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ADMINISTRATIVE LAW & ANTITRUST

1) EU Commission approves a plan for research and development in the nuclear sector

On 19 March 2026, the European Commission adopted the [Work Programme for Euratom Research and Training Programme](#) (the “**2026-2027 Work Programme**”). The 2026-2027 Work Programme aims to bolster the EU’s energy independence, competitiveness and technological leadership, while proceeding towards carbon-neutrality by 2050.

The program provides for total funding of EUR 330 million in support of nuclear research, with particular focus on fusion, fission, nuclear safety, radioactive waste management, radiation protection and skills development.

According to the Commission’s communication, a significant portion of the fund, equal to EUR 222 million, will be allocated to accelerating the development of fusion energy, advancing fusion energy from laboratories to the power grid. Additional funds will be deployed to strengthen research on nuclear fission and to improve safety standards, including with regard to the safe management of radioactive waste. The program also aims to support European industrial competitiveness and the training of new professional skills in the sector.

The initiative forms part of the framework of European Union policies aimed at promoting innovation and strategic autonomy in the energy and technology fields.

2) EU Commission adopts new State aid rules to boost the use of more sustainable ways of transport

On 16 March 2026, the European Commission adopted the new State aid [Land and Multimodal Transport Guidelines \(“LMT Guidelines”\)](#) and the [State aid Transport Block Exemption Regulation \(“TBER”\)](#), with the aim of promoting the use of more sustainable transport modes and updating the European State aid framework.

The provisions, in force as of 30 March 2026, replace the 2008 guidelines on State aid for railway undertakings and introduce a more modern and coherent framework for more sustainable land transport, such as rail transport, inland waterways and multimodal transport.

In particular, the LMT Guidelines set out the conditions under which State aid has to be notified to the Commission for approval before it can be granted. The LMT Guidelines include both operational and investment measures intended, *inter alia*, for the construction or upgrade of infrastructure and for the support of the launch of new commercial connections on rail and inland waterways, and introduce more flexible rules for aids that directly contribute to green and digital transitions, including through measures aimed at reducing the external costs of transport and improving the interoperability of rail systems.

In parallel, the TBER – which will be in place until 31 December 2034 – simplifies procedures by exempting certain categories of aid from the requirement of prior approval by the Commission, enabling Member States to act more swiftly and with reduced administrative burdens.

Overall, the new framework aims to support the entry and growth of new operators, facilitate access to finance for SMEs and mid-cap, and promote a modal shift towards more efficient and sustainable transport solutions.

3) Council of State: possibility of bringing an action against the administrative inaction (*silenzio-inadempimento*) of the Public Administration in respect of the Council of Ministers

By judgment No. 1986/2026 dated 11 March 2026, the Council of State ruled on the environmental impact assessment (“EIA”) procedure relating to a project for the expansion of a wind farm in Sardinia.

Briefly, during the EIA procedure, the Ministry of Environment and Energy Security issued a favorable opinion, whereas the Ministry of Culture expressed an adverse technical opinion with respect to only part of the project. The matter was referred to the Presidency of the Council of Ministers (“PCM”) pursuant to Article 5, paragraph 2, letter c-bis, of Law No. 400/1988. Once referred to the PCM, the said EIA procedure had remained without a final decision for a rather prolonged period.

Since this situation of uncertainty, the company promoting the project filed an appeal before the Administrative Court of Sardinia complaining of the inertia of the administrations involved, with a view to establishing the unlawfulness of the administrative inaction (*silenzio-inadempimento*) maintained by those same administrations. The Administrative Court of Sardinia declared the appeal inadmissible on the basis of the assumption that “*the judicial review of any high-level administrative act adopted by the Council of Ministers and the applicability of the obligation on the latter to act within a certain time limit must remain on two separate planes*”.

Upon the lodging of an appeal against the judgment of the Administrative Court of Sardinia, the Council of State overturned the decision of the Administrative Court of Sardinia and instead held that the decision of the Council of Ministers in response to the referral pursuant to Article 5, paragraph 2, letter c-bis, of Law No. 400/1988, qualifies as an act of high administration but that, in any event, acts of high administration remain subject to the same principles governing administrative procedure, which must be concluded with the adoption of a decision.

Therefore, “*the nature of an act of high administration does not give rise to any derogation from the configurability of an obligation to act*”, with the consequence that, according to the judgment under examination: (i) the EIA procedure, even where referred to the Council of Ministers, must be concluded with a decision; and (ii) in the event of inertia, the remedy of an action against administrative inaction (*silenzio-inadempimento*) pursuant to Article 117 of Legislative Decree No.

