

The CNMC fines the General Council of Court Attorneys (Consejo General de Procuradores de los Tribunales – CGPE) 2.46 million euros

- It fixed the fees that could be charged to bar associations operating as specialised entities conducting auctions of movable and immovable property through their platform www.subastasprocuradores.com ("the Platform").
- It disseminated misleading information by advertising its private auction platform as if it were public and the only alternative to the BOE auctions.
- In these auctions, the CGPE acts as an undertaking and does not exercise administrative powers.

Madrid, 16 October 2024 – The CNMC has sanctioned the General Council of Court Attorneys (CGPE) for having made a collective price recommendation and for disseminating misleading information about the nature of its platform www.subastasprocuradores.com (S/0001/21).

These practices constitute a very serious violation of Article 1 of Law 15/2007 of 3 July, on the Defence of Competition (LDC) and Article 101 of the Treaty on the Functioning of the European Union (TFEU) and a serious violation of Article 3 LDC.

This conduct has affected the intermediation sector for out-of-court auctions of goods and rights by persons or specialised entities through electronic means in Spain.

The case arose from a complaint brought by the company Activos Concursales S.L. In December 2022, the CNMC initiated infringement proceedings against the CGPE for possible anti-competitive practices ([press release](#)).

It should be noted that the case does not concern the usefulness of the launch of the Portal or whether it can compete in the market, but only the CGPE's recommendation of the fees to be charged by the bar associations using its Portal and how to advertise its services as a specialised entity.

Collective price recommendation

In May 2016, the CGPE launched <http://www.subastasprocuradores.com> ("the Platform"), a website through which movable and immovable property is auctioned.

The CGPE set the fees to be charged by the bar associations using its platform. Unless otherwise stipulated, these were set at 4% of the purchase price (immovable property) and between 5% and 15% of the purchase price (movable property).

In December 2016, following an amendment to the membership agreement, the percentage was increased from 4% to a maximum of 5% of the real estate award price for the CGPE or its member associations.

The CGPE therefore set maximum, minimum or fixed prices to be applied unless otherwise stipulated, to be paid by the successful bidder in the auction. The fees to be charged were distributed between the CGPE and the associations of solicitors and court attorneys that had obtained the Platform's designation.

The rules, terms and conditions of the CGPE Platform were available on the CGPE website.

The practices of the CGPE were suitable for eliminating the uncertainty that arises when brokers freely set their prices and compete for their clients.

Acts of unfair competition

In the intermediation of out-of-court auctions, the CGPE intervenes as a specialised entity, in accordance with Article 641 of the Civil Procedure Act (Ley de Enjuiciamiento Civil). The CGPE acts in this field as an undertaking within the meaning of competition law, competing with private persons or specialised entities competing in the market.

The CGPE promoted its platform as the only alternative to judicial auctions, carried out through the BOE, and the bar associations as the only public law corporations designated by the Civil Procedure Act (LEC) to auction assets.

It also organised training courses and their members made statements to specialised media alluding to the supposed public nature of their platform, which they argued contributes to the administration of justice.

Therefore, the idea that www.subastasprocuradores.com/, due to its connection with a corporation of public law, offered a safer and more reliable intermediation was passed on to the main public and private operators, an act of unfair

competition likely to alter the economic behaviour of recipients and harm competitors.

Sanctions imposed

The CNMC has fined CGPE a total of 2.46 million for the following violations:

- A single and continuous very serious violation, pursuant to Article 62(4)(a) LDC, of Articles 1 of the LDC and 101 of the TFEU, consisting of a collective recommendation or decision of an association of undertakings from at least 13 May 2016 to the present day. **1,643,906 euros**
- A serious single and continuous violation, pursuant to Article 62(3)(a) of Article 3 of the LDC, consisting of a set of unfair competitive acts of deception from at least 7 May 2019 to the present day. **821,953 euros**

The CNMC urges the CGPE to take the necessary measures to put an end to the aforementioned conduct, refers the resolution to the State Public Procurement Advisory Board regarding the application of the contracting ban and urges the Competition Directorate to monitor full compliance with the resolution.

An appeal before the contentious-administrative jurisdiction may be lodged directly with the Spanish National Court against this decision within two months from the day following its notification.

Related content:

- [S/0001/21](#): Electronic auction platform
- [Press release](#) (29/12/2022): The CNMC opens infringement proceedings against the General Council of Court Attorneys (CGPT)