



## Claiming damages for competition law infringements has become easier

*Royal Decree-Law 9/2017, of 26 of May, transposing some EU Directives in the financial, commercial and health sector*

Royal Decree-Law 9/2017, of 26 of May which transposes, among others, the Directive on actions for damages for competition law infringements was published last 26 of May with five months' delay.

The aim of the Directive is to ensure that anyone who has suffered harm caused by an infringement of competition law can obtain full compensation; and to ensure that equivalent rules apply throughout the member states to avoid different resolutions according to the place where the claim has been issued.

Before the transposition of the Directive, there did not exist in Spain specific rules for this kind of actions, and the non-contractual liability regime of the Civil Code was the one used to claim compensation to the infringing companies for damages caused by an anti-competitive conduct.

### Joint and several responsibility

The infringing companies will be severally liable for the entire damage caused, except for small and medium enterprises, which are governed by specific rules.

In this way, the victims are entitled to claim damages in one single procedure and to one single company for the totality of the damages caused.

### Evidential value of final decisions of competition authorities

Final resolutions of the CNMC are considered as irrefutable evidence of a competition law infringement, for the purposes of claiming damages, and final resolutions of the competition authorities of other member states create a presumption of competition law infringement in Spain.

### Limitation period

The limitation period is notably extended, from 1 year to 5 years.

### Introduction of the discovery technique

The Anglo-Saxon discovery technique is introduced to facilitate the taking of evidence. With this technique, any victim is entitled to request to the company to disclose relevant evidence which lies in their control in order to demonstrate the scope of the damage caused. The judge will decide the scope of the documents.

The entry into force of this Royal Decree-Law will solve the main difficulties faced by the victims of anticompetitive practices when claiming compensation for damages, and it increases pressure against cartels and other collusive practices.