104/2010 remains available, for the purpose of establishing the obligation of the Council of Ministers to act and ordering it to act within a specified time limit, in the same manner as ordinarily applies to other public administrations.

To access the decision, click [here](#).

4) Council of State: on the classification of ATM S.p.A. as a “company governed by public law” (*organismo di diritto pubblico*) and the consequent obligation to apply public procurement rules

By judgment No. 1876/2026 dated 9 March 2026, the Council of State addressed the legal classification to be attributed to ATM S.p.A. (“ATM”) for the purposes of identifying the regulatory framework applicable to the award of the bike sharing service in the City of Milan.

Indeed, proceeding from the uncontested nature of ATM as a public enterprise (*impresa pubblica*) – which entails the obligation for ATM to observe the public procurement rules in the event of the award of contracts in the so-called “special sectors” (*settori speciali*) (in this case, that of rail, tram, trolleybus, bus, automated systems or cable transport) – the Council of State focused on the possibility that ATM may also be classified as a “company governed by public law” (*organismo di diritto pubblico*), with the consequent application of public procurement rules to the award of any contract for works, services or supplies.

The Judges, after having retraced the regulatory and case-law evolution in the field of public enterprises (*imprese pubbliche*) and “companies governed by public law” (*organismi di diritto pubblico*), also in the light of the new Legislative Decree No. 36/2023 (the so-called Public Contracts Code), held that ATM, in addition to being a public enterprise (*imprese pubbliche*), must also be classified as a “company governed by public law” (*organismo di diritto pubblico*) on the basis of the following indicators: (i) it possesses an independent legal personality; (ii) it carries out an activity financed exclusively by the Municipality of Milan; (iii) the appointment of its directors is reserved to the Municipality of Milan; (iv) it manages a public transport service falling within the general interest objectives pursued by that Municipality; and (v) it carries out an activity “*directed at producing benefits that are functionally oriented towards the general interest, as they are not subject to market rules and are therefore not pursued according to entrepreneurial criteria*” (i.e. the teleological criterion).

To access the decision, click [here](#).

5) EU Commission approves strategy for the development of the Industrial Maritime and Ports

On 4 March 2026, the European Commission published a [communication](#) presenting a new EU industrial maritime strategy and a dedicated ports strategy, aimed at strengthening the

competitiveness, resilience and sustainability of the European maritime sector in the context of the green transition.

These initiatives aim at supporting the entire maritime value chain – shipbuilding, maritime transport and port infrastructure – through measures for decarbonization, digitalization and security enhancement.

In particular, the industrial maritime strategy promotes competitiveness, innovation and technological leadership in the maritime manufacturing and shipping industries. To that end, the industrial maritime strategy is structured around three main pillars: (i) reinforcing Europe’s maritime manufacturing capabilities and technological leadership to leverage the waterborne single market; (ii) strengthening the competitiveness, sustainability and connectivity of maritime transport, with administrative simplifications and development of alternative fuels and electrification infrastructure; and (iii) increasing the safety and resilience of the sector, also in consideration of the possible dual-use of maritime infrastructures.

In parallel, the ports strategy represents a comprehensive framework aimed at strengthening the competitiveness, resilience, security and sustainability of European ports, which constitute the foundation of Europe’s trade, security and clean energy transition. Bolstering EU ports will secure Europe’s strategic autonomy and enable the EU to maintain global leadership in waterborne transport – while helping the EU achieve climate neutrality by 2050.

The strategies are non-binding in nature but outline the EU’s political and regulatory priorities for the development of the maritime and port sector in the coming years.

6) ANAC: PPP and the availability risk for so-called “cold” works

On 4 March 2026, the National Anti-Corruption Authority (“ANAC”), by means of [opinion No. 88](#), provided important clarifications on the distinction between a concession (*concessione*), as a form of public-private partnership (“PPP”), and a public contract (*appalto*), with particular reference to the so-called “cold” works (*opere fredde*), which are characterized by the fact that the concessionaire performs the management of the work or service directly in favor of the contracting authority, which remunerates it by means of a fee. In the case examined, relating to a procurement procedure for the award of a concession (*concessione*) for the performance of refurbishment works and related design activities at facilities belonging to the Provincial Health Authority of Cosenza, with the consequent award of services to be performed at those facilities remunerated by means of a fixed fee, ANAC reiterated that, pursuant to Legislative Decree No. 36/2023, a PPP always requires an effective transfer of operational risk to the private party. In the case of “cold” works (*opere fredde*), this risk takes the form of so-called “availability risk” (*rischio di disponibilità*): ANAC, referring to the consolidated position of the administrative courts, reiterated that this risk consists in the payment of the fee only upon the actual availability of the

work and in the provision of a system of penalties that proportionally reduces or cancels the fee due to the economic operator during periods of reduced or absent availability of the work, reduced or absent provision of services, or in the event of failure to achieve the qualitative and quantitative performance levels assumed by the concessionaire.

