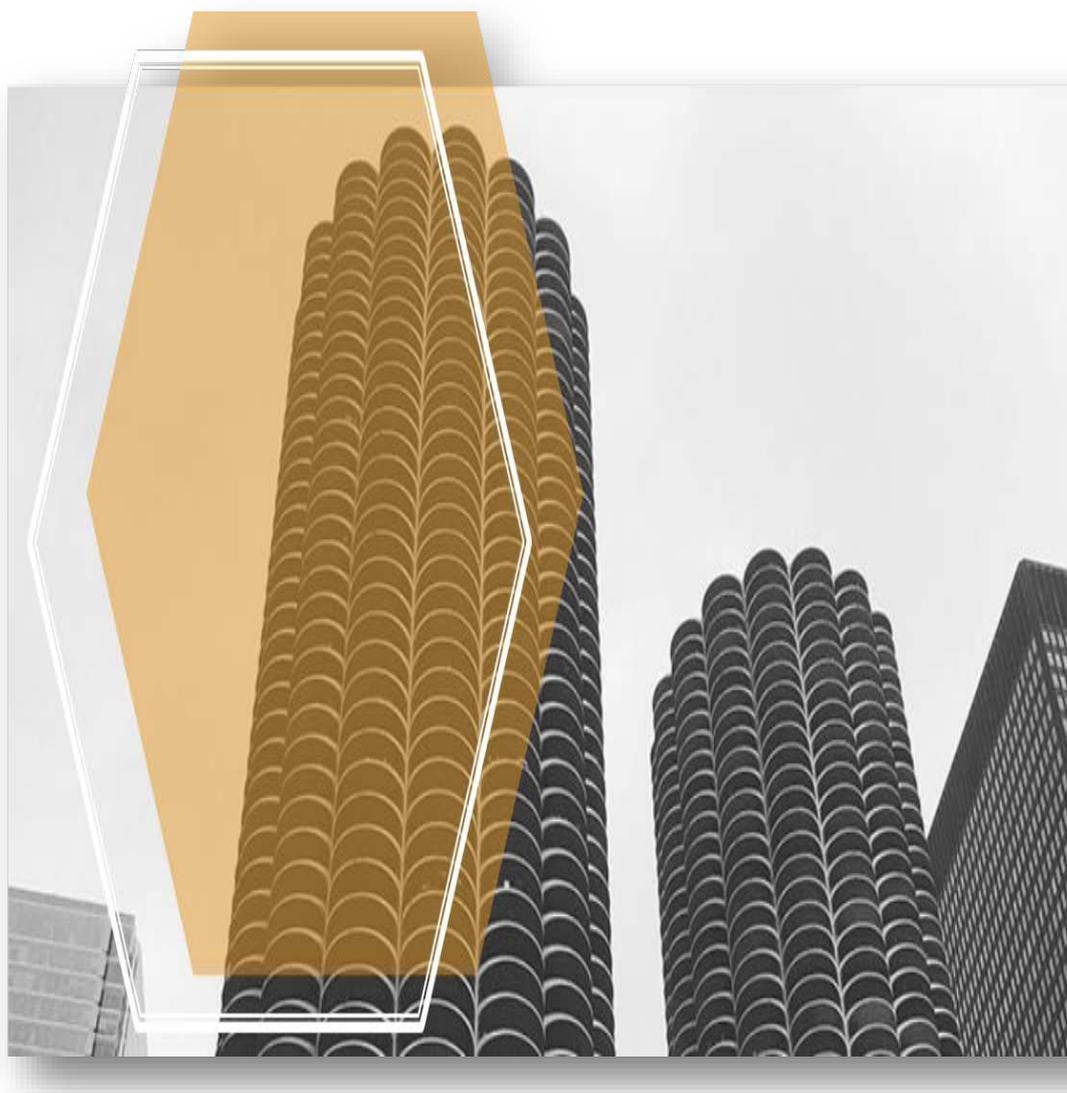




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NEWSLETTER N.2



# **DEVELOPING SOUND COOPERATION FOR FREE AND EFFECTIVE COMPETITION!**

**AL 15 IPA FI 02 18**



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## Chapter 1

Activity 2.7 Strengthening the capacities of the staff of the Albanian Competition Authority in the best practices and the recent methodologies used by EU Competition Authorities with regard to gather data and usage of social media.

