

**SUMMARY OF THE CASE S/0189/09 CONSEJO GENERAL DE COLEGIOS OFICIALES DE APAREJADORES Y ARQUITECTOS TÉCNICOS**

The Investigations Division learned that the Consejo General de Colegios Oficiales de Aparejadores y Arquitectos Técnicos (General Council of Master Builders and Technical Architects) had been involved in preparing a Model Regulation for a Collegial Register of Professional Societies.

After a confidential probe, the Investigations Division of the CNC detected credible evidence of conducts prohibited by the Spanish Competition Act (LDC), namely, a resolution approved by the General Assembly of the Consejo General de la Arquitectura Técnica de España (General Council of Technical Architects of Spain) on 17 November 2007, to recommend the Model Regulation for a Collegial Register of Professional Societies to the member professional associations of the Council in order for them to incorporate into their respective internal regulations at least articles 7.1.i), 7.1.j), 7.2.a), 7.3, 11.2, 11.3, 12, 13, 15, 16 and 18. This recommendation may constitute an infringement of the LDC as it could unjustifiably hinder or prevent professional associations from providing their services by imposing requirements that are discriminatory and excessive in relation to those required of individual professionals.

It should be noted that these professional societies are provided for in the Professional Societies Act 2/2007 of 15 March 2007, which, in its Statement of Purpose establishes that “(...) *the Professional Societies Act promulgated now aims to allow the emergence of a new class of collegial professional, the professional society itself (...)*”. The lawmaker's intent, therefore, was for professional societies to compete on equal conditions in the professional services markets.

Consequently, on 11 December 2009, this Division resolved *ex officio* to open enforcement proceedings for anti-competitive practices prohibited by article 1 of the LDC.

On 24 March 2010 the Investigations Division, at the request of the Consejo General de Colegios Oficiales de Aparejadores y Arquitectos Técnicos, began taking actions aimed at achieving a settlement of the disciplinary proceedings.

The Consejo General de Colegios Oficiales de Aparejadores y Arquitectos Técnicos offered a series of commitments that may be grouped into two categories:

- a) Those aimed at adapting the Model Regulation for a Collegial Register of Professional Societies to Act 17/2009 of 23 November 2003 on free access to and exercise of service activities and to Act 25/2009 of 22 December 2009 on the free provision of services. The CNC made no pronouncement on these commitments as they did not fall within its powers.
- b) Commitments intended to eliminate the restrictions on competition that had led the Investigations Division to open the case of reference. In summary, the changes the Consejo General de Colegios Oficiales de Aparejadores y

Arquitectos Técnicos undertook to make addressed all of the articles detected by the Investigations Division as possible barriers hindering or unjustifiably preventing the provision of services by professional societies and eliminated the differences in relation to the treatment afforded to individual professionals.

On 28 July 2010 the CNC Council issued a resolution accepting the commitments offered by the Consejo General de Colegios Oficiales de Aparejadores y Arquitectos Técnicos as adequate and declared the proceeding S/0189/09 to have been terminated by an agreed settlement.