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DIRECTORATE FOR FINANCIAL AND ENTERPRISE AFFAIRS
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Working Party No. 3 on Co-operation and Enforcement

INSTITUTIONAL AND PROCEDURAL ASPECTS OF THE RELATIONSHIP BETWEEN COMPETITION AUTHORITIES AND COURTS, AND UPDATE ON DEVELOPMENTS IN PROCEDURAL FAIRNESS AND TRANSPARENCY

-- Chile --

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The attached document is submitted to Working Party No.3 of the Competition Committee FOR DISCUSSION under item IV of the agenda at its forthcoming meeting on 18 October 2011.

Please contact Mr. Antonio Capobianco if you have any questions regarding this document [phone number: +33 1 45 24 98 08 -- Email address: antonio.capobianco@oecd.org].

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English - Or. English

1. Relationship between competition authorities in Chile: an administrative agency and a special judicial tribunal

1. The institutional arrangement for competition law in Chile considers both an administrative body and a judicial body. The Fiscalía Nacional Económica (hereinafter, the "FNE"; also legally translated as "National Economic Prosecutor's Office") is an independent government competition agency in charge of detection, investigation and prosecution of competition law infringements, issuing also technical reports and performing competition advocacy activities. The Competition Tribunal ("Tribunal de Defensa de la Libre Competencia", hereinafter, the "TDLC") is the decisional judiciary body having exclusive jurisdiction on competition law and adjudicating in both adversarial procedures (such as cartels or dominance abuses) and non-adversarial ones (such as mergers). The TDLC's rulings are subject to appeal before the Supreme Court.

2. The FNE as a plaintiff in adversarial proceedings participates before the TDLC in the equivalent position as of any other party, with no special privileges. There are no special presumptions favoring FNE's claims grounded on its representation of the public interest in competition law issues. Both institutions are completely separated bodies, even located in different buildings.

3. In the case of adversarial proceedings initiated by private plaintiffs which are empowered of filing a complaint directly before the TDLC, if no complaint by the FNE is submitted in the same proceeding, the TDLC may request a technical report from the FNE, which may be used by the TDLC to base its decision, complementing the records the parties have submitted.

4. The following paragraphs summarize different activities the TDLC has to perform regarding the FNE's activities during FNE's investigation and once a formal proceeding has been initiated.

1.1. TDLC's role during FNE's investigation or before a formal proceeding has been initiated at the TDLC

5. The FNE should give a notice to the TDLC's President every time the records of an investigation will be kept secret as well as in cases when the Police will provide support for FNE's investigation[1].

6. The FNE should request the authorization of the TDLC for omitting its legal duty of communicating to the investigated parties the initiation of an investigation[2].

7. The TDLC should decide on complaints submitted by parties claiming harm due to the FNE's requests of information for its investigations[3].

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1 Article 39 letter a) of the Competition Act provides that *"…With the knowledge of the President of the Competition Tribunal, the General Directorate of the Chilean Investigation Police shall provide to the National Economic Prosecutor the staff he requires for complying with the task indicated in this subsection or execute the specific proceedings requested with the same purpose. / The National Economic Prosecutor, with the knowledge of the President of the Competition Tribunal, may instruct that investigations that are initiated ex-officio or by virtue of complaints be restricted."*

2 Article 39 letter a) of the Competition Act provides that *"…The National Economic Prosecutor may instruct that the affected party not be notified of the commencement of an investigation, with the authorization of the Competition Tribunal."*

3 Article 39 letter h) of the Competition Act provides that *"…Individuals and the representatives of the legal entities from which the National Economic Prosecutor needs information whose delivery may cause damage to their interests or those of third parties may request the Competition Tribunal to dismiss the*

8. The TDLC should evaluate and issue an authorization regarding FNE's petitions on special powers (i.e. wiretapping, dawn raids, seizures, etc.). In addition to TDLC's authorization, the FNE should obtain a warrant before a Court of Appeals' judge, in order to perform those powers[4].

9. The TDLC should evaluate and approve or reject non-judicial settlements that the FNE and a potential defendant may attain, as an alternative dispute resolution mechanism aimed at avoiding litigation, remedying competitive concerns as well[5].

10. In cases of obstruction to FNE's investigations, the FNE may petition before a criminal judge the imposition of a prison term up to 15 days against the investigated individual, after an authorization by the TDLC has been issued[6].

