PLMJ

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LEGAL INSIGHTS

EU and Competition Law team

EU AND COMPETITION LAW

News – Competition law and policy

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

This edition highlights relevant decisions by the Portuguese Competition Authority in the field of merger control, including transactions in the food and maritime-port sectors, as well as infringement decisions concerning anti-competitive practices in the telecommunications market. At the European level, we highlight European Commission investigations in the digital, transport and synthetic turf sectors, as well as the latest developments in the application of the Foreign Subsidies Regulation. We also highlight legislative reforms in the areas of merger control, technology transfer and State aid, concluding with an analysis of relevant judgements of the Court of Justice of the European Union concerning merger control, private enforcement actions and "no-poach" agreements.

This is a summary of current affairs to address market challenges and to support our clients.

PORTUGAL

I. Portuguese Competition Authority

Merger in the food sector referred to an in-depth investigation

On 29 April 2026, the Portuguese Competition Authority (**PCA**) decided to launch an in-depth investigation into the merger consisting of the creation of a joint venture by Better Foods and Cerealis (**Phase II**).

The opening of Phase II will allow the PCA to assess in greater detail the competitive effects of the transaction, namely the impact of these two long-established Portuguese groups in the markets concerned, which are of particular importance to food supply chains and the functioning of the economy.

The decision demonstrates the PCA's growing willingness to resort to in-depth investigations in transactions involving strategic sectors of the Portuguese economy.

Boluda Group's acquisition of Remolcanosa blocked by the Portuguese Competition Authority

On 7 May 2026, the Portuguese Competition Authority (**PCA**) prohibited the acquisition of sole control of Remolcanosa Portugal by the Boluda Group, concluding that the transaction would create significant barriers to effective competition in the market for the provision of port maritime towage services at the Port of Sines.

Following an in-depth investigation, the PCA found that the transaction would eliminate the existing competitive pressure between the two main operators active in this market, resulting in a monopoly position for the merged entity.

Although Boluda Group submitted two sets of commitments aimed at addressing the PCA's concerns, the PCA considered that they were insufficient to eliminate, with the required degree of certainty, the barriers to competition that had been identified.

Portuguese Competition Authority fines four companies for restrictive practices in the telecommunications sector

On 5 June 2026, the Portuguese Competition Authority (**PCA**) imposed fines totaling to EUR 13.351 million on three telecommunications operators and a consultancy firm for entering into an agreement relating to pay-TV services and the sale of advertising in television recordings.

According to the PCA, the companies agreed to make the inclusion of advertising a condition for access to television recordings and aligned the terms applicable to the sale of such advertising space, thereby eliminating incentives for competition and reducing the likelihood of consumers switching operators. The PCA also concluded that such practice harmed competition both in the telecommunications market and in the market for the sale of advertising associated with television recordings.

The decision brings the administrative phase of the proceedings to an end, without prejudice to the possibility of the companies concerned challenging the decision before the courts.

Competition authorities join forces to strengthen merger control

On 23 June 2026, the Portuguese Competition Authority, together with the European Commission and the national competition authorities within the European Competition Network, published a joint statement on the implementation of call-in mechanisms in merger control.

The statement recognises that certain transactions falling below notification thresholds may nevertheless have a significant impact on competition, particularly acquisitions of start-ups that may constitute "killer acquisitions", roll-up strategies, or transactions in highly concentrated local markets.

To combat this phenomenon, the statement sets out common principles enabling competition authorities, in certain circumstances, to review transactions that would otherwise fall outside the scope of merger control.

II. Legislation

The banking sector case teaches a lesson to prevent limitation periods

On 17 April 2026, the Assembly of the Republic approved, in general terms, a legislative amendment designed to ensure the application of the Competition Act, as set out in 2022, to cases still pending before the courts, with the aim of preventing the limitation period from expiring in relation to competition infringements.

The initiative follows the high-profile banking case, in which fines totaling EUR 225 million were declared time-barred, following a restrictive interpretation of limitation periods in situations where a preliminary ruling was sought from the Court of Justice of the European Union.

The legislative proposals – currently under detailed consideration – could, if approved, have a significant impact on competition litigation in Portugal by mitigating the risk of time-barring, with significant consequences for the procedural position of the companies concerned.

