

# Market court act

(1527/2001)

## Chapter 1 Jurisdiction

### Section 1 Jurisdiction and seat of the Market Court

(1) The Market Court shall hear cases that have been subjected to its jurisdiction in:

1. the Act on Competition Restrictions (480/1992; *laki kilpailunrajoituksista*);
2. the Public Procurement Act (1505/1992; *laki julkisista hankinnoista*);
3. the Act on Certain Proceedings before the Market Court (1528/2001; *laki eräiden markkinaoikeudellisten asioiden käsittelystä*);
4. other legislation.

(2) The Market Court shall have its seat in Helsinki.

## Chapter 2 Personnel

### Section 2 Members

(1) The Market Court shall have a Chief Judge and as other members a number of Market Court Judges.

(2) The Chief Judge shall lead the Court and be responsible for its results.

### Section 3 Qualifications and appointment of members

The qualifications and appointment of the Chief Judge and the Market Court Judges shall be governed by the Act on Judicial Appointments (205/2000; *laki tuomareiden nimittämisestä*). Expertise in competition law or commercial law shall be an additional qualification required of the Chief Judge and a Market Court Judge.

## **Section 4**

### **Expert members**

In addition to the legally qualified members, the Market Court shall have expert members, who participate in the hearing of cases on a part-time basis as provided in this Act, a Decree of the Ministry of Justice or the Rules of Procedure of the Court for given types of case.

## **Section 5**

### **Qualifications and appointment of expert members**

(1) The Government shall appoint the requisite number of part-time expert members to the Market Court for a term of four years at a time. When the position of an expert member becomes vacant in mid-term, a new expert member shall be appointed for the remainder of the term. In other respects, the right of the expert members to remain in office shall be governed by the provisions on judicial offices.

(2) The qualifications required of expert members participating in the hearing of cases referred to in section 1(1)(1) and 1(1)(2) shall be a suitable Master's degree and expertise in competition law, procurement, economics, business or financial affairs.

(3) The qualifications required of expert members participating in the hearing of cases referred to in section 1(1)(3) and 1(1)(4) shall be a suitable Master's degree and expertise in consumer protection, advertising, business or financial affairs.

## **Section 6**

### **Judicial oath and affirmation**

The members and expert members of the Market Court shall swear the judicial oath or give the judicial affirmation before the Market Court, as provided in chapter 1, sections 6a and 7, of the Code of Judicial Procedure (*oikeudenkäymiskaari*), unless they have so sworn or affirmed on an earlier occasion.

## **Section 7**

### **Market Court Referendaries**

(1) The Market Court shall have as many Market Court Referendaries as necessary. The qualification required of a Market Court Referendary shall be the degree of Master of Laws.

(2) More detailed provisions on the appointment of Market Court Referendaries shall be issued by a Decree of the Ministry of Justice.

## **Chapter 3**

### **Proceedings**

#### **Section 8**

##### **Divisions**

The Market Court shall have Divisions, as provided in greater detail in the Rules of Procedure of the Court. The Divisions shall concern themselves primarily with the hearing of cases pertaining to competition law and public procurement, and of cases pertaining to commercial law, respectively.

#### **Section 9**

##### **Quorum**

(1) One legally qualified member shall constitute a quorate composition of the Market Court if an appeal, a petition or the demands filed in the case have been withdrawn in full or if the case is ruled inadmissible or dismissed without prejudice. One legally qualified member may decide on interim injunctions and on the necessary preparatory measures. In the latter event, at most two other legally qualified members may belong to the composition of the Market Court, if justified by a special reason.

(2) In other events, three legally qualified members shall constitute a quorate composition of the Market Court. In the hearing of cases referred to in section 1(1)(1), at least one and at most three part-time expert members shall belong to the composition of the Court in addition to the legally qualified members.

(3) If the nature of the case so requires, the number of expert members referred to in paragraph (2) may participate in the hearing of cases referred to in section 1(1)(2)–1(1)(4). Moreover, the Market Court shall have a quorate composition with two members and at most two expert members if there is established case-law pertaining to the case at hand.