11. Before the initiation of an adversarial proceeding at the TDLC, the TDLC can order interim relief (cautionary injunctions aimed at preventing anticompetitive effects)[7].

1.2. TDLC's role after a formal proceeding before the TDLC has been initiated

12. Adversarial proceedings can be initiated both by a complaint by the FNE or by a private plaintiff's complaint (or by other public body acting as a plaintiff). They cannot be initiated by the TDLC *ex officio*. An adversarial proceeding has the procedural form of a trial. The FNE or a private plaintiff submits by written the grounds for an accusation, the defendant(s) has a deadline for submitting a response or defense to the accusation. If there are facts that must be proven, a stage for submitting evidence takes place[8]. Evidence submitted can be commented by the parties. Thereafter, a public hearing where all the parties can present their arguments orally before the TDLC's five judge members closes the opportunities

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requirement totally or partially. This request must be justified and shall be submitted to the National Economic Prosecutor's Office within five days following the request made by this authority, whose effects will be suspended from the moment the relevant presentation is carried out. The Competition Tribunal shall hear and resolve said request at its next meeting, with a verbal or written report from the National Economic Prosecutor, and its ruling shall not be susceptible to any kind of appeal."

4 Article 39 letter n) of the Competition Act provides that *"In serious and qualified cases in investigations aimed at proving the behaviour described in sub-section a) of Article 3, with prior approval of the Competition Tribunal, to request authorization from the relevant Magistrate of the Court of Appeals, through a grounded petition, that the police or the investigations police, under the guidance of an officer of the National Economic Prosecutor's Office, proceed to:..."*

5 Article 39 letter ñ) of the Competition Act provides that the National Economic Prosecutor shall have the power "*To sign extrajudicial agreements with economic agents involved in his investigations, in order to protect free competition in the markets. / The Tribunal shall review the agreement in a single hearing summoning the parties for that purpose, within five working days after receiving the information. During this proceeding, the Tribunal may hear pleadings by the parties. The Tribunal shall approve or reject the agreement within fifteen working days, counted from the date of the hearing. Once rendered, these resolutions shall be binding on the parties that appeared for the agreement, and only an objection before the same Tribunal may be brought against them…"*

6 Article 42 of the Competition Act provides that *"People who obstruct investigations opened by the National Economic Prosecutor's Office in the scope of its functions may be arrested for up to 15 days. / The arrest warrant shall be issued by the competent criminal court judge, upon request by the National Economic Prosecutor, prior authorization by the Competition Tribunal."*

7 Article 25 of the Competition Act provides that *"The Tribunal may, at any stage of the trial or prior its commencement, decree all precautionary measures needed to avoid the negative effects of the conduct subject of the complaint and to safeguard the common interest, for the time deemed necessary…"*.

8 Articles 20-22 of the Competition Act.

for parties' activities within the procedure until the issuing of TDLC's ruling[9]. In this sense, the main role of the TDLC is to conduct and push forward the proceeding along its different stages. Additionally, the TDLC performs four major functions during these proceedings: it can promote the negotiation of a settlement between the parties and if parties settle, it have to approve or reject the settlement[10]; it can order –even after the final hearings– probative activities considered indispensable[11]; it can order interim cautionary injunctions aimed at preventing anticompetitive effects[12]; and, even though the procedure is public, the TDLC must avoid risks due to the dissemination of parties' sensitive commercial information and thus it should decree on petitions about the confidentiality of records, balancing protection of sensitive commercial information and due process and the right of defense[13].

13. Non-adversarial proceedings, used for matters such as merger reviews or other consultations on competition law issues[14], are less formal and allow for the participation of a broader number of interested persons. A decree issued by the TDLC communicates the initiation of a non-adversarial proceeding and is published in the Official Gazette and on the TDLC's web site. In addition, this decree is served to the FNE and to other relevant authorities, regulators, companies and economic actors. Served persons as well as any other person having a legitimate interest may submit by written their views on the issue in question within

9 Article 23 of the Competition Act provides that *"Once the probatory term expires, the Tribunal shall declare so, and shall set the date and time for the hearing. The Tribunal shall hear pleadings from the parties' attorneys when requested by any of them."*

10 Article 22 of the Competition Act provides that *"After the term established in article 20 has expired, and whether or not the service of the procedure upon the interested parties was effected, the Tribunal may summon the parties to a conciliation hearing. If it is not considered pertinent to do so, or if said procedure has failed, the Tribunal shall set a twenty working days period for the submission of evidence. In the event that the conciliation has been reached, the Tribunal shall give its approval, provided that it does not infringe free competition. The appeal referred to in article 27 can be brought against the resolution that approves conciliation, by people who are allowed to litigate and who were not parties to such conciliation."*

11 Article 22 subsection 2° of the Competition Act provides that *"The Tribunal may instruct, at any stage of the case, even after the hearing when it turns out to be indispensable for clarifying those facts that still appear to be obscure and doubtful, the practice of the evidentiary proceedings that are deemed necessary."*

12 *Ibidem*, supra footnote number 7.

