

SPANISH COMPETITION

Highlights ...

Weekly follow-up: 10 – 16 June

The Commercial Court nº10 of Barcelona rules on the statute of limitations for the action for damages as a result of the so-called “envelope cartel”

Recently, has been published the Commercial Court nº10 of Barcelona judgment, on 19 February 2024, dismissing a claim for damages as a result of the so-called “envelop cartel” on the grounds that it was time-barred.

The claim was based on the Resolution of the Council of the former National Competition Commission (“**CNC**”) on 25 March 2013, issued in the sanctioning file S/0316/10, “Sobres de papel”, which declared the existence of an agreement involving several companies, prohibited by Article 1 of the LDC and Article 101 of the TFEU.

The defendants argued, among other issues, the statute of limitations of the action brought on the grounds that it was an action of non-contractual liability under Article 1902 of the Civil Code, and therefore the statute of limitations would be one year, setting the “*dies a quo*” on 1 April 2013, the date on which the CNC Resolution was published.

The judgment, diverging from the criteria of the Provincial Court of Barcelona, upheld the defendants and ruled that, with the information published in the Resolution (which included the identity of the infringers, the description of the conduct, the fact that the conduct caused damage and the acknowledgement of the facts by the defendant infringers), the claimant was in a position to exercise the action for damages regardless of whether the CNC’s resolution was appealed in court.

The Court clarifies that the judicial enforceability of the administrative decision has effects in the civil proceedings for damages claims regarding the binding nature of the proven facts but does not affect the initiation of the “*dies a quo*” of the limitation period of the action, which is only related to the plaintiff’s full capacity to litigate.

Finally, the Court declares that the one-year time limit for the exercise of actions for damages as a result of infringements of the competition rules applicable in Spain prior to the transposition of Directive 2014/104/EU does not infringe the principle of effectiveness of the European Union, since despite the fact that a short time limit can be easily interrupted by a simple extrajudicial injunction.

Recently, Commercial Courts of Barcelona, Toledo and Oviedo have handed down rulings on damages for infringements of competition law, rejecting the farmers’ claims against milk industries, based on the CNMC Decision INDUSTRIAS LÁCTEAS 2, on the grounds that the actions brought by the claimants were time-barred.