruling from the Portuguese Supreme Court. The judgment has practical implications for the private enforcement of competition law.

Article 5(1) of Directive 2014/104/EU permits the disclosure of relevant evidence by the parties or third parties in actions for damages for infringements of competition law, under judicial supervision. The CJEU clarified that this article applies to stand-alone actions for evidence brought prior to the filing of an action for damages, provided they are intended to prepare a potential damages claim.

Regarding the plausibility criterion, the CJEU held that applicants must demonstrate that allegations of infringements, damage and causal links are 'reasonably plausible' hypotheses.

However, the CJEU made it clear that a Commission decision finding an infringement of competition law is not, in itself, sufficient to satisfy the plausibility requirement, since it is also necessary to prove the plausibility of damage occurring and of a causal link between the conduct and the damage. ■