13 Articles 22 subsections 7° and ff. of the Competition Act provide that *"Instrumental proof may be presented up to ten days prior to the date set for the hearing of the case. Upon request by a party, the Tribunal may decree that access to those instruments that contain formulas, strategies or trade secrets or any other element which dissemination could significantly affect the competitive performance of the titleholder be restricted from third parties who are foreign to the process, or that they be kept confidential from the other party. […] / Without prejudice to the above, at any stage of the process and even as a means for better resolving the case, the Tribunal may order the relevant party, ex officio or upon request of the party, to prepare a public version of the document so that other parties may exercise their right to object to it or to observe it. / If the above-mentioned public version is insufficient as valid information for ruling on the case, the Tribunal may decree, ex-officio and by a justified resolution, the declassification of the document, and shall instruct that it be disclosed to the other parties."*

14 The same procedure is used for other relevant but less frequent matters such as the issuing by the TDLC of reports required by sector regulations, aimed at defining whether a service is provided on competitive or monopolistic terms and thus whether price regulation is justified. It is used as well for the issuing of general instructions by the TDLC: according to the Competition Act, the TDLC has the power of issuing general instructions in accordance with the law, which shall be observed by individuals executing or entering into acts or contracts that are related to or that could infringe free competition (Article 18 N° 3 of the Competition Act).

a deadline. Thereafter, the TDLC will set the day and time for an open public hearing where parties that submitted their views by written will have the chance of presenting their arguments orally[15]. Again, the main role of the TDLC is to conduct and push forward the proceeding along its different stages, with the aim of obtaining optimal levels of information on the industry and markets potentially affected.

14. The presentation above is an overview of the relationship between the competition authorities in Chile, where the system considers an administrative agency, the FNE, and a judicial body, the TDLC. Revision of TDLC's decisions is a duty in charge of the Supreme Court (it is performed by a special chamber therein, in charge of constitutional and administrative matters). The length of the revision procedure before the Supreme Court is relatively short, taking in average between 6 months and 1 year. Thus, the Supreme Court is the judicial body having general competence which is most involved in the enforcement of competition law. For these reasons, in the remaining part of this contribution we will consider the Supreme Court first and thereafter other judicial, quasi-judicial and/or law enforcement bodies with which competition authorities have to deal more or less regularly.

2. The role of the Supreme Court

15. The Supreme Court (SC) has to perform a revision of TDLC's decisions that have been challenged by a special recourse called "*recurso de reclamación*". The mechanism is available in adversarial and non-adversarial proceedings. The procedure is not exactly neither an extended judicial review proceeding (since only the stage before the Supreme Court is considered) nor an appeal -new evidence cannot be submitted- but it is pretty similar to an appeal, where matters of fact (such as the accurately assessment by the TDLC of the evidence submitted) and of law (such as what are the elements of an infringement) are taken into account.

16. In the two years between August 2009 and July 2011, the SC issued 20 rulings regarding the review of TDLC's rulings issued in an adversarial proceeding. In 15 of the said 20 cases the SC upheld TDLC's decision.

17. Among the remaining 5 cases, one time the SC overruled in total a TDLC's condemnatory ruling on excessive prices charged by an infrastructure concessionaire[16]. In another excessive pricing case where the TDLC had punished water distribution & sewage companies, the TDLC admitted the subsidiary petition of reducing the amount of the fines and revoked a TDLC's recommendation on regulatory amendments[17]. In other two cases, it was the FNE that had challenged the TDLC's decision and adjudicating on its favor, the SC raised the amount of the fines imposed: one case dealt with an exclusionary abuse in the distribution of matches[18], the other one dealt with a horizontal agreement in urban passenger transportation market[19]. The remaining case (among the 5 in which the SC did not

15 Competition Act, Article 31.

16 SC, January 28th, 2011, docket number 6100-2010, overrules TDLC's Ruling N° 100/2010 TDLC (*Pto. Terrestre Los Andes*).