## Chapter 2

Sub-activity 2.2.2 Internship of official of the Albanian Competition Authority at CNMC' premises

## Chapter 3

Activity 1.1. Contribution to the revision of the Albanian Law on Competition in line with EU legislation (First Mission)

## Chapter 4

Activity 2.1 Fight against cartels: leniency programme, prosecuting cartels without direct evidence of prohibited agreements and bid rigging detection

# CHAPTER 1: STRENGTHENING THE CAPACITIES OF THE ALBANIAN COMPETITION AUTHORITY STAFF IN THE BEST PRACTICES AND THE RECENT METHODOLOGIES USED BY EU COMPETITION AUTHORITIES WITH REGARD TO GATHER DATA AND USAGE OF SOCIAL MEDIA.

## THE IMPORTANCE OF QUANTITATIVE AND QUALITATIVE DATA GATHERING, DATA CLEANING & MANIPULATION

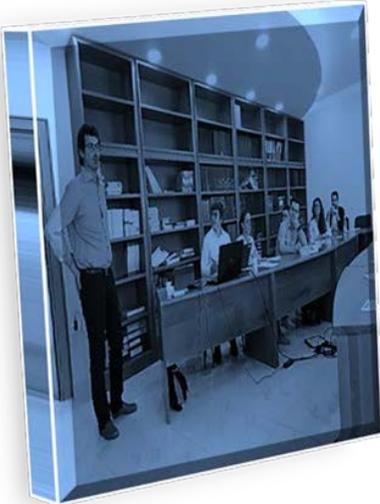
The abovementioned activity, which took place from the 30th of September to the 4th of October 2019, was conceived to share the CNMC's methodology on data gathering, in order to provide Albanian Competition Authority with a solid data-gathering outline and understanding. The action was conducted following the following methodology, through presentations which included a mix of theoretical explanations and a discussion of practical and potential applications by CNMC and the Albanian Competition Authority under:

1. **Discussing the main tools to gather information. This included 4 presentations:**
  - a) Conventional tools: internal and external sources, meetings with stakeholders and information requests
  - b) The duty of collaboration by stakeholders (and the possibility of fines in cases of non-compliance)
  - c) The appropriate use of confidential information





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d) Innovative tools: public consultations and communication policy (like social media and other channels)

2. **Explaining the main issues that may have to be addressed in order to ensure the robustness of statistical and empirical works. This included 3 presentations:**

e) Practical case studies of public consultations and requests for information

f) Best practices in data gathering, handling and manipulation

g) Empirical issues to be addressed, mostly serial correlation and impact evaluation

The experts in charge to carry out the abovementioned activity were Mr. Pedro Hinojo and Toni Mollà. Mr. Hinojo is a Senior Advisor in the Market Studies Unit of the Advocacy Department of CNMC, he is an expert on advocacy, market studies, regulatory reports, state aid and economic analysis. Mr. Hinojo holds a Master degree in Economics with focus on Economic Analysis and a wide experience, longer than 13 years, in the Spanish Public sector, as a Civil servant belonging to the High-Level Civil Corps of Trade Experts and State Economist of Spain.

Mr. Toni Mollà I Gasull is a Senior Data Mining and Management Expert at CNMC, specialized on Telecommunications, statistics, data gathering and requirements. Telecommunication Engineer, postgraduated in Business Intelligence and Data Analysis, Mr.Mollà I Gasull holds a wide experience as an employee of the CNMC for more than 12 years. He has participated in several Twinning Project on Data Gathering in Telecom markets (Ukraine and Tunisia). Regular participation in the Advocacy Working Groups of the ICN, ICN Workshops and OECD working party meetings. The training was organized according to CNMC's methodology.

Regarding the first part of the mission, a theoretical and systematic background was provided concerning the main ways to gather information: the use of internal and external sources, meetings with stakeholders, requests for information (including the duty of collaboration, sanctions and procedures in case of non-compliance, and appropriate caveats for confidential information), public consultations and the use of social media and other innovative communication tools to spark stakeholders' engagement. Apart from explaining the experience of Spanish and other EU competition authorities, a discussion was held about ALBANIAN COMPETITION AUTHORITIES strengths and weaknesses regarding the use of this toolkit.

Regarding the second part of the mission, practical cases were developed for several of these elements: public consultations by the CNMC (with an





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emphasis on the most recent one about online advertising), information requirements (in the framework of a market inquiry on the retail distribution of drugs through pharmacy offices), best practices in terms of data collection (specifically regarding the periodical requirements to telecommunication operators), cleaning and manipulation. And additional session was held about some empirical issues that arise when working with data, mostly serial correlation and impact evaluation. Apart from providing a theoretical background, a practical application (in the framework of a CNMC's assessment of a procedural reform in the retail distribution of drugs through pharmacy offices) was shown. The Albanian Competition Authority staff followed the discussion and shared reflections on how some of these cases and methodologies could applied to their day-to-day job.





