European Union

“Sumal”

**Decision of the European Court of Justice (Grand Chamber)
6 October 2021 – Case No. C 882/19**

Sumal SL v. Mercedes Benz Trucks España SL

**Treaty on the Functioning of the European Union, Art.
101(1)**

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Keywords Compensation · Liability · Undertaking liable · Liability of subsidiary and parent company · Concept of “economic unit” · Action for damages

1. **Article 101(1) TFEU must be interpreted as meaning that the victim of an anticompetitive practice by an undertaking may bring an action for damages, without distinction, either against a parent company who has been punished by the Commission for that practice in a decision or against a subsidiary of that company which is not referred to in that decision, where those companies together constitute a single economic unit. The subsidiary company concerned must be able effectively to rely on its rights of the defence in order to show that it does not belong to that undertaking and, where no decision has been adopted by the Commission under Article 101 TFEU, it is also entitled to dispute the very existence of the conduct alleged to amount to an infringement.**
2. **Article 101(1) TFEU must be interpreted as precluding a national law which provides for the possibility of imputing liability for one company’s conduct to another company only in circumstances where the second company controls the first company.**

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Available at <http://curia.europa.eu>. Official wording of the Court.

For more on matters raised in this judgment, see the opinion by Benedikt Freund “Heralds of Change – in the Aftermath of *Skanska* (C-724/17) and *Sumal* (C-882/19)” in this issue of IIC at <https://doi.org/10.1007/s40319-022-01150-5>.