From the examination of the tender documentation and the contractual mechanism provided by the contracting authority, the Authority found, in the present case, the absence of an effective availability risk (*rischio di disponibilità*) in the terms described above, owing to the lack of a system of controls and penalties (*i.e.* provision for contractual penalties) of a kind capable of affecting the recovery of the concessionaire's initial investments.

According to ANAC, in the absence of significant operational risk, the transaction cannot be classified as a concession (*concessione*), but must be requalified as a mixed public contract for works and services (*appalto misto di lavori e servizi*).

7) Administrative Court of Lazio: the new Public Procurement Code no longer provides for the nullity of the contract of reliance (*avalimento*) for failure to specify resources analytically, in accordance with the principle of result

By judgment No. 24140/2025 dated 31 Dicembre 2025, the Administrative Court of Lazio ruled on the question concerning the need for the contract of reliance (*avalimento*) to include an analytical and detailed indication of the means and resources made available by the auxiliary company to the assisted one by means of the institute of reliance (*avalimento*).

The interpretative doubts underlying the question derive from the fact that, whereas Article 89 of Legislative Decree No. 50/2016 (*i.e.* the former Public Procurement Code) expressly provided that “*the contract of reliance shall contain, under penalty of nullity, the specification of the requirements provided and the resources made available by the auxiliary company*”, no analogous provision is found in the corresponding provision of the new Public Procurement Code (*i.e.* Article 104 of Legislative Decree No. 36/2023). This legislative choice had indeed given rise to certain doubts as to the consequences of the submission, at the tender stage, of a “generic” contract of reliance, that is to say, one lacking an analytical and specific indication of the means and resources made available between economic operators for the purposes of participating in tender procedures.

On this point, the Administrative Court of Lazio dispelled all doubt, holding that “*the new public contracts code [...] no longer provides for the nullity of the contract of reliance for failure to specify resources analytically. This allows an interpretation inspired by the principle of result, in which the substance of the commitment undertaken is what matters*”. Accordingly, in the Administrative Court of Lazio 's reasoning, the absence in the new Public Procurement Code of any reference to the sanction of nullity in such cases of generality is explained in the light of the introduction of the new general “super-principle” of result, which values the substance of the agreement entered into

by the parties by means of contracts of reliance (*avalimento*) over the formalities with which such contracts are signed and submitted to contracting authorities.

It follows that, according to the Administrative Court of Lazio, contracting authorities – regardless of the level of detail of such contracts – must proceed to verify in concrete terms that the reliance (*avalimento*) is not merely on paper but that, on the contrary, it entails an effective making available to the assisted company of the necessary requirements.

To access the decision, click [here](#).

STRUCTURED FINANCE, CAPITAL MARKETS & FINTECH

8) Consob: proposed amendments to the regulations on issuers, markets and related-party transactions open for consultation

On 16 March 2026, the National Commission for Companies and the Stock Exchange (“**Consob**”) launched a public consultation on a package of proposed amendments to the regulations on issuers, markets and related-party transactions.

In particular, the proposed amendments aim at modernising and rationalising the regulatory framework, removing unnecessary burdens for operators and issuers, while keeping investor protection and market integrity at the center, also with a view to promoting market growth.

Among the most significant interventions:

- the raising from EUR 20,000 to EUR 50,000 of the threshold for internal dealing disclosures;
- the repeal of implementing regulations of the Consolidated Law on Financial Intermediation provisions that are now superseded, with a view to harmonizing the regulations with the recent changes introduced by Law No. 21 of 5 March 2024 (the so-called Capital Markets Law);
- the simplification of procedures relating to prospectus and public offerings, through the deletion of the filing requirement for approved prospectuses for equity and non-equity securities and of the disclosure obligations incumbent upon the placement agent at the close of the offering;
- the extension of the possibility of using the English language – already introduced by Consob for the drawing up of prospectus – which may also be used for documentation required by EU legislation in public offerings conducted in the absence of a prospectus.

The [consultation](#) will remain open until 7 April 2026.

