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CRCCD NEWS

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NEWS

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SUMMARY

ADMINISTRATIVE & COMPETITION LAW

1) Council of State: the running of the time limit for bringing an action requires knowledge of the measure sufficient not only to perceive its prejudicial effect, but also to identify elements capable of revealing possible grounds of unlawfulness

By judgment No. 4943/2026, published on 22 June 2026, the Council of State ruled on the question of the *dies a quo* of the time limit for challenging administrative measures, with particular reference to public procurement award procedures.

In particular, in the judgment under examination, the Council of State aligns itself with the line of case law according to which, for the purposes of the running of the time limit for challenging an administrative measure, it is not sufficient that the measure itself has produced a prejudicial effect in the legal sphere of the appellant; it is instead necessary that the interested party has had actual knowledge – or the ability to become aware – of the defect of legality that it intends to assert before the courts.

EMPLOYMENT LAW

2) Italian Supreme Court, Joint Sections: natural incapacity excludes the burden of the extrajudicial challenge to dismissal within sixty days, but does not suspend or defer the overall time limit of two hundred and forty days

By judgment No. 23486/2026, published on 18 July 2026, the Joint Sections of the Italian Supreme Court provided clarifications on the relationship between natural incapacity and the running of the sixty-day forfeiture period for the extrajudicial challenge to dismissal.

Already in 2025 the Constitutional Court had held that, where the worker is in a state of natural incapacity at the time of receipt of the dismissal notice or during the following sixty days, the burden of the prior extrajudicial challenge under Article 6, paragraph 1, of Law No. 604/1966 does not apply, and the dismissal may be challenged within the overall time limit of two hundred and forty days, including directly by means of an application to the labour court.

The Joint Sections have now added a further piece to this mosaic, emphasizing that the forfeiture period runs from the moment of knowledge of the act to be challenged. Such knowledge, pursuant to Article 1335 of the Civil Code – a provision enacted by the legislature to guarantee legal certainty – is presumed, save in cases of "objective impediment" to the knowability of the act: natural incapacity, by contrast, operates on the subjective plane and has no effect on the presumption under Article 1335 of the Civil Code, with the consequence that the presumption operates irrespective of the individual's capacity to appreciate the content and significance of the act received and to act accordingly.

As a result, the two-hundred-and-forty-day time limit begins to run from the date of receipt of the dismissal letter even for those in a state of natural incapacity.

3) CJEU: in the context of sports justice, disciplinary sanctions must be amenable to judicial review that is consistent with EU law

By judgment of 16 July 2026 (joined cases C-424/24 and C-425/24, *FIGC and CONI*), the Court of Justice of the European Union ruled on the requests for a preliminary ruling from the Administrative Court of Lazio ("**TAR Lazio**") concerning (i) the applicability, by the national sports court, of sanctions consisting in the temporary prohibition on carrying on professional activities, and (ii) the consequent inability to bring proceedings before the national court for the annulment or suspension of the effects of such sanctions.

The Court first stated that national sports federations, although endowed with autonomy recognized under domestic law, remain bound by the fundamental freedoms of movement. Articles 45 and 56 TFEU do not preclude a national sports federation from imposing on sports officials a temporary prohibition on carrying on the professional activities falling within its competence on account of false financial and accounting statements, provided that the provisions permitting such a sanction pursue a legitimate objective of general interest – such as the integrity of competitions – and comply with the principle of proportionality, applying transparent, objective and non-discriminatory criteria that are amenable to effective judicial review.

Secondly, the judgment specifies that Article 19 TEU and Article 47 of the Charter of Fundamental Rights of the European Union do not preclude national legislation that limits the powers of the national court to compensation alone, excluding the annulment of sanctions and interim measures, provided that at least the sports justice body of last instance is an independent and impartial "tribunal", established in advance by law as regards its existence, composition and organization, having a genuinely judicial role, following a procedure that respects the principle of adversarial proceedings, and having effective powers of review over the sanction.

To access the decision, click here.