III. National courts

STJ follows CJEU guidance on access to evidence prior to litigation

On 16 April 2026, the Supreme Court of Justice (**STJ**), following a preliminary ruling from the Court of Justice of the European Union (**CJEU**), delivered its judgement in the proceedings brought by Ius Omnibus against Meliá Hotels. The STJ held that access to documents for the purpose of preparing a claim for damages arising from an infringement of competition law depends on demonstrating the plausibility of the alleged damage and of the causal link between that harm and the infringement. The STJ further held that the mere existence of a European Commission (**EC**) decision finding an infringement is not in itself sufficient to establishing such plausibility.

The case stemmed from the EC's decision fining Meliá Hotels for vertical practices that restricted the sale of accommodation on the basis of consumers' nationality or country of residence. The STJ concluded that Ius Omnibus must first present reasonably available facts and evidence supporting the plausibility of harm suffered by consumers resident in Portugal before being granted access to the requested documents.

The judgment thus reinforces the requirements of necessity, specificity and proportionality applicable to the disclosure of evidence in private enforcement proceedings.

EUROPEAN UNION

I. European Commission

Violet Line public tender cleared by the Commission

On 21 April 2026, the European Commission (**EC**) authorised Metropolitano de Lisboa to proceed with the tender for the design and construction of the Violet Line, following an in-depth investigation under the Foreign Subsidies Regulation (**FSR**). The investigation concluded that foreign subsidies granted to the consortium's subcontractor conferred a competitive advantage capable of distorting the public procurement procedure.

To eliminate the potential distortion identified, the EC accepted the commitments offered by the consortium, namely the replacement of the subcontractor with another company that had not benefited foreign subsidies liable to distort competition. The consortium may therefore continue to participate in the tender, with the final decision on the award of the contract resting with Metropolitano de Lisboa.

The decision illustrates how the EC uses the FSR to address potential distortions of competition associated with foreign subsidies, allowing public procurement procedures to continue through the adoption of appropriate commitments.

Commission declines to review Siemens Logistics' acquisition

On 13 May 2026, the European Commission (**EC**) decided not to accept the referral request submitted by Portugal, supported by Spain and Italy, to examine the acquisition of Siemens Logistics by Vanderlande under Article 22 of the EU Merger Regulation. The transaction concerns the airport logistics sector, in particular baggage handling systems.

The EC considered that, although the transaction might affect trade between Member States, a review at EU level was not warranted, considering, among other factors, that the transaction had already been implemented for more than one year. The Portuguese and Spanish competition authorities will therefore continue their review of the transaction, with the EC considering that they are well placed to assess it.

The decision highlights that the acceptance of a referral request under Article 22 is not automatic, and that the EC must assess its appropriateness in light of the specific circumstances of each case, including considerations relating to timing and procedural efficiency. It was the first rejection of a referral request under this mechanism in more than a decade and was based on the particular circumstances of the transaction.

Synthetic turf cartels come under the Commission's scrutiny

On 21 May 2026, following unannounced searches in 2023 in several Member States, the European Commission (**EC**) sent statements of objections to several companies active in the synthetic turf sector, informing them of its preliminary conclusion that they may have infringed Article 101 of the Treaty on the Functioning of the European Union.

In the Dutch market, the EC suspects that Oranjewoud, TenCate Grass and Sports & Leisure Group have coordinated their conduct since 2019, in particular by exclusively using the recycling services of GBN-AGR and by fixing their prices, thereby harming competitors. In Germany, the EC suspects that Oranjewoud and Sport Group coordinated the recycling of synthetic turf, between 2020 and 2023, including by fixing the main component of the recycling price.

This investigation demonstrates that, whilst cooperation between companies may be necessary to achieve environmental objectives set by the European Union itself, such initiatives remain subject to competition rules.

E-commerce sector under investigation under the FSR

On 28 May 2026, the European Commission (**EC**) launched an in-depth investigation, under the Foreign Subsidies Regulation (**FSR**), into JD.com, following the notification of the acquisition of CECONOMY. The EC has preliminary concerns that JD.com may have benefited from foreign subsidies capable of distorting the European Union's internal market. The subsidies identified include preferential financing, tax incentives and subsidies granted by entities potentially attributable to China.

The investigation will assess, among other issues, whether the potential foreign subsidies distorted the acquisition process by enabling JD.com to submit a high bid and to support CECONOMY's economic activities and growth plan through its own technological and logistical capabilities.

The case is particularly significant as it reflects the EC's growing focus on strategic sectors of the European economy, such as e-commerce.

Commission imposes interim measures on Meta

On 9 June 2026, the European Commission (**EC**) imposed interim measures on Meta in the context of its investigation into the conditions of access by third-party artificial intelligence (**AI**) assistants to WhatsApp. The EC ordered Meta to restore free access to WhatsApp for competing general-purpose AI assistants and to maintain such access whilst the investigation is ongoing.