9) ESMA: final report on improvement actions relating to the retail investor decision-making process published

On 12 March 2026, the European Securities and Markets Authority (“ESMA”) published the [final report](#) on the retail investor decision-making process. The report is based on the outcomes of the consultation launched by ESMA last year.

ESMA has outlined a series of actions and operational improvements it will take forward to make it easier for retail investors to access suitable investment opportunities. In particular, ESMA will focus on three areas:

- streamlining disclosure requirements and tackling information overload for investors;
- reducing complexity in suitability and appropriateness assessments;
- simplifying Directive (EU) 2014/65 (the “MiFID II”) requirements on sustainability preferences.

The report will serve as a guide for ESMA’s future technical advice on MiFID II delegated acts and for any updates to its guidelines.

LABOUR LAW

10) Tax Authority: clarifications on the inpatriate workers' regime and continuity of the employment relationship with a foreign employer

On 20 March 2026, the Tax Authority (*Agenzia delle Entrate*) published [Response to Request for Ruling No. 82/2026](#), providing certain clarifications on access to the new preferential regime for inbound workers (*lavoratori impatriati*) under Article 5 of Legislative Decree No. 209/2023, in cases where the individual concerned continues to perform his or her work activity in favor of a foreign employer (not operating in Italy and not belonging to a group with Italian-resident entities) in smart working mode.

The case examined by the Tax Authority, in particular, concerned an Italian citizen who had been resident in Finland for over thirty years and intended to transfer his registered and tax residence to Italy as of 2026. He enquired whether, while continuing to carry out his work activity in favor of a foreign (Finnish) employer and entirely from remote, he would be entitled to access the preferential regime referred to above.

The Tax Authority clarified that the continuity of the employment relationship with the foreign employer and the performance of work activity from remote do not constitute grounds precluding access to the regime under Article 5 of Legislative Decree No. 209/2023.

Even in the presence of such circumstances, therefore, the tax advantage must be duly recognized, where all the requirements expressly set out in the applicable legislation are met.

M&A

11) Dissolution of a company and liability of directors

On 24 March 2026, the National Council of Accountants and Accounting Experts (*Consiglio Nazionale dei Dottori Commercialisti e degli Esperti Contabili*) and the National Foundation of Accountants (*Fondazione Nazionale dei Commercialisti*) published a [document](#) setting out guidelines and interpretative orientations on the quantification of damages pursuant to Article 2486 of the Civil Code, with the aim of providing operational guidance for the determination of losses arising from the continuation of business activities in the presence of a ground for dissolution.

The document analyses the regulatory and case-law framework relating to the liability of directors who, following the occurrence of a cause for dissolution, fail to limit its conduct to the preservation of the integrity and value of the corporate assets. In particular, it analyses the principal methodologies for quantifying damages, including the net assets difference criterion (*criterio della differenza dei netti patrimoniali*) and the insolvency deficit criterion (*criterio del deficit "fallimentare"*), highlighting their respective conditions of application, limitations and areas of use. The document further identifies the net asset differential criterion as the general standard, while the insolvency deficit criterion is reserved for residual application.

The National Council emphasises that the determination of the financial damage caused by the unlawful continuation of the company's business activity following the loss of share capital must be carried out by applying the principle of causation and, accordingly, by attributing to the directors and, jointly, to the statutory auditors, only the loss directly deriving from the unlawful conduct engaged in. Damages that are not directly attributable to the breach of duties of the corporate bodies cannot be charged to them as defendants in liability actions brought to enforce the damage referred to in Article 2486 of the Civil Code.

The document finally provides methodological and operational guidance for technical consultants, professionals, and judicial bodies, with the aim of promoting a uniform and consistent approach in the quantification of damages pursuant to Article 2486 of the Civil Code.

12) Italian Supreme Court: the principle of continuity of financial statements does not apply to challenges to resolutions

On 12 March 2026, the Italian Supreme Court ruled on the principle of continuity of financial statements, clarifying that this principle does not apply automatically in the context of challenges to shareholders' resolutions approving financial statements. The decision was issued in the context of a dispute concerning the validity of a resolution approving the company's financial

statements, which had been contested on grounds of alleged defects relating to previous financial years.

The Court specified that the principle of continuity of financial statements, pursuant to which the financial statements for one financial year constitute the starting point for the preparation of those for the following year, operates at the accounting and management level, but has also a legal dimension: it allows the challenging party to extend the complaints on the validity of one set of financial statements to subsequent ones, provided that it is alleged that the objections raised with respect to the first financial statements have also been transmitted to the subsequent ones and are therefore still relevant for the purposes of the analysis of the correctness of the challenged accounting document. It follows that there is no automatic or presumptive transmission of a defect from one financial statement to the next; accordingly, where the challenging party fails to assert the persistence of the originally alleged defect, the curative mechanism set out in Article 2434-bis, first paragraph, of the Civil Code applies. That provision establishes a *ius tantum* presumption of the autonomy and integrity of the subsequent year's financial statements in relation to any defects that may have affected the preceding ones.