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## SUB-ACTIVITY 2.2.2 INTERNSHIP OF THE ALBANIAN COMPETITION AUTHORITY OFFICIALS AT CNMC' PREMISES

### SHARING EXPERIENCES THROUGH IN-SITE ACTIVITIES

From 7th to the 11th of October 2019 a delegation of the Albanian Competition Authority embarked on a study visit to the Spanish National Commission on Markets and Competition (CNMC) environments in Madrid. This action was developed in the framework of Component 2 as a follow up of Sub-Activity 2.2.1 which was carried out in Tirana in September 2019. The main purpose of the study visit was to strengthen the skills of the Albanian Competition Authority on Information Technology (IT) handling and dawn raids' performance (detection/execution/post inspection).

During those days CNMC experts showed to the staff of the Albanian Competition Authority the procedure followed by the Spanish Competition Authority with a focus on Forensic IT, the forensic tools used by the CNMC to gather information from computers, mobile devices and the cloud, and the process and tools to filter gathered information and . Albanian Competition Authority employees also had the opportunity to participate in the day-to-day activity of the CNMC FIT department. Regarding detection of infringement and preparation of a dawn raid CNMC official of the Economical Intelligence Unit shared the CNMC best practices. All the activities for those goals were included on these three groups: (i) Dawn raids in the CNMC, (ii) Detection of infringement in the CNMC and preparation of a dawn raid by the Economical Intelligence Unit and (iii) Dawn raid IT preparation and execution. Tools and devices.

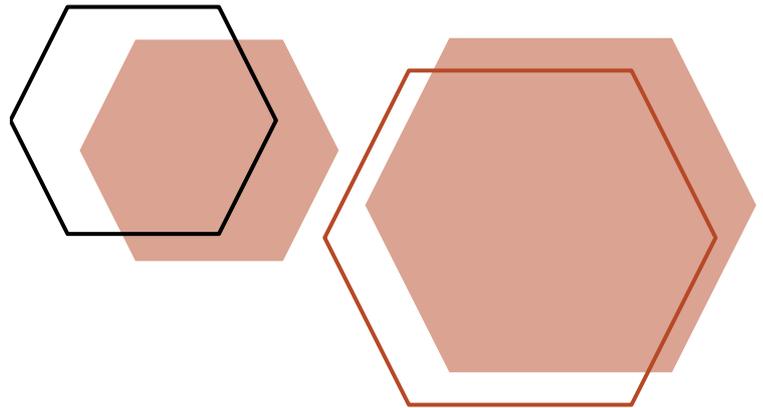
The usage of software as well as different processes of the different components of the regulator were a fundamental topic of this exchange. Other tools such as the "interview between IT-s" has been found as an easy and straight forward process to be implemented since it may produce very important results. According to the Albanian staff it has been extremely productive to observe in practice and explained in detail subjects previously discussed in



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theory. Furthermore, the procedures adopted by the Spanish peers witnessed in this study visit could serve as best practices to be embraced in Albania too in order to create in the future, an internal culture, which would improve the general quality of work and would set a certain standard. Through the implementation of this activity it was stressed the increasing importance of the role of the IT regarding the investigations and the work of the whole Institution. During the Activity 2.2.2 the Albanian Competition Authority staff has maintained a great attitude sharing their experience and participating actively in the sessions. The ALBANIAN COMPETITION



AUTHORITY staff and their Spanish peers have jointly produced a report which take into consideration the experience exchanged in dawn raids performance, digital methods and the margins of improvement in the investigation preparation and execution.



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## CHAPTER 3

### ACTIVITY 1.1.

# CONTRIBUTION TO THE REVISION OF THE ALBANIAN LAW ON COMPETITION IN LINE WITH EU LEGISLATION (FIRST MISSION)



According to the last report on the EU Enlargement Package for Albania which was released by the European Commission before the beginning of the Project implementation, specifically on 29th May 2019 (covering the period from March 2018 to March 2019), more efforts are needed to improve legislative alignment and enforcement in competition policy in line with EU legislation. This goal should be done also by including the recent ECN+ Directive, to bring Albanian competition legislation in line with the EU acquis. Within the framework of Component 1, this mission was planned therefore to pursue three general objectives.

First of all to get a full picture of the Albanian Competition Authority legal and practical experience, the progresses made toward the alignment with the EU legislation and enforcement in Competition policies.