17 SC, May 18th, 2010 docket number 5443-2009, upheld in part and overruled in part TDLC's Ruling N° 85/2009 (*Sanitarias*).

18 SC, June 2nd, 2010, docket number 277-2010, adjudicated in favor of the FNE and prívate plaintiff recourses, raising the amount of the fine determined by Ruling N° 90/2009 TDLC (*Fósforos*).

19 SC, December 29th, 2010, docket number 1746-2010, adjudicated in favor of the FNE's recourse, raising the amount of the fine determined by Ruling N° 94/2010 TDLC (*Transportes Central – Osorno*).

dismissed completely the challenge), the SC just limited its decision to overrule TDLC's ruling that had made supporting the plaintiffs all the procedural and attorney fees[20].

18. The above numbers show significant degrees of deference of the SC regarding TDLC's decisions in adversarial proceedings in the last years. Regarding non-adversarial cases, the degrees of deference are even higher[21].

19. The SC also plays a role in reviewing settlements approved during a trial by the TDLC in adversarial proceedings, according to Article 22 of the Competition Act[22]. In 2009, the SC was requested for reviewing a landmark settlement where one of the defendants of a cartel case had confessed its participation and agreed to pay USD$ 1 million. The SC showed again its deference with regards to TDLC's decision on approval, upholding it, with a dissenting vote though[23].

3. The Constitutional Court

20. The Constitutional Court *(Tribunal Constitucional*, hereinafter, the "TC") is a special tribunal in charge of the *ex ante* control of constitutionality of legislation and *ex post* control of constitutionality of legislation, its interpretation and other administrative acts[24].

21. According to its legal authority, the TC has issued decisions assessing the conformity to the Constitution of new amendments to the Competition Act. In every case it has performed this task, it has held this conformity, although ancillary statements in its decisions or dissenting votes[25].

22. The TC may also be requested to assess the constitutionality of the application of a legal provision when a proceeding before the TDLC is still pending. In several cases the TC has declared those requests as non-admissible[26]. In one case, when the TC adjudicated on the substance, the TC affirmed

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20 SC, July 20th, 2011, docket number 2358-2011, overrules in part Ruling N° 109/2011 TDLC (*Conservación Patagónica*).

21 In the two years between August 2009 and July 2011, the SC has issued only one ruling in revision of a TDLC's decision issued from a non-adversarial proceeding. It was a merger review case where TDLC's decision was upheld. SC, August 10th, 2010, docket number 68-2010, upheld decision N° 31/2009 TDLC (*Anagra/Soquicom*).

22 *Vid.* supra footnote number 10.

23 SC, August 31, 2009, docket number 3344-2009, upheld TDLC's settlement approval decision of April 13th, 2009, on case number C 184-08.

24 The core of its regulation is contained in the Political Constitution of the Republic of Chile, articles 92 – 94.

25 The TC by Ruling of October 7th, 2003, docket number 391-2003, made an assessment and held the constitutionality of the amendments that would be introduced by Act N° 19.911/2003 which significantly amended the Competion Act, for instance, by creating the TDLC which replaced the former *Antimonopoly Commissions*. Again, in 2009, the TC by Ruling of June 23th, 2009, docket number 1377-2009, made an assessment and held the constitutionality of the amendments that would be introduced by Act N° 20.361/2009 which amended the Competition Act significantly reinforcing its effectiveness against cartel behavior. In this latter ruling, however, three of the nine members of the TC dissented on the grounds that the new powers against cartels (particularly wiretapping) did not satisfy the constitutionality thresholds due to the absence of proportionality between the means for investigation and the seriousness of the infringement.

26 Particularly, in the famous retail pharmacies cartel case one of the defendants requested the intervention of the TC twice. However, both constitutional claims, grounded on procedural due process infringements

TDLC's position according to which reports the TDLC has to issue according to sectorial legislation are not legally challengeable before a superior court[27].

23. By and large, the role played by the TC do not alters significantly the regular work of competition authorities, in spite of the interest of parties of using this alternative mechanism, very often, just for delaying purposes[28].

4. The Transparency Council

24. The Transparency Council (*Consejo para la Transparencia*, hereinafter, the "CPLT") is a relatively new body which has quasi-judicial powers in the field of transparency of public bodies and access and availability of the public information and documents they possess. It is regulated by the Transparency Act N° 20.285/2008.