M&A

4) MAR: Delegated Regulations (EU) 2026/788 and 2026/789 published in the OJEU

On 16 July 2026, Delegated Regulations (EU) 2026/788 and 2026/789 were published in the Official Journal of the European Union, forming part of the regulatory framework of Regulation (EU) 2014/596 (Market Abuse Regulation – "**MAR**"), implementing the amendments introduced by the so-called *Listing Act*.

Delegated Regulation (EU) 2026/788 amends Delegated Regulation (EU) 2016/522 with regard to:

- closed periods, extending the circumstances in which persons discharging managerial responsibilities may carry out transactions during such periods;
- the list of trading venues having a significant cross-border dimension for the purposes of market abuse supervision;
- market manipulation indicators, in order to align them with developments in trading practices and financial instruments.

Delegated Regulation (EU) 2026/789, by contrast, supplements MAR as regards the public disclosure of inside information in the context of protracted processes and delayed disclosure, introducing a non-exhaustive list of final events and circumstances that will enable issuers to identify with greater certainty the moment at which the disclosure obligation arises.

The new provisions are aimed at promoting a more uniform application of the European market abuse regime.

BANKING / FINANCIAL / INSURANCE REGULATION

5) EBA: final draft RTS and ITS on material operations of credit institutions under the CRD published

On 17 July 2026, the European Banking Authority ("**EBA**") published its final draft Regulatory Technical Standards ("**RTS**") and Implementing Technical Standards ("**ITS**") on material acquisitions, transfers of assets or liabilities, mergers and divisions involving credit institutions or (mixed) financial holding companies, implementing Directive (EU) 2013/36, as amended by Directive (EU) 2024/1619 (the "**CRD**").

The draft RTS define the minimum content of notifications to be submitted to the competent authorities, introduce a common methodology for the prudential assessment of transactions, and govern the related authorization procedures. The draft ITS, on the other hand, establish uniform procedures and timelines for cooperation among supervisory authorities involved in cross-border transactions, with the aim of ensuring a harmonized approach at the European level.

The new regulatory framework is based on the principle of proportionality, providing for simplifications for intra-group transactions and those involving smaller institutions, as well as measures aimed at avoiding duplication of information and reducing administrative burdens. The new provisions aim to promote the consolidation of the European banking sector by increasing legal certainty and the efficiency of supervisory procedures.

6) EBA: proposed amendments to the data collection for the 2027 market risk benchmarking exercise open for consultation

On 17 July 2026, the European Banking Authority ("**EBA**") launched a public consultation on amendments to the implementing technical standards relating to the benchmarking of internal models and the standardized approach for market risk for the 2027 exercise.

The principal innovations subject to the amendments concern: (i) the extension of the exercise to institutions applying the alternative standardized approach ("**ASA**") under Regulation (EU) 2024/1623 ("**CRR 3**"); (ii) the resumption of data collection under the internal model approach ("**IMA**") pursuant to Regulation (EU) 2012/648 ("**CRR 2**"); (iii) the deferral of the 2027 benchmarking exercise to the second half of 2027; (iv) the postponement of the AIMA data collection under CRR 3, on account of uncertainties surrounding its effective implementation; and (v) the reorganization of the market risk reporting templates.

The consultation remains open until 3 September 2026.

7) EIOPA: package of guidelines and technical standards for the implementation of the Solvency II review published

On 16 July 2026, the European Insurance and Occupational Pensions Authority ("**EIOPA**") published a package of final guidelines and draft technical standards in fulfilment of its Solvency II review mandate and in preparation for the entry into force of the new regulatory framework.

The package introduces the tools provided for by the reform, with new guidelines on liquidity risk management and updates to the existing provisions on the calculation of the risk margin and the application of the matching adjustment (the "**Matching Adjustment**"). These measures will apply from 30 January 2027.

Among the principal innovations are the new guidelines on supervisory powers to address liquidity vulnerabilities, which govern the modalities, preconditions and scope of exercise of the powers of competent authorities, also specifying the exceptional circumstances in which the temporary suspension of policyholders' surrender rights may be ordered.

The package also includes new draft regulatory technical standards on the simplified calculation of the risk margin, made necessary by the introduction of the so-called lambda factor, with a consequent update to the guidelines on the valuation of technical provisions.