The decision constitutes a significant development in the EC's use of interim measures in digital and artificial intelligence markets, without prejudice to the provisional nature of the assessment carried out at this stage and the outcome of the ongoing investigation.

II. Legislation

Commission makes progress on revising the Merger Guidelines and State Aid Guidelines for aviation

During the quarter, the European Commission (**EC**) launched two public consultations: on 30 April, on the draft new Guidelines on merger control, intended to replace the current 2004 Horizontal Merger Guidelines and the 2008 Non-Horizontal Mergers Guidelines; and, on 11 May, on the draft Guidelines on State aid for air transport, intended to replace the existing 2014 framework. The consultations closed on 26 June and 11 June, respectively.

Both initiatives form part of the broader review of the European Union competition framework. In the area of merger control, the EC aims to adapt the framework to developments in markets and the wider economy, placing greater emphasis on factors such as innovation, sustainability, resilience and supply security. The draft Guidelines also seek to provide further guidance on the assessment of merger effects in dynamic markets and emerging sectors, as well as on the treatment of efficiencies arising from transactions.

In the aviation sector, the proposed revision of the state aid rules responds to the continued growth of the sector, to the decarbonisation objectives and the challenges arising from the Covid-19 pandemic and the energy crisis. The revised Guidelines will be complemented by other State aid instruments, including the new General Block Exemption Regulation (**GBER**), which is due to be adopted by the end of 2026 and enter into force on 1 January 2027.

The adoption of the new Guidelines on mergers is scheduled for the fourth quarter of 2026, and the adoption of the Guidelines on aviation is scheduled for the first quarter of 2027.

New rules on technology transfer enter into force

On 1 May 2026, the new Technology Transfer Block Exemption Regulation (**TTBER**), adopted by the European Commission (**EC**) following a review of the rules in force since 2014, entered into force. The TTBER exempts certain technology transfer agreements from the prohibition laid down in Article 101(1) of the Treaty on the Functioning of the European Union (**TFEU**), provided that the conditions set out therein are met.

The new rules apply until 30 April 2038 and cover agreements for the licensing of technology rights, such as patents, design rights and copyright in software.

The new regulation is accompanied by the EC Guidelines on the application of Article 101 TFEU to technology transfer agreements.

III. EU courts

CJEU reinforces the role of the "anchor defendant" in actions for damages against corporate groups

On 16 April 2026, the Court of Justice of the European Union (**CJEU**) confirmed that actions for damages arising from cartels may, in certain circumstances, be centralised before a single court in the European Union through an "anchor defendant".

This may be the case even where that entity was not an addressee of the infringement decision and is not established in the Member State where the infringement was investigated. In determining whether there is a close connection between the claims for jurisdictional purposes, account may be taken of the fact that the companies belong to the same economic unit involved in the infringement.

The judgement thus facilitates the consolidation of damages claims against different entities within the same business group before a single court, even where some of those entities were not the addressees of the decision finding the infringement.

COVID-19, football and competition: context matters

On 30 April 2026, the Court of Justice of the European Union (**CJEU**) ruled, in response to a request for a preliminary ruling made by the Portuguese Court of Competition, Regulation and Supervision, that an agreement concluded between the Portuguese Professional Football League and Portuguese football clubs during the COVID-19 pandemic may not constitute a restriction of competition by object. The agreement restricted the signing of players who had unilaterally terminated their contracts due to the pandemic.

The judgment marks an important development in the assessment of no-poach agreements, particularly in the sporting context, suggesting that the analysis of such arrangements should consider the specific characteristics of the sector and the objectives pursued, without diminishing the rigorous scrutiny to which they remain subject under competition law.

General Court clarifies the criteria for designating gatekeepers under the DMA

On 3 June 2026, the General Court of the European Union (**General Court**) partially annulled the European Commission's (**EC**) decision designating Meta as a gatekeeper under the Digital Markets Act (**DMA**). The General Court annulled the designation insofar as it related to Facebook Marketplace, finding that the EC had failed to demonstrate sufficiently that the service constituted an important gateway through which business users reach end users.

As one of the first judgments on the DMA, the decision provides important guidance for the future application of the Regulation, confirming that the EC's margin of discretion does not relieve it of the obligation to demonstrate, in a rigorous and reasoned manner, that the conditions for designating an undertaking as a gatekeeper are satisfied. ■