25. The relationship between the competition authorities -particularly the FNE- and this body has been more intense in the last years due to two parallels trends: the efforts of this new body to disseminate a culture of transparency in public management by and large, and the efforts of the FNE to protect the information of its investigations with more and more caution in order to protect the commercial sensitivity of the information the FNE handles and to ensure the effectiveness of its investigations. Those trends have translated into decisions by the CPLT concerning whether the FNE has proceeded according to the Transparency Act provisions when it has denied a request of a specific document or a query on information.

26. The mechanism works as follows. Any person may request to the FNE, as a public body, a specific document or more general information[29]. The FNE may approve the request and hence provide the requested information, or it may approve the request only in part providing partially the requested information, or finally, the FNE can deny it. In cases of partial approval or rejection of the request, the requesting party may submit a claim before the CPLT[30]. Decisions of the CPLT may be challenged before the Court of Appeals[31].

27. The requests of information may take place during the FNE's investigation or even once the proceeding before the TDLC has started. Thus, in some cases the FNE has faced strategic requests of information by defendant's attorneys once the trial before the TDLC has begun.

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were rejected because of their lack of constitutional relevance. TC, Ruling of March 26th, 2009, docket number 1344-2009-INA; and TC, Ruling of July 14th, 2009, docket number 1416-09-INA.

27 TC, Ruling of September 7th, 2010, docket number 1448-09-INA.

28 The strategy of requesting the TC has been used even in merger control proceedings (a supposedly non-adversarial proceeding). A request of this kind has been recently rejected concerning Lan/Tam airlines merger case. TC, Ruling of September 1st, 2011, docket number 2046-11-INA.

29 The general duties of public bodies regarding the Transparency Act consider *Active Transparency duties*, (i.e., making available on their websites, or by other means, significant amounts of information concerning, resources, contracts, etc.), as well as *Passive Transparency duties*, which consider answering to requests by providing the information or documents requested, unless, there is a justification in the Transparency Act for not providing it. During 2009 the FNE received 63 requests for information on these grounds, 104 in 2010 and, so far, has received 54 in 2011.

30 During the years 2010-2011 these proceedings have motivated 7 decisions by the CPLT on requests of information to the FNE.

31 So far, no case involving a request of information to the FNE has been challenged before the Court of Appeals after CPLT's decision.

28. The Transparency Act provides for several justifications that allow the FNE to deny in total or deny partially requests of information[32]. The CPLT by and large has held that the use of those justifications by the FNE is indeed according to the Transparency Act. For instance, in one case, the CPLT held that "*disclosing the requested information in the current case could affect not only the undertaking's rights but could set a precedent that would make harder for the FNE to accomplish its legal duties that include protecting the public economic order for the common good. Disclosure of information voluntarily provided to the FNE by persons and undertakings would threaten FNE's legal mandates of identifying and assessing the facts that could constitute infringements to the competition law and of monitoring markets, and it seems clear that such a disclosure would be more harmful to the common good than its secrecy."*[33]

29. The example above shows that the CPLT has a good understanding of FNE's legal duties. It has showed a consistent decision practice so far, without generating significant troubles to the FNE's activities.

5. A Court of Appeals' judge: grant of a warrant for special investigation powers

30. According to the Competition Act, a warrant issued by a Court of Appeals' judge must be obtained if the FNE pretends to use its special powers (i.e. wiretapping, raids, seizures, etc.) in a specific investigation. This warrant is required in addition to the TDLC's authorization granted previously for the same purposes[34].

31. When the amendments that introduced these special powers in the Competition Act came into force in 2009, the FNE's head and higher officers had several meetings with Court of Appeals' presidents, with competition advocacy purposes and also aimed at discussing how coordination on these matters would take place.

32. From then on, all of FNE's requests of warrants have been granted by judges. Only in requests of extensions judges have been more cautious. When assessing these requests, FNE's higher officers have a private meeting with the corresponding judge in order to explain him the request. Judges assess the request on a case by case basis.

33. It is expected that experience will show that the FNE's use of these special powers is an effective tool for investigating hard core cartels[35], and then judges will become even more familiar with these means for investigating competition law infringements.