To access the decision, click [here](#).

REAL ESTATE

13) European Parliament: Resolution on the housing crisis in the EU

On 10 March 2026, the European Parliament, referring to the principles of the European Pillar of Social Rights and the European Social Charter, adopted [Resolution P-10_TA \(2026\) 0064](#), aimed at affirming and promoting the right of access to dignified, sustainable and affordable housing solutions in all Member States, outlining priorities and instruments in support of the action of the European Commission and the Member States.

The resolution aims, *inter alia*, at simplifying regulations, both in urban planning and at a fiscal level, to remove obstacles in the property sales and rental sector, as well as at strengthening European sovereignty in the construction and building renovation sectors. With a view to promoting legal certainty of property rights and the general protection of owners and tenants, the resolution promotes the fight against illegal occupation of housing units, both public and private, and encourages long-term rentals with greater price transparency.

The importance of social housing is also underlined, emphasising the need to improve the implementation of financial policies that ensure equitable and sustainable access to credit for sector operators, encouraging public-private cooperation, with a view to enabling the development and management of affordable housing.

BANKING / FINANCIAL / INSURANCE REGULATION

14) EBA: RTS on requests for reductions of MREL instruments

On 19 March 2026, the European Banking Authority (“EBA”) published the [Final Report](#) containing the final draft amending regulatory technical standards (“RTS”) on Commission Delegated Regulation (EU) 2014/241 on own funds and eligible liabilities (the so-called *MREL*).

In particular, the draft RTS provides for:

- the reduction (from four to three months) of the time limits for the assessment – by competent authorities – of applications submitted by institutions in relation to the reduction of own funds instruments and eligible liabilities. The reduction reflects the experience gained by the authorities in the practical implementation phase, which has demonstrated their capacity to process the applications within a period of three months, while at the same time providing institutions with greater flexibility in capital planning and redemption transactions;
- the deletion of the simplified procedure provided for by the RTS for liquidation entities. Following the exemption introduced by Directive (EU) 2024/1174 (the so-called *Daisy Chain Act*), which has removed the obligation for liquidation entities to obtain permission to reduce eligible liabilities instruments, the provisions of Commission Delegated Regulation (EU) No. 2014/241 that provided for a simplified procedure for such institutions have been deleted as having become obsolete.

15) EBA: RTS and guidelines on initial margin models open for consultation

On 17 March 2026, the European Banking Authority (“EBA”) launched two separate public consultations – respectively on the [draft regulatory technical standards](#) (“RTS”) and on the [draft guidelines](#) (“Guidelines”) – on the authorisation of initial margin models (“IM models”) for OTC derivative contracts not cleared at a central counterparty, pursuant to Regulation (EU) 2024/2987 (“EMIR 3”).

In particular, for such contracts EMIR 3 provides for the obligation of prior authorization by the competent authority before the use or modification of IM models.

The RTS define the supervisory procedures for the authorization and ongoing monitoring of IM models by competent authorities – distinguishing between models based on so-called *pro forma models* (such as ISDA SIMM, subject to centralized EBA validation) and non-*pro forma models* (subject to full assessment by the national authority) – and apply to counterparties belonging to groups that have a monthly average outstanding notional amount of non-centrally cleared OTC derivatives of at least EUR 750 billion, with phased application commencing from 1 January 2028;

the Guidelines, in turn, specify the minimum set of information that counterparties must provide in the authorisation application, provide guidance on which updates constitute a “modification” requiring a new authorisation, and establish proportionate documentation requirements for less active counterparties.

Both consultations will remain open until 17 June 2026.

16) EBA: Q&A on credit assessments by external credit assessment institutions

On 13 March 2026, the European Banking Authority (“EBA”), by means of [Q&A](#) No. 7220/2024, provided a response concerning the usability of credit assessments issued by external credit assessment institutions (“ECAIs”), but not made publicly available, for the purposes of determining the risk weight of an exposure under the standardised approach.

In the aforementioned response, the EBA specifies that an external credit assessment issued by ECAIs that is transmitted or shared in a form that does not correspond to public disclosure or distribution by subscription does not meet the requirements of Article 135(1) of Regulation (EU) No. 575/2013 (“CRR”), except in the case the external credit assessment is produced by a central bank.

