

COFECE FINE SUSPENDED IN THE DOPORTO MARZAM CASE

Public records demonstrate the administrative sanction continues to be inadmissible and without any order to be executed.

MEXICO CITY, MEXICO, July 13, 2021 /EINPresswire.com/ -- For violating articles 1, 14, 25 and 28 of the Mexican constitution and incurring in acts out of order, Mexican businessman [Luis Doporto Alejandro](#) filed an appeal against the fine imposed by the Federal Economic Competition Commission ([COFECE](#)) against him.



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According to the file 339/2020, Doporto Alejandro appealed before the First District Court in Administrative Matters, Specialized in Economic Competition, Broadcasting and Telecommunications. The District Judge specialized in Economic Competition, determined to suspend the resolution so that the fines against Luis Doporto Alejandro, indicated by the Marzam case, are not executed.

The conflict began in July 2015, when the Dutch fund Moench Coöperatif notified COFECE its intentions to become majority shareholder of the pharmaceutical distributor Marzam. After the protocol review process, the Mexican antitrust regulator accepted the transaction without imposing any conditions, recorded in file CNT-074-2015.

However, by the end of 2017, COFECE initiated an investigation arguing the possible existence of an illicit concentration in the acquisition of Marzam.

Doporto Alejandro was notified of the process and delivered the documentation required. Likewise, in order to accelerate the investigation process, the businessman requested the anticipated conclusion of the investigation in accordance with the Antitrust Law, offering to comply with two commitments voluntarily in order to dissipate any competition concerns.

According to the public version of the minutes both commitments were accepted by the authority, as they were considered legally and economically viable. In October 2018, Doporto Alejandro and representatives of the Moench fund, submitted in writing the acceptance of such commitments, giving definitive closure to the investigation.

After this action, the investigation was resolved and qualified as *res judicata*, without any sanction or liability, so that COFECE could not legally restart or initiate a new investigation on the same case.

Both parties presented before COFECE in January 2020 a structure demonstrating the inexistence of links between Marzam and its competitors, having carried out a corporate restructuring that definitively dissipated any possible future concerns in terms of economic competition, giving a substantive compliance with the resolution of the Commission.

Nevertheless, COFECE determined the compliance had not been carried out in the ways expressly provided in the resolution, and therefore determined to impose an administrative sanction of 30.8 million pesos, which has been suspended after the appeal filed by Doporto Alejandro, and it will be a judge who will determine whether it can be executed.

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