Secondly to compare and discuss differences with the CNMC procedural and practical experience within the Spanish Competition Law (Ley 15/2007, 3rd July, de Defensa de la Competencia and Royal Decree 261/2008, 22nd February 2008).

Last to issue a report that will contain a detailed set of better-regulation suggestions that may be adopted in order to bring the





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Albanian antitrust legislation to Spanish and European standards and enhance the efficiency in the enforcement of the competition provisions.

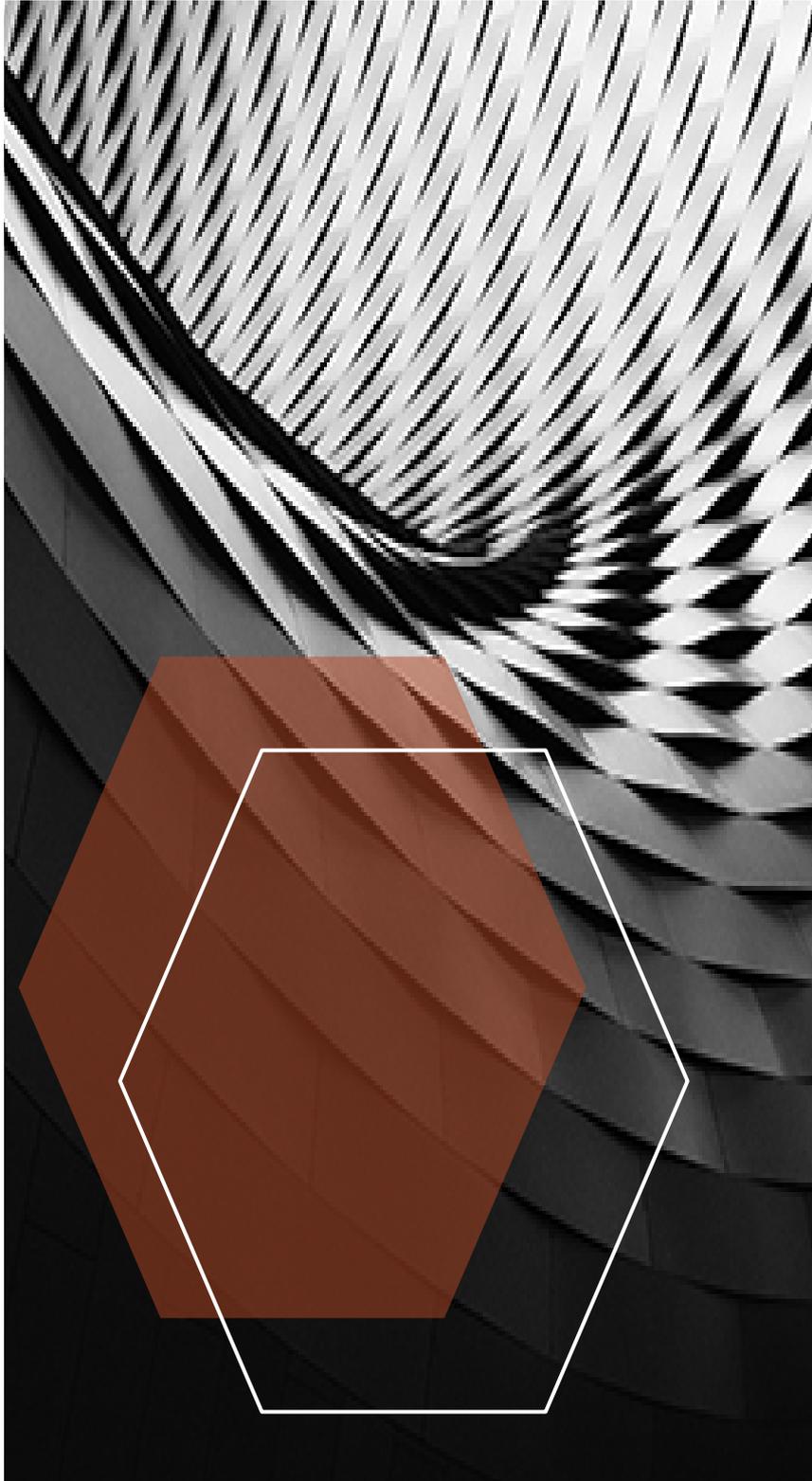
The experts who delivered this session were Ms. María Hummer Soto and Carmen Rodilla. Ms. Hummer is a case handler, at the Industry and Energy Unit of the Competition Directorate (CNMC), she is an expert on Antitrust (horizontal, vertical and abuse of dominance) infringements in the industrial, pharma and agricultural markets, among others. She holds a wide experience, for more than 10 years, in the Public sector, as a civil servant of the Spanish Public Administration. After obtaining her Master Degree and Ph.D. on Human Rights, she specialized in international law. Ms. Hummer Soto is an active participant in international networks on Competition Law (ECN/ICN Merger WG) and she is part of the Organizing team Women@Competition Iberia.