(4) The presiding judge shall designate the part-time members participating in the hearing in accordance with the more detailed grounds defined in a Decree of the Ministry of Justice and in the Rules of Procedure of the Court, taking due note of the nature of the expertise required for the hearing of the case at hand.

#### **Section 10**

##### **Reinforced hearing**

The Market Court may hear cases in a reinforced hearing, with a quorate composition of four members of the Court and at most four part-time expert members.

## **Section 11**

### **Referral of cases to reinforced hearing**

(1) For purposes of ensuring coherence of jurisprudence, the Chief Judge may refer a case to a reinforced hearing, if the case may be significant in terms of principle to the application of the law or if the ruling would deviate from earlier case-law.

(2) When the Chief Judge decides that a case be referred to a reinforced hearing, he or she shall at the same time designate the members and expert members participating in the reinforced hearing. The members and expert members who participated in the earlier hearing of the case shall participate also in the reinforced hearing.

## **Section 12**

### **Consideration of administrative matters in plenary session**

(1) The Market Court shall have a plenary session for the consideration of administrative matters. In this event, the Market Court shall have a quorate composition with the Chief Judge or the deputy of the Chief Judge presiding and with at least three members of the Court participating.

(2) Further provisions on the consideration of matters in plenary session shall be issued by a Decree of the Ministry of Justice.

## **Section 13**

### **Preparation of cases**

The preparation of cases in the Market Court shall be the responsibility of the legally qualified members. The Market Court Referendaries shall participate in the preparation according to the instructions given by the legally qualified members.

## **Section 14**

### **Procedure in the Market Court**

(1) The procedure applicable to the hearing of cases in the Market Court shall be subject to separate provisions.

(2) The rulings of the Market Court shall be open to appeal as separately provided.

## **Section 15**

### **Openness of proceedings**

The proceedings in the Market Court shall be subject to the provisions of the Act on the Publicity of Court Proceedings (945/1984; *laki oikeudenkäynnin julkisuudesta*). An oral

hearing shall be closed to the public in those cases referred to in section 1(1)(1) and 1(1)(2) where a duty of secrecy is in operation or which the Market Court decides to classify for reason that an open hearing would cause particular harm to a party to the case.

## **Chapter 4**

### **Miscellaneous Provisions**

#### **Section 16**

##### **Criminal jurisdiction**

Criminal charges against the Chief Judge, a Market Court Judge, another member and a Market Court Referendary for offences in office shall be brought in the Court of Appeal of Helsinki.

#### **Section 17**

##### **More detailed provisions**

(1) More detailed provisions on the application of this Act shall be issued by a Decree of the Ministry of Justice.

(2) More detailed provisions on the arrangement of work in the Market Court shall be issued by the Rules of Procedure of the Court, to be adopted by the Chief Judge.

## **Chapter 5**

### **Entry into Force and Transitional Provisions**

#### **Section 18**

##### **Entry into force**

(1) This Act shall enter into force on 1 March 2002.

(2) This Act shall repeal the prior Market Court Act of 20 January 1978 (41/1978), as later amended.

(3) The references in other legislation to the prior Market Court or the Competition Council shall after the entry into force of this Act pertain to the Market Court.

(4) Measures necessary for the implementation of this Act may be undertaken before its entry into force.

#### **Section 19**

## **Pending cases**

Cases that are pending before the prior Market Court or the Competition Council shall after the entry into force of this Act be heard by the Market Court.

## **Section 20**

### **Personnel arrangements**

(1) The Chief Judge of the prior Market Court shall at the entry into force of this Act be transferred to the position of Chief Judge of the Market Court for a period not exceeding the current term in office of the Chief Judge of the prior Market Court.

(2) The other officials of the prior Market Court and their positions shall at the entry into force of this Act be transferred to the Market Court by a decision of the Ministry of Justice. The transfer of a position shall not require the consent of the official holding the position.

(3) The permanent officials of the Ministry of Trade and Industry who have been seconded to the Competition Council and their positions shall at the entry into force of this Act be transferred to the Market Court by a decision of the Ministry of Justice. The transfer of a position shall not require the consent of the official holding the position.

*Unofficial translation, Ministry of Justice, Finland*