In accordance with Article 135(1) of the CRR, an external credit assessment may be used to determine the risk weight of an exposure pursuant to Chapter 2, Title II, Part Three, only if it has been issued or endorsed by an ECAI, in both cases in conformity with Regulation (EC) No. 1060/2009 (“CRAR”).

Pursuant to the definition in Article 4(1), point 98, of the CRR, an ECAI may be:

- a credit rating agency registered or certified in conformity with the CRAR; or
- a central bank issuing credit ratings exempted from the application of the CRAR.

For an external credit assessment to be issued or endorsed by an ECAI in accordance with the CRAR, it needs to be in scope of that regulation, that is to say, the credit rating, according to Article 2(1) of the CRAR, must be disclosed publicly or distributed by subscription and the credit rating agency must be registered or certified in the Union.

17) EIOPA: consultation on regulatory reporting launched

On 13 March 2026, the European Insurance and Occupational Pensions Authority (“EIOPA”) launched a consultation to gather feedback from stakeholders in order to identify the causes (and possible remedies) of potential inefficiencies, overlaps and inconsistencies in regulatory reporting and disclosure requirements.

Within the framework of Directive (EC) 2009/138 (the so-called “**Solvency II**”), as recently amended, EIOPA has been mandated to produce a report on potential legislative and technical measures to develop an integrated data collection system for the European insurance and pensions sectors with a view to: (i) reducing duplication and inconsistency between reporting systems in the insurance sector and in other sectors of the financial industry; (ii) improving the standardization, sharing and efficient use of data already reported under any European Union reporting system by any competent authority, whether national or European; and (iii) reducing compliance costs.

The published document provides an overview of the current reporting landscape for insurers and institutions for occupational retirement provision (“**IORPs**”) and examines potential ways to streamline and harmonize reporting requirements: in particular, the report reveals that, while the European insurance sector has a reporting mature, well-harmonized and deeply integrated system, based on Solvency II, data collection for IORPs remains fragmented.

The [consultation](#) will remain open until 10 June 2026.

18) Negotiated Settlement of Crisis (*composizione negoziata della crisi*): prohibition on enforcement of guarantees granted by MCC cannot be upheld

On 3 March 2026, the Court of Rome issued an order regarding the negotiated settlement of crisis (*composizione negoziata della crisi*) in which it ruled, *inter alia*, on the interim measure of prohibition on the enforcement of the guarantees of the Guarantee Fund for SMEs (*Fondo di Garanzia per le PMI*).

By the order, the Court confirmed the protective measures requested pursuant to Article 18 of the Business Crisis and Insolvency Code and instead dismissed the interim measures requested by the petitioning company.

The rejection of the request to prohibit enforcement of the Fund's guarantees is particularly interesting: according to the Court, the relevant regulatory framework is statutory rather than contractual in nature and cannot therefore be derogated from by interim measure. In particular, the ordinary courts cannot, by way of interim measure, prevent the financing party from complying with obligations and time limits whose source is legislative rather than contractual, on pain of altering a regulatory framework established to safeguard the integrity of the public fund. This is also having regard to the fact that the sector-specific legislation already provides a suitable instrument for the protection of the entrepreneur in the course of negotiations without the need for judicial intervention, since it contemplates the possibility of submitting settlement proposals also in the context of the negotiated settlement of the crisis (*composizione negoziata della crisi*), and the submission of such proposals triggers the suspension of the time limits prescribed for enforcement.

It is further noted that payment by the public guarantor gives rise to the so-called *super-privilege* (*super privilegio*), which is capable of altering the composition of the debt with potentially prejudicial effects for unsecured creditors; however – as the court points out – this effect is provided for directly by law and cannot be prevented by interim measure without impinging on a mandatory regulatory framework.

To access the decision, click [here](#).

19) Court of Naples: on the omnibus guarantees (*fideiussioni omnibus*) subsequent to Banca d'Italia provision No. 55/2005

On 7 January 2026, the Court of Naples reaffirmed its position on omnibus guarantees (*fideiussioni omnibus*) entered into after Bank of Italy provision No. 55/2005, again addressing the question of the relationship between clauses conforming to the “ABI model” and the presumed adherence to an anti-competitive agreement.

The proceeding originated from the request, brought by the plaintiffs, to declare the nullity of certain guarantees subscribed in 2006. According to their argument, the coincidence of the clauses with the ABI model (in respect of which, by provision No. 55/2005, Bank of Italy had found a competition-restricting character) would have constituted in itself sufficient proof of the existence of a link with the prohibited agreement and, accordingly, of the nullity of the “downstream” contract (*contratto “a valle”*).