In addition, the implementing technical standards ("**ITS**") on the matching adjustment have been revised, and the guidelines on ring-fenced funds, as well as the ITS on reporting templates and the guidelines on group solvency, reporting and disclosure, have been updated.

The draft technical standards have been transmitted to the European Commission, which must decide on their adoption within three months.

8) ESMA: RTS on CCP admission criteria published

On 8 July 2026, the European Securities and Markets Authority ("**ESMA**") published the final report containing the draft Regulatory Technical Standards ("**RTS**") on the admission criteria of central counterparties ("**CCP**"). The measure implements the mandate conferred on ESMA by the new Article 37(7) of Regulation (EU) 648/2012 ("**EMIR**"), as amended by Regulation (EU) 2024/2987 ("**EMIR 3**").

Article 37 of EMIR, in the version amended by EMIR 3, requires each CCP to establish, where applicable on the basis of the relevant product, the categories of eligible direct participants and the related admission criteria (which must be non-discriminatory, transparent and objective) in order to ensure fair and open access to the CCP and to ensure that participants have sufficient financial resources and operational capacity to fulfil the obligations arising from participation in the CCP. The RTS accordingly specify:

- the elements to be taken into account when a CCP establishes its own admission criteria, including, *inter alia*, having sufficient financial resources and operational capacity;
- the elements to be taken into account when a CCP assesses the ability of non-financial counterparties acting as direct participants to satisfy margin requirements and default fund contributions.

The report will be examined by the European Commission, which has three months for its approval.

9) EIOPA: two consultations launched and package of guidelines and RTS in the area of IRRD published

On 8 July 2026, the European Insurance and Occupational Pensions Authority ("**EIOPA**") published four guidelines and three draft Regulatory Technical Standards ("**RTS**"), implementing the directive on the recovery and resolution of the insurance sector ("**IRRD**"), in force from January 2027, which has introduced a harmonized recovery and resolution framework for European (re)insurers, in order to minimize the impact of failures on policyholders, taxpayers and financial stability.

These are, in particular:

- guidelines on the range of scenarios to be used for the assessment of the credibility and feasibility of insurance companies' pre-emptive recovery plans;
- guidelines on the qualitative and quantitative indicators to be taken into account in pre-emptive recovery plans;
- guidelines on the modalities for presenting information in summary or aggregate form for the purposes of Article 66(2)(b) of Directive (EU) 2025/1;
- guidelines on the eligibility criteria for simplified obligations for companies and groups;
- RTS on the independence of valuers from the resolution authority and the entity subject to resolution;
- RTS on the contractual recognition of the powers to suspend resolution under Directive (EU) 2025/1; and
- RTS on the methodologies and principles relating to the valuation of liabilities arising from derivative instruments.

Furthermore, also on 8 July 2026, EIOPA launched: (i) a consultation on the proposed RTS on methodologies for the valuation of assets and liabilities in resolution and on the method for calculating the provision for additional losses in provisional valuations; and (ii) a consultation on the proposed RTS for the methodology for assessing the treatment of shareholders, policyholders, beneficiaries, claimants and creditors in the event of insolvency, for the estimation of replacement costs and the separation of valuations in the event of resolution and insolvency proceedings.

Both consultations will remain open until 20 October 2026.

RESTRUCTURING AND INSOLVENCY PROCEEDINGS

10) Italian Tax Authority: Part I of Circular No. 5/E, containing clarifications on the institutes of the Code of Business Crisis and Insolvency, published

On 16 July 2026, the Italian Tax Authority published, at the conclusion of the public consultation, Part I of Circular No. 5/E, containing the first interpretative clarifications on certain institutes of the Code of Business Crisis and Insolvency (the "**CCII**").

The circular, limited to the matters within the Agency's competence, focuses on the treatment of tax and social security debts in the context of the negotiated composition of crisis (Title II, Chapter I), the simplified composition with creditors (Article 25-*sexies*), the restructuring plan subject to confirmation (Article 64-*bis*) and the framework governing groups of undertakings (Title VI).