6. The civil tribunals for adjudication on private damages actions

34. Before 2003, there was no provision in the Competition Act regulating private damages actions, so damages claims for antitrust infringements were subject to the common provisions for civil damages

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32 Among the justifications provided by the Transparency Act for denying access to public information (articles 20-21), the most frequently argued by the FNE are: (i) the opposition to disclosure by a third party which could be harmed by the disclosure of the information requested; (ii) the disclosure affects the due compliance of statutory duties of the requested body; (iii) the information requested is part of the background for adopting or implementing a future decision, action or policy; (iv) the information requested is needed for legal or judicial defense; (v) the disclosure of the requested information may affect third parties' commercial or economic rights; (vi) the requested information is too generic or broad and its collection would be too onerous, distracting officers from their regular duties.

33 CPLT's decision of May 25th, 2010, docket number C 576-09, Rc. 7°.

34 Article 39 letter n) of the Competition Act. *Vid.* supra, footnote 4.

35 In June 2011 the FNE for the first time filed complaints grounded on information requested through the means of wiretapping.

contained in the Civil Code[36]. In 2003, an amendment to the Competition Act introduced a new provision that regulates civil actions for damages caused by an antitrust violation[37].

35. The amendment aimed at reducing the length of private actions proceedings. Even though these actions are under the competence of civil judges –and not the TDLC, the amendment to the Competition Act gave TDLC's decisions an important role in civil proceedings. According to the law, the TDLC's ruling on fact and law cannot be challenged in the corresponding civil suit. This means that the discussion will be the existence of the claimed injury, causality and damages.

36. Notwithstanding the improvements, the number of private actions is still very low. Up to date, no private action based on cartel infringement has been submitted, for instance. This may be due to the absence of procedural incentives such as class actions, which in Chile are only available for consumer protection matters.

37. Due to the limited number of private damages actions submitted so far, competition authorities have not felt compelled to develop advocacy initiatives or other particular exchanges with civil judges on these matters. But if the number of private damages actions increases in the future, it is likely that competition authorities will have more exchanges with these judicial bodies.

7. The criminal court and criminal public prosecutor

38. In cases of obstruction to FNE's investigations, the Competition Act empowers the FNE to petition before a criminal judge the imposition of prison up to 15 days to the investigated individual, after an authorization by the TDLC has been issued. This provision, however, has rarely been used.

39. On the other hand, the Chilean 1874 Penal Code contains old provisions that could potentially be applicable to individuals participating in a cartel but these provisions' scope is not clear. These provisions seem to be not easy to enforce. Substantive requirements include the identification of the "natural price" of the goods or services exchanged and to prove fraud and, in anyway, in case of conviction, effective prison is very unlikely to be imposed due to the benefits provided by penal law that allow substituting prison in cases of first penal infringements having low sanctions as it is in this case.

40. Currently, there is an ongoing criminal proceeding against some individuals that participated in a cartel. We are looking forward to the ruling the criminal judges may issue on this case.

41. So far, the FNE has developed initiatives aimed at coordinating criminal law and competition law enforcement policies in cartel cases. However, Criminal prosecutors feel backed by their discretionary powers to enforce the criminal provisions of the Penal Code as they wish, and do not seem willing to resign to those powers. This makes even more interesting the ruling the criminal judges may issue on the case mentioned above, since it will provide the framework for future efforts aimed at achieving the said coordination.

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36 Section starting at Art. 2314, Civil Code, for torts or non-contractual damages.

37 Article 30 of the Competition Act provides that "*The damage claim that may result from the anticompetitive conduct judged as such by a final ruling of the Competition Tribunal, shall be filed in the competent civil court according to the general rules, and shall be handled according to the summary proceedings established in Book III Title XI of the Civil Procedure Code. / The competent civil court, when ruling on the damage claim, shall base its ruling on the conduct, actions and legal classification thereof, as established by the decision of the Competition Tribunal.*"

8. Final remarks

42. Competition Authorities in Chile include an administrative agency and a judicial body. The particularities of the TDLC as a judicial body that make of it a proper competition authority are that it is a special judicial body which competence is limited to adjudication in competition law issues and that it is integrated by lawyers and economists.

43. Beyond the special and major intervention of the TDLC in competition law matters, competition authorities deal with different judicial and quasi-judicial bodies. A significant role is played by the Supreme Court, which has showed significant degrees of deference with regards to TDLC's decisions in the last years.

44. But interactions with other judicial and quasi-judicial bodies also include the Constitutional Court, the Transparency Council, a judge of Court of Appeals, civil judges and criminal judges. Even though the interactions with these bodies seem to be much more infrequent than interactions with the Supreme Court, some interventions by these bodies could be determinant and have significant consequences in competition law enforcement. So far, however, this has not been the case.