Ms. Carmen Rodilla is an Assistant Doctor at the Commercial law department of the University of Valencia. PhD in Commercial Law, Degree in Law, Politics and Philosophy, Ms. Rodilla is specialized on excessive prices, exclusive rights, Intellectual Property Rights, patent and trademark rights, abuse of dominance. Ms. Rodilla holds as well an active participation in many international conferences on Competition Law and conducting several researches and publications.





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# ACTIVITY 2.1 FIGHT AGAINST CARTELS: LENIENCY PROGRAMME, PROSECUTING CARTELS WITHOUT DIRECT EVIDENCE OF PROHIBITED AGREEMENTS AND BID RIGGING DETECTION

## DEVELOPING TOGETHER ANTITRUST ENFORCEMENT AND LENIENCY PROGRAMME

In order to prepare this activity, CNMC's twinning experts carried out an ex ante work, involving the analysis of the Voluntary Peer Review of Competition Law and Policy 2015 developed by United Nations Conference on Trade and Development (UNCTAD) for Albania, the European Union (EU) Reports in Competition, the EU Leniency Policy. Reconciling Effectiveness and Fairness (Baskaran Balasingham, 2017) as well the basic Albanian regulation and soft law tools on antitrust and leniency abovementioned.





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As the 2015 UNCTAD Peer Review suggested, one of the most important determinants of effective anti-cartel practice is the full implementation of a leniency programme, which gives incentives for the cartelists to voluntarily disclose their illegal conduct. Leniency programme effectiveness depends heavily on a strong sanctioning policy that should provide a sufficient deterrent effect, as well as expectations of inevitable punishment for the cartelists. Moreover, public awareness of competition rules is crucial for the effectiveness of anti-cartel enforcement. Jointly with the Albanian Competition Authority, this sub activity has been addressed to the Albanian Competition Authority's Secretariat staff, taking into account that it is Albanian Competition Authority's investigatory body, that conducts administrative investigations and studies under competition law in accordance with the Code of Administrative Procedures, and particularly to the officials (civil servants) responsible for drafting and submitting investigation reports to the Commission as to competition law infringements. The experts involved in this mission were Mr. Ignacio Diaz Sanz and Ms. Pilar Soler Oroz. Mr. Diaz is a Senior Civil Servant and case handler at Cartel and Leniency Division of the Competition Directorate (CNMC). He is an expert on Competition & EU Law and Economics, holds a Master Degree in Economics and is specialized in Diplomacy and International Relationship.

Ms. Pilar Soler Oroz instead is a Chief Case Handler at Cartel and Leniency Division of the Competition Directorate (CNMC). She is an expert on Cartel and leniency Programme. PhD in International Marketing, Degree in Economics and Degree in Agronomic Engineering, Ms. Soler Oroz holds a wide experience in the Public sector for 30 years, as a civil servant of the Spanish Public Administration and she is familiar with Twinning Project due to her experience as Resident Twinning Adviser (RTA) held in 2000 in Sofia (Bulgaria) and national expert in several Twinning Programs.





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In essence this activity entailed the organization of a mission by the MS STEs, who carried out a Workshop on Cartels and Leniency, in order to determine what the main difficulties addressed by Albanian Competition Authority to implement its Leniency programme and being able to implement best practices and the recent methodologies used by EU national competition authorities, applicable to the Albanian leniency applications. The general methodological approach used to deal with both goals on cartels and leniency was based on a presentation conducted by the twinning experts on the main procedures and specific relevant aspects on leniency policy according the Spanish practice with references to European main legislation and soft law, together with an overview on the Albanian regulation and ALBANIAN Competition Authority's procedures and methodologies. The practical approach of the seminar showed the utility of a case study for Albanian Competition Authority officials in order to put into place the European legal competition framework (hard law and soft law) when assessing cartel cases and leniency applications. This mission contributed to make steps ahead toward the overall objective of Component 2 which focuses on the implementation by Albanian Competition Authority of an efficient leniency programme enforcement.