Among the principal clarifications are: the possibility of reducing VAT in the settlement agreement of the negotiated composition of crisis (Article 23, paragraph 2-*bis*); the identification of the debts that may be included in the tax settlement; the time limit for the conclusion of negotiations; the procedures for submitting the proposal for partial and/or deferred payment of taxes, contributions and ancillary charges; the statutory interest rate applicable to tax debts; the time limit for the Tribunal's vote; and the scope of application of the deferral of payments.

Part I opens with a reconstruction of the evolution of the framework governing business crisis, from the Bankruptcy Law to the current CCII. The circular is divided into four parts: the first dedicated to the new institutes of the Code; the second to over-indebtedness; the third to restructuring agreements and composition with creditors; the fourth to judicial liquidation and residual institutes. The remaining parts will be published at the conclusion of the ongoing and future consultations.

11) Italian Supreme Court: in indirect continuity-based composition with creditors, an offer to purchase the business is relevant for the purposes of determining the liquidation value

By Order No. 22960/2026, published on 9 July 2026, the Italian Supreme Court ruled on the determination of the liquidation value of the business complex in indirect continuity-based composition with creditors, in the case where a third party has offered to purchase the business for an amount higher than the atomistic valuation of the individual assets.

The Supreme Court, having stated that the assessment of admissibility of the proposal requires a review of substantive legality of a scope equal to that provided for at the confirmation stage, specified that such review also extends to the manner of determining the liquidation value pursuant to Article 87, paragraph 1, letter c), of the CCII, as an element that fulfils an essential informational function for the informed exercise of creditors' voting rights and constitutes, at the same time, a criterion of lawfulness of the proposal where their satisfaction follows the relative priority rule mechanism.

It follows that, in indirect continuity-based composition with creditors, it is unlawful to exclude from the liquidation value the amount of the third party's higher offer and to adopt as a benchmark a lower valuation based on the atomistic disaggregation of the individual business assets, since the existence of that higher offer renders the lower valuation unsuitable to represent the actual value of the business complex.

To access the decision, click here.

CASE LAW

12) Italian Supreme Court: in indirect continuity-based composition with creditors, the business lease must be functionally connected to the resolution of the crisis

By order No. 22931/2026, published on 8 July 2026, the Italian Supreme Court ruled on the conditions for indirect continuity-based composition with creditors founded on one or more business lease agreements and on the scope of the phrase "on any other title" ("*a qualunque altro titolo*") provided for by Article 84, paragraph 2, of the CCII.

The Supreme Court clarified that the Code of Business Crisis and Insolvency does not permit indirect continuity founded on a lease agreement *tout court*, but requires a close functional connection between that instrument and the composition proposal. To that end, it is necessary that the agreement account for the proposal being prepared, or that there be a close connection, including in temporal terms, between the enjoyment agreement in favour of the third party and the submission of the proposal.

That connection must be based on criteria of actuality, concreteness and temporal coincidence, and cannot be established retrospectively by relying on agreements concluded many years before the filing of the application, lacking any reference to the business crisis, or unconnected to the obligations of the plan subsequently submitted.

The Court further held that continuity, entailing the pursuit of the pre-existing business activity, must, where partial, concern at least a significant portion of the original core of the business, specifying that the phrase "on any other title" covers scenarios additional to those typical of Article 84, paragraph 2, of the CCII, provided that they satisfy the same requirements of functional connection required by the first part of the provision.

To access the decision, click here.

OTHER RELEVANT NEWS

13) Digital Omnibus on Artificial Intelligence: Regulation (EU) 2026/1744 published in the OJEU

On 24 July 2026, Regulation (EU) 2026/1744 of the European Parliament and of the Council of 8 July 2026 (the so-called Digital Omnibus on AI) was published in the Official Journal of the European Union, amending, *inter alia*, Regulation (EU) 2024/1689 (the "**AI Act**").

The Regulation addresses the implementation issues that have emerged over the first two years of application of the AI Act – including delays in the definition of technical standards and national governance frameworks – and simplifies the implementation of harmonized rules on artificial intelligence.