The Court, however, offers a more restrictive reading of the probative value of the Bank of Italy measure. That act retains privileged evidentiary effect solely with respect to the period covered by the investigation (October 2002 – May 2005) and cannot automatically be extended to guarantees entered into subsequently.

The mere coincidence of the clauses of a guarantee contract entered into after that period with those of the ABI model subject to investigation is not sufficient – in itself alone – to prove the existence and/or persistence of the “upstream” anti-competitive agreement (*intesa anticoncorrenziale “a monte”*) from which the nullity of the clauses of “downstream” contracts (*contratti “a valle”*) would derive. In such cases, it falls to the plaintiffs to demonstrate the existence, in the relevant market and at the time of execution, of effective coordination among a significant number of credit institutions, such as to impose uniform contractual models and deprive customers of any genuine freedom of choice.

The decision therefore confirms the continuity of the approach of the Court of Naples, notwithstanding a non-uniform case-law landscape which has been the subject of different rulings by other courts of first instance and by the courts of last resort.

To access the decision, click [here](#).

CASE LAW

20) Italian Supreme Court: a claim for termination of a contract for non performance filed prior to bankruptcy must be fully transferred to the delegated judge in the form of assessment of liabilities (*accertamento del passivo*) proceedings

A claim for contractual termination for non-performance, filed prior to the commencement of bankruptcy proceedings, where it is intended to assert restitutionary or compensatory claims against the insolvency estate, becomes inadmissible before the ordinary courts and must be transferred in its entirety before the delegated judge in the forms of assessment of liabilities (*accertamento del passivo*) proceedings (Italian Supreme Court, Joint Civil Divisions, 18 March 2026, No. 6481; Italian Supreme Court, Joint Civil Divisions, 18 March 2026, No. 6498).

By means of the two mirroring decisions under discussion, the Joint Civil Divisions of the Italian Supreme Court resolved a persistent case-law conflict concerning the coordination between ordinary proceedings for contractual termination for non-performance and the subsequent opening of bankruptcy proceedings (now referred to as, judicial liquidation – *liquidazione giudiziale*) against the counterparty.

Both decisions originate from actions commenced prior to the declaration of insolvency and are aimed at the termination of synallagmatic contracts (*contratti a prestazioni corrispettive*), to which ancillary restitutionary or compensatory claims against the debtor's estate are correlated. The systemic issue concerns the scope of Article 72, paragraph 5, of the Bankruptcy Law (*legge fallimentare*), in the context of uncertainty between the maintenance of a dual procedural track (whereby the termination claim continues before the ordinary courts and the resulting credits are admitted to the bankruptcy estate (*passivo fallimentare*)) and the necessary full transfer of the dispute before the insolvency court in the forms of assessment of liabilities (*accertamento del passivo*) proceedings.

The Joint Civil Divisions of the Supreme Court, seised of the matter, resolved it by holding that Article 72, paragraph 5, of the Bankruptcy Law requires an integral devolution to the delegated judge where the claim is one “*in which the termination application and the restitutionary and damages claims are combined*”. This is because, “*given the close correlation between the termination of the contract and the restitutionary and damages claims arising from the dissolution of the contractual bond, it can be not but considered that the proceedings relating to the constitutive preliminary matter merit treatment – given its relevance to the genesis of the credit right to be asserted – in the forms of assessment of liabilities (accertamento del passivo) proceedings*”. In such scenario, the Joint Civil Divisions of the Supreme Court clarified that, once the bankruptcy has supervened, the ordinary termination proceedings will not be interrupted or extinguished, but will instead be declared

inadmissible, placing the burden on the solvent contracting party (*contraente in bonis*) to re-file the claim before the insolvency court.

Conversely, where the termination claim is not instrumental to restitutionary or damages claims, and the nexus of instrumentality with the assessment of liabilities (*accertamento del passivo*) proceedings accordingly ceases to exist, the action shall remain admissible before the ordinary courts, as shall also be the case where a judgment – even one not yet final – has been delivered on the termination action.

In this regard, the decisions under examination provided an important clarification by excluding that the scope of the delegated judge's cognisance is limited to a merely incidental determination. The Joint Civil Divisions of the Supreme Court indeed held that *"in the absence of a precise statutory indication as to the different content of the decision to be rendered in the insolvency court, before which the claim must be re-filed, it is proper to consider that, in the event of success, the ruling of the insolvency judge shall bear precisely the constitutive or declaratory character, as the case may be, typical of standard termination remedies"*.

