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Private Enforcement of Competition Law – Note by Paraguay

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More documentation related to this discussion can be found at: oe.cd/peocl.

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Paraguay

1. Introduction

1. This paper aims to present the legislative framework of private enforcement of competition law in Paraguay.

2. Law and authority

2. Paraguay's 1992 Constitution sets out the guarantee for competition in the market[1].

3. Paraguay's competition law was enacted in 2013 under No. 4956 and the name of *Ley de Defensa de la Competencia* (LDC for its acronym in Spanish)[2]. In addition to setting the first legal framework in the country on matters of mergers and anticompetitive practices (abuse of dominance and anticompetitive agreements including cartels), it established a national competition authority for the first time: CONACOM. There was no prior institution or office that filled the role of a competition authority in the country.

4. CONACOM operates through two main bodies. The Board of Directors, comprised by three members, leads the institution on administrative matters, performs the role of competition advocacy and makes the decision on all enforcement cases[3].

5. The enforcement cases, which could pertain to merger control, abuse of dominance or anticompetitive agreements, are all brought to the attention of the Board of Directors by the Directorate for Investigation, which has functional autonomy[4].

6. On merger control, the Directorate for Investigation studies merger operations and issues technical opinions. Merger review is focused on whether the operation would significantly restrict competition due to the creation or reinforcement of dominance in the market.

7. When it comes to anticompetitive practices, the Directorate is in charge of investigating and filing charges against the alleged infringers of the LDC before the Board of Directors.

8. The Board also has sole responsibility as to issuing opinions regarding regulatory issues[5].

3. Legal provision

9. On the topic of private enforcement, the LDC provides that:

> *Article 64. (…) Actions for annulment and for damages, based on the unlawfulness of the acts prohibited by this Law, may be brought before the Judiciary by those who consider themselves harmed by such acts, provided that they have been*

[1] Constitution of the Republic of Paraguay, article 107.
[2] The LDC is available in Spanish at https://www.bacn.gov.py/leyes-paraguayas/4775/ley-n-4956-defensa-de-la-competencia (Accessed 21 Oct 2025).
[3] LDC, art. 17.
[4] LDC, art. 30.
[5] LDC, art. 17.

declared as such by a final and enforceable resolution issued by the National Competition Commission (CONACOM).

The substantive and procedural rules governing actions for annulment and for damages shall be those provided under civil laws.

The Enforcement Authority may, upon request by a competent judicial body, issue a report on the agreements, decisions, and practices referred to in Article 8, as well as on the appropriateness and amount of compensation that the perpetrators of the conduct set forth in Articles 8, 9, 10, and 11 of this Law must pay to complainants and interested third parties who have suffered harm as a result thereof.

Article 65. Infringements and actions for annulment and for damages shall be governed by the following:

a) The infringements provided for in this legal text, as well as the actions for annulment and for damages derived therefrom, shall be barred by the statute of limitations after four (4) years.

b) The limitation period shall begin to run from the day on which the infringement was committed, and in the case of continuing or permanent infringements, from the day on which the continuation or permanence of the act has ceased.

c) The statute of limitations shall be interrupted by any act of the Enforcement Authority, formally notified to the interested party, aimed at the investigation, inquiry, or prosecution of the infringement.

4. Analysis

10. The language of article 64 creates a follow-on civil liability system rather than a stand-alone mechanism. Judicial actions for annulment and damages may only be brought by affected parties "*provided that they have been declared as such by a final and enforceable resolution issued by the National Competition Commission (CONACOM)*", establishing a mandatory administrative prerequisite: a claimant cannot file a civil lawsuit in court without first obtaining a final, unappealable administrative decision finding an unlawful anticompetitive conduct by CONACOM.

11. This mechanism establishes a strict functional division between administrative enforcement and civil compensation. CONACOM holds exclusive primary jurisdiction to investigate, analyze, and determine the unlawfulness of restrictive agreements or abusive conduct. The civil judiciary, on the other hand, is tasked strictly with assessing private civil consequences—such as declaring contract nullity or quantifying damages—once administrative liability has already been established by the competition authority.

12. By conditioning civil litigation on a prior CONACOM resolution, the Paraguayan framework eliminates stand-alone antitrust litigation where civil judges would evaluate antitrust infringements. This model prevents inconsistent decisions between courts and the competition authority.

13. The legal framework also provides for a four-year statute of limitations for both statutory administrative infringements and the civil actions (annulment and damages) derived from them. The limitation clock begins to run on the day the infringement was committed or, in the case of continuing or permanent infringements, on the day the continuous or permanent anti-competitive conduct ceases. However, CONACOM can interrupt the limitation period with any official act aimed at the investigation or prosecution of the infringement, provided that it has notified the investigated party. Under Paraguayan

law, an interruption is not a suspension, so the four-year period should restart upon the conclusion of such acts performed by CONACOM.

14. Because civil damage actions are strictly follow-on claims, the power of CONACOM to interrupt the statute of limitations directly preserves a victim's right to seek private remedies later. Without administrative intervention, a four-year window might expire while a complex cartel or abuse remains hidden. However, formal action by CONACOM resets the clock, ensuring that private claims do not time-out while the authority investigates and renders the final administrative decision required to trigger court litigation.

15. CONACOM can act as an expert advisor to civil courts. Upon request by a competent judicial body, the Enforcement Authority may issue an official report evaluating anti-competitive agreements, decisions, or practices as well as assessing the appropriateness and amount of compensation owed.

16. Competition-related damage calculations involve complex economic concepts that general civil courts may lack specialized experience to quantify. By authorizing CONACOM to issue technical reports, the law ensures that judges can rely on expert economic assessments directly from the national competition regulator.

17. The provision explicitly extends potential compensation to both direct complainants and third parties who suffered harm due to anticompetitive conduct. Although the court retains ultimate judicial decision-making authority over civil judgments under civil law rules, CONACOM's report serves as an authoritative evidentiary tool to bridge the gap between complex competition economics and civil court damage awards.

5. Practice

18. As of October 2026, no private enforcement cases have been known by the authority. It should be noted, however, that some of the first major cases of competition law infringement decisions are still under judicial review. As a result, the legal requirement for a fully enforceable resolution has not yet been satisfied to unlock civil damage actions in these cases.