Spain

“Spanish Sugar Cartel”

Treaty on European Union, Art. 81(1)(a) [presently, Treaty on the Functioning of the European Union, Art. 101]; Law 16/1989 on the Protection of Competition [former Spanish Competition Act of 1989], Arts. 1.1(a), 13.2; Code of Civil Procedure, Arts. 1109, 1902, 1968.2, 1969, 1973; Constitution, Art. 24 – *Acor v. Galletas Gullón et al. [nine producers of biscuits and confectionary]*

**Decision of the Supreme Court (Civil Chamber)
8 June 2012 – Case No. 344/2012**

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1. Antitrust damage claims have a non-contractual nature when resulting from an infringement of a cartel prohibition.
2. According to Art. 1968.2 of the Civil Code, the limitation period amounts to one year, starting from the date the victim obtains knowledge of the illicit act. In this case, the one-year period begins after the binding decision confirming the infringement (the final judgment of the Supreme Court upholding the administrative prohibition decision).
3. The use of economic expert evidence is a valid option for the plaintiff to comply with the burden of proof of the damages suffered.
4. In principle, defendants may rely on the passing-on defense. Nevertheless, they bear the burden of proof and have to provide substantive evidence in this respect. They may also have to rebut counter-arguments submitted by the plaintiffs.
5. The price comparison before, during and after the cartel in order to quantify the damages caused by a cartel is an adequate mechanism.
6. Legal interests as of the time the damages occurred are an essential component of compensation.

A comment to this Decision by T. Schreiber and P. Pérez Fernández can be found at [10.1007/s40319-013-0092-8](https://doi.org/10.1007/s40319-013-0092-8).