

The CJEU and the Spanish Supreme Court clarify that the *dies a quo* for follow-on antitrust damages claims based on NCA decisions is the date when the decision becomes final.

The Court of Justice of the European Union (CJEU) has delivered its judgment in *CP v Nissan Iberia* (Case C-21/24), providing crucial clarity on when the limitation period for filing an antitrust damages claim starts to run. Following the Advocate General's opinion, the CJEU confirms that, for claims based on a contested national competition authority (NCA) decision enforcing Article 101 TFEU, the clock cannot start until that decision has become final.

Background.

The case arose from the Spanish car-manufacturers cartel, an infringement of Articles 101 TFEU and 1 of the Spanish Competition Act (SCA) declared by the Spanish NCA (Comisión Nacional de los Mercados y la Competencia, CNMC) in 2015. Nissan and the other fined car manufacturers appealed that decision. The Spanish Supreme Court issued its final judgments confirming the infringement in 2021. In the follow-on damages litigation that ensued, Spanish courts issued conflicting judgments on when the limitation period starts to run (*dies a quo*). Some first and second instance courts held that the *dies a quo* was the date on which the CNMC decision became final, whereas a majority adopted the more traditional view that time began to run on the date the CNMC decision was published.

In a claim in which Nissan argued that the action was time-barred, a Court of First Instance in Zaragoza referred several questions to the CJEU on 10 January 2024, including on whether the limitation period begins to run only once the administrative decision is final.

The CJEU judgment.

The CJEU reasons that, under the pre-Directive one-year limitation period in the Civil Code, the necessary condition for time to start running (the claimant's sufficient knowledge of the infringement) had not been met by the Directive's transposition deadline of 27 December 2016. Because the CNMC's decision was still under appeal and thus not final, the claimant could not be deemed to have the requisite knowledge for the *dies a quo* to arise. In this respect, the CJEU finds that the limitation period cannot begin until the injured party has the indispensable information necessary to bring a damages action successfully. In the context of a follow-on claim involving an NCA decision, such information is the legal certainty that an infringement of Article 101 TFEU occurred. That certainty is only achieved when the NCA's decision becomes final and is not subject to further appeal that could alter its substance.

The Court's reasoning is grounded in the principle of effectiveness, which provides that national rules cannot make it "practically impossible or excessively difficult" to exercise rights granted by EU law. The CJEU distinguishes this situation from its earlier judgment in *Heureka* (C-605/21), which concerned a European Commission decision (which are immediately binding on all national courts). By contrast, an NCA decision is not legally binding until it becomes final.

The judgment also addresses, and rejects, the argument that national rules on suspension or interruption of limitation periods could safeguard the principle of effectiveness. The Court notes that the Spanish Civil Code allows the one-year period to be interrupted by an out-of-court claim, and that civil proceedings may be stayed pending judicial review of a CNMC decision. Those mechanisms are neither automatic nor designed to address the specific uncertainty created by years-long judicial appeals of the underlying CNMC decision. They do not guarantee that the limitation period will not expire during the appeal process, and thus they fail to provide an effective remedy.

The judgment further touches on publication standards, stating that the final judgment must be officially published, freely accessible to the public, and bear a clearly stated publication date (in this case, the free database operated by the General Council of the Judiciary was considered valid).

Convergent views of the Spanish Supreme Court.

Crucially, the Spanish Supreme Court has already settled the matter for Spain (Judgment 889/2025 of 5 June 2025). In a follow-on damages action concerning the envelopes cartel (declared by the CNMC in 2013), and citing *Heureka*, the Supreme Court held that the *dies a quo* is the date when the CNMC decision becomes final, in terms like those used by the CJEU in Nissan. In particular, the Supreme Court concluded that the date the decision becomes final is the moment when all the elements necessary to bring the claim crystallize as a judicially verified truth.

Implications.

For damages claims following an NCA decision that is appealed before the national courts, the *dies a quo* is now, unequivocally, the date of publication of the final judgment on appeal of administrative antitrust decision. This provides the legal certainty needed to plan, fund and file claims. A critical immediate implication is that claims previously considered time-barred may be revived by virtue of the CJEU and Supreme Court judgments, effectively resetting the clock. In Spain, for instance, there are several cartel decisions not yet final due to pending judicial review, such the milk, the diapers cartels, or the anticompetitive agreement between the two largest private TV groups concerning advertising.