The text intervenes, in particular, on the following aspects:

- the postponement of certain deadlines: the provisions on "stand-alone" high-risk AI systems under Annex III are postponed to 2 December 2027, while those on high-risk AI systems under Article 6(1) (and Annex I) are postponed to 2 August 2028; furthermore, providers of AI systems generating synthetic content placed on the market before 2 August 2026 must comply with the marking rules (under Article 50(2)) by 2 December 2026, while the deadline for the establishment of regulatory sandboxes by national authorities is postponed to 2 August 2027;

- the expansion of prohibited practices: from 2 December 2026, the placing on the market or putting into service of AI systems that generate or manipulate non-consensual intimate or sexual content and child sexual abuse material is prohibited;

- governance, with the definition of a division of supervisory competences between the AI Office and national authorities for the supervision of systems based on general-purpose AI models;

- the regulation of the use of special categories of personal data for the correction of bias in AI systems, which is now permitted in the presence of specific circumstances and subject to, *inter alia*, compliance with personal data protection legislation; furthermore, with a view to simplification, where a deployer has already carried out a DPIA (data protection impact assessment) under Article 35 GDPR in respect of processing carried out through an AI system, the FRIA (fundamental rights impact assessment) that the deployer is required to carry out may incorporate cross-references to the relevant sections of the DPIA, thereby avoiding duplication of analysis.

Among the further simplification measures, the concept of "safety component" for the purposes of the classification of high-risk AI systems has been reformulated, now limited to systems whose declared purpose is to prevent or mitigate risks to health and safety, and the application of the obligations of the AI Act has been excluded in respect of high-risk systems already covered by European harmonization legislation providing an equivalent level of protection. Finally, the obligation relating to AI literacy has been “softened”: providers and deployers are now required only to “support the development of AI literacy” of their staff, thereby removing the previous obligation to ensure an adequate level of training.

The Regulation entered into force on 27 July 2026 (the third day following its publication in the Official Journal of the European Union).

14) AI Act: the European Commission’s Guidelines on transparency

By Communication C(2026) 5054 of 20 July 2026, the European Commission adopted the Guidelines on the transparency obligations provided for by Regulation (EU) 2024/1689 (the “**AI Act**”), addressed to providers and deployers of artificial intelligence systems, which will enter into force from 2 August 2026.

The Guidelines: (i) define the scope of application of the transparency obligations set out in Article 50 of the AI Act, clarifying the concepts of “providers” and “deployers” of AI systems, as well as the transparency obligations applicable to each party along the value chain; and (ii) provide definitions of certain concepts and set out exemptions and various practical examples of what falls within and outside the scope of application. These include the definitions of directly interactive AI systems, synthetic content, deepfakes, AI-generated text on matters of public interest, as well as examples of exceptions, such as standard editing.

The Guidelines also explain how compliance with the transparency obligations under the AI Act may be demonstrated, including through adherence to the Code of Practice on the transparency of AI-generated content.

15) Bank of Italy: market communication on digital operational resilience and advanced artificial intelligence models

On 17 July 2026, the Bank of Italy published a communication addressed to supervised intermediaries on digital operational resilience and advanced artificial intelligence models.

In the light of the new threats posed by AI models to the confidentiality, integrity and resilience of information systems in the financial sector, and in line with the provisions of Regulation (EU) 2022/2554 (“**DORA**”), the Bank of Italy requires intermediaries to identify and promptly implement the measures necessary to strengthen the processes and safeguards protecting their systems, intervening in particular on the following key areas:

- **Governance**: updating the Risk Appetite Framework (“**RAF**”) to incorporate the risks arising from frontier technologies, strengthening safeguards over ICT providers and equipping senior bodies with adequate competences in the area of AI;

- Cyber hygiene: adopting defense-in-depth strategies, rigorous authentication and network segmentation;
- IT resources: maintaining complete and up-to-date inventories, modernizing infrastructure that is no longer supported or has reached end-of-life;
- Vulnerabilities: identifying and remedying vulnerabilities promptly through the timely application of remedial actions;
- Monitoring and defense: strengthening network and application monitoring, integrating AI-based tools;
- Testing: intensifying resilience testing with realistic scenarios, in line with DORA.

The Bank of Italy requires this communication to be examined by the Boards of Directors of intermediaries and that each of them prepare a report setting out, with reference to the categories identified above, the current level of risk exposure and the adequacy of existing safeguards. That report must be transmitted to the Bank of Italy by 31 December 2026.

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