



## Compliance forever: actions for civil liability derived from a final criminal conviction never prescribe

### *Judgment of the Supreme Court, Criminal Chamber, of 13 November 2020*

#### Background

In 2001, a citizen was sentenced to pay civil compensation as a result of the commission of a crime. After 15 years without such compensation being paid, the Court declared the civil liability claim barred by limitation. The public prosecutor did not agree with such decision and filed an appeal. The Court upheld such appeal and ultimately declared that civil liability resulting from a crime is not subject to a limitation period. This decision was afterwards appealed before the Supreme Court which confirmed the ruling of the lower Court.

#### Judgment of the Supreme Court

The Supreme Court acknowledges that this is a controversial topic, and that lower Courts have issued contradictory judgments on this matter. Some judgments apply a limitation period of 15 years (as per the provisions of the Civil Code); others apply a 5-year period (as per the provisions of the Spanish Procedural Law); and others apply no statute of limitation at all.

The Supreme Court advocates for the last option and declares that claims for civil damages resulting from a final criminal conviction have no limitation period. According to the Court, civil

claims related to a criminal conviction may be filed until the rights of the injured party (which, in turn, never prescribe) are fully satisfied. To support its decision, the Court argues that, when it comes to criminal proceedings, victims deserve special protection; and precisely because of such special protection, process rules must be interpreted in a way that favors the full effectiveness of the judgment. Any rule that limits the effectiveness of the judgment, the Court says, must be constructed restrictively.

#### The importance of compliance systems

Under the Criminal Code, companies may be subject to criminal liability with respect to certain specific crimes. In such cases, criminal liability may also result in civil liability as a result of which the company may have to pay damages to third parties. As per this judgment of the Supreme Court, this civil liability will never prescribe, which means that the company will always remain liable regardless of the period elapsed from the date of the final criminal conviction. This is, in our opinion, a reminder about the importance of having a comprehensive compliance program with adequate internal controls to prevent irregular conducts.