

5 EXERCISE OF SANCTIONING POWERS



1928. Liberación de los cautivos de Túnez, Francisco Jover Casanova (reverse).

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Transparency and banking customer protection have been a priority. Most of the proceedings processed or resolved¹ in 2018 concerned infringements in the area of transparency which was found following the inspection of the sanctioned institutions' mortgage portfolios. Thus, infringements were detected regarding the delivery and content of pre-contractual information, the calculation of the APR – which should include all the arrangement and related costs – the charging of fees for early repayment above legal limits or rounding in cases where it is not permitted by regulations. Infringements in the area of protection of borrowers experiencing financial hardship and, specifically, in the application of the Code of Good Practice were also demonstrated. Nine banks were sanctioned for this type of infringement in 2018.

Other infringements in the area of prudential supervision and sectoral regulations on supervised institutions were also sanctioned. These infringements cover very varied matters such as corporate governance, remuneration policy and internal control; and significant regulations on the functioning of payment institutions (for example, their own funds or the safeguarding of customer funds), of currency-exchange bureaux (such as the recording of transactions and the performance of unauthorised transactions) and of mutual guarantee companies (risk control and monitoring). Similarly, entities which performed activities restricted to credit and payment institutions without authorisation were sanctioned. In this respect, in 2018 four proceedings were initiated and a further two were resolved, both involved the imposition of penalties on the parties sanctioned (which included directors). Furthermore, in one of the latter proceedings, the penalties included the disqualification of the directors and it was resolved that the entity temporarily ceased trading.

Two proceedings were suspended since criminal proceedings were under way for similar events. One proceeding was initiated against a payment institution and its directors, and the other was brought against a company and its directors for using names restricted to credit institutions.

Eligibility for the reductions envisaged in Article 85 of Law 39/2015. In seven of the eleven proceedings resolved in 2018, the entities were eligible for the reductions envisaged in Article 85 of Law 39/2015 on the common administrative procedure.

¹ Regarding disclosure of the sanctions imposed and of the identity of the offenders, the provisions of Article 115(5), (6) and (7) of Law 10/2014 shall apply, establishing when those details should be published in the Official State Gazette (BOE) and on the Banco de España's website (<https://www.bde.es/bde/en/areas/supervision/sancion/sanciones-impues/>).