

EU ANTITRUST DAMAGES DIRECTIVE TRIGGERS INCREASE IN LITIGATION

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The transposition of the EU Directive on Antitrust Damages Actions has triggered an increase in competition-related litigation, says Roberto Vallina, partner at Roca Junyent.

He adds that private damages actions had been the subject of much interest for many years, but it is only recently, since the transposition of the EU Directive on Antitrust Damages Actions in 2017, that this field of activity has been given significant impetus. One of the effects of the legislative change is the increased availability of third-party funding, with many investment funds now willing to finance litigation proceedings.

"Investment funds are very active in this area, and are opening up opportunities which did not previously exist," says Vallina. He adds that the role of private claimants is, consequently, growing in importance. "All the new contentious competition matters that we're handling were initiated by private claimants, with small companies, or even individuals, increasingly aware of the possibility of bringing proceedings against those in breach of the regulations," Vallina remarks.

Claimants are also being helped by the firm stance being adopted by the CNMC, the Spanish competition authority. "Claimants know that the CNMC's response can be forceful, and sanctions very significant – the competition authority is, in many cases, stricter and more rigorous than it has traditionally been," Vallina says. As a result of this trend, clients are turning their attention to compliance programmes in an attempt to avoid potential legal action. "We have perceived an increase in demand for competition compliance services, which did not exist as such as recently as five years ago," says Vallina.