A further important clarification was provided by judgment No. 6498/2026 in relation to the so-called cross-claims for contractual termination (*domande incrociate di risoluzione contrattuale*). In that regard, the Supreme Court clarified, on the one hand, that *"the termination claim brought by the bankrupt contracting party, and continued, following the opening of the insolvency procedure, by the bankruptcy trustee (curatore), is [...] outside the jurisdiction of the insolvency judge and must continue before the original court"*; and, on the other hand, that where the solvent contracting party has pursued its own claim before the insolvency court, *"the termination proceedings before the insolvency judge, in which the trustee's plea of non-performance may be raised as a bar to the claim, must run their course, and cannot be conditioned upon the simultaneous pendency of the proceedings brought by the trustee himself"*.

In the light of the foregoing, the Italian Supreme Court laid down the following principles of law:

- *"A claim for contractual termination for non-performance that constitutes the premise of restitutionary or damages claims against the bankruptcy estate, filed prior to the declaration of bankruptcy and, where relating to assets subject to a registration requirement, also registered prior to it, becomes inadmissible before the ordinary courts and must be filed pursuant to the special procedure governed by Title II, Chapter V of the Bankruptcy Law, while remaining admissible before the ordinary courts if directed at obtaining benefits unrelated to participation in the insolvency procedure, or if a judgment not yet final has been delivered on it"*;
- *"The decision on the termination claim transferred to the insolvency court, although having effect solely within the insolvency proceedings, is not incidental in nature, but bears the typical content – whether declaratory or constitutive, as the case may be – of a termination ruling"*;

- “The judicial proceeding relating to the termination claim that has become inadmissible by reason of the declaration of bankruptcy shall not be reinstated, the solvent contracting party being simply required to file the said claim before the delegated judge, together with the consequential claims for damages or restitution” (judgment No. 6481/2026);
- “Where a termination claim has been registered, its acceptance, ordered by the decree rendering the schedule of liabilities enforceable (decreto che rende esecutivo lo stato passivo) or by the decree issued in challenge proceedings (decreto pronunciato in sede di impugnazione), pursuant to Article 99, paragraph 11, of the Bankruptcy Law, must be annotated in the margin of the registered act in order to produce the effect provided for by Article 2655, paragraph 3, of the Italian Civil Code” (judgment No. 6481/2026);
- “In the event that, with respect to the same contract, opposing termination claims have been filed prior to the declaration of bankruptcy, the claim pursued by the non-bankrupt contracting party must continue before the insolvency court, while the other must be continued by the trustee before the ordinary courts” (judgment No. 6498/2026).

To consult the text of Decision No. 6481/2026, click [here](#).

To consult the text of Decision No. 6498/2026, click [here](#).

OTHER RELEVANT NEWS

21) European Delegation Law 2026 published in the Italian Official Gazette

On 25 March 2026, [Law No. 36 of 17 March 2026](#) (*European Delegation Law 2025*) was published in the Italian Official Gazette. By means of such law, the Government is delegated to transpose European directives and to implement other acts of the European Union.

In particular, the law refers, *inter alia*, to the following regulations and directives:

- Directive (EU) 2024/2823 and Regulation (EU) 2024/2822 relating to designs and their legal protection;
- Directive (EU) 2016/680, on the protection of natural persons with regard to the processing of personal data by competent authorities for the purposes of the prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties, and on the free movement of such data;
- Directive (EU) 2025/1, establishing a framework for the recovery and resolution of insurance and reinsurance undertakings;
- Regulation (EU) 2024/3005, on the transparency and integrity of environmental, social and governance (ESG) rating activities;
- Regulation (EU) 2024/2847, on horizontal cybersecurity requirements for products with digital elements; and

- Regulation (EU) 2025/38, laying down measures to strengthen solidarity and capacities in the Union to detect, prepare for and respond to cyber threats and incidents.

22) SME Law: publication in the Official Gazette

On 23 March 2026, [Law No. 34 of 11 March 2026](#), constituting the annual law on small and medium-sized enterprises, was published in the Official Gazette of the Italian Republic, General Series No. 68.

The measure introduces provisions aimed, *inter alia*, at encouraging the aggregation of smaller undertakings, improving access to bank credit and providing for administrative simplification measures, structured across several chapters dedicated to the various areas of intervention.

For an overview of the main provisions of the law and the new measures introduced, please refer to our *legal insight* available at the following [link](#).