

SPANISH COMPETITION

Highlights ...

Weekly follow-up: 01 – 07 July

The CNMC declares that Casli, S.A.'s compliance programme fulfils the criteria of the Compliance Guide

On 19 July 2023, the Spanish Competition Authority ("**CNMC**") ruled the decision in the file S/0008/21, LICITACIONES MATERIAL MILITAR, sanctioning several companies, including Casli, S.A. ("**CASLI**"), for an infringement of Article 1 of the LDC ("**the Decision**"). The Decision sanctioned CASLI with a fine of 100,000 euros and with the prohibition to contract with Public Administrations provided for in article 71.1 b) of the Public Sector Contracts Law ("**LCSP**").

CASLI initially informed the CNMC that the company had implemented a compliance programme. However, the CNMC considered that it was not sufficient as there were certain aspects that had not been implemented and urged the company to submit the necessary improvements after six months.

In the framework of the surveillance file VS/0008/21, LICITACIONES MATERIAL MILITAR, CASLI submitted, on 23 December 2023, a document improving the compliance programme.

On 25 June, the CNMC has issued a surveillance decision, which declares that CASLI has incorporated into its compliance programme the relevant improvements mentioned in the Decision, thus complying with the assessment criteria contained in the CNMC's Compliance Guide. In addition, the CNMC has agreed to refer the surveillance decision to the Advisory Board for Public Procurement ("**JCCP**") for the purposes of article 72.5 of the LCSP.

Article 72.5 admits the possibility of avoiding this prohibition of contracting when the company has a compliance programme. In this regard, the declaration of effectiveness of the compliance programme by the CNMC is very relevant as the JCCP, in the procedure of determining the scope and duration, could set aside the prohibition to contract.

This is not the first time that the CNMC has declared the effectiveness of a compliance programme. In this regard, in the framework of the same case, the CNMC has declared that the compliance programme of Grupo de Ingeniería, Reconstrucción y Recambios, JPG, S.A. also complies with the assessment criteria of the Compliance Guide.